

STATE OF NEW YORK  
PUBLIC SERVICE COMMISSION

At a session of the Public Service  
Commission held in the City of  
Albany on May 8, 2014

COMMISSIONERS PRESENT:

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

CASE 13-T-0585 - Application of Cricket Valley Energy Center, LLC for a Certificate of Environmental Compatibility and Public Need Pursuant to Article VII of the Public Service Law For Approval of a New 345 kV Line From the Pleasant Valley Substation to the Cricket Valley Energy Center, LLC, and the Reconductoring of an Existing 345 kV Line, in the Town of Dover, Dutchess County.

ORDER REGARDING WAIVER REQUESTS

(Issued and Effective May 12, 2014)

BY THE COMMISSION:

INTRODUCTION

On December 30, 2013, Cricket Valley Energy Center, LLC (Applicant) filed an application pursuant to Public Service Law Article VII for authority to construct and operate a new approximately 14.6-mile 345 kV transmission line to connect the planned Cricket Valley Energy Center generation facility in the Town of Dover, New York to the Consolidated Edison Company of New York, Inc.'s Pleasant Valley Substation in the Town of Pleasant Valley, New York and to re-conductor an approximately 3.4-mile segment of the existing 345 kV Line 398 in the Town of Dover between the Cricket Valley Switchyard and the New York-Connecticut state line. With its Application, Applicant

submitted a motion that requests waiver of several application requirements.<sup>1</sup>

THE MOTION

1. Section 86.3(a)(1), NYSDOT Maps at 1:24,000 Scale

Rule 86.3(a)(1) requires an applicant to submit New York State Department of Transportation (NYSDOT) maps (scale 1:24,000 topographic edition), showing: (i) the proposed right-of-way (with control points indicated), covering an area of at least five miles on either side of the proposed facility location; (ii) where the construction or reconstruction of the proposed facility would necessitate permanent clearing or other changes to the topography, vegetation or man-made structures; and (iii) any known archaeologic, geologic, historical or scenic area, park or untouched wilderness on or within three miles of the right-of-way.

The Applicant asserts that the United States Geological Survey (USGS) maps that it included in Exhibit 2 of its Application provide a depiction of the features required by Rule 86.3(a)(1) at an equivalent or finer scale than the NYSDOT maps specified in the regulation. The Applicant further contends that the Commission has previously granted similar waivers in such situations.

2. Section 86.3(a)(2), NYSDOT Maps at 1:250,000 Scale

Rule 86.3(a)(2) requires an applicant to submit NYSDOT maps (scale 1:250,000) showing the relationship of the proposed facility to the applicant's overall system with respect to: (i) the location, length and capacity of the proposed facility, and of any existing facility related to the proposed facility; (ii)

---

<sup>1</sup> See generally, the Official Compilation of Codes, Rules, and Regulations of the State of New York, Title 16 (16 NYCRR), Part 86.

the location and function of any structure to be built on, or adjacent to, the right-of-way; (iii) the location and designation of each point of connection between an existing and proposed facility; and (iv) nearby, crossing or connecting rights-of-way or facilities of other utilities.

The Applicant asserts the plans and figures filed as Application Exhibit 2 show the features described in Rule 86.3(a)(2). Exhibit 2, Applicant states, includes USGS topographic maps that provide a depiction of the features required by Rule 86.3(a)(2) at an equivalent or finer scale than the NYSDOT maps specified in the Rule.

3. Section 86.3(b)(2), Recency of Aerial Photographs

Rule 86.3(b)(2) requires an applicant to submit "[a]erial photographs of urban areas and urbanizing fringe areas ... taken within six months of the date of filing;" in this case, no earlier than June 30, 2013.

Applicant seeks waiver of the six-month provision to allow use of the 2010 aerial photographs provided in Application Exhibit 2. Applicant asserts its consultant has verified through field reconnaissance that the 2010 photographs substantially reflect actual current conditions. The Applicant cites prior Commission determinations in which the Commission has reasoned that the submitted photography provided the information sought by the rule, and only required the applicant to provide updated photography should field conditions change. Applicant contends that the same rationale is applicable to this application.

4) Section 86.6(c), Design Drawings

Rule 86.6(c) requires an applicant to submit a profile of the centerline of the right-of-way at exaggerated vertical scale. The Applicant sought a partial waiver of this provision,

and proposed to provide these design drawings for its facility at a later time in the proceeding.

Notice inviting comments on the waiver requests was issued by the Commission on January 24, 2013 and was published in the State Register on January 29, 2014.<sup>2</sup> No comments were received on the waiver motion.<sup>3</sup>

#### DISCUSSION

The Applicant's proposed use of USGS maps will show all of the information required pursuant to Rule 86.3(a)(1) and (2). Therefore, we grant waivers of Rule 86.3(a). Regarding waivers of Rule 86.3(b)(2), the Applicant's proposed photographs will provide the substantive information required by the regulation. Accordingly, the waiver is granted, subject to a condition that, if any of the field conditions depicted in the aerial photographs change since the photographs were taken, the Applicant must supplement the application accordingly.

Regarding waiver of Rule 86.6(c), on April 18, 2014, Applicant filed the required design drawings, thereby rendering the request for waiver of this rule moot.

#### The Commission orders:

1. The December 30, 2013 motion of Cricket Valley Energy Center, LLC in this proceeding to waive Commission Rules 86.3(a) and 86.3(b)(2) relating to Public Service Law Article VII applications, as discussed herein, is granted.

---

<sup>2</sup> New York State Register, January 29, 2014, p. 21 (I.D. No. PSC-04-14-00008-P; 13-T-0585SP1).

<sup>3</sup> On March 17, 2014, Consolidated Edison Company of New York, Inc. filed comments on this application, but not pertaining to the Applicant's waiver motion.

2. This proceeding is continued.

By the Commission,

(SIGNED)

KATHLEEN H. BURGESS  
Secretary

Town of Dover Copy