

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

Petition of New York Transco LLC and New York Power Authority for a Certificate of Environmental Compatibility and Public Need, Pursuant to Article VII of the New York Public Service Law, to Construct, Operate, and Maintain an Approximately 89.7-Mile Underground Transmission Line through Suffolk, Nassau, Queens, Bronx, and Westchester Counties

Case No. 24-T-0446

**NORTH SHORE CENTRAL SCHOOL DISTRICT, ROSLYN UNION FREE SCHOOL DISTRICT, and SYOSSET CENTRAL SCHOOL DISTRICT's
MOTION TO DISMISS**

Dated: July 29, 2026
Hauppauge, New York

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The North Shore Central School District (“North Shore CSD”), the Roslyn Union Free School District (“Roslyn UFSD”), and the Syosset Central School District (“Syosset CSD”) (herein collectively referred to as the “School Districts”) respectfully submit this Motion to the Public Service Commission (the “Commission”), seeking dismissal and/or denial of the Application of New York Transco LLC and New York Power Authority (collectively the “Applicant”) for a Certificate of Environmental Compatibility and Public Need pursuant to Article VII of the New York Public Service Law, to construct, operate, and maintain an Approximately 89.7-Mile underground transmission line through Suffolk, Nassau, Queens, Bronx, and Westchester Counties (the “Project”).

PRELIMINARY STATEMENT

The School Districts act as political subdivisions of the State and, as a result, are charged with fulfilling the State’s educational mandates and protecting the health and welfare of thousands of school-aged children; they are not marginal stakeholders in this proceeding. Collectively, the School Districts represent the health, safety, and educational interests of more than 13,000 students and serve communities of over 70,000 residents and taxpayers. Accordingly, and for these reasons, the unquantifiable impacts to the School Districts should be afforded great weight, demand serious consideration, and cannot be ignored.

Pursuant to 16 NYCRR § 85-2.15¹, this Motion seeks dismissal of the Application and/or denial of the requested Certificate of Environmental Compatibility and Public Need because the

¹ As discussed more fully herein, pursuant to 16 NYCRR § 85-2.15, “*whenever it shall appear* that the statutory requirements for a certificate cannot be met, the commission may dismiss the application [...]” (emphasis added). The School Districts submit that when the Applicant submitted its Joint Proposal claiming to resolve all issues, it became readily apparent that the statutory requirements for a certificate cannot be met, thereby giving rise to the instant Motion.

Evidentiary Record (hereinafter referred to as the “Record”)² does not permit the Commission to make the mandatory findings required by Public Service Law § 126. Although the Applicant and certain State agencies have submitted a Joint Proposal purporting to resolve issues among the Signatory Parties, a negotiated settlement cannot substitute for the statutory findings that Article VII requires the Commission itself to make based upon substantial evidence in the Record. As demonstrated herein, the Record wholly fails to adequately identify and evaluate the Project's probable environmental impacts to the School Districts, including to student health and safety, and significant impacts to transportation operations, instructional and educational programs, and the School Districts' ability to fulfill their statutory mandates. Rather than providing the information necessary for certification, the Joint Proposal repeatedly defers critical analyses and mitigation measures to the post-certification Environmental Management and Construction Plan process, preventing the Commission from determining whether significant adverse impacts have been avoided or minimized to the extent practicable as required or whether the Project serves the public interest, convenience, and necessity. Because these statutory deficiencies cannot be cured through future submissions, the Commission cannot lawfully issue a Certificate on the present Record. The Application should therefore be dismissed and/or the Certificate denied.

RELEVANT PROCEDURAL HISTORY

On July 31, 2024, the Applicant filed its application and supporting exhibits and appendices to the Commission seeking a Certificate of Environmental Compatibility and Public Need (the

² See Case 24-T-0446, *Petition of New York Transco LLC and New York Power Authority for a Certificate of Environmental Compatibility and Public Need, Pursuant to Article VII of the New York Public Service Law, to Construct, Operate, and Maintain an Approximately 89.7-Mile Underground Transmission Line through Suffolk, Nassau, Queens, Bronx, and Westchester Counties*, Ruling Accepting Late Reply Statement, Denying Sur-Reply, and Admitting Evidence (issued July 7, 2026) (DMM Item No. 350) at *3 (“Identification of the Evidentiary Record”).

“Certificate”) to allow the Applicant to construct, operate, and maintain the Project.³ By letter dated October 3, 2024, Secretary to the Commission Michelle Phillips, advised the Applicant that “the Application, as submitted, is not filed or otherwise in compliance with Section 122 of the Public Service Law” and, further, identified several deficiencies in the Applicant filings.⁴ In response, the Applicant made several supplemental filings in December 2024 and February 2025.⁵ By letter dated March 6, 2025, Secretary Phillips informed the Applicant that the Application, as supplemented, “complies with Public Service Law (PSL) Section 122 as of February 5, 2025.”⁶

The North Shore Central School District sought party status in this proceeding on January 6, 2025, which was granted by Ruling issued on January 28, 2025.⁷ The Roslyn Union Free School District sought party status on February 24, 2025, which was granted by Ruling issued on March 12, 2025.⁸ The Syosset Central School District sought party status on April 25, 2025, which was granted by Ruling issued on June 2, 2025.⁹ At that time, each School District sought party status to address the potential negative impact of the Project to it, including the impact to each of their operations, finances, educational and instructional programs, and tax base. In addition, the School

³ See Case 24-T-0446, Application, filed July 31, 2024 (together with supporting appendices and exhibits) (DMM Item Nos. 1-11).

⁴ See Case 24-T-0446, Letter from Secretary Phillips to John T. McManus, Esq., Aubrey A. Ohanian, Esq., Kathleen Carrigan, Esq. and Susan Watson, Esq. Regarding Application Deficiencies, filed October 3, 2024 (DMM Item No. 18).

⁵ See Case 24-T-0446, DMM Item Nos. 39-41 and 47-69.

⁶ See Case 24-T-0446, Letter from Secretary Phillips to John T. McManus, Esq., Aubrey A. (Ohanian) Roman, Esq., Kathleen Carrigan, Esq. and Susan Watson, Esq. Regarding Application Compliance, filed March 6, 2025 (DMM Item No. 70).

⁷ See Case 24-T-0446, Ruling Granting Party Status to New York State Department of Agriculture and Markets, Kathy Wallach, and North Shore Central School District (Issued January 28, 2025) (DMM Item No. 45).

⁸ See Case 24-T-0446, Ruling Granting Party Status to Alliance for Clean Energy New York, Inc., Glen Head Realty Partners LLC, and Roslyn Union Free School District (Issued March 12, 2025) (DMM Item No. 73).

⁹ See Case 24-T-0446, Ruling Granting Party Status to Syosset Central School District and Denying Party Status to Marion (Issued June 2, 2025) (DMM Item No. 219).

Districts raised serious concerns with the Project's risks to the health and safety of the School Districts' students, staff, and school community during the construction phase and thereafter.

On March 28, 2025, the Applicant filed a Notice of Impending Settlement.¹⁰ Thereafter, pursuant to directives from the presiding Administrative Law Judges("ALJs"), the Applicant filed a Second Notice of Impending Settlement on April 7, 2025, scheduling the first settlement meeting for May 1, 2025.¹¹ The Notice asserts that settlement discussions "will encompass any and all issues concerning the issuance of the requested Certificate of Environmental Compatibility and Public Need pursuant to PSL Article VII that, if not resolved via settlement, would trigger the need for an evidentiary hearing."¹² The School Districts participated in settlement meetings in an attempt to identify potential adverse impacts to the School Districts associated with the Project and, further, in an attempt to secure adequate mitigation of those adverse impacts.

