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December 4, 2013

Hon. David Prestemon
Administrative Law Judge
New York State Public Service Commission
Empire State Plaza
Agency Building 3
Albany, New York 12223-1350

Re: In the Matter of Alternating Current Transmission Upgrades
Case No. 13-E-0488

Dear Judge Prestemon:

The following reply is made on behalf of the Town of Milan to the Response dated November 25, 2013 of North America Transmissions, LLC and North America Transmission Corporation to Requests and Motion for Extension of Comment Period on Initial Scoping Statements and Schedules. This reply is necessary to clarify incorrect statements set forth in North America Transmissions's (NAT's) response.

First, NAT states that all Requesters, including the Town of Milan, requested an extension of the deadline for submitting comments to February 18, 2014. This is not correct. The Town of Milan requested an extension of the date to submit comments for sixty (60) days from the date the Town receives intervenor funding, if any. This time difference could be critical if, for example, the Town were only to be awarded funding on February 1, 2014.

Second, NAT states that all Requesters listed public notice of the comment period and the proposals themselves as justification for the request and then talks extensively about substantial public notice and ample opportunity for public review. Notice or opportunity for public review were neither of Milan's cited concerns. However, the necessity for review by someone with the technical knowledge and expertise required to understand what is being reviewed is of utmost importance. This understanding can only be obtained through the use of trained professionals, and as the Town has no budget for these services, these professionals can only be hired through the use of intervenor funds, for which the Town has filed a request.

Third, NAT states that all Requesters cited the timing of the comment period with respect to the winter holiday season as justification for the extension request. The holiday season was not one of Milan's cited concerns.

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Finally, NAT points out that, in accordance with the requirements of 16 NYCRR §85-2.10, copies of the Part A filings are required to be served upon each affected municipality. Upon information and belief, this was to be completed by October 1, 2013. It should be noted that the Town of Milan did not receive notice or copies of Part A filings from NAT prior to October 1, 2013. On the morning of October 23, 2013, just before the Procedural Conference, NAT contacted the Town of Milan for the first time. Prior to this contact, the Town of Milan had no knowledge that NAT had filed an application that would affect the Town of Milan. Thereafter, NAT forwarded a thumb-drive to the Town of Milan.

In light of the correspondence dated November 27, 2013 on behalf of NY Transmission Owners, correspondence dated December 3, 2013 from the New York State Department of Public Service, and correspondence dated December 4, 2013 from the New York State Department of Environmental Conservation, all having no objection to requests for an extension of time to provide comments on the proposed projects, the Town of Milan renews its request for such extension to allow all parties to effectively participate in the development of the record.

Thank you for your courtesy and cooperation in this matter.

Respectfully yours,


ANGELA J. MAJER-LORE

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

- CASE 13-E-0488 - In the Matter of Alternating Current
Transmission Upgrades - Comparative Proceeding.
- CASE 13-T-0454 - Application of North America Transmission.
- CASE 13-T-0455 - Application of NextEra Energy Transmission New
York - Marcy to Pleasant Valley Project.
- CASE 13-T-0456 - Application of NextEra Energy Transmission New
York - Oakdale to Fraser Project.
- CASE 13-M-0457 - Application of New York Transmission Owners.
- CASE 13-T-0461 - Application of Boundless Energy NE.

RULING EXTENDING TIME FOR COMMENTS ON SCOPING

(Issued December 6, 2013)

MICHELLE L. PHILLIPS and DAVID L. PRESTEMON
Administrative Law Judges:

By ruling issued November 15, 2013, we established a schedule for comments on the scoping statements and schedules included in the applicants' Part A submissions. The schedule called for initial comments to be filed by December 20, 2013, with responsive comments to follow by January 24, 2014.¹ Subsequently, requests to extend this schedule were filed by Clinton Concerned Citizens (CCC); Scenic Hudson, Inc.; Farmers & Families for Livingston (FFL); and the Town of Milan (Milan).

¹ Cases 13-E-0488, et al., In the Matter of Alternating Current Transmission Upgrades - Comparative Proceeding, Ruling Establishing Process and Schedule for Scoping (issued November 15, 2013), p. 2.

All of these requests asked that the comment period be extended by at least 60 days.²

The three filings from CCC, Scenic Hudson and FFL are essentially identical. They make three basic points: that each of the organizations has only recently requested party status after becoming aware of the pending AC transmission proposals; that the scoping statements are too extensive and wide ranging to be reviewed and analyzed in the time currently provided for comments; and that the shortness of the schedule is exacerbated by the demands of the upcoming holiday season. All conclude that for their participation to meaningfully contribute to the scoping process, more time is required.

