

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

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 GRANTING CERTIFICATE OF ENVIRONMENTAL
COMPATIBILITY AND PUBLIC NEED

Issued and Effective: September 19, 2019

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STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held in the City of
Albany on September 19, 2019

COMMISSIONERS PRESENT:

John B. Rhodes, Chair
Diane X. Burman
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

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(Issued and Effective September 19, 2019)

BY THE COMMISSION:

INTRODUCTION

In this order, we grant PSEG Long Island LLC on Behalf
of and as Agent for the Long Island Lighting Company d/b/a Long
Island Power Authority (PSEG-LI) a Certificate of Environmental
Compatibility and Public Need (Certificate), pursuant to Public
Service Law (PSL) Article VII. This Certificate authorizes
PSEG-LI to construct and operate the Western Nassau Transmission
Project (Project). The Project will enable PSEG-LI to address
the requirements of a North American Electric Reliability
Corporation (NERC) transmission planning reliability standard as
it applies to the Long Island Power Authority (LIPA) Southwest

Nassau Area. When completed, the Project will result in a more robust and reliable electric system.

BACKGROUND AND PROCEDURAL HISTORY

Electric transmission systems must be engineered and constructed in a way that will ensure continued reliable system operation in the event of certain contingencies. As currently configured, under certain planning contingency conditions, the LIPA system feeding the Southwest Nassau Area (defined as the area encompassing the Far Rockaway load pocket and parts of the Barrett load pocket) could exceed its thermal capability, which would result in a violation of a NERC Transmission System Planning Performance Requirement.¹

To address this, on January 9, 2018, PSEG-LI applied for a Certificate, pursuant to PSL Article VII, to add a new 138-kilovolt (kV) underground transmission line, constituting a second electric transmission circuit between the East Garden City Substation in Uniondale and the Valley Stream Substation in Lynbrook. The new line would reinforce the LIPA electric transmission system in the Southwest Nassau Area, improving the reliability of service to LIPA customers on Long Island and enabling LIPA to meet the applicable NERC reliability standards.

The Project was proposed to be located wholly within the Town of Hempstead, Nassau County, would traverse the Villages of Garden City, Malverne and Lynbrook, as well as unincorporated areas in the town, and would be constructed primarily within the public roadway rights-of-way for a total distance of approximately seven miles.

By letter dated February 8, 2018, PSEG-LI was notified that its January 2018 application contained certain deficiencies

¹ The engineering justification for this project is set forth in Exhibit E-4 to PSEG-LI's Article VII Application.

that needed to be cured before the application could be deemed to comply with PSL §122. PSEG-LI filed a supplement to its application on March 15, 2018.

In a motion filed November 30, 2017, shortly before it filed its January 9, 2018, application, PSEG-LI initially sought waivers of three regulatory requirements. PSEG-LI subsequently withdrew one of its waiver requests on the ground that it was not necessary given the filing date of the application. Following notice and opportunity to comment on the two remaining waiver requests, the Public Service Commission (Commission) granted the requests.² By letter dated March 23, 2018, the Secretary informed PSEG-LI that its January 9, 2018, application, as supplemented on March 15, 2018, was compliant with PSL §122 as of March 15, 2018.

On June 19, 2018, PSEG-LI filed a Notice of Impending Settlement Negotiations.³ That notice also was mailed to the parties, landowners and local public libraries. In addition, on June 27, 2018, PSEG-LI certified that it had served its notice on landowners, pursuant to PSL §122(2)(c). Settlement negotiations ensued and continued for an extended time after the notice was filed. The negotiations ultimately led to the April 18, 2019, filing of a Joint Proposal (JP), dated March 14, 2019, and signed by PSEG-LI, Trial Staff of the New York State

² The remaining two requests sought a waiver of 16 NYCRR §86.3(a)(2), that requires NYSDOT maps at a scale of 1:250,000, because such maps are not available, and a waiver of 16 NYCRR § 88.4(a)(4), that requires a system reliability impact study, because the New York State Independent System Operator has confirmed no such study is necessary. A Commission order granting these two waivers was issued March 19, 2018.

³ In accordance with 16 NYCRR §3.9, the presiding Administrative Law Judge (ALJ) reported on the adequacy of the notice to the Commission on July 3, 2018.

Department of Public Service designated to represent the public interest in this proceeding (DPS Staff), the New York State Department of Environmental Conservation (DEC), the Village of Lynbrook (Lynbrook), and the Incorporated Village of Rockville Centre (Rockville Centre) (collectively, the Signatory Parties). No party opposes the JP.

The JP describes the Project as proposed by the Signatory Parties and includes appendices, several of which set forth proposed Commission findings, Certificate Conditions, specifications for developing the Environmental Management and Construction Plan (EM&CP), and a proposed Water Quality Certification (WQC).⁴ The JP also includes general provisions that articulate the Signatory Parties' agreements and understandings.⁵ The Signatory Parties request that we approve the Project and grant the Certificate in this case by fully adopting the JP's terms and provisions.

On April 26, 2019, a Notice of the Joint Proposal and Opportunity for Public Comment (JP Notice) was issued. Two additional public comments were filed after the JP Notice was issued.⁶

Public Outreach⁷

PSEG-LI filed a Public Outreach Plan (WNTTP Outreach Plan) on February 1, 2019, that details Project outreach and information efforts that

⁴ See JP Appendices C-F.

⁵ See JP ¶¶ 1-3 and 5-7.

⁶ The comments were filed on May 28, 2019, by the same individual. A June 4, 2019 ruling directed PSEG-LI to respond to those comments. On June 14, 2019, PSEG-LI filed a letter and supporting affidavit responding to the comments.

⁷ JP ¶¶151-154.

PSEG-LI has conducted in support of its Article VII application, as well as those it will perform in the future if the Project is certificated. The JP highlights those public outreach efforts, which included legal notice of the filing, published in Newsday for two consecutive weeks prior to the filing of the Article VII application; PSEG-LI's provision of copies of the application for public inspection to the Garden City Public Library; Henry Waldinger Memorial Library; Lynbrook Public Library; Rockville Centre Public Library; Hempstead Public Library; Lakeview Public Library; Malverne Public Library; and West Hempstead Public Library; letters, mailed by first-class mail on January 8, 2018, to all landowners, as defined in PSL §120(5), notifying them that the Project may affect their property and providing instructions on how to become a party to this proceeding; open house public informational forums on May 8, 2018, in the Village of Garden City, on May 9, 2018, in the Village of Malverne, and on May 10, 2018, in the Village of Lynbrook. Paid advertisements were published in local newspapers and post cards were sent to notify municipal officials, abutting landowners and business owners, impacted school districts, and emergency service providers of these meetings.⁸

On May 30, 2018, the presiding ALJ convened informational forums and two public statement hearings at the Legislative Chambers of the Theodore Roosevelt Executive Building in Mineola, New York. Notice of these events was published in local newspapers and mailed to municipal officials, abutting landowners and business owners, impacted school districts, and emergency service providers.⁹ One person spoke at

⁸ WNTTP Outreach Plan, p. 2.

⁹ WNTTP Outreach Plan, p. 2.

the afternoon hearing, and no persons spoke at the evening hearing.¹⁰

The terms of the JP also provide for public notice of major actions after issuance of a Certificate. For example, proposed Certificate 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 would have to 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).¹¹ In addition, at least two weeks but no more than 45 days before starting construction, PSEG-LI would be required to provide notice, via first class mail, to owners of property on or abutting the certified Project Route.

Public Comments

A total of nine public comments have been filed in this case. Most of the public comments were filed before the JP was filed.¹² The Village of Malverne opposed the proposed route because it would run through the Village's downtown business area and place a financial hardship on local merchants. Malverne also express concerns that the construction of the line would traverse the Malverne Fire House, and that could delay

¹⁰ The Secretary issued the Notice of Hearing on May 9, 2018. A ruling issued May 9, 2018, directed PSEG-LI to publish the hearing notice twice in advance of the scheduled hearings in newspapers of general circulation in the areas that could be affected by the proposed transmission facilities. A press release announcing the hearings was issued May 22, 2018.

¹¹ JP, Appendix D, pp. 6-7.

¹² One of the commenters inquired about party status but subsequently indicated that he no longer wished to become a party.

response times to surrounding communities, as well as disturb residents and members of houses of worship along the proposed route. The Village of Garden City Department of Public Works expressed a preference for an alternative route to avoid unwarranted construction-related impacts along two miles of the route that would pass through the center of the Village. An individual landowner expressed concerns about reduced property values, and potential harmful health impacts due to magnetic field within his home. A second individual landowner was concerned that the proposed route would traverse heavily trafficked areas and disappointed that the project was apparently not coordinated with local road repaving efforts. He suggested that an alternate route be used, and that PSEG-LI use horizontal directional drilling to reduce impacts on traffic and local roads. A local business owner was concerned about traffic disruption and adverse impacts on his dental practice.

Public comment in Article VII proceedings is welcomed and actively solicited by the Commission, as it helps to inform the parties and the Commission of the issues that are important to those members of the public that live or work near a proposed project. Such comments provide an opportunity to explore relevant and jurisdictional concerns and impacts and craft ways to address them. Based upon the revisions to the original Project proposal, as discussed below, it appears that the concerns and impacts identified in the comments summarized above were considered by the parties during this proceeding and, where appropriate, have resulted in changes to the proposal or changes in practices, protocols, or conditions, that are designed to address such concerns.

Description of the Proposed Project/Facilities¹³

As described in Appendix B to the Joint Proposal, and in Exhibits 2, 3, and E-3 of the Application, the Project 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 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 rights-of-way (ROW) for a total distance of approximately seven miles.

The intended centerline of the Facility is depicted in Exhibits 24 through 30, inclusive, of the Evidentiary Record and, in all other locations, Figure 2-3 of Exhibit 2. The intended centerline location is based on preliminary design information and is subject to change based on utility survey and detailed design engineering. Planned construction methods are conventional trenching and, where required to minimize any impact on the associated communities and roadways, horizontal directional drilling (HDD) techniques and jacking and boring.

The final design drawings will be required to be filed in the EM&CP and will show, among other things: (a) the final Facility ROW and centerline; (b) known underground utilities and facilities along the Facility's route; (c) temporary construction access and workspace rights, permanent underground

¹³ The following is the description and location information, set forth in Appendix B to the JP. Please note that Project components at times may be referred to as facilities, or as transmission facilities.

easement rights, and tree clearing rights in areas where PSEG-LI does not now have such rights; and (d) temporary conduit fusing locations and construction laydown, storage and marshalling yards.

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. It is possible other locations will be required for such activities, and those will be identified as part of the final engineering and design effort and described in the EM&CP.

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. Figure 5-4 in Exhibit 5 depicts a typical splice vault layout and sections.

The Project will consist of three, 2,000 mm² 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 design will be in accordance with all applicable PSEG-LI transmission design criteria and applicable industry standards. The design standards will be in compliance with PSEG-LI's storm hardening requirements for a National Oceanic and Atmospheric Administration Category III Hurricane. The proposed cables will not be encompassed in pressurized fluid or gas.

The Project 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 buswork.

During the course of the settlement process, the Signatory Parties negotiated and agreed on a number of modifications to various features of the Project as originally proposed in the Application. These are detailed below.

1. Revised East Garden City Substation Exit

The JP explains that PSEG-LI identified a revised route for the Project to exit the East Garden City (EGC) Substation (Revised EGC Exit) during the course of settlement. This revised route differs from both the original exit route proposed in the Article VII Application and the alternative

route for exiting the EGC Substation that was described in Exhibit 3 to the application.¹⁴

The originally proposed route would have initially run north across the substation property and then across the National Grid gas property abutting it to the north, and then turn west once it entered Stewart Avenue. The alternative route would have initially run south, cross under a Long Island Rail Road (LIRR) right-of-way, continue to Commercial Avenue and then turn west on Commercial Avenue. Both the original route, and the alternative route are more fully detailed in the Application.

The revised route for exiting the EGC substation advanced by the Signatory Parties would initially run east across the eastern portion of the EGC Substation property and then across the western approximately 20 feet of the abutting property to the east owned by Brixmor Property Group Inc. (Brixmor), then turn north and cross an additional approximately 300 feet of the same Brixmor property to Stewart Avenue, where it would turn west on Stewart Avenue. The Revised EGC Exit is shown on Exhibit 25 to the JP.

The Brixmor property is an approximately 10 acre parcel abutting the EGC Substation parcel to the east. Most of the eastern half of the property is occupied by a shopping center with about 15 stores and fast food restaurants. A stand-alone restaurant building (Hurricane Grill & Wings) comprising approximately 1/3 of an acre is located on its western half, set back approximately 50 feet from the parcel's western property line. The remainder of the western half is asphalt parking lot for the restaurant and the other businesses on the Brixmor property.

¹⁴ Application, Exhibit 3, §3.4.1.

The Revised EGC Exit would turn from eastward to northward in this 50 foot setback corridor between the restaurant and the parcel's western property line. All of the electric transmission line that would be installed along the route of the Revised EGC Exit on the Brixmor property would be located below the asphalt parking lot in this corridor or in the paved entrance from Stewart Avenue into the parking lot at the front (north side) of the restaurant. The paved entrance from Stewart Avenue is bordered to the west by an area of grass and shrubs that likely will be disturbed for splice vault installation. There also are trees in this grassy area, but it is unlikely they will need to be disturbed. The Project would create no permanent impacts to the current buffering/landscaping in this area, and any temporary impacts would be promptly restored to original or better condition.

PSEG-LI and Brixmor have negotiated a permanent underground easement on the Brixmor property for the Revised EGC Exit. This easement (the Brixmor Easement) allows Project construction, including Facility installation, in a 300-foot long corridor, with a 20-foot width to allow for separation and potential future use. The easement will create no permanent impact on shopping center operations.

2. Revised LIRR Crossing Plan at Franklin Avenue

PSEG-LI's revised plan (the Revised LIRR Crossing Plan) for the Project to cross the ROW of the LIRR West Hempstead Branch on Franklin Avenue, between Broadway and Rider Avenue takes into account the development plans of the owner of the two affected parcels, 97 Franklin Avenue and 131 Franklin Avenue (Franklin Landowner). The Revised LIRR Crossing Plan continues to be by a trenchless jack-and-bore method. It also continues to include positioning the transmission line and the bore alignment in the public street and the LIRR ROW, except for

a small property at the northeast corner of the intersection, which is the only private parcel on which PSEG-LI will require a permanent real estate right for this crossing. The revisions that distinguish the Revised LIRR Crossing Plan from the Original LIRR Crossing Plan are to: (a) reverse the direction of the boring by shifting its starting point (the jacking pit) from the northern side of the crossing to its southern side, (b) realign the direction of the boring by repositioning its ending point (the receiving pit) from Franklin Avenue to Broadway, still north of the LIRR crossing, and (c) keep the jacking pit on Franklin Avenue south of the LIRR crossing in the same location, but rotate it in a clockwise direction to correspond to the boring realignment. If the jacking pit were located on the northern side of the LIRR crossing as would have occurred under Original LIRR Crossing Plan, a substantial part of the workspace surrounding it would have been located on the 131 Franklin Avenue property. By repositioning it to the southern side of the LIRR crossing, the Revised LIRR Crossing Plan puts much of its surrounding workspace on the 97 Franklin Avenue property. Repositioning the receiving pit to Broadway removes it from being directly adjacent to 131 Franklin Avenue.

The Franklin Landowner intends to require the current residents of 97 Franklin Avenue to depart the residence before PSEG-LI commences work in this location, so no residents living on that property will be impacted,¹⁵ and PSEG-LI will install a fence around both trenchless construction workspaces for the safety and security of persons in the vicinity.

¹⁵ The Franklin Landowner plans to build new homes on both properties. He intends to build six new homes on 131 Franklin Ave, which is currently undeveloped, and five new homes on 97 Franklin Avenue, which currently has one house. See JP, ¶ 105.

The Revised LIRR Crossing Plan is shown on Exhibit 26.

3. Revised Pines Stream Crossing Plan

PSEG-LI has identified a revised plan, the Revised Stream Crossing Plan, for the Project to cross the waterbody known as Pines Stream that drains Halls Pond and flows under Hempstead Avenue north of Malverne. Under this revised plan, PSEG-LI would install the Facility across Pines Stream along a route adjacent to and approximately parallel to Hempstead Avenue using open-cut trenching methods at a minimum 42 inch depth. First, the flow of Pines Stream would be temporarily stopped within the stream limits for the duration of construction, which would be done in coordination with Nassau County Department of Public Works and other agency requirements. The installation would begin at a section of existing concrete retaining wall where a 36-inch storm sewer lets out into Pines Stream. The wall section, along with a section of 36-inch concrete storm sewer pipe back to the nearest storm sewer manhole, would be removed. Then the Facility's duct bank would be installed with a minimum vertical clearance under or integrated with the retaining wall foundations sufficient for the reconstruction of the wall section previously removed. The removed sections of wall and storm sewer would then be restored in-kind. Following construction within Pines Stream, the open-cut trench would be backfilled as required for stream restoration and erosion control. A contingency plan for construction following rain events would necessitate stream diversion using cofferdam or flume pipe methods. Plan and profile views of the Revised Stream Crossing Plan are shown on Exhibit 24. All portions of the Facility's duct bank installed under the Revised Stream Crossing Plan would be within public ROW except for a section of approximately 75 feet, where it would run within the property of St. Thomas the Apostle Church, located on the southeast side of

Hempstead Avenue and just south of Pines Stream. Thus, the only new permanent property right the Revised Stream Crossing Plan would require is a permanent easement from the church. The Revised Stream Crossing Plan would also require temporary easement rights on the McDonald's property located on the same side of Hempstead Avenue as the church property but on the opposite (north) side of the stream.

The JP also proposes an alternative, if PSEG-LI determines the existing concrete retaining wall should not be removed. Under this alternative, a casing sleeve would be installed under the bed of Pines Stream and pushed under the retaining wall. The duct bank would be installed within the casing and be transitioned to the traditional open-cut trench on both sides. This alternative would reflect alignments, stream diversion, business coordination and work space requirements similar to those present for the wall-removal scenario discussed above.

4. Four HDD Locations

PSEG-LI has identified four locations where the proposed route crosses one or more road intersections and where the use of HDD techniques would be superior to open cut trenching. This is in addition to the one location (the Franklin Avenue railroad crossing in Malverne) for which PSEG-LI proposed a jack and bore installation in the Application.

These four new HDD locations are:

- (a) The intersection of Stewart Avenue and Clinton Road (plus three more intersections to the west of Clinton Road to Coventry Place);
- (b) The intersection of Stewart Avenue and Franklin Avenue (plus four more intersections to the east of Franklin Avenue to Washington Avenue);

- (c) The intersection of Cherry Valley Avenue, Stewart Avenue and Cathedral Avenue; and
- (d) The intersection of Westminster Road and Hempstead Turnpike (Route 24).

All of the above locations are in the Town of Hempstead; the first three are in the Village of Garden City; the fourth is not in a village.

PSEG-LI's final plans to use HDD to cross the intersections at each of the four identified locations, including the final boring alignments and directions, will be detailed in the EM&CP, but its current intentions are summarized below:

- (a) Stewart Avenue / Clinton Road Intersection (plus the three intersections west to Coventry Place)

Clinton Road is the first major intersection crossed by the proposed route after it exits the East Garden City Substation and heads west on Stewart Avenue. Numerous underground utilities are located in this intersection, as shown on Exhibit 27. This intersection has an annual average daily traffic count of 34,380 vehicles, and a Garden City public elementary school is located on the northeast corner of the intersection.

The length of HDD that PSEG-LI currently proposes for this location is approximately 2,100 feet. This length would reduce traffic impacts even further by allowing the drill to bore under three other Stewart Avenue intersections: those at Emmet Place, Devereaux Place, and Coventry Place.

PSEG-LI proposes to locate the HDD entry point at the east end of the drill bore on the grass just south of Stewart Avenue approximately 400 feet east of Clinton Road (Stewart Avenue is not divided by a median in this location). PSEG-LI proposes to locate the HDD exit point at the west end of the drill bore on the median divider approximately 200 feet west of Coventry Place. The median here is grassy, with trees in two

parallel rows near the north and south edges of the median. The HDD exit point would be located in the grassy part of the median. The staging location of HDD equipment would be selected appropriately to minimize impacts to trees.

The proposed HDD at this location is shown on Exhibit 27.

- (b) Stewart Avenue / Franklin Avenue Intersection
(plus the four intersections east to Washington Avenue)

As the proposed route heads west on Stewart Avenue, Franklin Avenue is the next major intersection after the Clinton Avenue intersection. Numerous underground utilities are located in this intersection, as shown on Exhibit 28. This intersection has an annual average daily traffic count of 30,854 vehicles. Franklin Avenue is the principal commercial street in the Village of Garden City, and its intersection with Stewart Avenue is one of the village's principal intersections.

The length of HDD proposed for this location is approximately 2,250 feet. This length will reduce traffic impacts further by allowing the drill to bore under four other Stewart Avenue intersections: those at Arthur Street, John Street, and Washington Avenue, the latter being a substantial cross-street in its own right, and a minor intersection at Kellum Lane (between Franklin Avenue and Arthur Street).

PSEG-LI proposes to locate the HDD entry point at the west end of the drill bore on the grass just north of Stewart Avenue approximately 300 feet west of Franklin Avenue. PSEG-LI proposes to locate the HDD exit point at the east end of the drill bore on the median divider approximately 200 feet east of Washington Avenue. The median here is like the location proposed for the exit point for the HDD beneath Clinton Street discussed above; that is, grassy with trees in two parallel rows near the north and south edges of the median. Here too, the HDD

entry exit point would be located in the grassy part of the median. The staging location of HDD equipment would be selected appropriately to minimize impacts to trees.

The proposed location of the exit point is approximately 400 feet to the west of the exit point at the west end of the drill bore for the HDD at the Clinton Road intersection. Thus, approximately half of the total 1.6 miles of the proposed route on Stewart Avenue between the East Garden City Substation and Hilton Road would be HDD.

The proposed HDD at this location is shown on Exhibit 28.

(c) Cherry Valley Avenue / Stewart Avenue / Cathedral Avenue Intersection

Just west of the Garden City Hotel, the proposed route runs southwest on Cherry Valley Avenue and crosses an intersection from which Stewart Avenue runs to the west and Cathedral Avenue runs to the southeast. Numerous underground utilities are located in this intersection, as shown on Exhibit 29. This intersection has an annual average daily traffic count of 26,136 vehicles.

The length of HDD that PSEG-LI currently proposes for this location is approximately 800 feet. PSEG-LI proposes to locate the HDD entry point at the southwest end of the drill bore on the grass just east of Cherry Valley Avenue approximately 200 feet southwest of the intersection. PSEG-LI proposes to locate the HDD exit point at the northeast end of the drill bore on the grass just east of Cherry Valley Avenue, approximately 600 feet northeast of the intersection. The staging location of HDD equipment would be selected appropriately to minimize impacts to trees.

The proposed HDD at this location is shown on Exhibit 29.

(d) Westminster Road / Hempstead Turnpike
Intersection

PSEG-LI also proposes HDD at the intersection of Westminster Road with Hempstead Avenue, where the proposed route makes a perpendicular crossing of Hempstead Turnpike (Route 24), a four lane state highway. Numerous underground utilities are located in this intersection, as shown on Exhibit 30. This intersection has an annual average daily traffic count of 31,338 vehicles.

The length of HDD that PSEG-LI currently proposes for this location is approximately 650 feet. PSEG-LI proposes to locate the HDD entry point at the south end of the drill bore on the sidewalk just east of Westminster Road approximately 400 feet south of the intersection. It proposes to locate the HDD exit point at the north end of the drill bore in the northbound lane of Westminster Road approximately 175 feet north of the intersection.

The proposed HDD at this location is shown on Exhibit 30.

Other Permits

The JP calls for issuance of a water quality certificate pursuant to §401 of the Federal Water Pollution Control Act (commonly referred to as the Clean Water Act). The JP therefore includes a proposed water quality certificate which states that the transmission facility will comply with the applicable requirements of the Clean Water Act and will not violate any New York State water quality standards and requirements.¹⁶

¹⁶ JP, Appendix F.

PSEG-LI must also obtain, as required, authorization for work performed at state and municipal road and highway crossings, including New York State Department of Transportation Utility Work Permits and will enter into a Use and Occupancy Agreement, if required;¹⁷ permits from applicable agencies required for the delivery of oversized components for the Project;¹⁸ Railroad Crossing Permits from the Metropolitan Transit Authority;¹⁹ U.S. Army Corps of Engineers (USACE) New York District Nationwide Permit No. 12 for Utility Line Activities.²⁰

DISCUSSION

The JP in this case is supported by five parties that have been active in this proceeding - PSEG-LI, DPS Staff, DEC, the Village of Lynbrook, and the Village of Rockville Centre. The JP addresses the statutory and regulatory issues pertaining to PSEG-LI's Certificate request, adequately discusses all probable environmental impacts, and addresses the steps needed to ensure that the Project as proposed represents the minimal adverse environmental impact, considering the state of available technology and the nature and economics of various alternatives and other pertinent considerations. The process provided all interested parties and the public a full opportunity to

¹⁷ JP, ¶ 117.

¹⁸ JP Appendix D, Certificate Condition 16.

¹⁹ JP, ¶ 111.