Ultimately, on April 30, 2026, a Joint Proposal was submitted by and among New York Transco LLC and New York Power Authority, New York State Department of Public Service, New York State Department of Environmental Conservation, New York State Department of State, New York State Department of Transportation, New York State Department of Agriculture, City of New York, Long Island Commercial Fishing Association, and Ms. Cecelia McCann (collectively, the "Signatories").¹³ The School Districts did not sign the Joint Proposal.

A Procedural Conference was held on May 7, 2026, during which the presiding ALJs sought identification of only high-level issues intended to be raised by parties in opposition to the Joint Proposal. Following the Procedural Conference, the ALJs issued a Ruling on Process and

¹⁰ See Case 24-T-0446, Notice of Impending Settlement (filed March 28, 2025) (DMM Item No. 97).

¹¹ See Case 24-T-0446, Second Notice of Impending Settlement (filed April 7, 2025) (DMM Item No. 111).

¹² *Id.*

¹³ See Case 24-T-0446, Joint Proposal (filed April 30, 2026) (DMM Item Nos. 284-285).

Schedule dated May 12, 2026.¹⁴ The Ruling set a deadline of June 5, 2026 for Initial Statements on the Joint Proposal, and June 26, 2026 for Reply Statements.¹⁵ By electronic mail dated June 5, 2026, the ALJs extended the submission deadline for Initial Statements to June 8, 2026.¹⁶

Initial Statements in Opposition to the Joint Proposal were filed by the North Shore CSD¹⁷, the Roslyn UFSD¹⁸, and the Syosset CSD¹⁹ (collectively referred to as “Initial Statements”) on June 8, 2026. Reply Statements in Further Opposition to the Joint Proposal were filed by the North Shore CSD²⁰, the Roslyn UFSD²¹, and the Syosset CSD²² (collectively referred to as “Reply Statements”) on June 26, 2026.

The Initial Statements argued that the Joint Proposal should be rejected as it is not in the public interest because: (i) the Joint Proposal fails to determine the “nature of probable environmental impact” as required by Public Service Law § 126(1)(b), related to traffic impacts within the School Districts’ geographic boundaries and related to the health and safety of the electromagnetic field produced by terrestrial transmission cables; (ii) the Joint Proposal fails to avoid or minimize adverse environmental impacts related to traffic and other environmental impacts as required by Public Service Law § 126(1)(c); (iii) the Joint Proposal fails to establish

¹⁴ See Case 24-T-0446, Ruling on Process and Schedule (issued May 12, 2026)(DMM Item No. 289). A transcript of the Procedural Conference has not yet been made available.

¹⁵ *Id.*

¹⁶ See Case 24-T-0446, Email Ruling Regarding Extension of Deadline (filed June 5, 2026)(DMM Item No. 296).

¹⁷ See Case 24-T-0446, North Shore Central School District’s Initial Statement in Opposition to the Joint Proposal (“North Shore CSD’s Initial Statement”) (filed June 8, 2026) (DMM Item No. 317).

¹⁸ See Case 24-T-0446, Roslyn Union Free School District’s Initial Statement in Opposition to the Joint Proposal (“Roslyn UFSD’s Initial Statement”) (filed June 8, 2026) (DMM Item No. 318).

¹⁹ See Case 24-T-0446, Syosset Central School District’s Initial Statement in Opposition to the Joint Proposal (“Syosset CSD’s Initial Statement”) (filed June 8, 2026) (DMM Item No. 320).

²⁰ See Case 24-T-0446, North Shore Central School District’s Reply Statement in Further Opposition to the Joint Proposal (“North Shore CSD’s Reply Statement”) (filed June 26, 2026) (DMM Item No. 340).

²¹ See Case 24-T-0446, Roslyn Union Free School District’s Reply Statement in Further Opposition to the Joint Proposal (“Roslyn UFSD’s Reply Statement”) (filed June 26, 2026) (DMM Item No. 341).

²² See Case 24-T-0446, Syosset Central School District’s Reply Statement in Further to the Joint Proposal (“Syosset CSD’s Reply Statement”) (filed June 26, 2026) (DMM Item No. 342).

that the Project will “service the public interest, convenience and necessity” as required by Public Service Law § 126(1)(h); and, (iv) the Joint Proposal relies on a flawed settlement process that evades statutory mandates, subverts robust public participation, and shields critical details from public scrutiny.²³

The Reply Statements argued, *inter alia*, that: (i) the Joint Proposal and statements submitted in support fail to establish that the Joint Proposal and the Project serve the broader public interest; (ii) the Joint Proposal prioritizes the statutory mandates of State agencies, while jeopardizing the State educational mandates carried out by the School Districts as the State’s agents; (iii) the Joint Proposal arbitrarily treats the parties disparately, prioritizing narrow State-level concerns, while ignoring expansive local-level impacts to local entities, including the School Districts, their students, staff, and school communities; and, (iv) the Joint Proposal and the Project fail to satisfy the statutory requirements of Public Service Law § 126.²⁴ The School Districts’ Initial Statements and Reply Statements sought rejection of the Joint Proposal for all the reasons raised therein. In addition, each School District reserved the right to convert its Initial Statement to a motion to dismiss.²⁵

After the filing of the parties’ initial statements on the Joint Proposal, on June 11, 2026, ALJ Belsito sent electronic mail correspondence to the parties with the subject line “Case 24-T-

²³ See generally, Initial Statements.

²⁴ See generally, Reply Statements.

²⁵ See North Shore CSD’s Initial Statement at FN 25; Roslyn’s Initial Statement at FN 23; and Syosset’s Initial Statement at FN 27. Consistent with the spirit of 16 NYCRR §§ 4.3 and 85-2.14, the School Districts submit this Motion jointly for purposes of efficiency and because it presents common questions of law and fact. By joining in this Motion, however, no School District waives any individual claim, argument, objection, or right, and each expressly reserves the right, individually or collectively, to seek such further relief from the Commission as may become necessary or appropriate during the pendency of this proceeding, and/or to pursue any other available legal or equitable remedies.

0446 Clarification Regarding Parties' Initial Submissions regarding the Joint Proposal.²⁶ ALJ

Belsito advised that:

As part of their Initial Statements on the Joint Proposal, several parties seemed to indicate that they may be expecting a ruling or other response from the ALJs. However, in our view none of these statements clearly constitute a request for relief [...]. Motion practice is governed by 16 NYCRR 3.6. In our view, there are no pending motions requiring action by the ALJs. Although [a party's] submission clearly requests remand or dismissal of the application, such relief is not within our authority to grant and, therefore, the request is properly directed to the Commission. See 16 NYCRR 85-2.15.²⁷

By Ruling issued July 7, 2026²⁸, the ALJs admitted, amongst others, the following documents into the Evidentiary Record:

- Exhibit 41: Discovery Response to PNYE-NSCSD-1²⁹;
- Exhibit 42: Traffic Analysis for 1T to 5T Trenching Construction Condition in Support of Construction Permitting³⁰;
- Exhibit 43: Traffic Analysis for the Areas Adjacent to and Surrounding the National Grid Facility, Glenwood Landing, NY 11547³¹;
- Exhibit 44: Discovery Request to PNYE-RUFSD-1³²;
- Exhibit 45: Discovery Response to PYNE-SCSD-1³³;
- Exhibit 46: Discovery Response to GCA-1³⁴;
- Affidavit of Dr. Christopher Zublionis in Support of North Shore Central School District's Initial Statement in Opposition to the Joint Proposal, dated June 5, 2026³⁵;

²⁶ See email correspondence from Administrative Law Judge Anthony Belsito to Parties, dated June 11, 2026, appended to each of the School District's Reply Statements at Attachment 5 to North Shore's Reply Statement and Attachment 4 to Roslyn UFSD's Reply Statement and Syosset CSD's Reply Statement.

