

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

CASE 08-T-0034 - Application of Hudson Transmission Partners, LLC
for a Certificate of Environmental Compatibility
and Public Need for a 345 kV
Submarine/Underground Electric Transmission Link
Between Manhattan and New Jersey.

ORDER GRANTING CERTIFICATE OF ENVIRONMENTAL
COMPATIBILITY AND PUBLIC NEED

(Issued and Effective September 15, 2010)

State begins to take ever more aggressive steps to improve air quality and to combat the adverse effects of climate change.⁵² In this emerging context, the HTP facility could be a useful resource to assist in the transition to newer and cleaner generation facilities within New York City. Another serious possibility involves the Indian Point nuclear power facilities located in Westchester. A segment of the State's population remains deeply concerned about the safety of having a nuclear energy facility as close as this one is to a major metropolitan area. Indeed, as a party in the Nuclear Regulatory Commission's relicensing proceeding for the Indian Point facilities, the State has opposed the extension of the plants' operating licenses. Also, environmentalists remain active in pursuing updates and modifications to this facility to lessen its current impacts on the environment. We find that the HTP facility will assist in maintaining system reliability in the event that one or both of the Indian Point plants close.

Further, the HTP facility helps to improve Consolidated Edison's operating flexibility at the 49th Street Substation and helps to reduce electric system stress in midtown Manhattan. Consolidated Edison explained the local system benefits on the record and we are fully aware of the complexity and unique requirements of serving this particular urban location.

In reaching our need findings in this case, we have given due consideration to the economics of this project by examining its costs and benefits. We find that New York City consumers can expect to obtain savings as a result of the

⁵² While issues pertaining to environmental justice for local neighborhoods in close vicinity to electric generation stations were not raised on the record, we nevertheless believe that the plight of such communities near the older, in-City generation units can only be improved by actions that reduce their operation and their emissions.

operation of the HTP facility by importing lower cost power from PJM. In addition, the electric energy available from this facility can lower the in-City market clearing prices during the unconstrained hours during which competitive market forces establish the price for such facilities in the New York City energy market and this benefit inures to customers. Staff has estimated that these benefits could be as much as \$1.763 billion. Also, the economic risks of this project will not be borne by public utility ratepayers. Further, we find that the HTP facility sufficiently passes the "production cost test" on the basis of the study and evaluation provided on the record by DPS Staff. The facility can be expected to provide up to \$900 million, or more, in production cost savings (both for energy and capacity) during the course of its 40-year useful life as compared to its estimated cost of \$716 million.

In this case, IPPNY and Cross Hudson pointed to the production cost test results shown in the Charles River Associates Study and claim that they provide a sufficient basis for denying HTP a certificate. However, we disagree and we do not find these results dispositive. We have examined this information together with the study results provided by DPS Staff concerning the direct and indirect benefits of the HTP facility. And, the DPS Staff study indicates that the HTP project costs pass the production cost test. In any event, all the cost/benefit analyses show that there are ample benefits for New York City customers arising from the operation of the HTP facility. Given these economic study results, we find that we can grant certification for the facility because the business and financial risks associated with this merchant-developer project will be borne by HTP in association with its arrangements with NYPA. Before any public utility company in New York can enter into an agreement or arrangement

with HTP to participate in this project it must seek and obtain our authorization.

Turning to IPPNY's arguments addressing the impact that the HTP facility will have on the competitive energy market in New York City, on the record before us, we can neither find that the competitive market in the City is substantially impaired by the HTP facility nor can we find that it is substantially enhanced by the facility's operation. The record simply does not allow us to make any such detailed findings; however, we do credit DPS Staff's view that as a general matter the addition of the HTP facility will contribute to and improve the competitiveness of the New York City electricity markets. In these circumstances, we find no basis for denying HTP a certificate on account of the kinds of market concerns that have been raised on the record by IPPNY.

Thus, for each of these reasons, we find that a valid and sufficient public need exists for the HTP facility – one that fully supports the grant of a certificate for this facility. Beyond this, we are aware of NYPA's statutory duty and public responsibility to provide sufficient and adequate electricity for the governmental customers in its charge. NYPA must plan for their requirements and it is responsible for providing safe and reliable service to the City of New York, the MTA and the Port Authority, among others. The record reflects the results of NYPA's energy planning process culminating in the selection of the HTP facility.

We reach our need findings in favor of the HTP facility knowing that the NYISO's base case scenario, in its Reliability Needs Assessment, shows that additional facilities (beyond those in the base case) are not required to maintain electric system reliability in the downstate region for the next decade, given the availability of existing facilities and the expected operation of this market. However, resource adequacy (which is the question

answered by the Reliability Needs Assessment base case) is not the only basis for establishing need. We have fully explained the basis for our finding a need for the HTP facility above. In the circumstances presented here, we will not compel NYPA to make use of the available market resources rather than make its independent plans for its customers' requirements. Moreover, as noted above, the NYISO's Reliability Needs Assessment recognizes alternative scenarios, including the uncertainty surrounding the Indian Point nuclear plants and the substantial likelihood of new air quality and water quality initiatives that will eliminate adverse environmental impacts from old, in-city generators. The probability of any of the alternative scenarios arising is not zero, by any means. And, prudent planning considerations indicate to us that the HTP facility is needed to provide valuable reliability assurances in the event any of the alternative scenarios were to come to pass.

Environmental Impact

In addition to addressing the need for the facility, we must determine the facility's probable environmental impacts. Putting aside, for the moment, the air emissions attributable to the generation facilities whose electricity will be carried on this transmission line, we find that the construction and operation of the transmission facility will not have any long-term, adverse environmental impacts. The facility will have only temporary and short-term impacts that are manageable and will be kept to a minimum.

To begin our environmental assessment of this project, we find that the transmission facility will be entirely underground and submerged below the Hudson River. It will not have any visual impacts after it is installed and the facility avoids wetlands, water resources and almost all of New York's terrestrial ecology features. HTP's construction practices are