²⁰ JP, ¶ 61.

participate, and the parties adhered to our settlement rules and guidelines.²¹

The process employed provided numerous opportunities for public input and the record establishes that the proposal advanced by the Signatory Parties is responsive to concerns about construction-related traffic impacts and questions about increased electric and magnetic fields (EMFs) at certain locations. The settlement negotiations, as well as comments from landowners and municipalities affected by the Project, resulted in a number of material changes to the design of the Project. For example, the use of horizontal directional drilling will further reduce EMFs and address public concerns construction-related traffic impacts. The revised stream crossing plan developed in consultation with DPS Staff, DEC and the Nassau County Department of Public Works during settlement negotiations will ensure that impacts to water resources are avoided or minimized to the extent practicable.²²

The JP produced a reasonable result that is in the public interest and consistent with applicable State and the Commission policies.

Basis of the Need²³

Based on the information provided in the record, we find that the Project is needed to ensure reliable service to LIPA customers on Long Island. As described in in Exhibit E-4 of the Application, the Project will reinforce the LIPA electric

²¹ Parties were provided with the opportunity to submit proposal(s) for further process in this case. Only PSEG-LI responded, proposing an unopposed process that included, *inter alia*, a 30-day public comment period on the JP and submission of a report to the Commission for its decision.

²² DPS Statement in Support, pp. 14-15.

²³ PSL §126(1)(a).

transmission system in the Southwest Nassau Area and further the PSEG-LI's efforts to ensure more reliable service. The Project would also address NERC transmission planning reliability standards by upgrading the transmission infrastructure to maintain reliability. As proposed, 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 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.²⁴

The JP produced a reasonable result that is in the public interest and consistent with applicable State and Commission policies.

Probable Environmental Impacts²⁵

The JP summarizes the nature of the probable environmental impacts as they relate to the following areas: land use, visual resources, cultural resources, wetlands and aquatic resources, terrestrial ecology and rare species, topography, geology, soils and groundwater, transportation, noise, communications, and electric and magnetic fields.²⁶ The Signatory Parties agree that the Project, as proposed under the JP, represents the minimum adverse environmental impact

²⁴ Application, Exhibit E-4, Engineering Justification.

²⁵ PSL §126(1)(b),(c) and (d).

²⁶ JP, pp. 10-44.

considering the state of available technology and the nature and economics of the various alternatives and other pertinent considerations.²⁷ Accordingly, the Signatory Parties recommend that the Commission make such a finding.²⁸

Land Use

Existing land use adjacent to and within a quarter-mile of the Project route includes residential, commercial, industrial, open space, and recreational land uses. Nearly two-thirds of the land area within the study area of the Project route is comprised of single-family and multi-family residential uses, followed by commercial and community service land uses.

Project construction activities would occur primarily within existing electric transmission ROW. Installation of the circuits and associated structures will not affect nearby land uses. In addition, by constructing the proposed circuits underground within public roadway ROW, the Project avoids adverse impacts to natural resources to the extent practicable. The EM&CP will document the procedures that will be implemented during construction to minimize the effects of the construction on other nearby land uses, and the Signatory Parties do not anticipate any significant permanent adverse impact to land use near the Project.²⁹

The Project Route does not traverse Federal Emergency Management Agency floodplains, agricultural districts, environmental or conservation areas, nor is it within the coastal zone boundary. The proposed construction is not anticipated to result in adverse impacts on flood hazard areas. The Project does not traverse any agricultural lands, therefore

²⁷ JP, p. 9, ¶20.

²⁸ JP, Appendix C, ¶3.

²⁹ JP, pp. 10-11, ¶24.

no adverse impacts to agriculture or active farming operations are anticipated.

The Project will traverse the frontage of the Malverne Fire Department, the Nassau County Auxiliary Police Headquarters and other emergency response facilities. PSEG-LI has identified and contacted all such facilities affected, as described in the Applicant's Outreach Plan. PSEG-LI will include in the EM&CP a plan to ensure that the vehicles of each affected facility remain accessible and have full ingress and egress to their parking locations.

The Project is not anticipated to change existing residential, commercial, and industrial uses adjacent to the ROW or in surrounding areas. Any potential encroachments in the Project ROW determined by PSEG-LI to contravene its property rights will be addressed by PSEG-LI on a case-specific basis.

Visual Resources

Temporary visual impacts will take place during installation of the cable and will include effects resulting from construction equipment staging and operations within and along existing public roadway ROWs. No one location will be visually impacted for a significant duration because of the linear nature of the Project. The EM&CP will address efforts that will be employed to further mitigate potential construction related visual impacts. No significant construction-related visual impacts are anticipated.

Permanent visual impacts of the Facility are expected to be minimal or non-existent.³⁰ The Project is largely comprised of underground facilities, and the only permanent or semi-permanent above-ground construction elements are limited to

³⁰ Application, Exhibit 4, 7-10.

substation connections, manhole covers, and vegetative clearing, none of which is expected to cause a detrimental visual impact.³¹

Cultural Resources

Project impacts on cultural resources are discussed in Exhibit 4 to the Application.³² The impact of the Project on cultural resources is anticipated to be minimal due to the degree of observable prior ground disturbance within the ROW and the limited extent of above-ground work at the existing substations. Construction of the proposed underground transmission line within existing roadways makes it highly unlikely that the proposed underground construction would affect archaeological deposits associated with New York or National Register-listed buildings or structures or sites that might be deemed individually eligible for listing on the New York or National Registers. While numerous properties of architectural or historic significance exist in the general Project area, the construction of an underground transmission line has no potential to affect such resources.

Wetlands and Aquatic Resources

The installation, operation and maintenance of the Facility is not anticipated to cause impacts to wetlands because no wetlands have been identified during field investigations or via review of published wetland maps within or adjacent to the Project.³³ One aquatic resource to be crossed by the Project is the Pines Stream, which flows under Hempstead Avenue within a concrete-lined culvert with a riprap stream bed. Given the proposed crossing of Pines Stream is planned to stay within the

³¹ JP, pp. 15-17.

³² Application, Exhibit 4, pp. 4-11 through 4-14.

³³ JP, ¶¶54-62.

public roadway ROW, no impacts are anticipated to the watercourse, and no downstream effects are anticipated.³⁴

No impacts on groundwater resources in the Project area are anticipated to occur as a result of the Project's construction, operation or maintenance. Cable trench depths found to be stable on past similar underground transmission projects will be utilized.

The installation of the Project will not result in the degradation of groundwater given that solid dielectric conductor cable is proposed, and components will not contain dielectric fluids or hazardous materials or liquids.³⁵

Terrestrial Ecology and Rare Species

The installation, operation and maintenance of the Facility is not anticipated to have an adverse impact on terrestrial ecology and rare species resources in the Project area.³⁶ Correspondence received from New York Natural Heritage Program, and the United States Fish and Wildlife Service (USFWS) indicates that the Project will be located in the vicinity of several State- and federally-listed plant and animal species. However, based on the Project's location in roadway ROWs and existing substations, construction and operation of the Project is not anticipated to cause an adverse effect to any State- or federally-listed threatened or endangered species.³⁷

In correspondence dated December 20, 2017, the USFWS acknowledged PSEG-LI's "no effect" determination and indicated that no further Endangered Species Act consultation is

³⁴ Application, Exhibit 4, pp. 4-14 through 4-15.

³⁵ Application, Exhibit 4, pp. 4-32 through 4-33.

³⁶ JP, ¶63; Application, Exhibit 4, 44. 4-16 through 4-26.

³⁷ DPS SIS, p. 16.

required.³⁸ Limited localized disturbance of urban wildlife may occur during construction phases. Given that the Project is within a highly active urban location, wildlife will most likely be accustomed to these types of construction activities therefore any disturbances will be minor and temporary.³⁹

Topography and Soils

The Project ROW avoids high points, steep slopes, heavily timbered areas and ridge lines, and preserves the natural landscape.⁴⁰ Construction of the Project is not expected to have a significant impact on topographic features.⁴¹ Significant grading and filling are not necessary for installation of the Facility.

The construction activities will 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 restratification of topsoil during trench backfilling, or unanticipated spills of petroleum-based products from construction equipment. Such potential impacts are typically associated with any construction project. The Project will employ Best Management Practices and other measures to reduce or eliminate construction related impacts and as a result impacts to soils will be minimal. Additionally, PSEG-LI will prepare and implement a Spill Prevention Plan, to be included with the EM&CP.⁴²

³⁸ Application, Appendix B, p. 73; Staff SIS, p. 17.

³⁹ Application, Exhibit 4, p. 4-26; DPS SIS, p. 17.

⁴⁰ Application, Exhibit 4, pp. 4-26 through 4-33; JP, ¶83.

⁴¹ Application, Exhibit 4, §4.7.5.

⁴² Application, Exhibit 4, p. 4-32.

Transportation

The impact to transportation will be minimal and is sufficiently addressed in the Joint Proposal, the Outreach Plan and EM&CP. There is one airport and seven heliports located within five miles of the Project's ROW. The Project is located approximately four miles east of the nearest airport, John F. Kennedy International Airport within the Borough of Queens. The Project's facilities are proposed to be underground or less than 100 feet tall and therefore do not meet the Federal Aviation Administration (FAA) height criteria for obstruction evaluation.⁴³ An FAA determination will not be required because the proposed work will not exceed a height of 200 feet or be constructed as close as 5,000 feet from the nearest landing/takeoff area. The Project will not attract birds or other wildlife to the surrounding area and will not have an adverse impact on the obstruction standards or the runway protection zone. During operation, the Project will not be considered a hazard to air navigation and will not require obstruction lighting or other visual mitigation.⁴⁴

Noise

The noise associated with the Project is limited to the construction phase of the Project, which is temporary and will take place primarily, but not exclusively, during daytime hours. Due to the linear nature of the underground transmission line component of the Project, the Project will pass through multiple zones and sound receptor locations. During construction, changes to noise levels in these receptor locations will be temporary and typical of roadway construction.

⁴³ JP, ¶104.

⁴⁴ JP, ¶104.

The operation and maintenance of the underground transmission facility component of the Project is not anticipated to result in any noise impact to surrounding properties and nearby receptors. The equipment to be installed at the existing substations to accommodate the transmission facilities is not expected to result in any increase to noise levels at the respective substations.⁴⁵

Communications

The Project is expected to have no adverse effects on communications (e.g., cellular, television, radio) during construction or operation.⁴⁶ PSEG-LI will identify any existing underground communications facilities crossed by the Project on the EM&CP Plan and Profile drawings based on input from the facility owners and any above-ground features. Any existing underground facilities that would potentially interfere with the design of the Project will be verified via an actual field mark out and surveyed for accurate placement on the drawings for the EM&CP. Any existing underground communications facilities at risk of being damaged will be temporarily moved, removed or restored.⁴⁷

Electric and Magnetic Fields

The EMF Study set forth in Appendix D of the Application indicates that the maximum modeled magnetic fields are within the Commission's guidelines in all cases. Underground lines produce no above-ground electric fields, so the new 138 kV conductors will not produce any above-ground electric fields.⁴⁸

⁴⁵ Application, Exhibit 4, p. 4-33 through 4-36.

⁴⁶ Application, Exhibit E-5, p. E-5-1.

⁴⁷ JP, ¶¶127-128.

⁴⁸ JP, ¶129.

Alternatives

The Signatory Parties considered and rejected two other route options for the Project: a Western Alternative Route, and an Eastern Alternative Route. The Western Alternative Route is approximately 1.6-miles longer than the Project Route and would require a trenchless crossing of the Southern State Parkway which would require the acquisition of temporary construction easements from Valley Stream Union Free School District and the State of New York. The Western Alternative Route would also require a culvert crossing on East Merrick Road (between Cornwell Avenue and Addison Place) and an approximately 0.2-mile longitudinal occupation of the New York State Department of Transportation (NYSDOT) jurisdictional Hempstead Turnpike (Route 24).⁴⁹

The Eastern Alternative Route is approximately 1.3-miles longer than the Project Route, and would intersect the only location within the study area that the New York State Office of Parks Recreation and Historic Preservation (OPRHP) has designated as an archaeologically sensitive zone based on the presence of a previously recorded archaeological site, the Smith's Pond Pumping Station Site.⁵⁰

The Eastern Alternative Route would also require a trenchless crossing of the Southern State Parkway that is considered high difficulty and would require acquisition of private easements from Mercy Medical Center, Hempstead Union Free School District No. 1, and the State of New York.

The Eastern Alternative Route would also include a trenchless crossing of the LIRR, and two crossings of culverted streams south of Hempstead Lake State Park.

⁴⁹ Application, Exhibit 3.

⁵⁰ JP, ¶134.

The Signatory Parties rejected these alternative routes because they would increase construction cost and construction challenges.⁵¹

Compliance with State and Local Laws and Regulations⁵²

Pursuant to PSL §130, procedural requirements to obtain any State or local approval, consent, permit, certificate or other condition for the construction or operation of the Project do not apply, except for permits or approvals issued or required by the New York State Department of Environmental Conservation pursuant to regulations implementing federal environmental programs. However, PSL §126 requires conformance to applicable State laws and regulations issued thereunder. This will be achieved by adhering to the terms of the Joint Proposal, the proposed Certificate Conditions, and the EM&CP.⁵³

The Project will be sited within the County of Nassau, the Town of Hempstead, the Village of Lynbrook, the Village of Malvern, and the Village of Garden City. Exhibit 7 of the Application details PSEG-LI's analysis of applicable local ordinances for the purpose of evaluating the Project's compliance with substantive local requirements.⁵⁴ PSEG-LI states that Table 7.1-1 lists every substantive Local Ordinance relevant to the Project activities in the municipalities the Project is proposed to traverse as well as every substantive Local Ordinance that it requests that the Commission not apply.

The analysis provides for and supports the conclusion that the Project complies with virtually all local ordinances evaluated. In those instances where, in PSEG-LI's view,

⁵¹ JP, ¶135.

⁵² PSL § 126(g).

⁵³ DPS Staff SIS, p. 28.

⁵⁴ Hearing Exh. 7.

compliance with local code provisions would be unreasonably restrictive, it requests that the Commission refuse to apply them to the Project. PSEG-LI states that the requested waivers are the minimum necessary and the adverse impacts of granting the requests will be mitigated to the maximum extent practicable.⁵⁵ Except for local legal provisions that PSEG-LI specifically requests that the Commission refuse to apply, it will comply with, and the location of the Project as proposed conforms to, all substantive local legal provisions that are applicable to the Project.⁵⁶

No local jurisdiction has filed any objection to PSEG-LI's requests, as described in Exhibit 7, that the Commission not apply specified local laws.⁵⁷ The request for exemption or limited application of the specific local laws pertains to noise constraints, vehicle weight and size limitations, and certain building permit requirements restricting nightwork. Exemption from these requirements enables expeditious and efficient construction, thereby minimizing construction impacts to the public.

For example, PSEG-LI seeks a waiver of certain noise limits within the Town of Hempstead during overnight hours.⁵⁸ Nighttime work will be necessary during the splicing of the underground transmission cables. Once commenced, the splicing process must continue uninterrupted to completion. Failure to follow this procedure may diminish the reliability of

⁵⁵ Hearing Exhibit 7, p. 7-20.

⁵⁶ Hearing Exhibit 7, p. 7-2.

⁵⁷ The municipal Signatory parties, i.e., the Villages of Lynbrook and Rockville Centre, did not identify any concerns related to local laws in their statements in support of the Joint Proposal.

⁵⁸ JP, Exhibit 7, pp. 7-19 through 7-21.

transmission facility. The ability to conduct nightwork limits the impact to traffic in highly traversed areas and allows PSEG LI to expeditiously complete the project.

PSEG-LI will employ measures to limit construction noise especially to sensitive noise receptors. Moreover, the exemptions pertaining to vehicle weight and size requirements, and to certain building permit requirements will enable PSEG-LI to expeditiously and efficiently construct the Project.

The Project's transmission cable will be carried on cable reels, which typically measure 12 to 14 feet in height and eight feet in width. The reels are transported on carts which are towed behind truck cabs; when loaded with a reel, the typical reel cart measures approximately 16 feet wide and 15 feet high. Due to the size of the reel carts, an engineering review will be performed to determine the appropriate travel route for each reel cart to its intended location of use for the Project. Traffic control and safety measures will be employed to control safe and successful traffic flow in connection with PSEG-LI's transport of reel carts. Any impacts associated with transport of the reel carts will be intermittent and will occur only for limited periods during Project construction, and they are unavoidable given the nature of this Project's construction activities.

All Signatory Parties, including Lynbrook and Rockville Centre, agree that the justifications set forth above and in Exhibit 7 provide sufficient basis for the Commission to refuse to apply the identified ordinances.

Undergrounding/Conformance to Long-Range Plan⁵⁹

The entire Project will be located underground except for portions located at the East Garden City and Valley Stream

⁵⁹ PSL §126(e)

Substations.⁶⁰ The Project will conform to the requirements and planning objectives of the New York Independent System Operator and is consistent with PSEG-LI's long-range plan for the expansion of its transmission facilities.⁶¹ The Project will serve the interests of electric system economy and reliability, and completion of the Project will improve the reliability of the transmission system for the loads served by the Project.⁶²

In response to concerns held by the Village of Rockville Centre, a Signatory Party, PSEG-LI commits that, subject to any governmental authority with jurisdiction (other than LIPA) requiring otherwise, PSEG-LI will construct the Facility in a manner that conforms to all applicable standards of the American National Standards Institute ("ANSI") including, without limitation, the National Electrical Safety Code ("NESC"), Institute of Electrical and Electronics Engineers ("IEEE") Standard IEEE [C2-2012, 2017], and any stricter standards adopted by the Applicant. The Applicant will make a good faith effort to construct and operate the Facility to minimize loss of service to its distribution and transmission customers consistent with prudent utility practice.⁶³

FINDINGS AND CONCLUSIONS

The Project, which is the construction of a new 138-kV underground transmission line primarily within municipal public roadway rights-of-way for a total distance of approximately seven miles between the East Garden City Substation (located in

⁶⁰ JP, ¶36, and Appendices B, C; Hearing Exh. 12 (Exhibit E-3 to the Application).

⁶¹ JP, ¶143; Hearing Exh. 13 (Exhibit E-4 to the Application).

⁶² JP, ¶143.

⁶³ JP, ¶142.

Uniondale), and the Valley Stream Substation (located in Lynbrook), is needed to address a North American Electric Reliability Corporation (NERC) transmission reliability standard, by upgrading the transmission infrastructure to maintain reliability.

We find, based on the record developed in this proceeding, that the Project will be designed, constructed and operated in a manner that avoids or minimizes impacts to environmental resources. The nature of the probable environmental impacts resulting from the Project include minimal incremental visual impacts from the construction of the Project; temporary disturbance and inconvenience, including noise and debris, associated with construction activities; and maximum calculated electromagnetic fields at the edge of the Project's right-of-way that comply with the Commission's guidelines.

The Project represents the minimum adverse environmental impact, considering the state of available technology and the nature and economics of the various alternatives and other pertinent considerations. The Project does not traverse any agricultural lands, wetlands, parklands, or river corridors.

The Project will have no adverse impact on active farming operations that produce crops, livestock and livestock products, as defined in section three hundred one of the New York Agriculture and Markets law, considering the state of available technology and the nature and economics of various alternatives, and the ownership and easement rights of the impacted property.

The entire Project will be located underground except for portions located at the East Garden City and Valley Stream Substations. The Project conforms to the requirements and planning objectives of the New York Independent System Operator

and is consistent with PSEG-LI's long-range plan for the expansion of its transmission facilities. The Project will serve the interests of electric system economy and reliability.

The location of the Project conforms to the substantive provisions of applicable state and local laws and regulations issued thereunder, except those local laws and regulations which the Commission refuses to apply because it finds, based on the justifications set forth in Exhibit 7, that as applied to the Project, such are unreasonably restrictive in view of the existing technology, or of factors of cost or economics, or of the needs of consumers whether located inside or outside of such municipality.

Based on the entire record, we find that the Project will serve the public interest, convenience and necessity.⁶⁴

Finally, with respect to the general provisions set forth in the JP, we note that, for the most part, these are routine terms governing the parties' relationships which we are not required to make any findings about to determine whether a Certificate should be issued. Therefore, except for JP paragraph 4 (relating to dispute resolution), we do not adopt the provisions in JP Section I.

The Commission orders:

1. Except as modified in and to the extent consistent with the discussion in this Order, the terms and provisions of the Joint Proposal attached to this Order are adopted and incorporated into and made a part of this Order.

2. Subject to the conditions adopted in this Order, PSEG Long Island LLC on Behalf of and as Agent for the Long Island Lighting Company d/b/a Long Island Power Authority is

⁶⁴ PSL §126(1)(h).

granted a Certificate of Environmental Compatibility and Public Need (Certificate) authorizing it to construct and operate the Western Nassau Transmission Project.

3. The Proposed Certificate Conditions included as Appendix D to the Joint Proposal attached to this Order, are hereby approved and incorporated into this Order.

4. The Water Quality Certification included as Joint Proposal Appendix F is authorized to be signed and issued by the Chief of the Environmental Certification and Compliance Section in the Office of Electric, Gas, and Water of the New York State Department of Public Service.

5. 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, include a justification for the extension, and be filed at least one day prior to the affected deadline.

6. This proceeding is continued.

By the Commission,

(SIGNED)

KATHLEEN H. BURGESS
Secretary

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

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

JOINT PROPOSAL

By:
PSEG Long Island LLC on Behalf of and as Agent for the Long
Island Lighting Company d/b/a LIPA
Staff of the New York State Department of Public Service
New York State Department of Environmental Conservation
Village of Lynbrook
Incorporated Village of Rockville Centre

Dated: March 14, 2019
Albany, NY

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**STATE OF NEW YORK
PUBLIC SERVICE COMMISSION**

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

JOINT PROPOSAL

This Joint Proposal, which includes Appendices A through F attached hereto and incorporated herein, is made as of the 14th day of March, 2019 by and among the following (collectively referred to as the “Signatory Parties”): 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”); Staff of the New York State Department of Public Service designated to represent the public interest in this proceeding (“DPS Staff”); the New York State Department of Environmental Conservation (“NYSDEC”); the Village of Lynbrook (“Lynbrook”); and the Incorporated Village of Rockville Centre (“VRC”).

INTRODUCTION

On November 30, 2017, the Applicant filed with the New York State Public Service Commission (“Commission”) a Motion for Waivers of certain regulatory requirements otherwise necessary to be included in a certificate application made pursuant to Article VII of the Public Service Law (“PSL”). On January 9, 2018, the Applicant filed with the Commission application documents, pursuant to PSL Article VII and the Commission’s regulations thereunder, for a Certificate of Environmental Compatibility and Public Need (“Certificate”) authorizing 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.

On March 15, 2018, PSEG Long Island filed a letter containing text and Attachments A through F in response to the Secretary to the Commission’s letter dated February 8, 2018 that listed six items claimed to be deficiencies in the January filing of application documents. Attachment F to the letter was a supplement to Exhibit 9 of the Application (as supplemented, such exhibit is Exhibit 9 of the Evidentiary Record (as defined below) and referred to herein as “Exhibit 9”). On March 19, 2018, the Commission issued an order granting the waivers requested by the Applicant, effective as of March 15, 2018. In a letter dated March 23, 2018, the Secretary to the Commission found that the application was filed or otherwise in compliance with PSL §122 as of March 15, 2018 (the application documents, inclusive of the foregoing supplement, are referred to as the “Application”).

On February 1, 2019, PSEG Long Island filed with the Commission a plan (such plan is Exhibit 20 of the Evidentiary Record and referred to herein as the “WNTP Outreach Plan”) that details Project outreach the Applicant has conducted as well as that it would perform in the future if the Project receives a Certificate. As more fully detailed therein, PSEG Long Island held informal “open houses” for the public on May 8, 9, and 10, 2018 at locations within the Villages of Garden City, Malverne and Lynbrook, respectively. It also held Informational Forums and Public Statement Hearings before Administrative Law Judge Ashley Moreno in the afternoon and evening of May 30, 2018 at the Theodore Roosevelt Executive Building in Mineola, New York.

A procedural conference of the active parties was held before Administrative Law Judge Ashley Moreno and Administrative Law Judge Sean Mullany at the Commission’s office in Albany, New York on June 14, 2018, with several representatives of the active parties

participating remotely, via videoconference, at the Department of Public Service’s Long Island office in Plainview, New York.

After exploratory discussions among the parties, a Notice of Impending Negotiation was sent to all active parties and other interested persons, including persons and entities that own land identified in the Application as a proposed or alternate site for the Facility or whose property abuts the proposed or an alternate route. The Notice of Impending Negotiation was duly filed with the Commission on June 19, 2018. Settlement conferences were held in person or by telephone on July 11, 2018, August 2, 2018, August 27, 2018, September 20, 2018, December 12, 2018, and January 9, 2019. Electronic communications also were utilized to facilitate settlement discussions.

After thorough discussion of the issues, the Signatory Parties recognized that the parties’ various positions could be addressed through settlement and agreed that settlement was feasible. The Signatory Parties believe that this Joint Proposal gives fair and reasonable consideration to the interests of customers, transmission owners, and the public in assuring the provision of safe and adequate service, and that it achieves a negotiated result that satisfies parties with varied and often adverse positions.

TERMS OF JOINT PROPOSAL

I. GENERAL PROVISIONS

1. It is understood that each provision of this Joint Proposal is in consideration and support of all the other provisions of this Joint Proposal and is expressly conditioned upon approval of the terms of this Joint Proposal in full by the Commission. If the Commission fails to adopt the terms of this Joint Proposal in full, or adds additional terms, each Signatory

Party to the Joint Proposal shall be free to accept the Commission's terms or to individually pursue its respective position in this proceeding without prejudice.

2. The Signatory Parties agree to submit this Joint Proposal to the Commission along with a request that the Commission adopt the terms and provisions of this Joint Proposal as set forth herein. The Signatory Parties agree that construction, operation and maintenance of the project described in this Joint Proposal in compliance with the Joint Proposal and with the Proposed Certificate Conditions set forth in Appendix D attached hereto will comply with PSL Article VII and with the substantive provisions of applicable state law referenced in the Proposed Commission Findings set forth in Appendix C attached hereto.