²⁷ *Id.*

²⁸ See Case 24-T-0446, Ruling Accepting Late Reply Statement, Denying Sur-Reply, and Admitting Evidence (issued July 7, 2026).

²⁹ North Shore CSD's Initial Statement at Attachment 2; Roslyn UFSD's Initial Statement at Attachment 2; and, Syosset CSD's Initial Statement at Attachment 2.

³⁰ North Shore CSD's Initial Statement at Attachment 3; Roslyn UFSD's Initial Statement at Attachment 3; and, Syosset CSD's Initial Statement at Attachment 3.

³¹ North Shore CSD's Initial Statement at Attachment 4.

³² Roslyn UFSD's Initial Statement at Attachment 2.

³³ Roslyn UFSD's Initial Statement at Attachment 2; and, Syosset CSD's Initial Statement at Attachment 2.

³⁴ Roslyn UFSD's Initial Statement at Attachment 2.

³⁵ North Shore CSD's Initial Statement at Attachment 1.

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- Affidavit of Allison Brown in Support of Roslyn Union Free School District's Initial Statement in Opposition to the Joint Proposal, dated June 5, 2026³⁶; and
 - Affidavit of Dr. Thomas Rogers, in Support of Syosset Union Free School District's Initial Statement in Opposition to the Joint Proposal, dated June 8, 2026³⁷.

The School Districts submit that the Application, the Project, the Joint Proposal, and the Record (including the exhibits noted above) do not support the findings the Joint Proposal proposes, nor the findings and determinations required by Public Service Law § 126. As such, pursuant to 16 NYCRR § 3.6, 16 NYCRR § 85-2.15, and ALJ Belsito's June 11, 2026 correspondence, the School Districts respectfully submit this Motion to Dismiss, seeking an Order from the Commission dismissing the Application and/or denying a Certificate because, as discussed herein, the statutory requirements for a Certificate cannot be met.

FACTUAL BACKGROUND

The Project proposes to install underground transmission lines within the rights-of-way (ROW) of numerous roadways that run through the geographic boundaries of each School District, which provide critical and safe access to the School Districts' schools buildings and facilities, including the School Districts' buses/vans and parents providing student transportation to and from the School Districts' schools, as well as critical and safe access to the School Districts' buildings and facilities by emergency vehicles and essential services when needed. The project likewise proposes to install high-voltage transmission lines in areas frequented by students and/or nearby playgrounds and recreational areas where school-aged children spend significant time.

³⁶ Roslyn UFSD's Initial Statement at Attachment 1.

³⁷ Syosset CSD's Initial Statement at Attachment 1.

Construction-related traffic delays, if not properly mitigated, will significantly impact the School Districts' educational operations and introduce substantial safety concerns and inefficiencies in the School Districts' transportation programs that will result in the need to modify bus routes, require earlier pick up and later drop off, increase the length of time students ride the bus and significantly impact transportation staffing and student learning, resulting in unquantifiable impacts to educational programs and increased costs, which will be borne by the School Districts' taxpayers.³⁸ It should be noted that the foregoing impacts may be further complicated, and even made impossible by to existing requirements set forth in existing collective bargaining agreements with multiple unions.³⁹ The costs associated with the proposed Project's interference of the School Districts' statutory mandates to provide education to its students and the School Districts' students' ability to learn cannot be quantified.⁴⁰ Further, construction-related delays create the potential for unfunded financial burdens that cannot be absorbed by the School Districts' budgets or their taxpayers. These resulting burdens are substantial and impose a confiscatory impact to the School Districts.⁴¹

The concerns raised by the School Districts, which remain unaddressed and unmitigated, are supported by the Affidavits of each of the School Districts' Superintendents of Schools. Under New York State Law, the Superintendent of Schools is charged "to be the chief officer of the school district and the educational system" and "to enforce all provisions of law and all rules and

³⁸ See Case 24-T-0446, Evidentiary Record: Affidavit of Dr. Christopher R. Zublionis in Support of North Shore Central School District's Initial Statement in Opposition to the Joint Proposal, dated June 5, 2026 ("Zublionis Aff.") at ¶ 47; Affidavit of Allison Brown in Support of Roslyn Union Free School District's Initial Statement in Opposition to the Joint Proposal, dated June 5, 2026 ("Brown Aff.") at ¶ 40; Affidavit of Dr. Thomas Rogers in Support of Syosset Central School District's Initial Statement in Opposition to the Joint Proposal, dated June 8, 2026 ("Rogers Aff.") at ¶ 44.

³⁹ *Id.*

⁴⁰ See Zublionis Aff. at ¶ 48; Brown Aff. at ¶ 40; Rogers Aff. at ¶ 44.

⁴¹ *Id.*

regulations relating to the management of the schools and other educational, social and recreational activities.”⁴² Consistent with those statutory responsibilities, the School Districts sought party status in this proceeding as instrumentalities through which the New York State Department of Education, a State agency, fulfills its educational mandates, and those statutory and regulatory mandates are directly affected by the issues presented.

North Shore CSD

The North Shore CSD is a public school district located in Nassau County. The North Shore CSD serves the communities of Glenwood Landing, Glen Head, Sea Cliff, Old Brookville, and parts of Greenvale and Roslyn Harbor. The North Shore CSD educates a total of 2,551 students. Approximately 16,200 residents/taxpayers, and ratepayers, reside within the North Shore CSD.⁴³

The Project proposes to install underground transmission lines in close proximity the North Shore CSD’s Transportation Facility, Middle School, and High School, including adjacent to the North Shore CSD’s fields and playgrounds, as well as along bus routes, pedestrian access and walkways, and bicycle paths where school-aged children traverse and/or are regularly located, posing significant health and safety risks to the North Shore CSD’s students and staff.

Notably, the North Shore CSD’s Transportation Facility that is used for District-wide bus and vehicle maintenance, storage and fueling of North Shore CSD’s vehicles is located on Shore Road in Glenwood Landing.⁴⁴ The Transportation Facility is located immediately adjacent to a proposed construction site of a new substation associated with the Project and to two (2) proposed segments of underground transmission lines installation.⁴⁵ This Transportation Facility is the

⁴² New York Education Law § 1711; *see also* Zublionis Aff., Brown Aff., and Rogers Aff.

⁴³ *See* Zublionis Aff. at ¶¶ 7-10.

⁴⁴ *Id.* at ¶ 16.