Milan expresses concern that it does not have any contingency budget or other resources it could use to obtain the expert technical assistance it says it would need to comment intelligently on the scoping proposals. It notes that it is preparing an application for intervenor funding to enable it to obtain such help, and asks that the deadline for comments be extended for 60 days from the date on which it is awarded funds.³

Staff, the New York State Department of Environmental Conservation (DEC), Dutchess County, and applicant New York Transmission Owners (NYTOs) support the requests for extension of time. Staff argues that, "[t]he additional time will allow [the requesting] parties to meaningfully participate in the development of scopes of work that will provide for a more

² As we noted in a ruling issued November 26, 2013, three of the requests were contained in letters to the Secretary, and one was a motion filed with the Secretary. Because the schedule for comments was established in a ruling by us rather than a notice from the Secretary, all have been referred to us for determination.

³ Milan's request for funding was subsequently received on November 27, 2013. A ruling on the request is pending.

robust record as the proceeding progresses.”⁴ DEC agrees early identification of issues “in the administrative process ultimately contributes to a more robust administrative record,” and argues that achieving this requires that parties have ample time to meaningfully review submissions, and an opportunity to utilize available intervenor funding.

Dutchess County points out that participation in this proceeding is not something the parties requesting extensions of time could have planned for in advance. The county stresses that the effort and cost of that participation must be squeezed into already fully committed calendars and budgets.

The NYTOs recognize that this is a complex proceeding and that some parties may need additional time in order to participate effectively. They suggest that extending the time for comments on scoping will afford those parties a reasonable opportunity to review and understand the proposed projects.

Applicants North America Transmission, LLC and North America Transmission Corporation (collectively, NAT) oppose the extension requests. NAT emphasizes that the Commission, in its orders, has conveyed the intention that these proceedings be conducted expeditiously. It points out that notice of the proposed projects under consideration in this case was published, and outreach efforts were begun, well before the filing of the Part A applications on October 1, 2013. This, it says, afforded ample opportunity for interested parties to keep informed as to the status of the process. Therefore, NAT argues, the 80 days between the filing date and the December 20, 2013, initial deadline for comments on scoping should be more than sufficient. Finally, NAT notes that the normal Article VII process does not contemplate comments on scoping at all, meaning

⁴ Staff letter to the ALJs dated December 3, 2013.

that this early opportunity to comment is in addition to those already afforded by Article VII requirements.

Discussion

It is true that the Commission has consistently expressed the desire to address New York's persistent electric transmission congestion problems by identifying an AC system upgrade solution that can be implemented without excessive delay. In doing so, however, it has made it equally clear that it wants the process by which that solution is adopted to be fair, open, and thorough, with ample opportunity for full, meaningful participation by all interested parties. An extension of the magnitude requested here will serve to promote the latter objective without materially impeding the former.

This is not a normal Article VII proceeding that begins with a complete, fully documented application. It is a two step process that began with the abbreviated Part A submissions made on October 1, 2013. The Commission has clearly expressed its intention that potentially affected governmental entities and members of the public have a full opportunity to participate in the scoping process through which those submissions will be converted into full Article VII applications in Part B. Indeed, it expressly required intervenor funding fee payments to accompany the Part A filings in order to make funds available to intervenor parties for participation in scoping.⁵ If that opportunity is to be meaningful, towns, counties, and citizens groups must have time to organize their efforts.

⁵ "To ensure meaningful participation in the scoping phase, we will also require developers to submit the appropriate intervenor funding fee as required by PSL Section 122(5)(a) with the initial application materials." Case 12-T-0502, Alternating Current Transmission Upgrades, Order Establishing Procedures for Joint Review Under Article VII of the Public Service Law and Approving Rule Changes (issued April 22, 2013), pp. 9-10.

Scenic Hudson states that the proposed projects potentially transit 13 counties and 38 towns.⁶ At present, only five municipal entities and two citizens groups have requested party status, and only five parties have requested intervenor funding. We do not believe this is due to a lack of interest or desire. We agree with Dutchess County that local governments are normally fully engaged in their operational responsibilities. They, as well as local citizens groups, need time to organize a response to newly emerging initiatives that may require their attention. For public participation in the scoping phase of this proceeding to be effective, a reasonable time must be allowed for those organizational efforts.

We disagree with NAT's implication that the preliminary notification and outreach efforts undertaken by applicants should have been sufficient to spur potential parties into action. As a practical matter, local entities have only had something concrete to focus on since the October 1, 2013, filing of the Part A applications. Furthermore, they have had a clear sense of the process that would be followed in considering those applications only since our procedural conference on October 23, 2013. It is not surprising, therefore, that we have not yet seen the level of involvement that we fully expect will evolve with time.

Accordingly we will extend the time for comments on the initial scoping proposals submitted by applicants in their Part A submissions as follows:

Initial comments due	February 21, 2014
Responsive comments due	March 21, 2014

⁶ Scenic Hudson letter to the Secretary dated November 19, 2013, p. 2.

CASES 13-E-0488, et al.

We strongly encourage parties with similar interests and concerns to cooperate, coordinate, and consolidate their comments wherever possible.

MICHELLE L. PHILLIPS

DAVID L. PRESTEMON