3. All Signatory Parties fully support approval of the Joint Proposal in its entirety. The Signatory Parties recognize that certain provisions of this Joint Proposal contemplate actions to be taken by various parties in the future to fully effectuate this Joint Proposal. Accordingly, the Signatory Parties taking those actions agree to cooperate with all other Signatory Parties in good faith to the extent allowed by their authority.

4. In the event of any disagreement over the interpretation of this Joint Proposal or implementation of any of the provisions of this Joint Proposal which cannot be resolved informally among the Signatory Parties, such disagreement shall be resolved in the following manner:

- a. the Signatory Parties shall promptly convene a conference and in good faith attempt to resolve any such disagreement; and
- b. any Signatory Party may petition the Commission for resolution of the disputed matter, if any such disagreement cannot be resolved by the Signatory Parties.

5. This Joint Proposal shall not constitute a waiver by the Applicant of any rights it may otherwise have to apply (or not apply) for additional or modified permits, approvals, or

certificates from the Commission or any other agency in accordance with relevant provisions of law.

6. This Joint Proposal shall not constitute a waiver of authority by any state agency with respect to the enforcement of applicable laws and regulations that are the subject of its jurisdiction. This Joint Proposal shall not constitute a waiver of authority by any other Signatory Party that is a political subdivision of the state with respect to the enforcement of applicable laws and regulations that are the subject of its jurisdiction.

7. This Joint Proposal is being executed in counterpart originals and shall be binding on each Signatory Party when the counterparts have been executed.

II. EVIDENTIARY RECORD

8. Appendix A attached hereto lists the testimony, affidavits, and exhibits that constitute the evidence agreed upon by the Signatory Parties to be admitted as record evidence in this proceeding (collectively, the “Evidentiary Record”). The Evidentiary Record includes responses to certain information requests (“IRs”) produced in this proceeding, which the Signatory Parties believe contribute accurate, material and relevant information to the Evidentiary Record in support of the project described in this Joint Proposal. The Signatory Parties have not included all other IR responses in the Evidentiary Record because they have either been superseded by changes to information in the Evidentiary Record, or are not required to support the project described in this Joint Proposal.

III. DESCRIPTION OF PROJECT

9. The Signatory Parties agree that the Description and Location of Project set forth in Appendix B attached hereto accurately describes the location and configuration of the project

they recommend be approved by the Commission (the “Project,” and its proposed route is referred to herein as the “Project Route”).

10. The Applicant identified a route (the “Revised EGC Exit”) for the Project to exit the East Garden City Substation which differs from the original exit route (the “Original EGC Exit”) proposed in the Application and the “Alternative Exit at East Garden City Substation” (the “Exhibit 3 Alternative EGC Exit”) that the Applicant described as an alternative in Exhibit 3 of the Applicant (see Exhibit 3, Section 3.4.1). The Original EGC Exit would initially run north across the substation property and also across the KeySpan Gas East Corporation d/b/a National Grid (“National Grid”) gas property that abuts it to the north, then turn west once it entered Stewart Avenue. The Exhibit 3 Alternative EGC Exit would initially run to the south, crossing under a Long Island Rail Road (“LIRR”) right-of-way, to Commercial Avenue, then turn west on Commercial Avenue. Both the Original EGC Exit and the Exhibit 3 Alternative EGC Exit are more fully detailed in the Application. The Revised EGC Exit, which is more fully detailed in Appendix B, would run west on Stewart Avenue like the Original EGC Exit, but its beginning would differ: it would initially run east across the eastern portion of the East Garden City Substation property and then across the western approximately 20 feet of the abutting property to the east owned by Brixmor Property Group Inc. (“Brixmor”), then turn north and cross an additional approximately 300 feet of the same Brixmor property to Stewart Avenue, where it would turn west on Stewart Avenue. Once heading west on Stewart Avenue, it would continue primarily along the route proposed in the Application.

11. After considerable review and investigation, and after consultations with DPS Staff, NYSDEC, the New York State Department of Transportation (“NYSDOT”) and the Village of Garden City, the Applicant has identified four locations where the proposed route

crosses one or more road intersections and where the Applicant believes the use of horizontal directional drilling (“HDD”) techniques would be superior to open-cut trenching. This is in addition to the one location (the Franklin Avenue railroad crossing in Malverne) for which the Applicant proposed a jack and bore installation in the Application.

12. These four new HDD locations (the “HDD Sites”) are: (a) the intersection of Stewart Avenue and Clinton Road (plus three more intersections to the west to Coventry Place); (b) the intersection of Stewart Avenue and Franklin Avenue (plus four more intersections to the east to Washington Avenue); (c) the intersection of Cherry Valley Avenue, Stewart Avenue and Cathedral Avenue; and (d) the intersection of Westminster Road and Hempstead Turnpike (Route 24). All of the above locations are in the Town of Hempstead; the first three are in the Village of Garden City; the fourth is in an unincorporated part of the Town of Hempstead.

13. The Applicant will endeavor, to the extent practical, to site the Facility along the intended centerline described in Appendix B. Deviations may be required by numerous factors, however, including subsurface congestion and commercial and residential impacts. Thus the Signatory Parties request that the Commission certify placement of the Facility centerline anywhere within the legally-surveyed edge-to-edge limits of the governmentally-owned road surface as necessary to minimize such factors, subject to the Applicant determining its final proposed placement of the centerline during final design, for which it will obtain surveyed road ROW limits, and the Applicant detailing such placement, and its justification therefor, in the EM&CP.

IV. ENVIRONMENTAL COMPATIBILITY AND PUBLIC NEED

14. The Commission must consider the totality of all relevant factors in making its determination of environmental compatibility and public need. The relevant factors include, without limitation, the basis of the need, cost, environmental impact, impact on active farming operations, availability and impact of alternatives, undergrounding considerations, conformance to long-range plans, electric system reliability, state laws and regulations, local laws, and the public interest, convenience, and necessity.

A. Need for the Project

15. Exhibit E-4 of the Application (Exhibit 13 of the Evidentiary Record and referred to herein as “Exhibit E-4”) explains that this Project will reinforce LIPA’s electric transmission system in the Southwest Nassau Area and further the Applicant’s efforts to ensure more reliable service to LIPA’s customers on Long Island. The Project would address a North American Electric Reliability Corporation (NERC) transmission planning reliability standard, by upgrading the transmission infrastructure to maintain reliability. The Project will also provide additional operational flexibility and lead to a more robust electric system.

16. Exhibit E-4 further explains that the Project is proposed as a permanent design solution to an existing NERC transmission planning (“TPL”) N-1-1 thermal violation requiring corrective action to avoid a post-contingency overload on the existing East Garden City to Valley Stream line. According to the Applicant’s Planning Resources and Engineering Department, 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 contingent Long-Term Emergency thermal rating on the East Garden City to Valley Stream 138 kV circuits from 291 MW to more than 600 MW. The construction of the Project by

2020 is consistent with the NERC TPL-001-4 standard and PSEG Long Island Transmission Planning Criteria.

17. The Applicant's estimated Project cost is set forth in Exhibit 9. The Project's cost and the Project's construction activities, which are of relatively short duration, will not impact the local area sufficiently to induce any significant changes in the economic or local residential, commercial, agricultural or industrial land use patterns. Accordingly, no mitigation is deemed necessary for economic impacts or for permanent changes in residential, commercial, agricultural, or industrial land use patterns in the Project.

B. Environmental Impact

18. The Evidentiary Record describes the nature of the probable environmental impacts of the Project, which are briefly summarized below. Based on the Evidentiary Record, the environmental impacts are expected to be minimal and generally limited to temporary, construction-related disturbances and traffic inconveniences.

19. Due to the nature of the Project as an electric transmission facility located primarily underground within public roadway ROW and within existing substations, the Applicant has avoided or minimized the potential for the Project to result in adverse impacts in the following areas: Land Use, Visual Resources, Cultural Resources, Wetlands and Aquatic Resources, Terrestrial Ecology and Rare Species, Topography, Geology, Soils and Groundwater, Transportation and Communication, Noise, and Magnetic Fields.

20. The Signatory Parties agree that the Project, as this Joint Proposal proposes it to be located and configured, represents the minimum adverse environmental impact considering the state of available technology and the nature and economics of the various alternatives and other pertinent considerations.

21. Categorized by type of impact, the following sections address the potential for environmental impacts to result from the proposed construction of the Project.

a. Land Use

22. As discussed in Exhibit 4 of the Application (Exhibit 4 of the Evidentiary Record and referred to herein as “Exhibit 4”), the Project will not change existing land use. Existing land use adjacent to and within a quarter-mile of the Project Route includes residential, commercial, industrial, open space, and recreational land uses. Nearly two-thirds of the land area within the study area of the Project Route is comprised of single-family and multi-family residential uses, followed by commercial and community service land uses. The highest density of commercial/community service land uses are located: in the vicinity of the East Garden City Substation; along commercial corridors on Stewart Avenue in the Village of Garden City; at the intersection of Westminster Road and Hempstead Avenue in the Town of Hempstead and continuing to the southwest along Hempstead Avenue; between Church Street and Broadway in the Village of Malverne; and to the south and southwest of the Valley Stream Substation in the Village of Lynbrook.

23. The majority of the Project will be completed within public roadway ROW. Installation of the circuits and associated structures will not affect nearby land uses. The Project Route does not traverse Federal Emergency Management Agency (“FEMA”) floodplains, agricultural districts, environmental or conservation areas, nor is it within the coastal zone boundary. The proposed construction is not anticipated to result in adverse impacts on flood hazard areas. The Project does not traverse any agricultural lands, therefore no adverse impacts to agriculture are anticipated.

24. The EM&CP will document the procedures that will be implemented during construction to minimize the effects of the construction on other nearby land uses. It is

anticipated that, with the proper measures in place, there will be no significant permanent adverse impacts to land use near the Project.

25. The Project will traverse the frontage of the Malverne Fire Department, the Nassau County Auxiliary Police Headquarters and other emergency response facilities. The Applicant has identified and contacted all such facilities affected, as described in the WNTP Outreach Plan. The Applicant will include in the EM&CP a plan that safeguards that the vehicles of each affected facility are accessible and have full ingress and egress to their parking locations.

26. While local jurisdictions have not adopted master plans, the proposed Project conforms with applicable State and regional planning policies. The Project will diversify Long Island’s electrical transmission network, increasing resiliency and efficiency. The diversification of the transmission grid will reduce constraints to electrical supplies during peak demand periods. By constructing the proposed circuits underground within public roadway ROW, the Project avoids adverse impacts to natural resources to the extent practicable.

27. The Project will maintain the aesthetic quality along the Project Route by installing a new underground circuit within public roadway ROW. Construction of the Project will not require changes in public policy and complies with all policies associated with the protection of environmental resources as well as cultural and historic sites.

28. The Applicant’s investigation has determined that a number of environmental and other factors weigh strongly in favor of the Revised EGC Exit, as compared to the Original EGC Exit and the Exhibit 3 Alternative EGC Exit. One significant factor in this determination is the fact that the EGC Substation site is actively managed by a Site Management Plan (“SMP”) in accordance with a New York State Order of Consent and

Administrative Settlement (Index No. A2-0552-0606). (See the Applicant’s response to Department of Public Service (“DPS”) Information Request No. DPS-1, subquestion 1(a), dated July 2, 2018 (such response is part of Exhibit 21 of the Evidentiary Record). This militates in favor of the Project using the shortest distance of trenching possible on the EGC Substation site, to minimize the amount of potentially contaminated soil disturbed. The Revised EGC Exit would require less distance of trenching across the substation property than either the Original EGC Exit or the Exhibit 3 Alternative EGC Exit.

29. Another factor is underground utility congestion at and near the EGC Substation. The existing utilities along all three of the above-referenced exit routes from are shown in Attachments E through L of the Applicant’s responses to DPS Information Request No. DPS-10, subquestion 5, dated August 3, 2018 and supplemented August 22, 2018 (such response is part of Exhibit 21 of the Evidentiary Record).

30. Underground utility and environmental surveys of the EGC Substation site are complete. The route crosses an existing New York Power Authority underground electric transmission line (Line # Y49 Sprainbrook - East Garden City) and two National Grid gas pipelines (the 30 inch line known as Gas Main #30 and the 20 inch line known as Gas Main #3). The Applicant will work with those other utilities to develop appropriate protections for the existing facilities. Preliminary results of environmental surveys indicate limited to no contamination issues within the Brixmor Easement corridor.

31. The Applicant would implement a number of mitigation measures for impacts of the Revised EGC Exit. These would include protection of vehicular and pedestrian traffic entering, exiting and using the parking lot on the Brixmor property. During construction, the Brixmor Easement area would be cordoned off with traffic security measures such as temporary fences and cones. Traffic that would normally use the Brixmor property’s western

entrance, which is primarily used by the restaurant, would be temporarily redirected to its easterly entrance. The restaurant's refuse corrals would be relocated temporarily to a location outside of the construction area, but as close to the restaurant as possible to minimize inconvenience. Appropriate signage would be placed to warn pedestrians and drivers of active construction during the period when Project construction activity takes place on the Brixmor property.

32. The Original EGC Exit would necessitate more tree clearing along Stewart Avenue than the Revised EGC Exit. This is because the Original EGC Exit would exit the National Grid gas property at a heavily treed section of the southern edge of Stewart Avenue, whereas the Revised EGC Exit enters Stewart Avenue from the Brixmor property at a treeless location.

33. National Grid has informed the Applicant that it has plans for upgrades to its gas distribution system along the Original EGC Exit. These plans include projects to update the gas compression and valve systems nearest to Stewart Avenue, repairs to the existing system, and additional distribution capacity using Stewart Avenue.

34. The Exhibit 3 Alternative EGC Exit would necessitate a number of impactful and costly elements not required by the other exits. Most significantly, it would require a trenchless crossing under the LIRR right-of-way immediately south of the EGC Substation. This would call for the excavation of a large bore pit within this environmentally sensitive area. The Exhibit 3 Alternative EGC Exit would necessitate additional trench length and an additional splice vault location. Additional management of potentially contaminated soils at the substation site would be required. It would necessitate hand trenching within the substation site. It would likely require greater depth of trench due to anticipated greater underground utility congestion. Commercial Avenue has numerous existing subsurface

facilities, including transmission circuits, and distribution circuits, in a narrow corridor. The Applicant has estimated that the use of the Exhibit 3 Alternative EGC Exit would increase the overall Project cost by approximately \$3 million because of these additional factors not present with the other exits. (See Exhibit 3, Section 3.4.1 of the Application and the Applicant's responses to DPS Information Request Nos. DPS-1 and DPS-10 (such responses are part of Exhibit 21 of the Evidentiary Record).) For the foregoing reasons, the Signatory Parties believe that the Revised EGC Exit is superior to both the Original EGC Exit and the Exhibit 3 Alternative EGC Exit.

35. Previously, the Applicant had tentatively considered installing the Facility across the intersections at the four HDD Sites using the same installation methodology as it proposed for almost all of the rest of the Project: open-cutting and excavating trenches in the paved road surfaces. The Applicant has now concluded that the main intersections at the four identified locations, however, are better crossed using HDD. These intersections have numerous existing underground utilities, and open-cutting would require time-consuming hand excavation to expose each existing utility on and near the route. At each of these intersections, the trench would need to be at least 13 feet deep, since there is insufficient space to position the new electric cable and its associated conduits above or between the existing underground facilities. This depth would require extensive shoring of the trench, further adding to construction time and cost. Relocating the existing underground facilities would be even more time-consuming and costly than trenching, and it would necessitate temporary outages on many of the relevant utility services. Open-cut trenching across these intersections would require closing at least one traffic lane at a time on each of the intersecting roads. As the excavation moved across the intersection, it would change the lane closure on the perpendicular road. With the need for time-consuming shoring and hand

excavation, the impact on traffic would be considerable. Closing traffic lanes would create considerable negative effects on nearby roads that would bear the impacts of traffic detours. In addition, temporary steel plates would have to be installed above the trench to restore use of the road until a future time when the Applicant would restore the pavement permanently, an activity that would itself again require traffic lane closures across the intersection. The Applicant has consulted with Village of Garden City officials about the three proposed HDDs in the village and with NYSDOT officials about the proposed HDD under Hempstead Turnpike (Route 24), and both sets of officials stated they are agreeable to HDD at the locations in their jurisdictions to lessen traffic impacts. For the foregoing reasons, the Signatory Parties believe that the use of HDD is superior to open-cut trenching at these locations.

b. Visual Resources

36. As discussed in Exhibit 4, permanent visual impacts of the Facility are expected to be minimal or non-existent. The Project is largely comprised of underground facilities, and the only permanent or semi-permanent aboveground construction elements are limited to substation connections, manhole covers, and vegetative clearing, none of which is expected to cause a detrimental visual impact.

37. A visual resource analysis was conducted in the area within three miles of the Project Route. The analysis uncovered the following: there are several eligible or listed historic properties and districts associated with the public roadway ROW (*i.e.*, in close proximity or immediately adjacent) that will be used for this Project; the Facility crosses below the Southern State Parkway within Cornwell Avenue, and the addition of manholes on a road surface at least 25 feet below this scenic byway will constitute no visual effect; a small number of school recreation fields are adjacent to the Facility; there are no New York State

heritage areas within visual range of the Project; and none of the three Bond Act Properties is within visual range of the Project.

38. The existing substations are prepared to house these cables, so no changes in height or density will occur within the substations. The connections to existing substations will not increase the visibility of the existing substations as they will occur within existing substation fence lines and proposed equipment is similar to existing equipment in size and appearance. As such, no visual resource impacts are anticipated from the substation connections.

39. Most and possibly all manhole covers will be installed within public roadway ROW which already contain many such utility features. Given the existing widespread presence of such features, the addition of at-grade manhole covers will not result in significant visual impacts.

40. The WNTF Outreach Plan contains a tree clearing notification process that includes, prior to the commencement of construction in any location, the Applicant marking all trees in such location to be cleared or trimmed and notifying and inviting input from residents, businesses, and municipalities that will be impacted by such clearing or trimming. The WNTF Outreach Plan also contains provisions by which the Applicant will inquire of each impacted municipality as to whether it has an existing tree clearing plan. The EM&CP will contain a detailed plan for tree clearing and vegetation removal directed by a certified arborist that reflects preservation, to the extent feasible, of existing trees, particularly old growth, specimen and landscape trees and vegetative buffers to mitigate noise and visual impacts. The detailed plan for tree clearing and vegetation removal in the EM&CP will also describe the process for disposal of cleared trees and other vegetation. All disturbed vegetation, removed trees and disturbed landscaping within the ROW of the Project Route will be restored as work is completed or within a reasonable amount of time following

completion of construction, as detailed in the EM&CP. Given the tree and vegetation clearing proposed, and given the planned restoration of cleared areas, vegetation clearing for the Project is anticipated to result in limited, temporary, visual effects. These temporary visual effects will not result in significant adverse visual impacts.

41. Temporary visual impacts to residents, motorists, and pedestrians will take place during installation of the cable. Visual impacts will include effects resulting from construction equipment staging and operations within and along existing public roadway ROWs. Construction activities will progress along the Project Route exposing each area for a limited amount of time. While Project activities will be continuous during the installation and Project Route construction period, no one location will be visually impacted for a significant duration because of the linear nature of the Project. The EM&CP will address efforts that will be employed to further mitigate potential construction related visual impacts. No significant visual impacts are anticipated to result from Project construction activities.

c. Cultural Resources

42. As discussed in Exhibit 4, the impact of the Facility on cultural resources is anticipated to be minimal due to the degree of observable prior ground disturbance within the ROW and the limited extent of above ground work at the existing substations. While numerous properties of architectural or historic significance exist in the general Project area, the construction of an underground transmission line has no potential to affect such resources.

43. A Phase IA Cultural Resource Reconnaissance technical report commissioned by the Applicant documenting the findings of the cultural resource review in detail has been transmitted to OPRHP. *See* the Phase IA Cultural Report dated December 4, 2017, which

was Attachment D to the Applicant’s letter filed with the Commission on March 15, 2018 (Exhibit 19 of the Evidentiary Record and referred to herein as “Exhibit 19”).

44. For archaeological sites, the Area of Potential Effect (“APE”) is the area of potential ground disturbance associated with the Project, which is anticipated to be limited to within the Project ROW and work spaces adjacent to or within it. It has been recommended that laydown, staging and work areas be located in areas of impervious cover in order avoid unnecessary ground disturbance. The potential for effects on archaeological resources associated with the use of laydown, staging and work areas, and other design changes that occur in the Project’s final design phase will be reevaluated when the locations of these areas have been identified.

45. Only one archaeological site has been recorded within a 1-mile radius of the Project ROW. This is the site of the Smith’s Point Pump Station (OPRHP #05947.000004), which dates from the 1870s and is situated one mile southeast of the Project Route. The lack of previously recorded archaeological sites in the Project vicinity most likely reflects the very small number of archaeological surveys that have been carried out in the Project vicinity as well as the fact that much of the area was already heavily developed before regulations protecting archaeological sites came into existence. Only a few hundred linear feet of the Project ROW has ever been subjected to archaeological survey. Whether archaeological sites exist in the previously uninvestigated portions of the Project ROW is not currently known. However, most of the Project area consists of land that has been subjected previously to extensive filling and a variety of other disturbance factors.

46. One moderately sensitive location was identified by the Phase IA Cultural Resource Reconnaissance technical report commissioned by the Applicant. This location (the

“Stream Crossing Site”) is at the crossing of a tributary to Mill River (also known as Pines Stream) on Hempstead Avenue north of Malverne.

47. For historic architectural properties, the APE corresponds to the areas of direct, physical effects on the properties themselves (*e.g.*, demolition, additions, improvements) and visual effects (changes within view of a historic property or properties). Given that the Project includes no aboveground elements that would affect visual contexts, there is no potential for visual impacts. The Project will not result in physical effects on historic architectural resources.

48. Sixty-two properties listed on the State and/or National Register and 37 properties eligible for listing are located within three miles of the Project Route. While these properties illustrate the fact that there are many significant architectural resources in the general area, the construction of an underground transmission line has no potential to affect such resources.

49. Construction of the proposed underground transmission line has no potential to adversely affect aboveground cultural resources (historic buildings and structures). Further, construction of the proposed underground transmission line within existing roadways makes it highly unlikely that the proposed underground construction would affect archaeological deposits associated with New York or National Register-listed buildings or structures or sites that might be deemed individually eligible for listing on the New York or National Registers.

50. The Phase IA Cultural Resource Reconnaissance study assessed the Project’s potential effects on cultural resources. The study divided the Project ROW into zones of low and moderate potential to contain either historic or prehistoric archaeological sites, and formulated specific recommendations for Phase IB (identification-level) archaeological

testing of areas with moderate potential. OPRHP concurred with the report's conclusions in correspondence dated December 13, 2017. A record of agency consultation with OPRHP can be found in Exhibit 16. No parts of the Project Route were found to be of high archaeological potential. Given the Project has, overall, a low potential to physically affect potentially significant prehistoric and/or historic archaeological sites, no potential to physically affect a potentially significant historic architectural property, and no potential to visually affect historic architectural resources; a Phase IB archaeological investigation was determined to not be necessary for most of the Project Route.

51. The Phase IA contained recommendations for Phase IB testing for the HDD Sites, the Stream Crossing Site, and the sites of the sending and receiving pits necessitated by the jack-and-bore installation technique associated with the LIRR crossing at Franklin Avenue in the Village of Malverne, given that these areas have not been previously disturbed. It was further recommended that all staging and construction activity, apart from the trenchless bore pits, be limited to areas of existing impervious cover to the extent practicable.

52. During the final design phase of the Project, the Applicant will consider testing or protective recommendations for any changes in design. The Phase IA report was reviewed and the findings, detailed above, were concurred with by OPRHP. See the letter dated December 13, 2017 set forth in Appendix B (Agency Correspondence) of the Application (Exhibit 16 of the Evidentiary Record and referred to herein as "Exhibit 16").

53. During the course of the settlement process, the Signatory Parties negotiated and agreed on a number of modifications to various features of the Project as originally proposed in the Application. Some of those modifications may need to be sited in unpaved areas that may not have been previously disturbed. The use of potentially unpaved areas that may have not been previously disturbed include the jack-and-bore crossing of the LIRR at Franklin

Avenue and the four proposed HDD locations. These areas will necessitate the negotiation of temporary easements needed for the sending and receiving pits and workspaces associated with the trenchless HDD or jack-and-bore installation techniques. The use of potentially unpaved areas that may have not been previously disturbed also includes the Pines Stream crossing. The Applicant has evaluated the potential for these modifications to contain potentially significant archaeological deposits and provided recommendations regarding the need for Phase IB field investigations. The findings of the analysis and recommendations for Phase IB field investigations will be presented to OPRHP in an addendum to the previously reviewed Phase IA.

d. Wetlands and Aquatic Resources

54. The installation, operation and maintenance of the Facility is not anticipated to cause impacts to wetlands because no wetlands or regulated adjacent areas have been identified during field investigations or via review of published wetland maps within the public roadway ROW or on parcels abutting those streets. One aquatic resource is crossed by the Project. This resource is known as Pines Stream and is described below.

55. Halls Pond is a surface water feature located immediately north of the Project ROW at Hempstead Avenue between the intersections of Nassau Boulevard [west] and Eagle Avenue [east]). The pond is classified as PUBHx (Palustrine, Unconsolidated Bottom, Permanently Flooded, Excavated) on U.S. Fish & Wildlife Service (“USFWS”) National Wetland Inventory (“NWI”) Maps. Halls Pond is a concrete lined pond with little or no soil and is lacking vegetation and would not be regulated by the U.S. Army Corps of Engineers (“USACE”) or NYSDEC as a wetland. The waterbody draining Halls Pond, known as Pines Stream, flows under Hempstead Avenue within a concrete-lined culvert with a riprap stream bed. The Project will cross Pines Stream at or near this location.