⁴⁵ *Id.* at ¶ 17.

central hub for the North Shore CSD's entire transportation operations.⁴⁶ More specifically, the Transportation Facility houses approximately 40 transportation vehicles (buses and vans) that provide statutorily mandated transportation to North Shore CSD's students.⁴⁷ The only entrance/exit to the property is on Shore Road.⁴⁸

The Transportation Facility operates with a total of approximately 45 employees and operates continuously from approximately 5:45 a.m. to approximately 5:00 p.m. year-round, but primarily during the school year from on or about September 1st to June 30th.⁴⁹ North Shore CSD vehicles and employee's personal vehicles regularly enter and exit the property throughout the day at this sole entrance/exit point. Any disruption or delay in access to the Transportation Facility will severely impact the North Shore CSD's ability to safely and efficiently transport its students.⁵⁰ Such disruptions will also prevent the North Shore CSD from providing mandated transportation services to its students.⁵¹ In turn, these disruptions will interfere with the North Shore CSD's ability to provide statutorily mandated educational services and programs to its students – the cost of which cannot be quantified.⁵²

Roslyn UFSD

The Roslyn UFSD is a public school district located in Nassau County. The Roslyn UFSD serves the communities of Roslyn, Roslyn Estates, East Hills, Flower Hill, North Hills, Roslyn

⁴⁶ *Id.* at ¶ 16.

⁴⁷ *Id.*

⁴⁸ *Id.* at ¶ 18.

⁴⁹ *Id.* at ¶ 19.

⁵⁰ *Id.* at ¶ 21.

⁵¹ *Id.*

⁵² *Id.* at ¶ 48.

Harbor, Greenvale and Roslyn Heights and educates approximately 3,400 students. Approximately, 17,800 residents/taxpayers, and ratepayers, live within the Roslyn UFSD.⁵³

The Project proposes to install an underground transmission line in the ROW of Glen Cove Road, immediately adjacent to the Roslyn UFSD's Harbor Hill Elementary School.⁵⁴ In addition, the Roslyn UFSD's Facilities and Operations Department and Bus Maintenance Garage, the central service center for District-wide maintenance needs, are located on Glen Cove Road, adjacent to the Harbor Hill Elementary School.⁵⁵

Within the geographical boundaries of the Roslyn UFSD, there are essentially only three (3) major roadways that run North/South through the school's community (Mineola Avenue, Roslyn Road, and Glen Cove Road).⁵⁶ These major thoroughfares serve to provide critical access to the Roslyn UFSD's buses and vehicles, as well as to student parents, providing transportation to and from the Roslyn UFSD's schools and facilities, and student walkers and bicycle riders.⁵⁷ Further, these major roadways provide necessary access for emergency vehicles and essential services to reach the Roslyn UFSD's buildings and facilities when needed.⁵⁸ The underground transmission lines are proposed to traverse along two of these major roadways – Mineola Avenue and Glen Cove Road.⁵⁹

The Roslyn UFSD's Facilities and Operations Department and Bus Maintenance Garage serve the entire Roslyn UFSD, including but not limited to deliveries, material storage, distribution

⁵³ See Brown Aff. at ¶ 7-10.

⁵⁴ See generally, Joint Proposal, Exhibit 5: Location of Facilities (Exhibit 2 of the Application, together with all subsequent revisions and supplements.

⁵⁵ See Brown Aff. at ¶¶ 12-13 and 25.

⁵⁶ *Id.* at ¶ 16.

⁵⁷ *Id.* at ¶ 17.

⁵⁸ *Id.*

⁵⁹ *Id.* at ¶ 18.

of all food service for the Roslyn UFSD, and bus repair and maintenance.⁶⁰ This location operates 24/7 with vehicles entering and exiting essentially non-stop.⁶¹ The Roslyn UFSD currently experiences delays at this location due to over-congestion on Glen Cove Road.⁶² In the Roslyn UFSD's experience, any further disruption in this area can cause significant delays or detours for hours.⁶³ In turn, these disruptions will interfere with the Roslyn UFSD's ability to provide statutorily mandated educational services and programs to its students – the cost of which cannot be quantified.⁶⁴

Syosset CSD

The Syosset CSD is a public school district located in Nassau County. The Syosset CSD serves the communities of Syosset, Woodbury, Plainview, Jericho, Muttontown, and Oyster Bay Cove. The Syosset CSD is responsible for educating approximately 7,177 students. Approximately 35,500 residents/taxpayers reside within the Syosset CSD.⁶⁵

The transmission lines are proposed to be installed in close proximity the Syosset CSD's school buildings, including adjacent to the Syosset CSD's fields and playgrounds, as well as along bus routes, pedestrian access and walkways, and bicycle paths where school-aged children traverse and/or are regularly located, posing a significant health and safety risk to the Syosset CSD's students and staff.⁶⁶

⁶⁰ *Id.* at ¶ 13.

⁶¹ *Id.*

⁶² *Id.* at 14.

⁶³ *Id.* at ¶ 15.

⁶⁴ *Id.* at ¶ 40.

⁶⁵ *See* Rogers Aff. at ¶¶ 7-10.

⁶⁶ *Id.* at ¶ 29.

More specifically, the Project proposes to install an underground transmission line in the ROW immediately adjacent to the Syosset CSD's Robbins Lane Elementary School.⁶⁷ In addition, the Project proposes to connect to a substation located on South Woods Road, a major roadway that provides critical access to the Syosset CSD's South Woods Middle School and Syosset High School.⁶⁸ Generally, students residing in the Northern/Western portions of the Syosset CSD attend South Woods Middle School and all students who reside in the Syosset CSD attend the High School.⁶⁹ Given the geographic makeup of the Syosset CSD, the vast majority of students must be transported, whether by the Syosset CSD or otherwise, by traveling North on South Woods Road, past the Substation.⁷⁰ In addition, the Long Island Railroad (LIRR) runs perpendicular to South Woods Road, between the Substation and the Syosset CSD's school properties, precluding ample alternative vehicular routes to these schools.⁷¹

The Syosset CSD's transportation operations involve the use of over 120 buses/vehicles, making approximately 625 runs daily during the school year, approximately 112,500 runs annually, excluding transportation provided during the summer months.⁷²

Construction-related disruptions during the school year will interfere with the Syosset CSD's ability to provide statutorily mandated educational services and programs to its students – the cost of which cannot be quantified.⁷³

⁶⁷ See generally, Joint Proposal, Exhibit 5: Location of Facilities (Exhibit 2 of the Application, together with all subsequent revisions and supplements.

⁶⁸ See Rogers Aff. at ¶ 38.

⁶⁹ *Id.* at ¶ 12.

⁷⁰ *Id.* at ¶ 14.

⁷¹ *Id.* at ¶¶ 15 and 19.

⁷² *Id.* at ¶ 21.

⁷³ *Id.* at ¶ 44.

The School Districts' Statutory Mandates

The School Districts did not become Signatories and did not support the Joint Proposal because it fails to properly identify adverse impacts to the School Districts and fails to mitigate the School Districts' concerns related to their *statutorily mandated* obligations.

Pursuant to New York Education Law § 3205, every minor child age six through age seventeen must attend full-time educational instruction. Education Law § 3204 dictates the educational instruction that the School Districts must provide to a minor required to attend upon instruction. Education Law § 3635 dictates the transportation services the School Districts must provide to their students. Education Law §§ 1704(2) and 3604 require that the School Districts must provide students with 180 days of instruction. Education Law § 912 and Commissioner of Education's Regulations Part 136 dictates that the School Districts must provide continuous health services, physical screenings, and emergency medical policies. Education Law § 409 dictates that the School Districts must comply with the Regulations adopted by Commissioner of Education "for the purpose of insuring the health and safety of pupils and staff in relation to proper heating, lighting, ventilation, sanitation and health, fire and accident protection." Education Law §§ 2801 and 2801-a mandate that the School Districts must maintain strict codes of conduct and implement comprehensive district-wide safety and emergency response plans to safeguard student health.

These statutory mandates are further elaborated and reinforced through regulations promulgated by the Commissioner of Education, which prescribe detailed and often more rigorous compliance requirements, as well as through judicial and administrative decisions interpreting the duties and responsibilities of public school districts. Specifically, "under the doctrine that a school district acts *in loco parentis* with respect to its minor students, a school district owes a 'special

duty’ to the students themselves.”⁷⁴ Under the landmark New York State Court of Appeals ruling in *Mirand v. City of New York*, the Court further explained that because a school assumes physical custody of students, it must “exercise such care of them as a parent of ordinary prudence would observe in comparable circumstances.”⁷⁵

The School Districts must also comply with numerous Federal mandates, such as the Individuals with Disabilities Education Act (“IDEA”) and Part 300 of the Code of Federal Regulations implementing the IDEA, ensuring the provision of special education and related services to children with disabilities. Inherent in this mandate is the ability for the School Districts’ employees and/or outside providers to safely and timely travel to and from and access the School Districts’ school buildings to provide mandated services to its students.

In addition, each School District is bound by various contractual obligations, including collective bargaining agreements entered into with several distinct union groups and transportation contracts procured through the competitive bidding process.⁷⁶ The School Districts simply cannot modify the school day, school year, or its operations to accommodate construction-related impacts – particularly those that *could* be mitigated, but are *not* mitigated by, and are otherwise absent from, the Joint Proposal.

Further, the School Districts’ finances are likewise subject to a stringent framework of statutory mandates and regulatory requirements that impose substantial fiscal, reporting, and compliance obligations. Each year, the School Districts’ communities vote upon the School Districts’ budgets for the following school year. Each School District owes a fiduciary duty to its

⁷⁴ See *Ferguson v. City of New York*, 118 A.D.3d 849, 850 (2d Dep’t 2014); citing *Pratt v. Robinson*, 39 N.Y.2d 554 (1976).

⁷⁵ *Mirand v. City of New York*, 84 NY2d 44, 49 (1994).

⁷⁶ See Zublionis Aff. at ¶ 47; Brown Aff. ¶ 40; Rogers Aff. ¶ 44.

students, staff, school community and taxpayers to prudently manage public resources and to fulfill the commitments embodied in the approved budgets by delivering instructional services and educational programs for which those resources were appropriated. Unmitigated construction and traffic-related impacts, such as those that will arise from the Project should it move forward, not only create significant safety concerns but also create the potential for unfunded financial burdens that cannot and should not be absorbed by the School Districts' budgets or their taxpayers.⁷⁷

As discussed further herein, the Record fails to establish the facts necessary for the Commission to make the statutorily required findings and determinations under Public Service Law § 126, rendering certification legally impossible. For these reasons, the Application must be dismissed and/or the Certificate denied.

LEGAL STANDARD

Article VII of the New York Public Service Law “requires a full review of the need for and environmental impact of the siting, design, construction, and operation of major transmission facilities in New York State.”⁷⁸ Article VII “establishes the forum in which community residents can participate with members of state and local agencies in the review process.”⁷⁹

The Commission may issue a Certificate of Environmental Compatibility and Public Need (herein referred to as the “Certificate”) only upon findings supported by substantial evidence in the Record and consistent with the standards set forth in Article VII of the Public Service Law. Under Public Service Law § 126(1), the Commission may not grant a Certificate for the construction of a major utility transmission facility, unless it shall find and determine:

⁷⁷ See Zublionis Aff. at ¶ 48; Brown Aff. ¶ 40; Rogers Aff. ¶ 44.

⁷⁸ “The Certification Review Process For Major Electric and Fuel Gas Transmission Facilities Under Article VII of the New York Service Law”, Department of Public Service, June 2024, accessible at <https://dps.ny.gov/article-vii-certification-review-process-guide> (hereinafter “The Certification Review Process”) at 2.

⁷⁹ *Id.*

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- (a) the basis of the need for the facility;
 - (b) the *nature of the probable environmental impact*;
 - (c) that the facility *avoids or minimizes to the extent practicable any significant adverse environmental impact*, considering the state of available technology and the nature and economics of the various alternatives, and other pertinent considerations including but not limited to, the effect on agricultural lands, wetlands, and waterbodies, parklands, and river corridors traversed;
 - (d) that the facility avoids or minimizes to the extent practicable any significant adverse impact on active farming operations that produce crops, livestock and livestock products, considering the state of available technology and the nature and economics of various alternatives, and the ownership and easement rights of the impacted property;
 - (e) (1) what part, if any, of the line shall be located underground; (2) that such facility conforms to a long-range plan for expansion of the electric power grid of the electric systems serving this state and interconnected utility systems, which will serve the interests of electric system economy and reliability;
[...]
 - (g) that the location of the facility as proposed conforms to applicable state and local laws and regulations issued thereunder, all of which shall be binding upon the commission, except that the commission may refuse to apply any local ordinance, law, resolution or other action or any regulation issued thereunder or any local standard or requirement which would be otherwise applicable if it finds that as applied to the proposed facility such is 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;
 - (h) that the facility will *serve the public interest, convenience, and necessity* [...].

(emphasis added) N.Y. Pub. Serv. Law § 126(1). *See also*, Joint Proposal Narrative, dated April 30, 2026 (DMM Item No. 284) at 15-16.

Pursuant to 16 NYCRR § 85-2.15, “whenever it shall appear that the statutory requirements for a certificate cannot be met, the commission may dismiss the application and terminate the proceedings upon the motion of any party [...].”

The Applicant and other Signatories bear the burden of demonstrating that the proposed Project will serve the public interest, minimize adverse environmental impacts to the maximum extent practicable, and comply with applicable state and local laws, unless a waiver is expressly justified⁸⁰ and, further, bear the burden of proving that a proposed settlement is in the public interest.⁸¹ Upon the filing of the Joint Proposal in this proceeding for the Commission's consideration that purports to "resolve all issues among the Signatory Parties,"⁸² it became utterly apparent that the "statutory requirements for a Certificate" cannot be met.⁸³

The plain language of Public Service Law § 126, requires the Commission itself to make the required statutory findings *prior to* granting a Certificate for the construction or operation of a major utility transmission facility. A settlement among *some* of the parties is not itself evidence that the Project satisfies Article VII, particularly in this proceeding where the terms of the Joint Proposal are highly contested. Importantly, neither the Public Service Law, nor the implementing regulations of the Department of Public Service dictate that information and details necessary to make the required statutory findings may be deferred to some later, post-certification stage, like the Environmental Management & Construction Plan ("EM&CP").

To be clear, this Motion does not ask the Commission to choose between competing policies or to resolve disputes regarding project design. Rather, it asks the Commission to determine whether the Record before it permits the findings and determinations that Article VII expressly require before a Certificate may issue. The School Districts submit it does not.

⁸⁰ N.Y. Pub. Serv. Law § 126.

⁸¹ Re Procs. for Settlement & Stipulation Agreements, No. 90-M-0255, 1992 WL 487888 (Mar. 24, 1992).

⁸² See Case 24-T-0446, Summary of the Joint Proposal at *2.

⁸³ 16 NYCRR § 85-2.15.

As discussed further herein, the Record does not support the findings and determinations that the Project and the Joint Proposal meet the statutory requirements of Public Service Law § 126. In fact, the existing Record before the Commission, including the various statements filed in support and opposition of the Joint Proposal and the evidentiary documents noted above, affirmatively demonstrate the statutory criteria have not been satisfied. For this reason alone, and the reasons further detailed herein, the Application should be dismissed and/or the Certificate denied.