56. Pines Stream in this area is generally referred to as Mill River, although it is identified as Pines Stream in 6 NYCRR Part 885.6 and as “Tribes to Smith Pond” on the NYSDEC Priority Waterbodies List (PWL ID No. 1701-0221). This stream and immediately surrounding area is classified as R2UBH (Riverine, Lower Perennial, Unconsolidated Bottom, Permanently Flooded) on USFWS NWI Maps. The pond and stream are classified as Class C in the water quality standards contained in 6 NYCRR Part 885.6, which indicates a best use of general recreation and the support of aquatic life but not as a water supply for public bathing. Fish consumption at this site is impaired due to elevated chlordane concentrations, contamination from past pesticide use and from urban and stormwater runoff. This aquatic resource is not regulated as a protected stream under the New York Environmental Conservation Law (“ECL”) § 15-0501 since it does not have a designation of trout waters or trout spawning.

57. USFWS NWI mapping depicts a potentially federally regulated wetland that is associated with Pines Stream is located in the area but is more than 100 feet from the Project workspace. This wetland feature is classified on the NWI mapping as PF01C (Palustrine, Forested, Broad-Leaved Deciduous, Seasonally Flooded). The mapped wetland feature was not observed during the field reconnaissance.

58. No wetlands regulated pursuant to ECL Article 24 Freshwater Wetlands were identified during the map or field review within 100 feet from the Project centerline.

59. As no wetlands have been identified during field investigations or on published wetland maps within the public roadway ROW or on parcels abutting those streets, no impacts to wetlands are anticipated to result from the Project.

60. The crossing of Pines Stream will be designed to avoid or minimize impacts to the stream and culvert, to the extent practical. Subsequent to filing the Application, the Applicant determined that insufficient depth is available to install the Facility by open-cut trenching the road surface above the culvert, which had been its expected stream crossing method when it developed the Application. Thus the Applicant developed a revised stream crossing plan (the “Revised Stream Crossing Plan”) in consultation with DPS Staff, NYSDEC and the Nassau County Department of Public Works (“Nassau County DPW”), which is more fully detailed in Appendix B. Under the Revised Stream Crossing Plan, the Applicant would install the Facility across Pines Stream along a route adjacent to and approximately parallel to Hempstead Avenue using open-cut trenching methods at a minimum 42 inch depth. The Applicant has determined that the Revised Stream Crossing Plan is superior to its original plan. Pines Stream flows under Hempstead Avenue within a concrete-lined culvert with a riprap stream bed. NYSDEC has confirmed that this part of Pines Stream is not navigable and is classified as Class C in the water quality standards contained in 6 NYCRR Part 885.6. The Applicant has commenced negotiations with the relevant property owners, specifically St. Thomas the Apostle Church and the owners of the McDonald’s property. The Signatory Parties believe that the Revised Stream Crossing Plan is superior to the Applicant’s original plan to cross Pines Stream.

61. For this crossing, the Applicant intends to seek authorization by the USACE’s New York District under Nationwide Permit (“NWP”) No. 12 for Utility Line Activities. NWP No. 12 authorizes activities required for the construction, maintenance, repair, and removal of utility lines and associated facilities, including access roads, in waters of the U.S., provided the activity does not result in the loss of greater than one-half acre of jurisdictional waters and wetlands. In the unlikely event that the Project activities are jurisdictional but do

not qualify for a NWP No. 12, an application for an individual permit will be prepared and submitted to USACE. Further consultations with the USACE will determine the applicable NWP.

62. Erosion and sediment control measures to be implemented will be detailed in the EM&CP and in a Project-specific SWPPP. Erosion and sediment control measures will be designed to maintain and protect soil and water resources during both the construction and operational phases of the Project.

e. Terrestrial Ecology and Rare Species

63. As noted in Exhibit 4, the installation, operation and maintenance of the Facility is not anticipated to have an adverse impact on terrestrial ecology and rare species resources in the Project area.

64. Minor vegetative clearing may be required on the easement parcels needed for the jack and bore crossing of the LIRR. In addition, minor tree clearing may be necessary to accommodate the underground facilities at the northern edge of the East Garden City Substation. This tree clearing will be covered by the tree clearing notification process contained in the WNTP Outreach Plan.

65. Disturbance to non-forested plant communities will be limited to temporary impacts associated with equipment access and trenching activities and will primarily occur within plant communities along the Project Route that are previously disturbed and or maintained.

66. The Project Route is located within the Coastal Lowlands “EcoZone,” which includes all of Long Island. The ecological communities encountered within the Project

Route are consistent with typical suburban development encountered in western Long Island, including residential, commercial and developed landscapes.

67. The Project Route is primarily located within existing public roadway ROW. Portions of the Facility cross local, county, and state ROW, which primarily consist of impervious surfaces and pavement. Due to the developed nature of the Project Route, some segments of the Project Route are located within or adjacent to vegetated areas such as maintained landscaping within the ROW, parklands, recreational parks and golf courses, and maintained lawns. These affected vegetative areas will be restored to original condition or as close as reasonably possible within a reasonable amount of time following completion of construction.

68. The East Garden City and Valley Stream substations are located within fenced and gated security perimeters. The ground surface throughout the interior of the security perimeter is overlain with crushed stone and other fill materials. No vegetated communities or wildlife habitat is located within the fenced boundary of either substation.

69. The Applicant has determined that it will have a primary marshalling yard at 550 Stewart Avenue in the Village of Garden City. The Applicant also is tentatively considering the use of a portion of the parking lot of National Wholesale Liquidators, located at 111 Hempstead Turnpike in the hamlet of West Hempstead. All of the laydown, staging areas, marshalling yards and work areas have not yet been finally determined; however, the Applicant plans to locate them in areas of impervious cover to the extent practicable and thus avoid unnecessary ground disturbance. The Applicant will identify its finally determined laydown, staging areas, marshalling yards and work areas in the EM&CP. For any such area or yard that will require ground disturbing preparation before the Applicant uses it for such

purposes, the Applicant will survey for invasive species and for rare, threatened or endangered species before it performs such preparation.

70. The presence of invasive plant and animal species is a widespread and common occurrence throughout the areas adjacent to the existing public roadway ROW and was verified in the Project vicinity during field reconnaissance.

71. Based on the location of the Project primarily within existing public roadway ROWs, interaction with invasive plant species will be limited to areas that are subject to tree clearing, vegetation removal, and HDD.

72. The NYNHP manages the New York iMap Invasive Species Database and Mapping System. This online database contained records consisting of a total of eight nonnative plant species occurrences within or proximate to the Project Route. All of these records document occurrences at the intersection of Franklin Avenue and Stewart Avenue in the Town of Hempstead, which are unlikely to be disturbed by project construction or operation. These invasive plant species are described in Table 4.6-2 (Invasive Species Recorded within the Proposed Route) in Exhibit 4.

73. Through the USFWS IPaC System, an official species list of federally managed species was requested for the Project Route. The USFWS Long Island Ecological Services Field Office provided the Official Species List on August 29, 2017 under the consultation code 05E1LI00-2017-SLI-0728. The Official Species List includes the following six federally-listed species: the threatened northern long-eared bat (*Myotis septentrionalis*), threatened piping plover (*Charadrius melodus*), threatened red knot (*Calidris canutus rufa*), endangered roseate tern (*Sterna dougallii dougallii*), endangered sandplain gerardia (*Agalinis acuta*), and the threatened seabeach amaranth (*Amaranthus pumilus*). All native animal

species present or formerly present in New York federally-listed as endangered or threatened by the United States Department of the Interior in the Code of Federal Regulations (50 CFR part 17) are also state-listed as endangered or threatened species under 6 NYCRR Part 182, including the northern long-eared bat (*Myotis septentrionalis*), piping plover (*Charadrius melodus*), roseate tern (*Sterna dougallii dougallii*).

74. A letter request was submitted to the NYNHP for information regarding the presence of state managed threatened and endangered species and unique natural communities in the Project's initial study area for the proposed and alternative routes. In a letter dated July 20, 2017 the NYNHP responded and provided a report of rare or state-listed animals, plants, and significant natural communities in that study area. The following state listed species were identified as potentially within the Project location: upland sandpiper (*Bartramia longicauda*), frosted elfin (*Callophrys irus*), and the yellow-crowned night-heron (*Nyctanassa violacea*). The NYNHP reported that comprehensive field surveys had not been conducted to provide a definitive statement as to the presence or absence of those species at the reported locations. NYNHP recommended on-site surveys to fully assess the biological resources within the Project area. In an email dated August 11, 2017 the NYNHP provided latitude/longitude coordinates for some of the plants and listed animals described in the July 20, 2017 letter. The coordinates provided guidance for the field level habitat assessments and field reconnaissance conducted by PS&S in September 2017. Of the species for which latitude and longitude coordinates were provided, only one species, the NYS protected bird yellow-crowned night heron (*Nyctanassa violacea*), has a recent record of occurrence within a half-mile of the Project Route. The Project is not expected to affect the other species mentioned above.

75. No bald eagle (*Haliaeetus leucocephalus*, NYS threatened) or golden eagle (*Aquila chrysaetos*, NYS endangered) nests were identified by the NYNHP mapper to be within or adjacent (within 600 feet) to the Project area. No impacts are anticipated to these species.

76. The yellow-crowned night heron (*Nyctanassa violacea*) is a NYS protected bird species. This species is known to occur in habitats along with the black-crowned night heron, in marshes, swamps, lakes, lagoons and mangrove swamps. During September 2017 field reconnaissance, a black-crowned night heron was observed south of Halls Pond, proximate to the location where the Project crosses Pines Stream. Given this sighting, it is possible that habitat for the yellow-crowned night-heron exists along the Project Route in this area. However, given that Pines Stream is culverted in this area and does not provide a source of food or ideal nesting habitat for the species, no significant adverse impact to yellow-crowned night-heron habitat is anticipated. Any potential disruption to the species would be limited to short term, construction related disturbance. However, given that similar construction activities (*e.g.*, road paving and utility repairs) are common along the roadway, it is likely that residents are habituated and are not likely to be disturbed by Project construction.

77. Based on a review of available DEC GIS data and field reconnaissance activities, the Project Route does not transect a Significant Natural Community (“SNC”). Therefore, SNCs are not expected to be impacted by the proposed Project.

78. The Applicant will not use pesticides or herbicides during construction of the Project. Vegetation management activities during operation of the Project will be limited given that the facilities will be primarily located underground. During operation, the aboveground facilities at the East Garden City and Valley Stream Substations will be included in the Applicant’s existing annual substation spray program. Any pesticides and herbicides used will be NYSDEC-approved for use in New York State and in Nassau

County. Use of herbicides and pesticides must follow NYSDEC laws and regulations and follow EPA registered label requirements. All pesticide or herbicide application methods will be determined by the Applicant's Vegetation Management Organization. Pesticide and herbicide application rates will be in accordance with the label rates for the application technique used.

79. At the East Garden City and Valley Stream substations, the Applicant's current vegetation management program consists of both bare ground and fence sprays using handheld sprayers in equipment areas. The bare ground application consists of both pre-emergent and post-emergent ingredients in spring, and fence sprays are post-emergent only, later in summer.

80. To control the introduction or spread of invasive species to unspoiled areas, preventative measures will be employed during construction. These measures will be detailed in the EM&CP and may include: washing vehicles and equipment before and after moving them from one site to another, monitoring soil movement and stockpiling for invasive species, and providing special protection to invasive-free areas.

81. Based on correspondence received from NYNHP and USFWS, the Project occurs in the vicinity of several state and federally listed plant and animal species. However, based on the Project's location in roadway ROWs and existing substations, construction and operation of the Project is not anticipated to cause an adverse effect to any state or federally listed threatened or endangered species. Additionally, the Applicant received correspondence from the USFWS on December 20, 2017, concurring with the Applicant's "no effect" determination and stating that no further Endangered Species Act consultation is required (*see* Exhibit 19).

82. Limited localized disturbance of urban wildlife may occur during construction phases. Given that the Project is within a highly active urban location, wildlife will most likely be accustomed to these types of construction activities therefore any disturbances will be minor and temporary.

f. Topography, Geology, Soils and Groundwater

83. As noted in Exhibit 4, the Project ROW avoids high points, steep slopes, heavily timbered areas and ridge lines, and preserves the natural landscape.

84. The topography along the Project Route ranges in elevation from approximately 23 feet above mean sea level (“AMSL”) to approximately 92 feet AMSL, sloping towards Valley Stream Substation.

85. Bedrock in the Project area can be found at depths greater than 2.8 feet. This bedrock is overlain with surficial sediments composed of Cretaceous sand and clay. The sediments were deposited at the end of the Triassic period as a result of the bedrock tilting southward. Several layers exist within the Cretaceous sediments and the island surface.

86. No long-term impacts on geologic features in the Project area are anticipated to occur as a result of the Project’s construction. Significant grading and filling is not necessary for installation of the cable.

87. In general, soils identified within the Project Route are typically classified as silty loams and previously disturbed urban land.

88. The most prevalent soil type found along the Project Route is previously disturbed urban land, with gentle slopes. The other regional soils are comprised of silty loams, with some sandy loams and loamy sands, with slopes typically between zero and 15 percent.

89. In part because urban land soils are generally heterogeneous, a limited subsurface environmental and geotechnical investigation will be performed along the Project Route

during development of the EM&CP. The investigation will document and classify the soils along the Project Route, confirm the presence and/or absence of potential contamination, measure the depth to groundwater and confirm the depth to bedrock. The information gathered during the limited subsurface investigation will assist in the final design and construction of the Project.

90. The Project Route has been assessed for its proximity to historic fill areas. Historic fill is a non-native soil which typically consists of unsuitable construction debris, dredging spoils, incinerator ashes, materials from building demolition, and similar “refuse” materials. Using the USDA-Natural Resource Conservation Service (“NRCS”) Web Soil Survey, the Project Route does not transect the areas mapped as containing “Udorthents, refuse substratum”, which is traditionally an indicator of historic fill. The nearest “Udorthents, refuse substratum” mapped area on the Web Soil Survey is an approximately three-acre area situated just west of Smith Pond, located over a mile east of the Project Route and the proposed excavation work.

91. The USDA-NRCS Web Soil Survey was also used to assess the locations of hydric soils, another possible indicator of historic fill, in the vicinity of the Project Route. There is a section of hydric soils close to the Project Route which is classified as Swansea Muck, and several areas of predominantly hydric soils near the Project Route classified as Atsion loamy sand. Historic fill may be expected to be encountered when excavating in these areas. The Atsion loamy sand mapped area sits just north of Halls Pond Park, approximately 120 feet west of Hempstead Avenue, between Eagle Avenue and Maple Street. Given this location, and given that excavation in this area is limited to the roadway ROW, encountering historic fill is not anticipated.

92. If an unexpected significant volume of historic fill is encountered and temporary storage is needed, the soil stockpiles will be stored and managed at one or more locations to be identified in the EM&CP. Impacted soils and historic fill materials will be handled, stored and transported in accordance with all applicable local, state and federal regulations. If impacted material is encountered, Applicant will provide applicable air monitoring and vapor mitigation. Any work or storage areas where impacted soil is encountered will be protected to restrict access to pedestrians.

93. Depth to groundwater data for the Project was sourced from the USGS Hydrologic Conditions Maps for Long Island, from 2013, and ArcGIS Online. According to these sources, the water table varies between less than 11 feet below ground surface (“bgs”) to as much as 50 feet bgs along the Project Route. Generally, the depth to groundwater underlying the Project Route is less than 30 feet bgs and is typically less than 20 feet bgs throughout the southern portion of the Project Route. The Project Route does not traverse special groundwater protection areas. Based on the provided groundwater information, the need for dewatering can be anticipated at regular intervals throughout the southern portion of the Project Route, where the water table is closer to the ground surface. If significant dewatering is required in any area where ingress and egress for property owners along the ROW will be inhibited, restricted, or prevented, the Applicant will notify such property owners and provide alternative means of ingress and egress to/from their properties. Prior to the commencement of work in any area requiring dewatering that will inhibit, restrict, or prevent access to property owners along the ROW, the Applicant will submit to DPS Staff a plan detailing such notification and alternative ingress/egress in such area. The water table is generally sloped from shallower depths closer to the southern shore of the island towards

deeper water table depths at the center of the island. The Applicant will mitigate any associated impacts in the areas affected by the potential dewatering portions of the Project.

94. Construction of the Project is not expected to have a significant impact on topographic features. Significant grading and filling is not necessary for installation of the cable. After construction is complete the soil will be restored to pre-existing contours. Disturbed areas (*e.g.*, fencing, signage, mailboxes, etc.) will be restored to preexisting conditions. Restoration of highways, streets and roads (*e.g.*, pavement, curbs, shoulders, etc.) will be done consistent with the requirements of the NYSDOT or any other agency with jurisdiction. Areas of disturbed vegetation will be addressed in accordance with the Project Restoration Plan, which will be included with the EM&CP.

95. Potential Project related impacts to soils include the possible loss of top soil through erosion or by the restratification of topsoil during trench backfilling, or unanticipated spills of petroleum-based products from construction equipment. Such potential impacts are typically associated with any construction project. The Project will employ BMPs and other measures to reduce or eliminate construction related impacts. As a result, Project impacts to soils will be minimal.

96. The Applicant will prepare and implement a Spill Prevention Plan, to be included with the EM&CP. The Applicant will maintain the necessary tools and supplies needed to control and minimize potential spills. The construction activities will be completed in a manner to minimize impacts to soil to the extent practicable.

97. Erosion and sediment control measures, including potential topsoil replacement, to be implemented during construction will be detailed in the EM&CP and in a Project-specific

SWPPP. Erosion and sediment control measures will be designed to maintain and protect soil and water resources during both the construction and operational phases of the Project.

98. A subsurface environmental and geotechnical investigation has been performed along the Project Route. The investigation documents soil types and identifies any areas where contamination could be encountered during construction activities. The information gathered during this subsurface investigation will assist in the final design and construction of the Project. The Applicant will backfill all excavations and trenches either with clean thermal fill material which was removed, or with clean washed building sand or suitable thermal fill such as cementitious slurry backfill. The backfill material will comply with applicable code requirements and minimize heat retention of the newly installed cables. The Applicant will dispose of any excess fill, whether or not contaminated, in accordance with code requirements applicable to such substances. Site specific soil disposal and soil handling procedures will be identified in the EM&CP.

99. No long-term impacts on groundwater resources in the Project area are anticipated to occur as a result of the Project's construction, operation or maintenance. Cable trench depths found to be stable on past similar underground transmission projects will be utilized.

100. The installation of the Project will not result in the degradation of groundwater given that solid dielectric conductor cable is proposed, and components will not contain dielectric fluids or hazardous materials or liquids that pose a threat to the aquifer.

101. Dewatering can be anticipated throughout the southern portion of the Project Route, particularly for splice vault excavations which will be advanced to approximate depths of 12 to 15 feet bgs. Portions of the duct bank installations will also likely require

dewatering. Necessary dewatering activities and groundwater handling procedures will be managed in accordance with a Waste Handling Plan and identified in the EM&CP.

102. Dewatering discharge sampling will be conducted as necessary to assure compliance with regulatory discharge requirements. Pre-treatment of pumped groundwater from excavations or other construction related activities will be conducted prior to discharge if contaminants are identified in the samples. Provided that dewatering does not require the installation and operation of well points, NYSDEC's Long Island Well Program and 6 NYCRR Part 602 do not apply. NYSDEC staff will be consulted regarding how to meet the substantive requirements of 6 NYCRR Parts 601 and 602 to the extent they are applicable to dewatering activities to be conducted on the Project. If water will be discharged in to a public storm drainage system, prior approval from the operator of the storm drainage system will be obtained.

103. The installation of the splice vaults along the ROW will minimally increase impervious coverage. However, this increase in coverage is not expected to have negative effects on the quantity and quality of stormwater runoff. The Project will maintain a minimum one foot of cover over the splice vaults and the incremental increase in impervious area will be limited to the area of the splice vault covers. Therefore, increases in impervious coverage will be minimal and stormwater runoff will continue to be managed with the existing storm sewer system.

g. Transportation

104. There is one airport and seven heliports that are located within five miles of the Project right-of-way ("ROW"). The Project is located approximately four miles east of the nearest airport, John F. Kennedy International Airport within the Borough of Queens. The Project facilities are proposed to be underground or less than 100 feet tall; they do not meet

the Federal Aviation Administration (“FAA”) height criteria for obstruction evaluation. Based on a review of the FAA Order JO 7400.2K, “Procedures for Handling Airspace Matters”, a FAA determination will not be required because the proposed work will not exceed a height of 200 feet or be constructed as close as 5,000 feet from the nearest landing/takeoff area. In addition, the Project will not attract birds or other wildlife to the surrounding area and will not have an adverse impact on the obstruction standards or the runway protection zone. During operation, the Project will not be considered a hazard to air navigation and will not require obstruction lighting or other visual mitigation.

105. Construction of the Project will involve two crossings of the LIRR. The first will be a crossing of the LIRR West Hempstead Branch on Franklin Avenue, between Broadway and Rider Avenue, in the Village of Malverne. The West Hempstead Branch is at-grade at this location. This crossing will be conducted via jack-and-bore trenchless technology. After learning of the development plans of the owner of the two affected parcels (97 Franklin Avenue and 131 Franklin Avenue), the Applicant has decided to propose changing some elements of the crossing method it originally expected to employ when it developed the Application. The owner (the “Landowner”), plans to build new homes on both properties: he ultimately intends to build six new homes on 131 Franklin Avenue, which is currently undeveloped, and five new homes on 97 Franklin Avenue, which currently has one house. The Landowner is currently waiting for additional permits and appropriate weather to begin the 131 Franklin Avenue work. His plans to begin work at 97 Franklin Avenue in approximately 2 years after completion of 131 Franklin Avenue remain on track. He has also confirmed that his development plans will not conflict with the Project since his private property at 131 Franklin Avenue is not implicated by the Project.

106. The Landowner’s principal concern with the Applicant’s original plan was its placement of the jack-and-bore entry pit directly adjacent to the 131 Franklin Avenue property, resulting in a substantial portion of the entry pit’s workspace being on that property. This would have conflicted with the Landowner’s development plans for the property. At the Landowner’s request, the Applicant investigated the idea of reversing and realigning the jack-and-bore direction so that the jacking pit would be relocated to the southern side of the LIRR crossing, with its workspace partially on the 97 Franklin Avenue property, and the receiving pit would be relocated to Broadway, with no boring activity in close proximity to the 131 Franklin Avenue property. The Landowner also asked that the Applicant investigate whether, in doing so, it could maintain the 15 foot-wide drive access to 97 Franklin Avenue for the Landowner’s ingress/egress to and from the storage area in the rear of that property.

107. The Applicant’s investigation produced an affirmative response. The Applicant designed a revised plan (the “Revised LIRR Crossing Plan”), which incorporates these Landowner requests. It includes use of the paved parking lot at 97 Franklin Avenue, which is already disturbed because the Landowner uses it regularly as a parking location for his construction workers. The Applicant and the Landowner have agreed upon a plan for tree removal. The Applicant intends to restore any minor undisturbed areas used for workspace to original condition, or as agreed upon with the Landowner. The Applicant has confirmed that changing to the Revised LIRR Crossing Plan would not materially impact the larger Project design. The Revised LIRR Crossing Plan is more fully detailed in Appendix B.

108. The Landowner has informed the Applicant that he is amenable to the Revised LIRR Crossing Plan. The two parties are engaged in negotiating a License Agreement amendment that would give the Applicant the right to temporarily (*i.e.*, twelve months) use

the 97 Franklin Avenue property as workspace for the jack-and-bore entry pit for the LIRR crossing and associated work.

109. One impact of the original crossing plan would not be present with the Revised LIRR Crossing Plan: the Applicant's work would not interfere with the Landowner's development plans. The portion of 97 Franklin Avenue where Applicant's entry pit workspace and ingress/egress route would be located is the paved parking lot that the Landowner uses regularly as a parking location for his construction workers, rather than the space at 131 Franklin Avenue where the Landowner intends to commence building new homes during the period the Applicant intends to implement the Revised LIRR Crossing Plan. In other respects, the impacts of the Revised LIRR Crossing Plan would be no greater than those of the original plan. For instance, the Landowner intends to require the current residents of 97 Franklin Avenue to depart the residence before the Applicant commences work in this location, so no residents living on that property will be impacted, and the Applicant will install a fence around both trenchless construction workspaces for the safety and security of persons in the vicinity. Finally, the Revised LIRR Crossing Plan would eliminate another impact of the original plan, which was the fact that it would have necessitated the relocation of existing overhead distribution lines. The Signatory Parties believe that the Revised LIRR Crossing Plan is superior to the original plan.

110. The second LIRR crossing will be at the underpass of the Hempstead Branch of the LIRR on Cherry Valley Avenue, between 6th Street and Stewart Avenue, in the Village of Garden City. The Hempstead Branch is elevated above the roadway (Cherry Valley Avenue) at this location. This crossing will involve open trench work.

111. Final designs for the Project will incorporate appropriate transmission facility design criteria and railroad safety clearances. As stated in the WNTF Outreach Plan, the

Applicant is consulting with the Metropolitan Transit Authority (“MTA”) to brief the MTA on the Project and to obtain input on the Project Route and design of the railroad crossings. Following final design and preparation of the Environmental Management and Construction Plan (“EM&CP”) for the Project, the Applicant will seek to obtain Railroad Crossing Permits from the MTA for the applicable LIRR crossings. The final Project designs will be reviewed with MTA/LIRR prior to the commencement of construction. Project construction activities will be coordinated with MTA/LIRR to ensure that construction activities do not conflict with railroad operations and to ensure that appropriate railroad safety precautions are implemented.