ARGUMENT

The Application Must be Dismissed and/or a Certificate Must be Denied Because the Commission Cannot Make the Mandatory Findings and Determinations Required by Public Service Law § 126 Based Upon the Record Before It.

The factual and legal arguments seeking rejection of the Joint Proposal raised in North Shore CSD's Initial Statement and Reply Statement, Roslyn UFSD's Initial Statement and Reply Statement, and Syosset CSD's Initial Statement and Reply Statement are hereby incorporated by reference as if fully set forth herein and also form the basis for the School Districts' instant Motion for an Order by the Commission dismissing the Application and/or denying the Certificate pursuant to 16 NYCRR § 85-2.15.

The existing Record, even if "complete" as purported by the Applicant⁸⁴, is nevertheless legally insufficient for the Commission to find and determine the nature of the probable environmental impacts and, in turn, insufficient to find and determine that the Project avoids or minimizes to the extent practicable any significant adverse environmental impacts. Thus, a finding and determination that the Project "will serve the public interest, convenience, and necessity"

⁸⁴ See Case 24-T-0446, New York Transco LLC's and the New York Power Authority's Reply Statement in Further Support of the Joint Proposal, dated June 26, 2026 ("Applicant's Reply Statement") (DMM Item No. 343) at *4.

cannot legally be rendered by the Commission. Further, even where adverse environmental impacts to the School Districts have been raised and identified, the Project and the Joint Proposal fail to avoid or minimize those impacts to the extent practicable, which is supported by the Record, thus rendering the Project statutorily deficient.

The inability to make the findings and determinations mandated by Public Service Law § 126 is not a procedural defect – it is a statutory bar to certification. Until the Record supports each mandatory finding and determination, the Commission may not lawfully issue a Certificate, and as such dismissal under 16 NYCRR § 85-2.15 is required.

POINT I – The Public Service Law Requires the Commission to Identify the Nature of Probable Environmental Impacts and Determine that the Project Avoids or Minimizes Significant Adverse Environmental Impacts *Before* Certification. The Commission Cannot Make Such Findings and Determinations Based Upon the Existing Record.

The law is clear: the Commission must find and determine the nature of probable environmental impact *before* it may grant a Certificate.⁸⁵ Yet, the Joint Proposal improperly defers major design and mitigation decisions that have material environmental impacts. In the absence of those decisions now, the resulting magnitude of those material environmental impacts cannot be quantified and, as a result, the Commission cannot make the required statutory findings pursuant to Public Service Law § 126 based upon the Record.

This point is actually highlighted by the Applicant in its Reply Statement in Further Support of the Joint Proposal, wherein the Applicant purports that the EM&CP review “is effectively a compliance mechanism to implement rather than revisit the NYSPSC’s determinations during the certification stage.”⁸⁶ By the Applicant’s own admission, consistent with the law, the

⁸⁵ N.Y. Pub. Serv. Law § 126(1).

⁸⁶ See Applicant’s Reply Statement at *6.

Commission's statutory findings and determinations must be made upon a sufficient Record at the certification stage and then implemented accordingly during the EM&CP stage.

Notwithstanding this legal mandate, the Project and the Joint Proposal repeatedly rely upon future EM&CP submissions to develop critical information concerning construction activities and mitigation measures that bears directly upon the Commission's ability to determine the nature of probable environmental impacts and whether adverse impacts have been avoided or minimized to the extent practicable.

The Commission may defer *implementation* details to the EM&CP process, but it may not defer *information necessary to make the statutory findings* required by Public Service Law § 126. Where the Record lacks evidence sufficient to support those findings, the Application is not ripe for certification. The issues raised by the School Districts concern fundamental statutory requirements rather than minor implementation details. The School Districts' concerns, including the serious concerns for the safety of their students and staff cannot and should not be ignored.

Because the Commission cannot make the mandatory findings and determinations required by Public Service Law § 126 based upon the Record before it, the statutory prerequisites for issuance of a Certificate have not been satisfied.

A. The Commission Cannot Find and Determine the Nature of Probable Environmental Impacts to the School Districts of Construction-Related Traffic Impacts Based Upon the Record Before It.

With regard to Public Service Law §§ 126(1)(b) and (c), the Joint Proposal asks the Commission to find, based upon the Record, that "the Project will be designed, constructed, and operated in a manner that avoids and minimizes to the extent practicable significant adverse

impacts on environmental resources along the Project's right(s)-of-way (ROW)"⁸⁷ and, further, that the "nature of probable, localized environmental impacts" resulting from the Project include:

Temporary disturbance and inconvenience associated with construction activities within existing roadway ROWs, including noise, traffic disruptions, and short-term access limitations, all of which will be managed through measures set forth in the Environmental Management & Construction Plan (EM&CP) and coordination with affected municipalities and landowners. [...]; and *Temporary and minor impacts* related to noise, transportation, and construction. (emphasis added).⁸⁸

Even if temporary, such impacts are not inconsequential, nor a mere "inconvenience". Further, although the Applicant repeatedly characterizes impacts as "temporary", the Record reflects that such construction-related impacts are anticipated and expected to continue for months, if not years.⁸⁹ For the School Districts, a "temporary" impact, particularly one lasting many months or even years, can result in unquantifiable disruption to the School Districts' statutorily mandated educational operations and school calendars, including but not limited to impacts to the School

⁸⁷ See Case 24-T-0446, Joint Proposal, Appendix J, Proposed NYSPSC Findings at Paragraph 2.

⁸⁸ *Id.* at Paragraph 2(a).

⁸⁹ See, e.g., Exhibit 41: PNYE-NSCSD-1 at Applicant's Response to PNYE-NSCSD-1.4 ("it is projected that installation of the vaults, manholes, and duct bank will last approximately **5 to 6 months** for the portion of the Project located within Shore Road (Segments 3 and 4). Based on preliminary estimates and given the restrictions on construction negotiated into the Certificate Conditions, it is projected that splicing and cable pulling within Shore Road for Segments 3 and 4 will last approximately **4 to 6 months**") and Applicant's Response to PNYE-NSCSD-1 ("it is projected that installation of the vaults, manholes, and duct bank will last approximately **12 months** for the portion of the Project located within Glenwood Road (Segments 3 and 4). Based on preliminary estimates and given the restrictions on construction negotiated into the Certificate Conditions, it is projected that splicing and cable pulling within Glenwood Road for Segments 3 and 4 will last approximately **8 to 10 months**"); Exhibit 44: PNYE-RUFSD-1 at Applicant's Response to PNYE-RUFSD-1.5 ("it is projected that installation of the vaults, manholes, and duct bank to last approximately **12 months** for the portion of the Project located within Glen Cove Road between NYS Route 25A (Northern Boulevard) and Interstate 495 (the Long Island Expressway) (Segment 3). Based on preliminary estimates and given the restrictions on construction negotiated into the Certificate Conditions, it is projected that splicing and cable pulling within Glen Cove Road between NYS Route 25A (Northern Boulevard) and Interstate 495 (the Long Island Expressway) for Segment 3 will last approximately **5 to 6 months**"); and, Exhibit 45: PNYE-SCSD-1 at Applicant's Response to PNYE-SCSD-1.5 (it is projected that installation of the trenchless crossing of Interstate 495 (the Long Island Expressway), vaults, manholes, and duct bank will last approximately **9 non-consecutive months** for the portion of the Project located within Robbins Lane between NYS Route 25 (Jericho Turnpike) and Interstate 495 (the Long Island Expressway) (Segment 4)").

Districts' student learning environment and the continuity of student instruction. As such, the purported "temporary" impacts to the School Districts are in fact major environmental and socioeconomic impacts that must be identified and accounted for and must be avoided or minimized to the extent practicable – they are not. Labeling an impact "temporary" does not and cannot excuse compliance with Article VII, especially where the health and safety of thousands of school-aged children are at stake. An environmental impact expected to persist for months, if not years, remains an environmental impact that the Commission is statutorily required to identify, evaluate, and minimize *before* certification. The health and safety of thousands of school-aged children should be mandated and enforceable protections put in place now, and not held in abeyance until some later post-certification date.

For example, the Applicant asserts that statements filed in opposition to the Joint Proposal, including the School Districts' "complain that the Evidentiary Record does not reflect their desired level of traffic details."⁹⁰ The issues raised by the School Districts with regard to insufficient traffic details are not simple "complaints", they are serious and legitimate concerns supported by the Affidavits of the Superintendent of Schools of each School District.⁹¹ The Affidavits of the Chief Executive Officers charged with overseeing the daily operations of the School Districts' educational operations should not be overlooked and should be afforded great weight. Nor are the missing traffic details merely "desired" by the School Districts; rather, such details are necessary to determine the nature of probable environmental impacts to the School Districts and to determine whether such impacts even can be avoided or mitigated. The Commission cannot conclude that impacts of the Project are acceptable because the applicant seeks to withhold or delay developing

⁹⁰ Applicant's Reply Statement at *8.

⁹¹ See Zublionis Aff., Brown Aff., and Rogers Aff.

the very information needed to assess those impacts until after certification – *the inability to mitigate significant adverse environmental impacts should not be discovered for the first time after certification*. This is unacceptable.

The Applicant, the Department of Public Service, the Commission, or other non-educational State agencies are not better suited to understand the highly complex, interconnected operational system of a school district than the Superintendents of Schools. The School Districts strongly assert that the Record before the Commission does not provide sufficient information *now* to allow the Commission to find and determine the nature of probable environmental impacts to the School Districts associated with construction-related traffic impacts and, even if it were sufficient (which is not), the Record establishes that significant adverse impacts are not avoided or even minimized to the extent practicable, as discussed *infra*. In fact, the limited information about traffic impacts that is contained in the Record, was only included by virtue of (i) the School Districts’ discovery demands specifically requesting completed traffic studies; and (ii) the School Districts’ inclusion of such studies as attachments to the Initial Statements compelling the Applicant to include the studies as exhibits to the Record.⁹² These studies expose the methodological shortcomings at this stage of the certification process, the impact of which could be catastrophic to the School Districts. The School Districts stand by their conclusion that the traffic studies conducted and provided to date are high-level, superficial, and cursory “analyses” of traffic impacts and that failure to conduct and analyze actual traffic impacts to the School Districts prior to certification prevents the Commission from fulfilling its mandatory statutory obligation under Public Service Law § 126(1)(b). Moreover, to the extent that the traffic analyses

⁹² See Case 24-T-0446, Evidentiary Record: Exhibits 41, 42, 43, 44, and 45.

render a conclusion or assessment pertaining to traffic impacts, the Applicant's own preliminary traffic studies prove that construction cannot safely or practically occur during regular school hours near the School Districts' buildings and facilities.

Specifically, the Applicant purports to have conducted "an analysis of the traffic impacts associated with the proposed construction activities along Shore Road in Glenwood Landing" (the "Glenwood Landing Analysis"), which was produced during discovery. With respect to North Shore CSD, the analysis acknowledges "with the North Shore Middle School and North Shore High School in close proximity to the site, construction activities will *aim to avoid* significant impacts on school bus operations, student drop-off and pickup, and pedestrian access to any nearby bus stops near the Shore Road Substation, *if any*" (emphasis added).⁹³ First, this study does not identify impacts to the North Shore CSD, but provides a theoretical "aim" to avoid these unidentified impacts. Second, the study "aims" to avoid unidentified impacts to bus stops near the Shore Road Station "if any" – meaning the Applicant has not yet identified the bus stops impacted by the Project. Third, the study does not analyze or consider construction-related impacts of noise, fugitive dust, or potential utility outages impacting the educational operations of the North Shore CSD, nor the educational learning of the North Shore CSD's students and, most importantly, the safety and well-being of the North Shore CSD's thousands of students and staff. Lastly, and significantly, the study completely ignores and remains silent as to the North Shore CSD's Transportation Facility located on Shore Road. This is a fatal defect in the Record. The Glenwood Landing Analysis makes no mention of the number of buses traversing on Shore Road in and out of the Transportation Facility or the times of peak activity surrounding the operation of the

⁹³ See Case 24-T-0446, Evidentiary Record: Exhibit 43: Traffic Analysis for the Areas Adjacent to and Surrounding the National Grid Facility, Glenwood Landing, NY 11547 ("Glenwood Landing Analysis") at *7.

Transportation Facility. Ultimately, the Glenwood Landing Analysis does not evaluate impacts to the transportation operations at the North Shore CSD’s Transportation Facility and, as a result, fails to identify, analyze, evaluate, or even suggest mitigation measures of such impacts. Despite these glaring and fatal omissions, the Glenwood Landing Analysis concludes “while *no adverse impacts are expected with the construction* at the National Grid property, temporary disruptions may occur intermittently” (emphasis added).⁹⁴ This is a misrepresentation and patently false.⁹⁵

Further, and again in response to the School Districts’ discovery demands, the Applicant produced an analysis entitled “Traffic Analysis for 1T to 5T Trenching Construction Condition in Support of Construction Permitting,” dated April 2026 (“Traffic Analysis”).⁹⁶ This purported Traffic Analysis was provided for the first time in May 2026.⁹⁷ The Applicant further states “these studies are being provided as responsive to the request, but the Applicant reminds the [School Districts] that Joint Proposal, Appendix D, Certificate Condition 39 requires the Applicant to provide detailed MPT plan(s) with the Project’s EM&CP filings. These studies inform the MPT plan(s), which will be the culminating work product for traffic control measures in light of current roadway conditions.”⁹⁸ The Applicant’s discovery response implies that, absent a formal discovery request, this study would *not* have been provided to the School Districts, the Article VII parties, the Commission, or the public, prior to the Commission’s determination on the Application, despite having this analysis since at least October 2025, nearly eight (8) months prior to the inclusion of

⁹⁴ *Id.* at *8.

⁹⁵ *See* Zublionis Aff.

⁹⁶ *See* Case 24-T-0446, Evidentiary Record: Exhibit 42: Traffic Analysis for 1T to 5T Trenching Construction Condition in Support of Construction Permitting (“Traffic Analysis”).

⁹⁷ *Id.*

⁹⁸ *See* PNYE-NSCSD-1 at Applicant’s Response to PNYE-NSCSD-1.1; PYNE-RUFSD-1 at Applicant’s Response to PNYE-RUFSD-1.1; and, PYNE-SCSD-1 at Applicant’s Response to PNYE-SCSD-1.1.

this study into the Record (again, only because the School Districts requested the studies and included them with their Initial Statements).