112. The Project will be constructed primarily within public roadway ROWs. These include the longitudinal occupation of 15 public roadway ROWs. Of these, nine are under the jurisdiction of Nassau County. Other than public roadways and negotiated access routes to laydown areas, the Applicant plans no off-ROW access roads for construction.

113. The Project perpendicularly crosses approximately 100 state, county or local roadways in Nassau County. Of these, 92 are local, six are county, and two are state jurisdictional roadways. As stated in the WNTP Outreach Plan, the Applicant will coordinate construction activities with local government officials, including schedules for road and lane closures and nighttime construction work as well as effective methods of dissemination of such information to the public. The EM&CP will include details on the methods that will be employed.

114. The only Project impacts to roads and traffic are expected to occur during construction. No impacts will occur during normal operation of the Facility. Prior to the initiation of construction, appropriate agencies and municipalities will be contacted in order to develop a construction schedule that will minimize traffic impacts to the extent

practicable. Such schedule may include alternate traffic routes and nighttime work to minimize traffic disruption.

115. The EM&CP will document a general route for delivery of cable reels to splice vaults. Prior to construction, the Applicant will determine all bridges and overhead obstructions which will prevent delivery of cable reels due to height restrictions.

116. Traffic control measures will be developed as part of the final design to address temporary signage, possible shoulder closings, and procedures for moving equipment and materials onto the ROW. The installation of splice vaults at some locations will close all travel lanes temporarily; at other splice vault installation locations, and for all other Project construction activities, travel lanes may need to be closed temporarily, but the Applicant will ensure that there is always one travel lane open for traffic flow to the extent practicable. Traffic control personnel and safety signage will be employed to control safe and successful traffic flow when lanes are temporarily shut down. Should parking along the local roadways be required, all vehicles will be situated such that the safe operation of the roadway is not impeded.

117. The Project Route makes a perpendicular crossing of the Hempstead Turnpike (Route 24), a state roadway, which is one of the HDD Sites. Following final design and preparation of the EM&CP for the Project, the Applicant will seek to obtain a Utility Work Permit (“UWP”) from the NYSDOT for this crossing, and will enter into a Use and Occupancy Agreement with NYSDOT, if required by that agency. During construction, the Applicant will fully comply with all UWP permit conditions. Best Management Practices will be employed during construction activities to prevent the deposition of materials onto local roadways. Soil washed, dropped, spilled or tracked outside the limit of disturbance or onto public ROWs will be removed in a timely manner.

118. The Applicant will research and locate any existing steel or steam pipes along the Project route. If any are identified, the Applicant will include in the EM&CP any adjustments to the route that it believes necessary to avoid any detrimental effects to the existing pipes.

119. In addition, the Project ROW crosses under the Southern State Parkway via Cornwell Avenue in the Town of Hempstead where Cornwell Avenue is an underpass below the parkway. This parkway is owned by the New York State Office of Parks, Recreation, and Historic Preservation (“OPRHP”), and maintained by the NYSDOT. This crossing may require a UWP from NYSDOT or OPRHP. Following final design and preparation of the EM&CP for the Project, the Applicant will seek to obtain authorizations for the Southern State Parkway crossing, if required.

120. The final Project designs will be reviewed with NYSDOT and OPRHP prior to the commencement of construction of the Project. Construction activities will also be coordinated with NYSDOT and OPRHP to ensure that traffic impacts are minimized and to ensure that appropriate safety precautions are implemented. The Applicant will comply with the conditions of the UWPs.

121. Sidewalks are prevalent throughout the Project area, and pedestrian traffic is expected along the public roadways that comprise the Project ROW. Appropriate construction and safety practices including signage, will be implemented by the Applicant to minimize pedestrian inconvenience and avoid risks to safety from construction activities. Construction practices, such as steel plates, temporary barricades, and fencing, will be used to restrict pedestrians from entering construction zones and limit pedestrian impacts from the Project. The WNTP Outreach Plan describes the types of outreach to be conducted prior to and during construction as well as the type of signage that will be used at the sidewalk level.

122. Particular consideration will be accorded in the vicinity of school zones. As stated in the WNTP Outreach Plan, the Applicant is consulting with all school districts traversed by the Project Route (specifically, the districts of Garden City and West Hempstead) to brief them on the Project and to coordinate student transportation and pedestrian safety matters. The WNTP Outreach Plan will also provide that, prior to commencement of construction activities in a school zone located on or adjacent to the ROW, the Applicant will so notify the relevant school district. This outreach will include informing parents and crossing guards of the construction schedule and the impacts on particular walking routes. Previous outreach to school districts by the Applicant for this Project encompassed the two above school districts plus the four school districts (Hempstead, Franklin Square, Valley Stream and Uniondale school districts) which the Eastern and Western Alternative Routes traverse. The WNTP Outreach Plan also details the Applicant's intentions on safety and minimizing inconvenience of persons in high-density commercial and residential land use areas. The Applicant also intends to hire additional crossing guards for areas near schools to provide for increased safety in Project construction zones.

123. In June 2016 Governor Cuomo announced a multi-agency initiative, the Pedestrian Safety Action Plan, to improve safety for pedestrians through infrastructure improvements, education efforts and enforcement across Upstate New York and Long Island. This work is to be completed in two phases. The second phase, planned to begin in the summer of 2019 with completion in fall 2021, will temporally overlap with the construction of the Project. As stated in the WNTP Outreach Plan, the Applicant will discuss the Pedestrian Safety Action Plan with the municipalities and attempt to identify municipal or private project overlap and collaborative opportunities as a part of the development of the EM&CP. Sidewalks are prevalent throughout the Project area, and pedestrian traffic is expected along the public

roadways on which the Project will be built. Appropriate construction and safety practices will be implemented by the Applicant to minimize impacts from construction activities. Construction practices, such as use of steel plates, temporary barricades, and fencing, will be implemented to restrict pedestrians from entering construction zones.

h. Noise

124. Transmission line installation activities will generate noise levels that are audible along the Project Route, the HDD Sites, conductor pulling sites, staging areas and marshaling yards. Noise sources may also include power tools and construction equipment. The construction equipment to be used is similar to that used during typical public works projects and tree service operations. Sensitive receptors such as schools, houses of worship, central business districts, day care, medical facilities and other unique establishments may require slight traffic route modifications, work hour adjustments, schedule substitutions, emplacement of temporary barriers, or other mitigative measures.

125. Construction at substations will include equipment modification and installation of new equipment and is not anticipated to be a significant source of construction noise. If necessary, mitigative measures may be implemented. However, substation work for the Project will occur in high-traffic areas with minimal to no surrounding residences and is not anticipated to have significant impacts.

126. While the operation of substations involves switching, protection and control equipment and typically one or more transformers, which generate the sound generally described as a low humming that attenuates with distance at different rates depending on the transformer dimensions, voltage rating, and design, there is no expected increase in operational noise levels at either of the Substations as a result of the Project.

i. Communications

127. The Project is expected to have no adverse effects on communications (*e.g.*, cellular, television, radio) during construction or operation.

128. The Applicant will identify any existing underground communications facilities crossed by the Project on the EM&CP Plan and Profile drawings based on input from the facility owner and any above ground features. Any existing underground facilities that would potentially interfere with the design of the Project will be verified via an actual field mark out and surveyed for accurate placement on the drawings for the EM&CP. Any existing underground communications facilities at risk of being damaged will be temporarily moved, removed or restored.

j. Electric and Magnetic Fields

129. The EMF Study set forth in Appendix D of the Application (Exhibit 18 of the Evidentiary Record and referred to herein as “Exhibit 18”) indicates that the maximum modeled magnetic fields are within the Commission’s guidelines in all cases. Underground lines produce no above-ground electric fields, so these new 138 kV conductors will not produce any above-ground electric fields.

130. Under the Commission’s September 11, 1990, “Statement of Interim Policy on Magnetic Fields of Major Electric Transmission Facilities,” the peak field at the edge of the ROW as measured at one meter above ground when the circuit phase currents are equal to the winter normal conductor rating shall not exceed 200 milligauss (“mG”). The modeled magnetic field for the winter normal rating for the Project varies from 9.2 mG to 34.5 mG at lateral distances of 25 feet on either side of the conductor centerline for the different line cross-sections (typical triangular, shallow, and manhole) investigated, well below the 200 mG limit.

C. The Availability and Impact of Alternatives

131. The Application and exhibits agreed upon by the Signatory Parties to be admitted as record evidence in this proceeding describe the availability and impact of alternatives to the Project and are briefly summarized below. Considering all factors, the Signatory Parties agree that the Project as described in Appendix B is preferable, on balance, to any of the alternatives considered.

Alternative Routes

132. The Signatory Parties considered and rejected two other route options for the Project: a Western Alternative Route, and an Eastern Alternative Route.

133. As stated in Exhibit 3 of the Application (Exhibit 3 of the Evidentiary Record and referred to herein as “Exhibit 3”), the Western Alternative Route is approximately 1.6 miles longer than the Project Route and would require a trenchless crossing of the Southern State Parkway which would require the acquisition of temporary construction easements from Valley Stream Union Free School District and the State of New York. The Western Alternative Route would also require a culvert crossing on East Merrick Road (between Cornwell Avenue and Addison Place) and an approximately 0.2-mile longitudinal occupation of the NYSDOT jurisdictional Hempstead Turnpike (Route 24).

134. The Eastern Alternative Route is approximately 1.3 miles longer than the Project Route, and that route intersects the only location within the study area that the New York State Office of Parks Recreation and Historic Preservation (“OPRHP”) has designated as an archaeologically sensitive zone based on the presence of a previously recorded archaeological site, the Smith’s Pond Pumping Station Site. The trenchless crossing of the Southern State Parkway that the Eastern Alternative Route would require is considered high-difficulty and would require acquisition of private easements from Mercy Medical Center,

Hempstead Union Free School District No. 1, and the State of New York. Easements would be needed for the two entry/exit points, the southern one at the Mercy Medical Center south parking lot and the northern one at the Hempstead High School, to accommodate required equipment access and staging for performing construction activities related to the trenchless crossing. The Eastern Alternative Route would also include a trenchless crossing of the LIRR, and two crossings of culverted streams south of Hempstead Lake State Park.

135. The Signatory Parties rejected these alternative routes because they would increase construction cost and construction challenges.

Alternative Methods to Fulfill Energy Requirements

136. Alternative methods to fulfill energy requirements considered by the Applicant included overhead transmission; alternative circuits; the feasibility of energy efficiency, demand-side management and distributed generation; and a no-action alternative.

137. Overhead transmission lines are one of the traditional methods of expanding transmission capacity within utility service areas. Although in some instances electrical capacity at existing transmission corridors can be increased through upgrading and overbuilding, in the case of this Project, most of the overhead corridors connecting the East Garden City Substation to the Valley Stream Substation are already at or near electrical capacity making the only overhead option the construction of new pole lines. Therefore, overhead transmission lines were deemed infeasible for this Project by the Signatory Parties, due to lack of adequate ROW, the community impact of acquiring and creating additional ROW, PSEG Long Island engineering policies, socio-human impacts, and other environmental concerns related to this specific study area.

138. The Applicant's Transmission Planning Organization considered electrical alternatives to a new East Garden City Substation to Valley Stream Substation circuit. These

underground alternatives included: (i) a new, third circuit from Barrett Substation to Valley Stream Substation; (ii) reconductoring the existing circuit from East Garden City Substation to Valley Stream Substation, and; (iii) new circuits from Valley Stream Substation to Barrett Substation to Bellmore Substation and to Newbridge Substation. The Applicant rejected the first two electrical alternatives because they do not solve all of the N-1-1 violations detailed in Exhibit E-4. The Applicant rejected the third electrical alternative due to its greater length and its requirement for additional upgrades at Bellmore Substation. Additionally, the third electrical alternative triggered post contingent sub-transmission overloads.

139. In 2016, PSEG Long Island released a Western Nassau Request for Proposal of generation. Seven proposals were received using multiple technologies including: simple/combined cycle, solar, battery storage, HVDC, microgrid, and demand response. Each proposal underwent a qualitative and quantitative analysis by the Applicant. The Western Nassau RFP quantitative evaluation concluded that none of these seven proposals was cost-effective as compared to an AC transmission solution. Moreover, an AC transmission solution would best alleviate transmission limitations in the Southwest Nassau Area, maintain contingency service throughout the area, and address the need to satisfy North American Electric Reliability Corporation (“NERC”) reliability standards.

140. While energy efficiency, demand response, and distributed generation are critically important to meeting the needs of New York electric customers in a reliable and cost-effective manner while meeting the State’s environmental and greenhouse gas reduction goals, they are not functional substitutes for the Project.

141. The no-action alternative is not considered a viable alternative to the Project as it would prevent the Applicant from addressing the need described in Exhibit E-4. This includes alleviating transmission limitations in the Southwest Nassau Area and maintaining

contingency service throughout the area, as well as meeting the obligation to comply with NERC Transmission System Planning requirements. Without the Project, loss of any of the paths feeding the Southwest Nassau Area increases the risk of overloading of transmission lines, resulting in potential power outages to the customers in the area.

D. Conformance to Long-Range Plans for Expanding the Electric Power Grid

142. VRC is concerned that construction and operation of the Facility might degrade or diminish the Applicant’s deliveries of that capacity and energy it is required to deliver to its points of interconnection with VRC. While it is not expected that the construction or operation of the Facility will degrade or diminish the Applicant’s delivery of energy to its points of interconnection with VRC, there could still be unforeseen circumstances that may result in an outage. The Applicant commits that, subject to any governmental authority with jurisdiction (other than LIPA) requiring otherwise, the Applicant will construct the Facility in a manner that conforms to all applicable standards of the American National Standards Institute (“ANSI”) including, without limitation, the National Electrical Safety Code (“NESC”), Institute of Electrical and Electronics Engineers (“IEEE”) Standard IEEE [C2-2012, 2017], and any stricter standards adopted by the Applicant. The Applicant will make a good faith effort to construct and operate the Facility to minimize loss of service to its distribution and transmission customers consistent with prudent utility practice.

143. The Project conforms to the requirements and planning objectives of the New York Independent System Operator (NYISO) and is consistent with the Applicant’s long-range plans for the expansion of its transmission facilities. The Project will serve the interests of electric system economy and reliability. Completion of this Project will improve the reliability of the transmission system for the loads served by the Project.

E. System Impact Study

144. The NYISO has indicated that the Project would not adversely impact the New York State Transmission System because the Project is expected to affect NYISO interface transfer capability by less than 10 MW. The NYISO requires a system impact study for Transmission Owner transmission projects that are expected to affect interface transfer capability by more than 10 MW.

F. State and Local Laws

145. The Long Island Power Authority and its wholly-owned subsidiary The Long Island Lighting Company d/b/a LIPA (collectively “LIPA”) is a corporate municipal instrumentality of the state, a body corporate and politic and political subdivision of the state, exercising essential governmental and public powers. See Public Authorities Law § 1020-c(1). To carry out its essential governmental purposes, LIPA is required solely to “apply to the appropriate agencies and officials of the federal and state governments for such licenses, permits or approval of its plans or projects as it may deem necessary or advisable....” See Public Authorities Law § 1020-g(e).

146. Notwithstanding LIPA’s exemption from the jurisdiction of local municipalities, the Applicant submitted an analysis of Local Ordinances set forth in Exhibit 7 of the Application (Exhibit 7 of the Evidentiary Record and referred to herein as “Exhibit 7”). The analysis was submitted for the sole purpose of allowing the Commission to evaluate under Article VII the Project’s compliance with the substantive local requirements that would otherwise be applicable to a major utility transmission facility. As the analysis demonstrates, the Project will comply with the substantive provisions of virtually all Local Ordinances evaluated. Where code provisions cannot be complied with because they are unreasonably restrictive, the Applicant requested that the Commission refuse to apply them to the Project.

Previous Article VII decisions have waived similar provisions. Nothing herein should be construed or interpreted as either LIPA or PSEG Long Island agreeing to subject itself to the jurisdiction of any county or local municipality; waive its exemption from such jurisdiction; or waive or forfeit any other right to which it is entitled under the law.

147. Exhibit 7 identifies, for each local jurisdiction, every substantive local legal provision (ordinance, law, regulation, standard, and requirement) potentially applicable to the Project as well as every such local legal provision that the Applicant requests that the Commission not apply because, as applied to the Project, such local legal provision is unreasonably restrictive in view of the existing technology, factors of costs or economics, or the needs of consumers. Except for those local legal provisions the Applicant specifically requested that the Commission refuse to apply, the Applicant will comply with, and the location of the Project as proposed conforms to, all substantive local legal provisions that are applicable to the Project. Due to the preemptive effect of PSL Section 130, procedural requirements to obtain any State or local approval, consent, permit, certificate or other condition for the construction or operation of the Project do not apply, except for permits or approvals issued or required by the NYSDEC pursuant to regulations implementing federal environmental programs. However, PSL Section 126 requires conformance to applicable state laws and regulations issues thereunder, which will be achieved by adhering to the terms of the Joint Proposal, Certificate Conditions, and EM&CP.

148. During the course of the settlement process, DPS Staff requested that the Applicant perform many, and in some locations almost all, of the Project's construction and restoration activities primarily at night and at other off-hours times (*i.e.*, other than the weekday hours when vehicular traffic is highest). These Project activities include those activities (such as continuous operation at each splicing location and the installation of duct banks and splice

vaults) already described in the Applicant's justifications in Exhibit 7 for its requests that the Commission refuse to apply local laws that prohibit construction work and/or its associated noise during nighttime hours, as well as all other types of Project construction and restoration activities. This changed approach differs from the Applicant's statements in Exhibit 4 that Project construction will take place primarily during daytime hours. Nonetheless, the Signatory Parties favor it in order to minimize the Project's impacts on vehicle traffic with minimal increase in nighttime impacts to sensitive noise receptors.

149. The Applicant has determined that two types of Project construction activities are best performed in a continuous operation, and thus may extend from daytime into night whether or not doing so will mitigate traffic impacts. Thus they are additional justifications for the Applicant's requests in Exhibit 7 that the Commission refuse to apply local laws that prohibit construction work and/or its associated noise during nighttime hours. One activity is the pulling of the Facility's electric transmission cables and fiber optic cables into the installed conduits. This pulling is done between two splice vaults, with the cables on reels located above ground at one of the splice vaults and the pulling conducted at the other vault. Once cable pulling commences from a specific cable reel, pulling must be completed from that reel in a continuous operation that often spans 16 hours or longer. If the pulling is not done in a continuous operation, a partially-full reel will remain in place alongside the splice vault, causing undue delays in restoration of traffic flow and exposing the reel and cable to potential damage. The reason that the Applicant determined that some of this activity may need to be conducted at nighttime is partly due to its impact on vehicle traffic; it is also due to the fact that it is best performed as a continuous operation. The other Project activity that is similar best performed as part of a continuous operation is the pulling of the Facility's conduit bundles into each HDD bore hole after it is drilled. This pulling must be done

immediately after completion of the boring process; otherwise, the bore hole may collapse or suffer other impacts to its integrity.

150. No local jurisdiction has filed any objection to the Applicant's requests, set forth in Exhibit 7 and expanded upon above, that the Commission not apply specified local laws. The Signatory Parties agree that the justifications set forth above and in Exhibit 7 provide sufficient basis for the Commission to refuse to apply the identified ordinances.

G. Public Interest, Convenience, and Necessity

151. As stated in the WNTP Outreach Plan, the Applicant conducted public outreach and information efforts in support of the Project. A Public Notice was published in Newsday for two consecutive weeks prior to filing the Application. In addition, copies of the Application were provided to the following libraries for public inspection: Garden City Public Library; Henry Waldinger Memorial Library; Lynbrook Public Library; Rockville Centre Public Library; Hempstead Public Library; Lakeview Public Library; Malverne Public Library; and West Hempstead Public Library.

152. As also stated in the WNTP Outreach Plan, on January 8, 2018, all "Landowners," as defined in PSL § 120(5), were served by first-class mail with a letter notifying them that the Project may affect their property and providing detailed instructions on how to become a party to this proceeding. The Applicant held "open house" informational forums for the public on May 8, 2018 in the Village of Garden City, on May 9, 2018 in the Village of Malverne, and on May 10, 2018 in the Village of Lynbrook. The Applicant conducted another "open house" informational forum just prior to the Public Statement Hearing held on the afternoon of May 30, 2018 and still another just prior to the Public Statement Hearing held the evening of the same day. Representatives of the Applicant familiar with all aspects

of the Project were available at these open houses to informally address questions and concerns raised by members of the public.

153. As also stated in the WNTP Outreach Plan, at least two weeks before commencement of construction, the Applicant will provide advance notice of the Project to owners and occupants of properties adjacent to the Project ROW, to emergency response facilities, to school districts traversed by the Project, to impacted businesses and other establishments. This notice will include notice of construction commencement and the anticipated schedule (including start and end dates), a safety message, the location(s) of the document repositories, and the toll-free phone number and Project website that can be used to obtain additional information. The notice will be posted on the Project website and will also be delivered to each intended recipient by mail or by door hanger. The Project website will provide maps and specific information on where construction activities are occurring and give visual reference for the public. PSEG Long Island's main website will have a link to the Project website.

154. The WNTP Outreach Plan includes details on how the Applicant will handle complaints about the construction of the Project from members of the public in a timely manner. This includes a toll-free phone number for complaints and for emergency contact, states that the Project website includes a means for members of the public to register complaints, and provides for the Applicant to report unresolved complaints to DPS Staff.

V. PROPOSED FINDINGS

155. The Signatory Parties agree that the record in this proceeding supports the Proposed Commission Findings set forth in Appendix C attached hereto.

VI. PROPOSED CERTIFICATE CONDITIONS

156. The Signatory Parties agree that the Proposed Certificate Conditions set forth in Appendix D attached hereto are acceptable and appropriate for inclusion in a Certificate of Environmental Compatibility and Public Need authorizing construction and operation of the Project.

VII. ENVIRONMENTAL MANAGEMENT AND CONSTRUCTION PLAN

157. The Signatory Parties agree that the Specifications for the Development of the Environmental Management and Construction Plan set forth in Appendix E attached hereto are acceptable and appropriate for application to the Project as described herein.

VIII. WATER QUALITY CERTIFICATION

158. The Signatory Parties agree that the record in this proceeding supports the water quality certification substantially in the form of Proposed Water Quality Certification set forth in Appendix F attached hereto.

IN WITNESS WHEREOF, the Signatory Parties hereto have this day signed and executed this Joint Proposal.



Handwritten signature of Jeffrey R. Greenblatt in cursive script, written over a horizontal line.

PSEG Long Island LLC

on Behalf of and as Agent for the Long Island Lighting Company d/b/a LIPA

By: Jeffrey R. Greenblatt, Esq.

IN WITNESS WHEREOF, the Signatory Parties hereto have this day signed and executed this Joint Proposal.



Staff of the New York State Department of Public Service
Designated to represent the public interest in this proceeding

By: Graham Jesmer, Esq.



Staff of the New York State Department of Public Service
Designated to represent the public interest in this proceeding

By: Nicholas Forst, Esq.

IN WITNESS WHEREOF, the Signatory Parties hereto have this day signed and executed this Joint Proposal.

A handwritten signature in blue ink, appearing to read 'T. Berkman', is written over a horizontal line.

New York State Department of Environmental Conservation

By: Thomas S. Berkman, Esq.

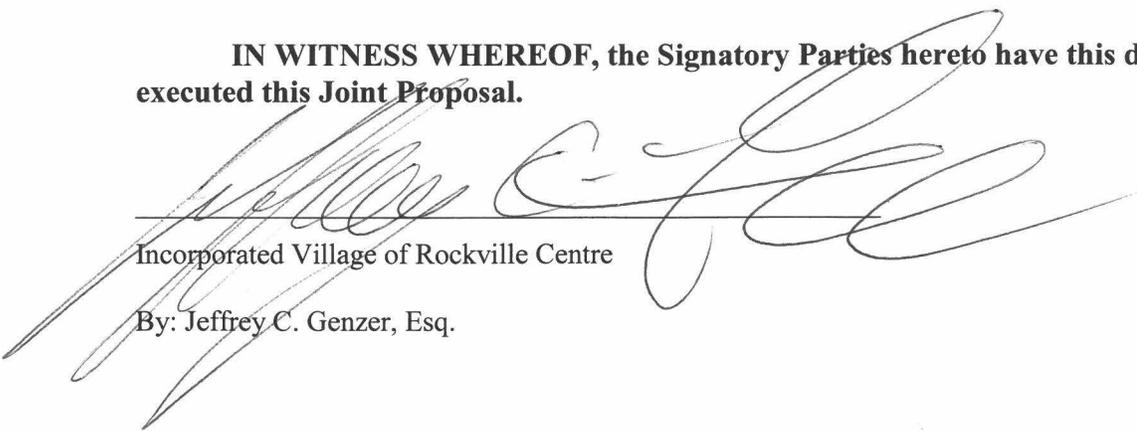
IN WITNESS WHEREOF, the Signatory Parties hereto have this day signed and executed this Joint Proposal.



Village of Lynbrook

By: Thomas Atkinson, Esq.

IN WITNESS WHEREOF, the Signatory Parties hereto have this day signed and executed this Joint Proposal.



Incorporated Village of Rockville Centre

By: Jeffrey C. Genzer, Esq.

APPENDIX A
LIST OF TESTIMONY, AFFIDAVITS AND EXHIBITS TO BE ADMITTED

Testimony:

Direct Testimony of Steven Bruckner, Scott Salmon, Anie Philip, Christopher Norquist, Edward Aldrich, Christopher Long, and Franco DeDomizio sponsoring Exhibits 1 through 9 (Exhibits 1 through 9 to the Application [as supplemented] in this proceeding (the “Application”)), Exhibits 10 through 15 (Exhibits E-1 through E-6 to the Application), and Exhibits 16 through 30.

Affidavits:

Affidavits of William Softye, Steven Bruckner, Scott Salmon, Anie Philip, Christopher Norquist, Edward Aldrich, Christopher Long, and Franco DeDomizio.

Exhibits:

- Exhibit 1: The Application, and General Information (Exhibit 1 to the Application)
- Exhibit 2: Location of Facilities (Exhibit 2 to the Application)
- Exhibit 3: Alternatives (Exhibit 3 to the Application)
- Exhibit 4: Environmental Impacts (Exhibit 4 to the Application)
- Exhibit 5: Design Drawings (Exhibit 5 to the Application)
- Exhibit 6: Economic Effects of Proposed Facility (Exhibit 6 to the Application)
- Exhibit 7: Local Ordinances (Exhibit 7 to the Application)
- Exhibit 8: Other Pending Filings (Exhibit 8 to the Application)
- Exhibit 9: Cost of Proposed Facility (Exhibit 9 to the Application, as supplemented by Attachment F filed with the Commission on March 15, 2018)
- Exhibit 10: Description of Proposed Transmission Line (Exhibit E-1 to the Application)
- Exhibit 11: Other Facilities (Exhibit E-2 to the Application)
- Exhibit 12: Underground Construction (Exhibit E-3 to the Application)
- Exhibit 13: Engineering Justification (Exhibit E-4 to the Application)

- Exhibit 14: Effect on Communications (Exhibit E-5 to the Application)
- Exhibit 15: Effect on Transportation (Exhibit E-6 to the Application)
- Exhibit 16: Agency Correspondence (Appendix B to the Application)
- Exhibit 17: Public Outreach (Appendix C to the Application)
- Exhibit 18: EMF Study (Appendix D to the Application)
- Exhibit 19: Phase IA Cultural Report, dated December 4, 2017 (Attachment D filed with the Commission on March 15, 2018)
- Exhibit 20: WNTP Outreach Plan (filed with the Commission on February 1, 2019)
- Exhibit 21: Responses to DPS-1 – DPS-10 (except DPS-7)
- Exhibit 22: Responses to NYSDEC-1 – NYSDEC-4 (except NYSDEC-3)
- Exhibit 23: PSEG Long Island Cultural Resource Letter Report Addenda (transmitted to SHPO March 7, 2019) and SHPO Response Letter dated March 20, 2019
- Exhibit 24: Drawing of Revised Stream Crossing
- Exhibit 25: Drawing of Revised East Garden City Substation Exit
- Exhibit 26: Drawing of Revised Franklin Avenue LIRR Crossing
- Exhibit 27: Drawing of HDD at Stewart-Clinton
- Exhibit 28: Drawing of HDD at Stewart-Franklin-Washington
- Exhibit 29: Drawing of HDD at Cherry Valley Avenue
- Exhibit 30: Drawing of HDD at Hempstead Turnpike

APPENDIX B DESCRIPTION AND LOCATION OF PROJECT

As described in further detail below and outlined in Exhibits 2, 5, and E-3 of the Application (respectively, Exhibits 2, 5, and 12 of the Evidentiary Record and referred to as “Exhibit 2,” “Exhibit 5,” and “Exhibit E-3”), the project (“Project”) proposed by the Applicant, called the “Western Nassau Transmission Project,” is the construction, operation and maintenance of a new 138 kilovolt (kV) underground electric transmission line (the “Facility”) between the East Garden City Substation (located in Uniondale), and the Valley Stream Substation (located in Lynbrook), both in the Town of Hempstead. The Facility, which 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 rights-of-way (“ROW”) for a total distance of approximately seven miles.

The intended centerline of the Facility is depicted in Exhibits 24 through 30, inclusive, of the Evidentiary Record and, in all other locations, Figure 2-3 of Exhibit 2. The intended centerline location is based on preliminary design information and is subject to change based on utility survey and detailed design engineering. Planned construction methods are conventional trenching and (where required to minimize any impact on the associated communities and roadways) horizontal directional drilling (“HDD”) techniques and jacking and boring.

The final design drawings in the Environmental Management and Construction Plan (“EM&CP”) will show, among other things: (a) the final Facility ROW and centerline; (b) known underground utilities and facilities along the Facility’s route; (c) temporary construction access and workspace rights, permanent underground easement rights, and tree clearing rights in areas where the Applicant does not now have such rights; and (d) temporary conduit fusing locations and construction laydown, storage and marshalling yards.

The Applicant 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. The Applicant 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 the Applicant has obtained or will obtain temporary construction access and workspace rights and permanent underground easement rights in areas where the Applicant does not now have such rights. The Applicant 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 the Applicant has obtained or will obtain the rights to conduct those activities in such locations. It is possible other locations will be required for such activities, and those will be identified as part of the final engineering and design effort and described in the EM&CP.

The Facility 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. Figure 5-4 in Exhibit 5 depicts a typical splice vault layout and sections.

The Facility will consist of three, 2,000 mm² compact-segmental copper conductors measuring approximately 5.71 inches in diameter. The conductor will be Milliken conductor, comprised of annealed bare copper strands. The insulation will be cross-linked polyethylene (“XLPE”) with a thickness of approximately 0.850 inches, and rated at 138 kV. The jacket will be black high-density polyethylene (“HDPE”) material including a semi-conducting layer.

The Project design will be in accordance with all applicable PSEG Long Island transmission design criteria and applicable industry standards. The design standards will be in compliance with the Applicant’s storm hardening requirements for a National Oceanic and Atmospheric Administration Category III Hurricane. The proposed cables will not be encompassed in pressurized fluid or gas.

The Project 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 buswork.

During the course of the settlement process, the Signatory Parties negotiated and agreed on a number of modifications to various features of the Project as originally proposed in the Application. These are detailed below.

1. Revised East Garden City Substation Exit

The Applicant identified a route (the “Revised EGC Exit”) for the Project to exit the East Garden City (“EGC”) Substation which differs from the original exit route (the “Original EGC Exit”) proposed in the Article VII Application and the “Alternative Exit at East Garden City Substation” (the “Exhibit 3 Alternative EGC Exit”) that the Applicant described as an alternative in Exhibit 3 of the Application (see Exhibit 3, Section 3.4.1).

The Original EGC Exit would initially run north across the substation property and also across the National Grid gas property that abuts it to the north, then turn west once it entered Stewart Avenue. The Exhibit 3 Alternative EGC Exit would initially run to the south, crossing under a Long Island Rail Road (“LIRR”) right-of-way, to Commercial Avenue, then turn west on Commercial Avenue. Both the Original EGC Exit and the Exhibit 3 Alternative EGC Exit are more fully detailed in the Application.

The Revised EGC Exit would run west on Stewart Avenue like the Original EGC Exit, but its beginning would differ: it would initially run east across the eastern portion of the EGC Substation property and then across the western approximately 20 feet of the abutting property to the east owned by Brixmor Property Group Inc. (“Brixmor”), then turn north and cross an

additional approximately 300 feet of the same Brixmor property to Stewart Avenue, where it would turn west on Stewart Avenue. The Revised EGC Exit is shown on Exhibit 25.

The Brixmor property is an approximately 10 acre parcel abutting the East Garden City Substation parcel to the east. Most of the eastern half of the property is occupied by a shopping center with about 15 stores and fast food restaurants. A stand-alone restaurant building (Hurricane Grill & Wings) comprising approximately 1/3 of an acre is located on its western half, set back approximately 50 feet from the parcel's western property line. The remainder of the western half is asphalt parking lot for the restaurant and the other businesses on the Brixmor property.

The Revised EGC Exit would turn from eastward to northward in this 50 foot setback corridor between the restaurant and the parcel's western property line. All of the electric transmission line that would be installed along the route of the Revised EGC Exit on the Brixmor property would be located below the asphalt parking lot in this corridor or in the paved entrance from Stewart Avenue into the parking lot at the front (north side) of the restaurant. The paved entrance from Stewart Avenue is bordered to the west by an area of grass and shrubs that likely will be disturbed for splice vault installation. There also are trees in this grassy area, but it is unlikely they will need to be disturbed. The Project would create no permanent impacts to the current buffering/landscaping in this area, and any temporary impacts would be promptly restored to original or better condition.

The Applicant and Brixmor have negotiated a permanent underground easement on the Brixmor property for the Revised EGC Exit. This easement (the "Brixmor Easement") allows Project construction, including Facility installation, in a 300 foot long corridor, with a 20 foot width to allow for separation and potential future use. The easement will create no permanent impact on shopping center operations.

2. Revised LIRR Crossing Plan at Franklin Avenue

The Applicant's proposed revised plan (the "Revised LIRR Crossing Plan") for the Project to cross the right-of-way of the LIRR West Hempstead Branch on Franklin Avenue, between Broadway and Rider Avenue takes into account the development plans of the owner of the two affected parcels (97 Franklin Avenue and 131 Franklin Avenue). The Revised LIRR Crossing Plan continues to be to use a trenchless jack-and-bore method. It also continues to include positioning the transmission line and the bore alignment in the public street and the LIRR right-of-way, except for a small "gore" property at the northeast corner of the intersection, which is the only private parcel on which the Applicant will require a permanent real estate right for this crossing. The revisions that distinguish the Revised LIRR Crossing Plan from the Original LIRR Crossing Plan are to (a) reverse the direction of the boring by shifting its starting point (the jacking pit) from the northern side of the crossing to its southern side, (b) realign the direction of the boring by repositioning its ending point (the receiving pit) from Franklin Avenue to Broadway, still north of the LIRR crossing, and (c) keep the jacking pit on Franklin Avenue south of the LIRR crossing in the same location, but rotate it in a clockwise direction to correspond to the boring realignment. If the jacking pit were located on the northern side of the LIRR crossing as would have occurred under Original LIRR Crossing Plan, a substantial part of

the workspace surrounding it would have been located on the 131 Franklin Avenue property; by repositioning it to the southern side of the LIRR crossing, the Revised LIRR Crossing Plan puts much of its surrounding workspace on the 97 Franklin Avenue property. Repositioning the receiving pit to Broadway removes it from being directly adjacent to 131 Franklin Avenue.

The Landowner intends to require the current residents of 97 Franklin Avenue to depart the residence before the Applicant commences work in this location, so no residents living on that property will be impacted, and the Applicant will install a fence around both trenchless construction workspaces for the safety and security of persons in the vicinity.

The Revised LIRR Crossing Plan is shown on Exhibit 26.

3. Revised Pines Stream Crossing Plan

The Applicant has identified a revised plan (the “Revised Stream Crossing Plan”) for the Project to cross the waterbody known as Pines Stream that drains Halls Pond and flows under Hempstead Avenue north of Malverne. Under this revised plan, the Applicant would install the Facility across Pines Stream along a route adjacent to and approximately parallel to Hempstead Avenue using open-cut trenching methods at a minimum 42 inch depth. First, the flow of Pines Stream would be temporarily stopped within the stream limits for the duration of construction, which would be done in coordination with Nassau County Department of Public Works (“Nassau County DPW”) and other agency requirements. The installation would begin at a section of existing concrete retaining wall where a 36 inch storm sewer lets out into Pines Stream. The wall section, along with a section of 36 inch concrete storm sewer pipe back to the nearest storm sewer manhole, would be removed. Then the Facility’s duct bank would be installed with a minimum vertical clearance under or integrated with the retaining wall foundations sufficient for the reconstruction of the wall section previously removed. The removed sections of wall and storm sewer would then be restored in-kind. Following construction within Pines Stream, the open-cut trench would be backfilled as required for stream restoration and erosion control. A contingency plan for construction following rain events would necessitate stream diversion using cofferdam or flume pipe methods. Plan and profile views of the Revised Stream Crossing Plan are shown on Exhibit 24. All portions of the Facility’s duct bank installed under the Revised Stream Crossing Plan would be within public right-of-way except for a section of approximately 75 feet, where it would run within the property of St. Thomas the Apostle Church, located on the southeast side of Hempstead Avenue and just south of Pines Stream. Thus the only new permanent property right the Revised Stream Crossing Plan would require is a permanent easement from the church. The Revised Stream Crossing Plan would also require temporary easement rights on the McDonald’s property located on the same side of Hempstead Avenue as the church property but on the opposite (north) side of the stream.

Alternatively, if due to agency preferences or structural issues the Applicant determines that the retaining wall section should not be removed, a casing sleeve would be installed under the bed of Pines Stream and pushed under the retaining wall. The duct bank would be installed within the casing and be transitioned to the traditional open-cut trench on both sides. This alternative would reflect alignments, stream diversion, business coordination and work space requirements similar to those present for the wall-removal scenario discussed above.

4. Four HDD Locations

The Applicant has identified four locations where the proposed route crosses one or more road intersections and where the Applicant believes the use of horizontal directional drilling (“HDD”) techniques would be superior to open cut trenching. This is in addition to the one location (the Franklin Avenue railroad crossing in Malverne) for which the Applicant proposed a jack and bore installation in the Application.

These four new HDD locations are:

- (a) The intersection of Stewart Avenue and Clinton Road (plus three more intersections to the west of Clinton Road to Coventry Place);
- (b) The intersection of Stewart Avenue and Franklin Avenue (plus four more intersections to the east of Franklin Avenue to Washington Avenue);
- (c) The intersection of Cherry Valley Avenue, Stewart Avenue and Cathedral Avenue; and
- (d) The intersection of Westminster Road and Hempstead Turnpike (Route 24).

All of the above locations are in the Town of Hempstead; the first three are in the Village of Garden City; the fourth is not in a village.

The Applicant’s final plans to use HDD to cross the intersections at each of the four identified locations, including the final boring alignments and directions, will be detailed in the EM&CP, but its current intentions are summarized below:

(a) Stewart Avenue / Clinton Road Intersection (plus the three intersections west to Coventry Place)

Clinton Road is the first major intersection crossed by the proposed route after it exits the East Garden City Substation and heads west on Stewart Avenue. Numerous underground utilities are located in this intersection, as shown on Exhibit 27. This intersection has an annual average daily traffic count of 34,380 vehicles, and a Garden City public elementary school is located on the northeast corner of the intersection.

The length of HDD that the Applicant currently proposes for this location is approximately 2,100 feet. This length will reduce traffic impacts even further by allowing the drill to bore under three other Stewart Avenue intersections: those at Emmet Place, Devereaux Place, and Coventry Place.

The Applicant proposes to locate the HDD entry point at the east end of the drill bore on the grass just south of Stewart Avenue approximately 400 feet east of Clinton Road (Stewart Avenue is not divided by a median in this location). The Applicant proposes to locate the HDD exit point at the west end of the drill bore on the median divider approximately 200 feet west of Coventry Place. The median here is grassy, with trees in two parallel rows near the north and south edges of the median. The HDD exit point would be located in the grassy part of the median. The staging location of HDD equipment would be selected appropriately to minimize impacts to trees.

The proposed HDD at this location is shown on Exhibit 27.

(b) Stewart Avenue / Franklin Avenue Intersection (plus the four intersections east to Washington Avenue)

As the proposed route heads west on Stewart Avenue, Franklin Avenue is the next major intersection after the Clinton Avenue intersection. Numerous underground utilities are located in this intersection, as shown on Exhibit 28. This intersection has an annual average daily traffic count of 30,854 vehicles. Franklin Avenue is the principal commercial street in the Village of Garden City, and its intersection with Stewart Avenue is one of the village's principal intersections.

The length of HDD that the Applicant currently proposes for this location is approximately 2,250 feet. This length will reduce traffic impacts even further by allowing the drill to bore under four other Stewart Avenue intersections: those at Arthur Street, John Street, and Washington Avenue, the latter being a substantial cross-street in its own right, and a minor intersection at Kellum Lane (between Franklin Avenue and Arthur Street).

The Applicant proposes to locate the HDD entry point at the west end of the drill bore on the grass just north of Stewart Avenue approximately 300 feet west of Franklin Avenue. The Applicant proposes to locate the HDD exit point at the east end of the drill bore on the median divider approximately 200 feet east of Washington Avenue. The median here is like the location proposed for the exit point for the HDD beneath Clinton Street discussed above; that is, grassy with trees in two parallel rows near the north and south edges of the median. Here too, the HDD entry exit point would be located in the grassy part of the median. The staging location of HDD equipment would be selected appropriately to minimize impacts to trees.

The proposed location of the exit point is approximately 400 feet to the west of the exit point at the west end of the drill bore for the HDD at the Clinton Road intersection. Thus approximately half of the total 1.6 miles of the proposed route on Stewart Avenue between the East Garden City Substation and Hilton Road would be HDD.

The proposed HDD at this location is shown on Exhibit 28.

(c) Cherry Valley Avenue / Stewart Avenue / Cathedral Avenue Intersection

Just west of the Garden City Hotel, the proposed route runs southwest on Cherry Valley Avenue and crosses an intersection from which Stewart Avenue runs to the west and Cathedral Avenue runs to the southeast. Numerous underground utilities are located in this intersection, as shown on Exhibit 29. This intersection has an annual average daily traffic count of 26,136 vehicles.

The length of HDD that the Applicant currently proposes for this location is approximately 800 feet. The Applicant proposes to locate the HDD entry point at the southwest end of the drill bore on the grass just east of Cherry Valley Avenue approximately 200 feet southwest of the intersection. The Applicant proposes to locate the HDD exit point at the northeast end of the drill bore on the grass just east of Cherry Valley Avenue, approximately 600 feet northeast of the

intersection. The staging location of HDD equipment would be selected appropriately to minimize impacts to trees.

The proposed HDD at this location is shown on Exhibit 29.

(d) Westminster Road / Hempstead Turnpike Intersection

The Applicant also proposes HDD at the intersection of Westminster Road with Hempstead Avenue, where the proposed route makes a perpendicular crossing of Hempstead Turnpike (Route 24), a four lane state highway. Numerous underground utilities are located in this intersection, as shown on Exhibit 30. This intersection has an annual average daily traffic count of 31,338 vehicles.

The length of HDD that the Applicant currently proposes for this location is approximately 650 feet. The Applicant proposes to locate the HDD entry point at the south end of the drill bore on the sidewalk just east of Westminster Road approximately 400 feet south of the intersection. The Applicant proposes to locate the HDD exit point at the north end of the drill bore in the northbound lane of Westminster Road approximately 175 feet north of the intersection.

The proposed HDD at this location is shown on Exhibit 30.

APPENDIX C
PROPOSED COMMISSION FINDINGS

1. The Project, which is the construction of a new 138 kV underground transmission line primarily within municipal public roadway rights-of-way 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), is needed to address a North American Electric Reliability Corporation (NERC) transmission reliability standard, by upgrading the transmission infrastructure to maintain reliability.
2. The Project will be designed, constructed and operated in a manner that avoids or minimizes impacts to environmental resources. The nature of the probable environmental impacts resulting from the Project includes:
 - (a) minimal incremental visual impacts from the construction of the Project;
 - (b) temporary disturbance and inconvenience, including noise and debris, associated with construction activities; and
 - (c) maximum calculated electromagnetic fields at the edge of the Project's right-of-way that comply with the Commission's guidelines.
3. The Project represents the minimum adverse environmental impact, considering the state of available technology and the nature and economics of the various alternatives and other pertinent considerations. The Project does not traverse any agricultural lands, wetlands, parklands, or river corridors.
4. The entire Project will be located underground except for portions located at the East Garden City and Valley Stream Substations.
5. The Project conforms to the requirements and planning objectives of the New York Independent System Operator and is consistent with the Applicant's long-range plan for the expansion of its transmission facilities. The Project will serve the interests of electric system economy and reliability.
6. The location of the Project conforms to the substantive provisions of applicable state and local laws and regulations issued thereunder, except those local laws and regulations which the Commission refuses to apply because it finds, based on the justifications set forth in Exhibit 7, that as applied to the Project, such are unreasonably restrictive in view of the existing technology, or of factors of cost or economics, or of the needs of consumers whether located inside or outside of such municipality.
7. The Project will have no adverse impact on active farming operations that produce crops, livestock and livestock products, as defined in section three hundred one of the agriculture and markets law, considering the state of available technology and the nature and economics of various alternatives, and the ownership and easement rights of the impacted property.

8. Based on the entire record as listed on Appendix A, the Project will serve the public interest, convenience and necessity.

APPENDIX D
PROPOSED CERTIFICATE CONDITIONS

The Certificate of Environmental Compatibility and Public Need (the “Certificate”) for Case 17-T-0752 granted to PSEG Long Island LLC on behalf of and as agent for the Long Island Lighting Company d/b/a LIPA, a wholly-owned subsidiary of the Long Island Power Authority (“PSEG Long Island” or the “Certificate Holder”), pursuant to Article VII of the New York Public Service Law (“PSL”), authorizing the construction, operation and maintenance (the “Project”) of a proposed new 138 kilovolt (“kV”) underground transmission line (the “Facility”), is subject to the following conditions:

A. Conditions of the Order

1. The Certificate Holder shall, within 30 days after the issuance of the Certificate, file with the Secretary to the Commission (the “Secretary”) either a petition for rehearing or a verified statement that it accepts and will comply with the Certificate. Failure to comply with this condition shall invalidate the Certificate.
2. If the Certificate Holder decides not to commence construction of any portion of the Facility, it shall so notify the Secretary in writing within 30 days of making such decision and shall serve a copy of such notice upon all parties in the same manner and at the same time as it files with the Secretary.
3. If construction of the Project hereby certified is not commenced within 18 months after the Certificate Holder files a verified statement that it accepts and will comply with the Certificate, the Certificate may be vacated with notice to the Certificate Holder.
4. Except for deadlines established by statute, the Secretary may extend any deadlines established by this order for good cause shown.
5. The Certificate Holder shall construct the Facility in a manner that conforms to the then-current Building Code of New York State and all applicable standards of the American National Standards Institute (“ANSI”) including, without limitation, the National Electrical Safety Code (“NESC”), Institute of Electrical and Electronics Engineers (“IEEE”) Standard IEEE [C2-2012, 2017], and any stricter standards adopted by the Certificate Holder.
6.
 - a) The Certificate Holder shall coordinate all work performed on state and municipal roads and highways with the appropriate state and municipal officials and shall obtain the required authorization for such work, subject to the Commission’s continuing jurisdiction as appropriate.
 - b) The Certificate Holder shall coordinate with the appropriate municipal agencies and police departments for traffic management of roads under municipal jurisdiction.
7. If the Certificate Holder believes that any action taken, or determination made, by a State or municipal agency in connection with this Certificate is unreasonable or

unreasonably delayed, with the exception of issues arising under federal environmental permits or regulations administered by the New York State Department of Environmental Conservation (“NYSDEC”), the Certificate Holder may petition the Commission, upon reasonable notice to that agency, to seek a resolution of any such unreasonable or unreasonably delayed requirement. Such agency may respond to the petition, within 5 business days, to address the reasonableness of any requirement or delay. For issues arising under federally-delegated environmental permits or regulations administered by the NYSDEC, the Certificate Holder shall contact the NYSDEC to request a resolution of any action or approval which the Certificate Holder believes is unreasonable or unreasonably delayed.

B. Public Health and Safety

8. The Certificate Holder shall design, engineer and construct the Project such that its operation shall comply with the electric and magnetic field standards established by the Commission in Opinion No. 78-13, issued June 19, 1978, and the Statement of Interim Policy on Magnetic Fields of Major Electric Transmission Facilities, issued September 11, 1990.

9. The Certificate Holder shall engineer and construct the Facility to be fully compatible with the operation and maintenance of nearby electric, gas, telecommunication, water, sewer, and related facilities; details of such other facilities and measures to protect the integrity, operation and maintenance of those facilities shall be presented in the Project’s Environmental Management & Construction Plans (“EM&CP”). The Facility shall be designed and constructed to avoid adverse effects on the cathodic protection system and physical conditions of existing structures and any fuel gas pipelines.

10. The Certificate Holders shall comply with the requirements for the protection of underground facilities set forth in 16 NYCRR Part 753, entitled “Protection of Underground Facilities.”

11. The Certificate Holder shall keep local fire department and emergency management teams apprised of on-site hazardous chemicals and waste. All such chemicals and waste shall be secured in a locked and controlled area.

12. The Certificate Holder shall notify the NYSDEC of any fuel or chemical spill it is required to report in accordance with NYSDEC regulations and guidance and shall notify New York State Department of Public Service (“DPS”) staff (“Staff”) as soon as possible thereafter.

13. The Certificate Holder shall take appropriate measures to minimize fugitive dust and airborne debris from construction activity. Exposed soils and roadways shall be wetted as needed during extended dry periods to minimize dust generation. To the extent practicable, water for dust control shall come from municipal water supplies/sources. If surface waters are used, equipment shall be disinfected afterwards.

14. The Certificate Holder shall ensure that parking for Project construction workers shall be in designated areas which do not interfere with normal traffic, cause a safety hazard, or interfere with existing land uses. These parking areas shall be designated in the EM&CP.

15. The Certificate Holder shall implement a Maintenance and Protection of Traffic (“MPT”) plan that identifies procedures to be used to maintain traffic and provide a safe construction zone for those activities within the roadway right-of-way. The MPT plan shall address temporary signage, lane closures, placement of temporary barriers and traffic diversion.

- a) All signage utilized shall comply with the New York State Department of Transportation (“NYSDOT”) Manual of Uniform Traffic Control Devices. Placement of signs shall be determined in consultation with the jurisdictional agency.
- b) Flaggers shall be present at all times when equipment is crossing any road, when equipment is being loaded or unloaded, and where two-lane traffic has been reduced to one lane. All flagging operations shall comply with 17 NYCRR Part 131.

16. The Certificate Holder or its supplier, as the case may be, shall obtain any permits from applicable agencies required for the delivery of oversized components for the Project.

17. The Certificate Holder shall have the right to require that any person seeking to access the Project area first be appropriately trained in environmental protection and safety.

C. Environmental Management and Construction Plan

18. Except where this Certificate requires otherwise, the terms of the Certificate and the environmental protection measures contained in the Application shall be incorporated into the EM&CP. These environmental protection measures shall be applied during construction, operation and maintenance of the Project. Applicable provisions of the Certificate, EM&CP, and Order(s) approving the EM&CP shall be accommodated in any design, construction, ownership, or maintenance contracts associated with the Project.

19. The EM&CP shall be developed in accordance with these Certificate Conditions.

20. Prior to filing the EM&CP, the Certificate Holder shall contact the NYSDEC Region 1 Natural Resources Supervisor, NYS Natural Heritage Program and the United States Fish and Wildlife Service (“USFWS”) to check for any updates or changes of known threatened or endangered plant or animal species, or special concern species listed in New York, (collectively, “RTE” species) or habitat or Significant Natural Communities in the Project area.

21. Deviations from the certified centerline shall be allowed for appropriate environmental or engineering reasons, except where a conflict with an explicit provision of the Certificate would be created.

22. The EM&CP shall identify the property locations, if any, where the Certificate Holder anticipates that it will install one or more wells to conduct temporary or permanent dewatering activity for the Project at a total withdrawal capacity of such well or wells on any one property in excess of 45 gallons per minute (with capacity based on the capacity of the pumps to be installed, not on the contemplated draft). The EM&CP shall also provide the substantive information outlined in 6 NYCRR § 602.3(c)-(d) for any such activities. Prior to commencement of such activities, DPS Staff, in consultation with NYSDEC, will determine

whether to recommend that the Commission impose any conditions or restrictions on such activities. Such determination will be based on the standards of issuance in ECL § 15-1527(4).

23. The EM&CP shall identify any water withdrawal activities that the Certificate Holder anticipates will be regulated pursuant to 6 NYCRR §§ 601.3 and 601.6. The EM&CP shall also provide the information outlined in 6 NYCRR § 601.10 for any such activities. Prior to commencement of such activities, DPS Staff, in consultation with NYSDEC, will determine whether to recommend that the Commission impose any conditions or restrictions on such activities. Such determination will be based on the substantive portions of the following regulations: 6 NYCRR §§ 601.11, 601.12, 601.16, 601.19, and 601.20.

24. The Certificate Holder shall not commence construction of any portion of the Project, the preparation of the site for the construction of any portion of the Project, or any proceedings under the Eminent Domain Procedure Law (“EDPL”) to acquire property rights with respect to any portion of the Project until the Commission has approved the EM&CP for such portion of the Project. To calculate the three-year period for acquisition of property pursuant to the EDPL, the date of Commission approval of the EM&CP covering the affected parcel shall be regarded as the date on which this Article VII proceeding was completed. Surveying, soils testing and such other activities as are necessary for preparation of the final design plans for the Project do not constitute the construction of any portion of the Project or the preparation of the site for the construction of any portion of the Project.

25. The Certificate Holder shall file an electronic copy of its proposed EM&CP with the Secretary and, unless otherwise directed by the Secretary, serve one electronic copy on each of: the assigned Project Manager in the Major Projects Management Bureau of the NYSDEC Central Office in Albany; the Natural Resources Supervisor of the Region 1 office of the NYSDEC; the staff of the New York State Department of Agriculture & Markets (“NYSDAM”); the staff of the Region 10 office of the NYSDOT; any other New York State agency that requests the document; and any party on the service list who requests the document. Within 7 business days after the Certificate Holder files the proposed EM&CP with the Secretary, it shall deliver two hard copies to DPS Staff. The Certificate Holder also shall place one electronic copy or one hard copy for inspection by the public in a convenient location in each municipality in which construction will take place, which location for a given municipality may be a library in such municipality identified in the Service List for the Application. The Certificate Holder will also make the EM&CP accessible on its Project website by way of either direct PDF download(s) or a web link to the DPS website page(s) where the EM&CP is available.

26. Contemporaneously with filing and serving the proposed EM&CP, the Certificate Holder shall disseminate, in the manner specified below, a written notice, in language reasonably understandable to the average person, that the proposed EM&CP has been filed (the “EM&CP Filing Notice”):

- a) The Certificate Holder shall serve a copy of the EM&CP Filing Notice on all parties to this proceeding (except those upon whom the foregoing paragraph requires the Certificate Holder to serve a copy of the proposed EM&CP) and on all persons required to be served with the Application by statute or regulation.

- b) The Certificate Holder shall deliver by first class mail a copy of the EM&CP Filing Notice to the owners of all properties that abut the Project route and all properties on which new property rights are required for the Project.
 - c) The Certificate Holder shall include a copy of the EM&CP Filing Notice in the proposed EM&CP.
 - d) The Certificate Holder shall publish a copy of the EM&CP Filing Notice in a newspaper or newspapers of general circulation near the Facility.
 - e) The EM&CP Filing Notice delivered to the owners of properties on which property rights are to be acquired shall be accompanied by a description of the type of property rights required for the Project with respect to such property (*e.g.*, fee, easement, lease, etc.).
27. The EM&CP Filing Notice shall contain, at a minimum, the following:
- a) a statement that the proposed EM&CP has been filed;
 - b) a general description of the certified Facility and of the content of the proposed EM&CP;
 - c) a listing of the locations and the websites where the Certificate Holder and DPS have made the proposed EM&CP available for public inspection;
 - d) a statement that any person desiring additional information about a specific geographical location or specific subject may request it from the Certificate Holder;
 - e) the name, address, and telephone numbers of an appropriate Certificate Holder representative;
 - f) the e-mail address and postal address of the Secretary and the DPS website; and
 - g) 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 publication of a copy of the EM&CP Filing Notice, whichever is later.
28. A certificate of service evidencing service of the EM&CP Filing Notice as required above shall be filed with the Secretary within 7 business days after the time the proposed EM&CP is filed, and shall be a condition precedent to approval of the EM&CP. When available, proof of publication of the newspaper notice(s) of filing the proposed EM&CP, including a copy of such notice, shall be filed with the Secretary.
29. After the EM&CP has been approved by the Commission:
- a) The Certificate Holder shall report any changes it proposes to DPS Staff. If the change involves the jurisdictional area of another agency, DPS Staff will consult such agency. DPS 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 Environmental Certification and Compliance (“EC&C”) Section of the Office of Electric, Gas and Water for

approval. DPS Staff will refer all other proposed changes to the Commission for approval.

- b) Upon being advised that DPS Staff will refer a proposed change to the Commission, the Certificate Holder shall notify all parties as well as property owners or lessees whose property is affected by the proposed change. The notice shall: (1) describe the original conditions and the requested change; (2) state that documents supporting the request are available for inspection at specified locations; (3) state that persons may comment by writing or calling (followed by written confirmation) to the Commission within 21 days of the notification date; and (4) provide the Secretary's email address, phone number, and mailing address. Any delay in receipt of written confirmation will not delay Commission action on the proposed change.
- c) The Certificate Holder shall not execute any proposed change until it receives written approval from the Chief of EC&C or the Commission, except in emergency situations threatening personal injury, property damage, or severe adverse environmental impact, or as specified in the approved EM&CP.

D. Notices and Public Complaints

30. The Certificate Holder shall make available to the public a toll-free or local phone number of an agent or employee who will, for the duration of construction of the Project, be available to receive complaints, if any, from the public about the construction of the Project. That number shall include a recorded outgoing message that will, when a call is not answered by a person, provide the caller with: (i) the number to be called at any time in case of emergency, (ii) the phone number and email address of the Secretary, and (iii) the phone number of the Commission's Environmental Compliance Section.

31. The Certificate Holder's Project website shall provide a means for the public to communicate to the Certificate Holder about the Project (*e.g.*, to register complaints or ask questions) through either a direct link to a complaint form or email or by providing the contact information (phone and/or email address) of a representative of the Certificate Holder who can respond to communications that include questions and concerns about the Project from members of the public.

32. The Certificate Holder shall report to DPS Staff every complaint that cannot be resolved, and describe the actions taken to address the complaint, within 10 business days after receipt of the complaint.

33.

- a) No less than 2 weeks before commencing site preparation, the Certificate Holder shall notify the public of the anticipated date that site preparation will commence, as follows:
 - i. provide notice to local officials and emergency personnel along the entire Facility route;
 - ii. provide notice to local media for dissemination; and

- iii. provide notice for display in the libraries identified in the Service List of the Application, the Certificate Holder's Project website, and other public places (such as general stores, post offices, community centers and conspicuous community bulletin boards).
- b) The notice or notices under this paragraph shall be written in language reasonably understandable to the average person and shall contain:
 - i. a map of the Project;
 - ii. a brief description of the Project;
 - iii. the anticipated date for start of site preparation and estimated date for Project completion (inclusive of restoration);
 - iv. the name, mailing address, local or toll-free telephone number, and email address of an employee or agent of the Certificate Holder who will, for the duration of construction of the Project, be available to receive complaints, if any, from the public about the construction of the Project; and,
 - v. a statement that the Project is under the jurisdiction of the New York State Public Service Commission, which is responsible for enforcing compliance with environmental and construction conditions, and which may be contacted at an address, email, and telephone number to be provided in the notice.
- c) Upon distribution, a copy of the form of the notice or notices under this paragraph shall be submitted to the Secretary.
- d) The Certificate Holder shall notify all persons who own properties that are on or abut the certified Project route of the planned construction activities and anticipated schedule affecting the abutting properties at least 14 days, but no more than 45 days (or longer on the specific request of the Certificate Holder agreed to by DPS Staff), prior to the commencement of construction. The Certificate Holder shall deliver such notice by first class mail or, at its option, may instead affix the notices to the doors of the residences. The Certificate Holder shall provide a copy of the generic form of such notice to the Secretary prior to the commencement of construction.

34. For the duration of Project construction, the Certificate Holder shall post and maintain on its Project website a schedule that includes at least general-level information for the public about Project activities scheduled to occur during the upcoming 2 week period.

35. The Certificate Holder shall provide all contractors providing services for construction of the Project ("Contractors") with complete copies of the Certificate, the approved EM&CP, the order approving the EM&CP, updated construction drawings, and any site-specific plans prepared in accordance with Article 145 of the New York State Education Law, the State Pollutant Discharge Elimination System ("SPDES") General Permit for Stormwater Discharge from Construction Activity (Permit No. GP-0-15-002) ("SPDES General Permit"), any permit issued pursuant to Section 404 of the Federal Clean Water Act and any Section 401 Water Quality Certification.

36. The Certificate Holder shall notify all Contractors that the Commission may seek to recover penalties for violation of the Certificate and other orders issued in this proceeding, not only from the Certificate Holder, but also from its Contractors, and that Contractors also may be liable for other fines, penalties and environmental damage.

37. The Certificate Holder shall inform the Secretary in writing at least 5 days before commencing construction of the Facility.

38. The Certificate Holder shall provide DPS Staff and the NYSDEC with weekly status reports summarizing construction of the Project and indicating construction activities and locations scheduled for the next week.

39. Within 10 days after the Project is fully constructed and placed in service, the Certificate Holder shall notify the Secretary in writing of that fact.

40. Within 10 days of the completion of final restoration of the Project, the Certificate Holder shall notify the Secretary in writing that all restoration has been completed in compliance with this Certificate and the order(s) approving the EM&CP.

E. Construction, Operation, Maintenance, and Restoration

41.

- a) At least 2 weeks prior to the start of construction of the Project, the Certificate Holder shall hold a preconstruction meeting to which it shall invite its Contractors, DPS Staff, NYSDOT, and the NYSDEC. An agenda, the location, and an attendee list shall be agreed upon between DPS Staff and the Certificate Holder.
- b) Maps showing designated travel routes, construction worker parking and access road locations and a general project schedule will be available at the meeting for the attendees.
- c) The Certificate Holder shall supply draft minutes from this meeting to a representative of DPS Staff, NYSDOT, and the NYSDEC for corrections or comments, and thereafter the Certificate Holder shall issue the finalized meeting minutes to all attendees.
- d) If, for any reason, the Contractors cannot finish the construction of the Project, and one or more new Contractors are needed, there shall be another preconstruction meeting with the same format as outlined above.

42. The Certificate Holder shall confine construction and subsequent maintenance to the road right-of-way or as otherwise certified and to additional work areas as detailed in the EM&CP.

43. Prior to commencement of construction of the Project at any location along the certified route, the Certificate Holder shall provide to DPS Staff documentation evidencing that the Certificate Holder has received all of the real property rights from owners of private properties required for the Certificate Holder to construct the Project there.

44. Each construction activity shall be described in detail in the EM&CP.

45.

- a) The Certificate Holder shall adhere to the NYSDEC's then effective "New York State Standards and Specifications for Erosion and Sediment Control," ("NYSSESC") also known as the "Blue Book."
- b) The Certificate Holder's proposed SWPPP for the Project shall be submitted with the EM&CP.
- c) Prior to construction at a location requiring the installation of temporary erosion control as indicated in the EM&CP, the Certificate Holder shall install such measures, which shall be maintained at the end of the work day in which site disturbance occurs.

46. Disturbed areas, ruts, and rills shall be restored to original grades and conditions with permanent re-vegetation and erosion controls appropriate for those locations. Disturbed pavement, curbs and sidewalks shall be restored to their original preconstruction condition or improved.

F. Environmental Supervision

47. The Certificate Holder shall use at least 4 inspectors (or fewer if the Certificate Holder elects to use the same individual in more than one role): (a) at least one environmental monitor employed full-time on the Project; (b) at least one construction inspector employed full-time on the Project; (c) at least one safety inspector who will inspect the work site from time to time; and (d) at least one quality assurance inspector who will inspect the work site from time to time. The environmental monitor shall have stop work authority over all aspects of the Project.

48. The environmental monitor(s) and the construction inspector(s) shall be equipped with sufficient documentation and transportation and communication equipment to effectively monitor each Contractor's compliance with the provisions of every order issued in this proceeding and applicable sections of the PSL, the ECL and regulations issued thereunder, any Section 401 Water Quality Certification, and the EM&CP.

49. The names and qualifications of the environmental monitor(s) and the construction inspector(s) shall be submitted to the Secretary at least 2 weeks prior to the start of construction. The environmental monitor's qualifications shall satisfy those of a "Qualified Inspector" pursuant to the SPDES General Stormwater Permit for construction activity (GP-0-15-002).

50. The Certificate Holder's employees, Contractors and subcontractors assigned to the construction of the Project and inspection of such construction work shall be properly trained in their respective responsibilities.

51. The Certificate Holder shall regard DPS Staff representatives (authorized pursuant to PSL Section 8) as the Commission's designated representatives in the field. In the event of any emergency resulting from specific construction or maintenance activities that violate or may violate the terms of the Certificate or any other order in this proceeding, such DPS Staff representatives may issue a stop work order for that location or activity.

52. A stop work order shall expire 24 hours after issued unless confirmed by a single Commissioner. If a stop work order is so confirmed, the Certificate Holder may seek reconsideration from the confirming Commissioner or the whole Commission.

53. Stop work authority will be exercised sparingly and with due regard to potential environmental impacts, economic costs involved, possible impact on construction activities, and whether an applicable statute or regulation is violated. Before exercising such authority, DPS Staff representatives will consult (wherever practicable) with the Certificate Holder's representatives possessing comparable authority. Within reasonable time constraints, all attempts will be made to address any issue and resolve any dispute in the field. In the event the dispute cannot be resolved, the matter will be brought immediately to the attention of the Certificate Holder's Project Manager and the DPS Chief of EC&C. In the event that a DPS Staff representative issues a stop work order, neither the Certificate Holder nor the Contractor will be prevented from undertaking any safety-related activities as they deem necessary and appropriate under the circumstances. The issuance of a stop work order or the implementation of measures as described below may be directed at the sole discretion of the DPS Staff representative during these discussions.

- a) If a DPS Staff representative discovers a specific activity that represents a significant environmental threat that is or immediately may become a violation of the Certificate or any other order in this proceeding, the DPS Staff representative may -- in the absence of responsible Certificate Holder supervisory personnel, or in the presence of such personnel who, after consultation with the DPS Staff representative, refuse to take appropriate action -- direct the field crews to stop the specific potentially harmful activity immediately. If responsible Certificate Holder personnel are not on site, the DPS Staff representative will immediately thereafter inform the Construction Inspector or Environmental Monitor of the action taken. The stop work order may be lifted by the DPS Staff Representative if the situation prompting its issuance is resolved;
- b) If the DPS Staff representative determines that a significant threat exists such that protection of the public or the environment at a particular location requires the immediate implementation of specific corrective measures, the DPS Staff representative may, in the absence of responsible Certificate Holder supervisory personnel, or in the presence of such personnel who, after consultation with the DPS Staff representative, refuse to take appropriate action, direct the Certificate Holder or its Contractors to implement the corrective measures identified in the approved EM&CP. The field crews shall comply with the DPS Staff representative's directive immediately. The DPS Staff representative will immediately thereafter inform the Certificate Holder's Construction Inspector or Environmental Monitor of the action taken.

54. The Certificate Holder shall organize and conduct site-compliance audit inspections for DPS Staff as needed, but for the Project not less frequently than once per month during the site preparation, construction, and restoration phases. Such inspections shall conclude upon the final sign-off of the SWPPP.

- a) The monthly inspections shall include a review of the status of compliance with all conditions contained in the Certificate and any other order issued in this

proceeding and with all other legal requirements and commitments, as well as a field review of the Facility site, if necessary. The inspections also shall include:

- i. review of all complaints received, and their proposed or actual resolutions;
 - ii. review of any significant comments, concerns or suggestions made by the public, local governments, or other agencies, and the Certificate Holder's response(s);
 - iii. review of the status of the Project in relation to the overall schedule established prior to the commencement of construction; and,
 - iv. other items the Certificate Holder or DPS Staff considers appropriate.
- b) The Certificate Holder shall provide a written record of the results of the inspection, including resolution of issues and additional measures to be taken, to all agencies involved in the inspection audit and as part of its scheduled construction update reports.

G. Roads and Highways

55. The Certificate Holder shall minimize the impact of the construction of the Project on traffic circulation. Traffic control personnel and safety signage shall be employed to ensure safe and adequate traffic flow when secondary roadways are affected by construction.

56. The Certificate Holder shall consult periodically with municipal highway transportation agencies about traffic conditions near the Project site and shall notify each such transportation agency of the approximate date work will begin in its jurisdiction, using access points that take direct access from the highways in that jurisdiction.

57. In preparing the proposed EM&CP, the Certificate Holder shall consult with each transportation department or agency normally having jurisdiction over any roads in the Project vicinity that will be affected by Project construction. The EM&CP will include a scope and methods to assess the pre-construction condition of municipal roads. The assessment will include an evaluation of road pavement, road base, stormwater facilities, sidewalks, street furniture and other amenities found in the road right-of-way.

58. The Certificate Holder shall coordinate with DPS Staff and NYSDOT for all work to be performed in the State highway rights-of-way. Prior to submitting its construction plan for any State highway right-of-way segment, the Certificate Holder shall provide to DPS Staff and NYSDOT a preliminary design marked to avoid conflict with potential future transportation projects that NYSDOT may seek to undertake in the future and shall offer to consult with NYSDOT concerning any comments it may offer and shall use reasonable efforts to accommodate any NYSDOT concerns.

59. Nothing herein shall preclude the Certificate Holder from voluntarily subjecting itself to any State or local approval, consent, permit, certificate or other condition for the construction or operation of the Project, subject to the Commission's ongoing jurisdiction.

H. Cultural Resources

60. The Certificate Holder shall not undertake construction in previously undisturbed areas where archeological surveys have not been completed until such time as the appropriate authorities, including New York State Office of Parks Recreation & Historic Preservation (“OPRHP”) and DPS Staff, have reviewed the results of any additional historic properties and archeological surveys that are required.

61. Should archeological materials be encountered during construction, the Certificate Holder shall stabilize the area and cease all construction activities in the immediate vicinity of the find, and protect the find from further damage. Within 24 hours of such discovery, the Certificate Holder shall notify and seek to consult with DPS Staff and the OPRHP Field Services Bureau to determine the best course of action. No construction activities shall be permitted in the immediate vicinity of the archeological materials until such time as the significance of the resource has been evaluated and the need for and scope of impact mitigation has been determined.

62. Should human remains or evidence of human burial(s) be encountered during the conduct of archeological data recovery fieldwork or during construction, all work in the vicinity of the find shall be halted immediately and the remains shall be protected from further disturbance. Within 24 hours of any such discovery, the Certificate Holder shall notify and consult with DPS Staff and the OPRHP Field Services Bureau. Treatment and disposition of any human remains that may be discovered shall be managed in a manner consistent with the OPRHP’s *Human Remains Discovery Protocol*. All archaeological or remains-related encounters and their handling shall be reported in the status reports summarizing construction activities and reviewed in the site-compliance audit inspections.

63. The Certificate Holder shall avoid creating adverse impacts on heritage resource sites, archeological sites, and historic structures in the vicinity of the Project by implementing specific Project location, design, vegetation management, resource protection, and construction scheduling measures described in the EM&CP.

64. The Certificate Holder shall have a continuing obligation during the duration of Project construction to respond promptly to complaints of negative archeological impacts and to mitigate any negative archeological impacts through on-site design modifications and off-site mitigation techniques developed in consultation with the OPRHP Field Services Bureau.

I. Terrestrial and Wildlife Resources

65. Should the Certificate Holder encounter any northern long-eared bats or other rare, threatened or endangered species during vegetation clearing, it shall immediately stop all work that risks impacting the encountered individuals of such species and contact NYSDEC and DPS Staff for consultation regarding further clearing. NYSDEC or DPS Staff shall have authority to allow the Certificate Holder to resume work upon determining that it will not create such risks.

66. The Certificate Holder shall promptly notify DPS Staff and the NYSDEC Region 1 Wildlife Manager if any RTE species is encountered in any area where Project activities are conducted, so as to determine the appropriate measures to be taken to protect such

species. If necessary to protect a species or its habitat from immediate harm, the Certificate Holder shall secure the immediate area and cease construction in that area. The Certificate Holder shall refer to 6 NYCRR Part 182 and <http://www.dec.ny.gov/animals/7494.html> for lists of RTE species. Prior to the commencement of construction, the Certificate Holder shall provide all workers with pertinent information on protected species in the Project area.

J. Petroleum and Hazardous Substances

67. The EM&CP shall include Fuel and Chemical Handling Procedures, and a spill response and route emergency plan, including the NYSDEC spill reporting contact number. This plan shall provide proposed methods of handling spills of petroleum products and any hazardous or controlled substance which may be stored or utilized during construction, operation, or maintenance of this Facility.

68. All Certificate Holder and Contractor vehicles working on the Project shall have a spill kit that is appropriate for the volume of fuel carried by the vehicle.

69. The Certificate Holder's Contractor will retain a qualified spill response company for the duration of the Project and provide that company with maps showing access roads, marshalling yards, and other information that will facilitate response to a spill location.

APPENDIX E
**SPECIFICATIONS FOR THE DEVELOPMENT OF
ENVIRONMENTAL MANAGEMENT AND CONSTRUCTION PLAN**

Section A of the Specifications for the Development of Environmental Management and Construction Plan (“Specifications”) addresses the development of the plan and profile drawings, and maps portion of the Environmental Management and Construction Plan (“EM&CP”).

Section B addresses the description and statement of objectives, techniques, procedures, and requirements, i.e. the textual portion of the EM&CP. The EM&CP shall be consistent with and incorporate the requirements of the Article VII Certificate.

If any particular requirement of the Specifications is not applicable, so indicate and briefly explain.

A. EM&CP Plan and Profile Drawings and Maps

The EM&CP maps, charts, orthoimagery maps, and illustrations shall include, but need not be limited to, all of the following information:

1. Plan and Profile Details

A Duct Bank Plan (scale minimum 1 inch = 20 feet) and Profile¹ (scale minimum 1 inch = 4 feet) showing:

- a. The boundaries of any new, existing, and/or expanded right-of-way (“ROW”) or roads, and where cables are to be constructed underground; plus areas contiguous to the ROW or street within which the Certificate Holder will obtain additional rights are to be shown. Lines weight, graphic symbols, lettering and colors on the plan and profile drawings will be distinct and contrasting with the drawing sheet background to improve legibility of the drawing. Standard symbols will be used when possible.
- b. The location, depth, and associated size of the duct bank. The location and depth of each Facility splice vault structure.
- c. Typical duct bank trench sections showing minimum depth requirements, minimum trench width, acceptable soil backfill, conduit configurations (showing conduit size and material), circuit phasing, warning tape and final grade substrate. Minimum depth and width requirements will suffice recognizing that unknown subsurface conditions and/or construction means and methods exist that may alter typical duct bank installation so as they do not adversely impact the circuit system design requirements.
- d. Development details and sections of the Facility splice vault structures (showing height, width, and length dimensions) conduit penetrations (showing material, size, and location).
- e. Any underground utility or non-utility structure including the approximate depth of the structure.

¹ For underground project design, show relation of Project to final surface grade, indicating design depth-of-cover.

- f. The relationship of the Facility to nearby fence lines; roads; railways; airfields; property lines; hedgerows; fresh surface waters; wetlands; regulated adjacent areas; other water bodies.
- g. Significant habitats; associated facilities; flowing water springs; nearby buildings or structures; major antennas; oil or gas wells, and blowdown valves. The location of any proposed new or expanded switching station, substation, or other terminal or associated utility or non-utility structure (attach plan² - plot, grading, drainage, and electrical - and elevation views with architectural details at appropriate scales). Indicate the type of outdoor lighting, including design features to avoid off-site illumination and minimize glare; the color and finish of all structures; the locations of temporary or permanent access roads, parking areas, construction contract limit lines, property lines, designated floodways and flood-hazard area limits, buildings, sheds, relocated structures, and any plans for water service and sewage and waste disposal.
- h. The location and boundaries of any areas, whether located on- or off- ROW, proposed to be used for fabrication, designated equipment parking, staging, access, storage, marshalling, lay-down, and conductor pulling and splicing. Indicate any planned fencing, surface improvements, and screening.
- i. Plan index will identify the company or person responsible for the preparation of the drawings.

2. Stormwater Pollution Prevention

- a. Include on the plan and profile drawings the draft or approved Storm Water Pollution Prevention Plan (SWPPP) details. Include the locations of soil erosion and sediment control measures developed in accordance with the latest version of the New York Standards and Specifications for Erosion and Sediment Control (e.g., stabilized construction entrances, silt fences, check dams, and sediment traps).
- b. Include on the plan and profile drawings the draft or approved SWPPP locations of all permanent stormwater management controls that are required based on site-specific conditions or conditions of the Certificate.
- c. Identify whether the erosion and sediment control practices are designed in conformance with technical standards found in NYS Standards and Specifications for Erosion and Sediment Control dated November 2016 (Blue Book), or revised Blue Book with a more recent date.
- d. Concrete washout best management practices shall be based on the then effective Blue Book and a minimum 10 mil plastic liner will be required. Straw bale perimeters that are air-dried and free of undesirable seed and coarse material are acceptable. The EM&CP will state that locations are to be adjusted in the field based on site conditions. Basin size and type will be based on the expected volume of concrete wash out discharges.

3. Vegetation Clearing and Disposal Methods

Identify on the plan and profile drawings:

- a. the locations of sites requiring trimming or clearing of vegetation and the geographic limits of such trimming or clearing;

² Preferably 1" = 50' scale with 2-foot contour lines.

- b. the specific methods for the type and manner of cutting and disposition or disposal method for cut vegetation (e.g., chip; cut and pile; salvage merchantable timber, etc.);
- c. the methods for management of vegetation to be cut or removed at each site;
- d. any geographical area bounded by distinctly different cover types requiring different cut-vegetation management methods;
- e. any geographical area bounded at each end by areas requiring distinctly different cut-vegetation methods due to site conditions such as vegetation cover type, land use differences, population density, habitat or site protection, soil or terrain conditions, fire hazards, or other factors;
- f. different property-owners requesting specific vegetation treatment or disposal methods;
- g. locations of desirable vegetation species to be preserved and/or restored;
and
- h. the location of any areas where specific vegetation protection measures will be employed and the details of those measures to avoid damage to specimen tree stands of desirable species, important screening trees, or hedgerows.

4. Building and Structure Removal

Indicate the locations of any buildings or structures to be acquired, demolished, moved, or removed.

5. Waterbodies

- a. Indicate the name or EM&CP designation, water quality classification and location of all rivers and streams and drainages crossed by the proposed ROW or any off-ROW access road constructed, improved or maintained for the Facility. On the plan and profile drawings, by symbol or label indicate:
 - 1) stream crossing method and delineate any designated streamside “protective or buffer zone” in which construction activities will be restricted to the extent necessary to minimize impacts on rivers and streams;
 - 2) the activities to be restricted in such zones; and
 - 3) identify any designated floodways or flood hazard areas to be traversed by the Facility or access roads, or otherwise used for Facility construction or the site of associated facilities.
- b. Show the location of potable water sources, including springs and wells on the ROW or within 100 feet of the ROW or access roads indicating on a site-by-site basis, precautionary measures to be taken to protect each water source.

6. Wetlands

- a. Boundaries of all federal and state wetlands and state wetland 100-foot adjacent areas (“adjacent areas”) located within the ROW, crossed by the ROW, or located on or crossed by any off-ROW access road constructed, improved, or maintained for the Facility, including temporary access roads, shall be depicted on EM&CP drawings.
- b. Indicate the location and type (i.e., identification code for regulated town, state, or

federal wetlands) of any wetland (e.g., marsh, meadow, bog, or scrub-shrub or forested swamp) within or adjoining the ROW or any access road, as determined by site investigation and delineation.

- c. Indicate type and location of precautionary measures (e.g., mats) to be taken to protect all wetlands, associated drainage patterns and wetland functions.
- d. New York State Wetlands under Article 24 (State Wetlands) will be illustrated as a single boundary based on field identification. Approximate map boundaries should not be illustrated on the EM&CP drawing when field wetland identification has been completed.
- e. Identify on plans or in notes any restoration activities that will occur in wetlands and adjacent areas.

7. Land Uses

a. Sensitive Land Uses and Resources

Indicate the location and identification of sensitive land uses and resources that may be affected by construction of the Facility or by construction-related traffic (i.e., hospitals, emergency services, sanctuaries, schools, and residential areas).

b. Geologic, Historic, and Scenic or Park Resources

Indicate the locations of geologic, historic, and existing or planned scenic or park resources and specify measures to minimize impacts to these resources (e.g., fencing, signs).

c. Recreational

Indicate the locations where existing or planned recreational use areas, would affect or be affected by the Facility location, construction or other ROW preparation.

8. Access Roads, Marshalling Yards and Workpads

- a. Indicate the locations of temporary and permanent on- and off-ROW access roads, marshalling yards and workpads. Provide construction type, material, dimensions and grading or site preparation required to develop the location for construction.
- b. Provide a map of off-ROW parking areas other than marshalling yards.

9. Noise Sensitive Sites

Show the locations of noise-sensitive areas along the proposed ROW. On the notes for the Plan and Profile drawings, identify work hours.

10. Ecologically and Environmentally Sensitive Areas

- a. Indicate the general locations of any known ecologically and environmentally sensitive sites (i.e., archaeological sites; fish and wildlife habitat; rare, threatened, and endangered species or habitats; forest and vegetation; open space; areas of important aesthetic or scenic quality; etc.), within or nearby the proposed or existing ROW.. Specify the measures that will be taken to protect these resources (e.g., fencing, flagging, signs “Sensitive Environmental Areas, No Access”).
- b. On the plan and profile indicate the type of temporary signage to be used and provide a description of measures to be completed in order to comply with the specific directives of the sign.

11. Invasive Species of Special Concern

- a. Identify the location(s) of Invasive Species of Special Concern and the prescribed method to control the spread and/or eradicate the identified species.
- b. Invasive Species Cleaning Stations will include: a work surface that is easy to clean with a shovel, a safe work area outside of access road travel way, walking surface will be stable in all weather conditions and trip hazards between surfaces will be minimized.
- c. Identify the area where equipment and materials will be cleaned prior to leaving the ROW and the method of cleaning (Invasive Species Cleaning Area).

12. Herbicide

On the plan and profile drawing notes, indicate areas where herbicides will not be used, and describe or illustrate areas to be posted when herbicides are applied (ECL Article 33 and 6 NYCRR Part 325).

B. Description and statement of objectives, techniques, procedures and requirements

The EM&CP text will provide details of the analysis completed to support the development of the plan set. Individuals or consultants will be identified that have prepared various portions of the EM&CP. If the drawings are prepared by the utility company it will be stated that plans are prepared in conformance with Education Law Article 145 §7208.1 - Exempt persons for the professions of engineering and land surveying. The textual portion of the EM&CP for the Facility shall include, but need not be limited to, all of the following information:

1. Facility Location and Description

Describe the location and limits of the site or ROW and explain the need for any additional rights. State any objections raised by Federal, State or local transportation (highways, waterways, or aviation) officials to the final location or manner of installation of, or access to, the certified Facility.

2. Stormwater Pollution Prevention

- a. Include the information from the draft or approved SWPPP.
- b. Include a list of Municipal Separate Storm Sewer System (MS-4) administrators or inspectors and their contact information.

2. Vegetation Clearing and Disposal Methods

- a. Describe the specific methods and rationale for the type and manner of cutting and disposition or disposal methods for cut vegetation.
- b. Detail specific measures employed to avoid damage to specimen tree stands of desirable vegetation, rare, threatened and endangered species, important screening trees, and hedgerows.
- c. Describe methods of compliance with 6 NYCRR Part 192 – Forest Insect and Disease Control, applicable New York State Department of Environmental Conservation (NYSDEC) quarantine orders..

3. Building and Structure Removal

Indicate the locations of any buildings or structures to be acquired, demolished, moved, or

removed. Provide the rationale for the acquisition and removal of buildings or structures.

4. Waterbodies

- a. Describe the measures to be taken to protect stream bank stability, stream habitat, and water quality including, but not limited to: crossing technique; crossing structure type; timing restrictions for in-stream work; stream bed and bank restoration measures; vegetation restoration measures; and other site-specific measures to minimize impacts, protect resources, and manage Facility construction.
- b. In a separate report indicate the procedures that were followed to inventory such resources and provide copies of any resulting data sheets and summary reports.
- c. Develop a table of waterbodies crossed by the Facility and include: Town (location), Existing Structure Span (mileposts), Stream Name, Field/Map Identification Name, Perennial or Intermittent, New York Stream Classification, Water Index Number, Crossing Method and Length, Fishery Type, and GPS coordinates.

5. Wetlands

- a. For each federal and state-regulated wetland, indicate the following: town (location); existing Structure Span (milepost); wetland field designation; NYSDEC classification code; wetland type; proposed structure located within wetland; total area of temporary disturbance/impact; total area of permanent disturbance (sq. ft.); area crossed by Facility (sq. ft.); and conversion of federal and state-regulated forested wetlands (sq. ft.).
- b. Describe all activities that will occur within State-regulated wetlands or adjacent areas (e.g., construction, filling, grading, vegetation clearing, and excavation) and assure that the activity is consistent with the weighing standards set forth in 6 NYCRR §§663.5(e) and (f). Describe how impacts to wetlands, adjacent areas, associated drainage patterns and wetland functions will be avoided, and how impacts will be minimized.
- c. Describe the precautions or measures to be taken to protect all other wetlands (e.g., town, federal wetlands) associated drainage patterns, and wetland functions.

6. Land Uses

a. Sensitive Land Uses

Describe the sensitive land uses (e.g., hospitals, emergency services, sanctuaries, schools, residential areas) that may be affected by construction of the Facility or by construction-related traffic and specify measures to minimize the impacts on these land uses.

b. Geologic, Historic and Scenic or Park Resources

Describe the geologic, historic, and scenic or park resources that may be affected by construction of the Facility or by construction-related traffic and specify measures to minimize impacts on these resources. Indicate the procedures that were followed to identify such resources and specify the measures that will be taken to protect or preserve these resources. Reports prepared to identify and analyze such sites and previously submitted will be identified and new or more detail documentation of the above features shall be made available to Staff upon request.

c. Recreation Areas

Explain how proposed or existing recreation areas will be avoided or accommodated

during construction, operation, and maintenance of the Facility.

7. Access Roads, Marshalling Yards and Workpads

- a. Discuss the necessity for access to the ROW, including the areas where temporary or permanent access is required; and the nature of access improvements based on natural features, equipment constraints, and vehicles to be used for construction and maintenance, and the duration of access needs through restoration and the maintenance of the Facility.
- b. Discuss the types of access which will be used and the rationale for employing that type of access including consideration of:
 - 1) temporary installations (e.g., corduroy, mat, fill, earthen road, geotextile, geogrid underlayment, gravel surface, etc.);
 - 2) permanent installations (e.g., cut and fill earthen road, geotextile underlayment, gravel surface, paved surface, etc.);
 - 3) use of roads, driveways, farm lanes, rail beds, etc.; and
 - 4) other access, e.g. helicopter or barge placement.
- c. For each temporary and permanent access type, provide a figure or diagram showing a typical installation (include top view, cross section and side view with appropriate distances and dimension). Where existing access ways will be used, indicate provisions for upgrading for Facility construction.
- d. Indicate the associated drainage and erosion control features to be used for access road construction and maintenance. Provide diagrams and specifications (include plan and side views with appropriate typical dimensions) for each erosion control feature to be used, such as:
 - 1) staked straw bale or check dam (for ditches or stabilization of topsoil);
 - 2) broad-based dip or berm (for water diversion across the access road);
 - 3) roadside ditch with turnout and sediment trap;
 - 4) French drain;
 - 5) diversion ditch (water bar);
 - 6) culvert (including headwalls, aprons, etc.);
 - 7) sediment retention basin (for diverting out-fall of culvert or side ditch); and
 - 8) silt fencing.
- e. Indicate the type(s) of stream crossing method to be used in conjunction with temporary and permanent access road construction. Provide diagrams and specifications (include plan and side view with appropriate dimensions) for each crossing device and rationale for their use. Stream crossing devices may include but not be limited to:
 - 1) timber mat;
 - 2) culverts including headwalls;
 - 3) bridges (either temporary or permanent); and
 - 4) fords.

- f. All diagrams and specifications should include material type and size to be placed in streams and on stream approaches.
- g. Provide justification for any access and workpad areas which are proposed to be located in a wetland, adjacent area or stream or waterbody.

8. Noise Sensitive Sites

Specify procedures to be followed to minimize noise impacts related to ROW clearing, and construction and operation of the Facility. Indicate the types of major equipment to be used in construction or Facility operation; sound levels at which that equipment operates; days of the week and hours of the day during which that equipment will normally be operated; any exceptions to these schedules; and any measures to be taken to reduce audible noise levels caused by either construction equipment or Facility operation.

9. Ecological and Environmentally Sensitive Sites

Indicate the procedures that were followed to identify ecological and environmental resources (e.g., archaeological sites; fish and wildlife habitat; rare, threatened, and endangered species or habitats; forest and vegetation; open space; areas of important aesthetic or scenic quality; deer winter yards) and specify the measures that will be taken to protect, preserve or improve these resources. Reports prepared to identify and analyze such sites shall be identified, and made available upon request.

10. Invasive Species of Special Concern

- a. Provide an invasive species prevention and management plan for Invasive Species, prepared in consultation with DPS and NYSDEC, based on the pre-construction invasive species survey of invasive species within the ROW.
- b. The plan shall include measures that will be implemented to minimize the introduction of Invasive Species and the spread of existing invasive species, during construction (e.g., soil disturbance, vegetation clearing, transportation of materials and equipment, and landscaping/revegetation).
- c. Describe the type and extent of training to be provided on invasive species management to workers, including any instructions necessary to implement the Certificate Conditions relating to Invasive Species Management and Control.

11. Herbicides

Include a herbicide use plan for all vegetation clearing that:

- a. Specifies the locations where herbicides are to be applied. Provide a general discussion of the site conditions (e.g., land use, target and non-target vegetation species composition, height and density) and the choice of herbicide, formulation, application method and timing.
- b. Describes the procedures that will be followed during application, including any label instructions, to protect non-target vegetation, streams, wetlands and adjacent areas, potable waters and other water bodies, and residential areas and recreational users on or near the ROW.

12. Fugitive Dust Control

Specify appropriate measures that will be used to minimize fugitive dust and airborne debris from construction activity.

13. Petroleum and Chemical Handling Procedures

- a. Include a plan for the storage, handling, transportation, and disposal of petroleum, fuels, oil, chemicals, hazardous substances, and other potentially harmful substances which may be used during, or in connection with, the construction, operation, or maintenance of the Facility. Indicate areas where such activities are prohibited and areas where an environmental monitor must be present to conduct such activities. Address how to avoid spills and improper storage or application in the vicinity of any wetland, adjacent area, river, creek, stream, lake, reservoir, spring, well, or other ecologically sensitive site, or existing recreational area along the ROW and access roads.
- b. Include a plan for reporting, responding to and remediating the effects of any spill of petroleum, fuels, oil, chemicals, hazardous substances, and other potentially harmful substances in accordance with applicable State and Federal laws, regulations, and guidance, and include proposed methods of handling spills of petroleum, fuels, oil, chemicals, hazardous substances, and other potentially harmful substances which may be stored or utilized during the construction and site restoration, operation, and maintenance of the Facility.
- c. Identify the notification and reporting responsibilities for laborers, equipment operators, supervisors, managers and environmental monitors.
- d. Describe the training on spill response to be given to laborers, equipment operators, supervisors, managers and environmental monitors.
- e. All vehicles will have a spill kit appropriate to the size of the fuel tank.

14. Environmental Supervision

- a. Describe protocols for supervising demolition, vegetation clearing, use of herbicides, SWPPP compliance, and construction, and site restoration activities to ensure minimization of environmental impact and compliance with the environmental protection provisions specified by the Certificate Conditions.
- b. Specify the titles and qualifications of personnel proposed to be responsible for ensuring minimization of environmental impact throughout the demolition, clearing, construction and restoration phases, and for enforcing compliance with environmental protection provisions of the Certificate, the SWPPP and the EM&CP. Indicate the amount of time each supervisor is expected to devote to the project.
- c. Specify responsibilities for personnel monitoring all construction activities, such as clearing, sensitive resource protection, site compliance, EM&CP change notices, etc.
- d. Explain how all environmental protection provisions will be incorporated into contractual specifications, and communicated to those employees or contractors engaged in demolition, clearing, construction, and restoration.
- e. Describe the procedures to “stop work” in the event of a Certificate violation. Identify the company’s designated contact including 24/7 emergency phone number, for assuring overall compliance with Certificate conditions.

15. Clean-up and Restoration

Describe the Certificate Holder’s program for ROW clean-up and restoration, including:

- a. the removal of any temporary roads; restoration of lay-down or staging areas; the

finish grading of any scarified or rutted areas; the removal of waste (e.g. excess concrete), scrap metals, surplus or extraneous materials or equipment used;

- b. plans, restoration goals, standards and a schedule for the restoration of vegetative cover; including, but not limited to, specifications to address:
 - 1) design standards for ground cover;
 - 2) species mixes and application rates by site;
 - 3) site preparation requirements (soil amendments, stone removal, subsoil treatment, or drainage measures);
 - 4) acceptable final cover % by cover type;
 - 5) schedule for post construction inspections and reporting of the results of the restoration efforts to DPS Staff;
 - 6) planting installation specifications and follow-up responsibilities;
 - 7) a schedule or projected dates of any seeding and/or planting;
 - 8) plans to prevent unauthorized access to and along the ROW; and
 - 9) identify the person responsible for restoration by office, title and name.

16. Visual Impact Mitigation

Provide details of screening or landscape plans prescribed at road crossings and for adjacent property owners. Discuss existing or proposed landscape planting, earthwork, or installed features to screen or landscape substations and other Facility components. The Certificate Holder will identify by office title and name the person responsible for assessing, implementing and reporting on visual impact mitigation.

17. Protection of Existing Facilities Plan

Provide a plan indicating the details and design measures to protect the cathodic protection system and physical conditions of nearby facilities and structures, including any underground facilities. The plan shall include appropriate mitigation measures such as grounding and the upgrade of existing protection devices or other facilities as appropriate for, and identified in cooperation with, owners or operators of adjacent or nearby structures, pipelines, tanks, fences or facilities.

18. Blasting Plan

A Blasting Plan will be developed as required.

APPENDIX F

PROPOSED 401 WATER QUALITY CERTIFICATION

NEW YORK PUBLIC SERVICE COMMISSION WATER QUALITY CERTIFICATION

Pursuant to: §401 of the Federal Water Pollution Control Act, 33 U.S.C. §1341, and Article VII of the New York Public Service Law

Certification Issued to: PSEG Long Island LLC on Behalf of and as Agent for the Long Island Lighting Company d/b/a LIPA
333 Earle Ovington Blvd, Suite 403
Uniondale, NY 11553

Location of Project

PSEG Long Island LLC on Behalf of and as Agent for the Long Island Lighting Company d/b/a LIPA (“Applicant” or “PSEG Long Island”) proposes to construct, operate and maintain a new 138 kilovolt (kV) underground transmission line in Nassau County, New York. The Project, called the “Western Nassau Transmission Project,” is the construction of a second circuit (the “Facility”) between the East Garden City Substation (located in Uniondale), and the Valley Stream Substation (located in Lynbrook), both in the Town of Hempstead. The Facility would be located wholly within the Town of Hempstead and would traverse the Villages of Garden City, Malverne, and Lynbrook. The Project would be constructed primarily within municipal public roadway rights-of-way (“ROW”) for a total distance of approximately seven miles.

Project Description

PSEG Long Island’s Article VII Application has fulfilled the requirements necessary to determine whether the Project¹ will qualify for issuance of a Water Quality Certification pursuant to §401 of the Federal Water Pollution Control Act (33 U.S.C. §§ 1251 through 1387).

Planned construction methods will be conventional trenching and, where required to minimize any impact on the associated communities and roadways, jacking and/or horizontal directional drilling techniques. Nominal trench depth from grade will be 72 inches, unless field conditions (such as conflicts with existing underground utilities) require otherwise. Manholes in

¹ All capitalized terms not defined herein will have the definitions given to them in Exhibit 2 of the Evidentiary Record.

which the cables will be spliced and cable sheaths single-point bonded are expected to be placed approximately every 1,600 feet.

In cases where field conditions dictate less than 42 inches of cover, the affected section of conduit will be designed and installed with appropriate protection to withstand anticipated external loads. Underground facility markers and tracers will be installed to provide warning and to locate the cables in the future. At certain locations it may be necessary to remove vegetation if cable or manhole locations are outside of roadway corridor limits.

The Project will also include, at the two existing substations (East Garden City and Valley Stream), equipment additions and upgrades to accommodate the new 138 kV transmission circuit as well as modifications to the existing 138 kV bus.

The Project right-of-way crosses one aquatic resource, known as Pines Stream. This stream flows under Hempstead Avenue within a concrete-lined culvert with a riprap stream bed. The Applicant will install the Facility across Pines Stream along a route adjacent to and approximately parallel to Hempstead Avenue using open-cut trenching methods at a minimum 42 inch depth. For this crossing, the Applicant intends to seek authorization by the U.S. Army Corps of Engineers' ("USACE") New York District under Nationwide Permit No. 12 for Utility Line Activities. The flow of Pines Stream would be temporarily stopped within the stream limits for the duration of construction, which would be done in coordination with Nassau County Department of Public Works and other agency requirements. The installation would begin at a section of existing concrete retaining wall where a 36 inch storm sewer lets out into Pines Stream. The wall section, along with a section of 36 inch concrete storm sewer pipe back to the nearest storm sewer manhole, would be removed. Then the Facility's duct bank would be installed with a minimum vertical clearance under or integrated with the retaining wall foundations sufficient for the reconstruction of the wall section previously removed. The removed sections of wall and storm sewer would then be restored in-kind. Following construction within Pines Stream, the open-cut trench would be backfilled as required for stream restoration and erosion control. Alternatively, if due to agency preferences or structural issues the Applicant determines that the retaining wall section should not be removed, a casing sleeve would be installed under the bed of Pines Stream and pushed under the retaining wall. The duct bank would be installed within the casing and be transitioned to the traditional open-cut trench on both sides. The Applicant proposes to work within Pines Stream during the summer and will temporarily halt stream flow during construction. To achieve this, the Applicant will remove the weir boards from the southern end of Halls Pond recreation area, lowering the pond approximately 12 inches. The weir boards will then be reinstalled, and as the pond recharges, flow downstream would be temporarily halted. This would allow the Project enough time to trench through the dry streambed.

Construction, operation and maintenance of the Project will be in accordance with its Certificate of Environmental Compatibility and Public Need ("Certificate") and Environmental Management and Construction Plan ("EM&CP").

Certification

The New York State Public Service Commission hereby certifies, pursuant to §401 of the Water Pollution Control Act (33 U.S.C. §1341) and Article VII of the New York Public Service Law that the Project, as conditioned herein, complies with applicable requirements of §§ 301, 302, 303, 306 and 307 of the Federal Water Pollution Control Act, as amended, and applicable New York State water quality standards, limitations, criteria and other requirements set forth in 6 NYCRR §608.9(a) and Parts 701 through 704, provided that all of the conditions listed herein are met. This certification (“Certification”) is issued in conjunction with the Article VII Certificate sought by the Applicant in, and based on the record of, Case 17-T-0752.

Conditions

1. No in-water work shall commence until all pre-construction conditions relating to such work contained in the Certificate and any Order approving the EM&CP have been met to the satisfaction of the Department of Public Service.
2. Construction and operation of the Project shall at all times be in conformance with (a) the Application (as amended and supplemented) and Joint Proposal of Settlement filed in Case 17-T-0752, to the degree not superseded by the Certificate, (b) all conditions of approval contained in the Certificate, (c) the EM&CP, and (d) all conditions incorporated in any order approving the EM&CP in Case 17-T-0752, to the extent such documents referenced in (c) and (d) above pertain to Applicant’s compliance with New York State Water Quality Standards necessary and appropriate for issuance of, and compliance with, this Certification.
3. PSEG Long Island shall provide a copy of this Certification to the USACE, along with a copy of the Application, Joint Proposal, Article VII Certificate, EM&CP, and order(s) approving the EM&CP in Case 17-T-0752, so that the U.S. Army Corps of Engineers will have a complete record of the conditions that apply hereto.
4. PSEG Long Island shall provide to all construction contractors performing work on the Project complete copies of this Certification, the Article VII Certificate, the approved EM&CP, and order(s) approving the EM&CP.

Certified by:

_____, Chief
Environmental Certification and Compliance
Section
Office of Electric, Gas and Water
New York State Department of Public Service
Three Empire State Plaza
Albany, New York 12223