The Traffic Analysis reveals critical information relevant to a finding and determination of the nature of probable environmental impact. Not only does the inclusion of the Traffic Analysis in the Record underscore the insufficiency of the Record prior to its inclusion, but the Traffic Analysis itself suggests that certain construction activities in and around the School Districts' school buildings and facilities are not feasible during the daytime hours – a fact the Applicant possessed, but did not disclose, under the guise of a “two-stage process under PSL Article VII for siting major electric transmission facilities—namely, consideration of a CECPN and then of an EM&CP.”⁹⁹

Relevant to the Roslyn UFSD, the Traffic Analysis purportedly looked at various roadways and intersections within the geographic boundaries of the Roslyn UFSD, including intersections involving Glen Cove Road, where the Roslyn UFSD's Harbor Hill Elementary School, Facilities and Operations Department and Bus Maintenance Garage are located. At each of these locations, absent those proposed for late night construction, the Traffic Analysis concludes that “alternative detours may not fully alleviate the delays at this intersection and may move the bottleneck to surrounding intersections” and that “construction during [late night] hours appears more feasible based on the respective analysis results”¹⁰⁰ at intersections involving Glen Cove Road – essentially all intersections surrounding the Roslyn UFSD's property on Glen Cove Road.

⁹⁹ Applicant's Reply Statement at *5. Further, it is respectfully submitted that this self-serving process is not only illogical, but entirely flawed. This is particularly so here, where the Applicant has filed two (2) EM&CPs prior to the issuance of a Certificate. *How could the EM&CPs be appropriately considered or commented upon when (i) the proposed Certificate Conditions have not been adopted; and, (ii) the proposed Certificate Conditions are legally deficient?*

¹⁰⁰ *Id.* at 7-24 to 7-27.

Relevant to the Syosset CSD, the Traffic Analysis looked at various roadways and intersections within the geographic boundaries of the Syosset CSD, including at or near the Syosset CSD's Robbins Lane Elementary School. The Traffic Analysis concludes that "alternative detours may not fully alleviate the delays at this intersection and may move the bottleneck to surrounding intersections" and that "construction during [late night] hours appears more feasible based on the respective analysis results"¹⁰¹ at intersections involving Robbins Lane. Even the Applicant's own cursory Traffic Analysis concludes that there are such significant impacts that only late-night construction would be feasible.

However, with respect to late-night work, it should be noted that the School Districts' concerns are not mitigated and/or alleviated if the roadways are not restored to full access and use in time for the commencement of the school day with no lane closures or impediments to access to the School Districts' buildings and facilities.

Statements by the Department of Public Service Staff ("DPS Staff") further emphasize that the Record is lacking, again deferring critical details to later post-certification stages. For example, in its Statement in Support of the Joint Proposal, DPS Staff notes:

In accordance with PSL §122 and 16 NYCRR §88.6, the Applicant filed Exhibit E-6 to the application, which includes a summary of the anticipated effects of the Project on roadways, bus routes, railroads, airports, marine navigation and pedestrian traffic, as well as proposed mitigation measures that will be used to minimize impacts. This exhibit summarizes the traffic analyses *being conducted* for the Project, which *will be finalized* during the EM&CP phase. In each EM&CP phase, the Applicant will aggregate data to *understand existing roadway conditions* using metrics such as volumes, vehicle modes, origin-destination statistics, travel times, and time-of-day traffic patterns. The Applicant *will conduct* a high-level assessment *to identify* where minimal or no traffic impacts are predicted to occur. The Applicant *will also investigate*

¹⁰¹ *Id.* at 7-33 and 7-34.

daily and peak hour volumes, the availability of bicycle amenities, if a segment was designated as an official truck route, and proximity to railroad lines or bus stops. Additionally, *construction and diversion analyses will be conducted* for each project phase (emphasis added).¹⁰²

Thus, the Project and the Joint Proposal do *not* provide any meaningful assessment of the *actual* anticipated construction-related impacts of the Project for the Commission’s consideration and instead rely on prospective plans to later identify and evaluate impacts and a prospective (and therefore unenforceable) promise to mitigate those unstudied and unenumerated impacts.

How can the Commission find and determine the nature of probable environmental impacts related to health and safety and traffic-related impacts for approval purposes without first being provided actual information allowing for such analysis? It is submitted that the Commission cannot make such a finding or determination on the Record before it.

It should be noted, however, even in the absence of complete traffic studies, the Commission is not without resources to model the impact — it has the expert testimony of three Superintendents of Schools with a combined 30 + years of experience operating school districts. That testimony is clear and consistent. At the very least, the Applicant should be required to engage an expert to refute it, otherwise, the Commission must conclude that the Superintendents hold the most authoritative analysis of the matter and that the Project and the Joint Proposal fail to acknowledge the nature of probable environmental impact to the School Districts.

Nevertheless, without project-specific traffic analyses identifying the nature, duration, and magnitude of impacts on statutorily mandated educational operations and school transportation, the Commission cannot find or determine either the probable environmental impacts under Public

¹⁰² See The Department of Public Service Staff Statement in Support of the Joint Proposal (“DPS Staff Statement”), filed June 8, 2026 (DMM Item No. 327).

Service Law § 126(1)(b) or whether those impacts have been avoided or adequately minimized under Public Service Law § 126(1)(c). As a result, the Record is legally insufficient to support the findings and determinations required by Public Service Law § 126 because the Record lacks or completely ignores the information necessary to do so. The Commission's inability to make the findings and determinations mandated by Public Service Law § 126 is itself dispositive. Absent those findings and determinations, the statutory prerequisites for certification remain unsatisfied, and the Application should be to dismissed pursuant to 16 NYCRR § 85-2.15.

B. The Commission Cannot Find and Determine the Nature of Probable Environmental Impacts to the School Districts Related to the Health and Safety of the Electromagnetic Fields Produced by the Terrestrial Transmission Cables in Close Proximity to the School Districts' Schools and Facilities Based Upon the Record Before it and Based Upon the Commission's Own Standards.

As previously stated, the Project proposes the installation of underground transmission lines in close proximity to the School Districts' school buildings, facilities, fields, playgrounds, and bus stops. The Joint Proposal includes a condition in the Proposed Certificate Conditions under "Section C. Public Health and Safety" that states as follows:

The Certificate Holder shall design, engineer, and construct the Project such that the line is completely buried or otherwise protected and that its operation shall comply with the electric and magnetic field (EMF) guidelines and standards established by the NYSPSC 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, *or the NYSPSC's most recent electric and magnetic field guidelines and standards in effect at the time the NYSPSC grants the Certificate* (emphasis added).¹⁰³

This Condition merely represents the Applicant's commitment to adhere to 36-year-old standards related to electric and magnetic fields ("EMF"), not a commitment to ensure the health

¹⁰³ See Joint Proposal, Appendix D: Proposed Certificate Conditions at Certificate Condition 20.

and safety of school-aged children. The Record is otherwise silent as it relates to the health and safety of the tens of thousands of children that may be impacted by the Project, yet it is replete with protections for wildlife and water species and, in fact, implements testing to detect EMF-related impacts to sea life, but not children. For this reason alone, the Project and the Joint Proposal fail to meet the standards with which the Commission must comply. The health and safety of school-aged children should be of paramount concern to the Commission and this State. It most certainly is paramount to the School Districts.

In this regard, DPS Staff once again appears to focus on advocacy for the Project and the Applicant, while stifling legitimate concerns raised by the public, those DPS Staff are charged to serve. In its Reply Statement, DPS Staff states:

Several opposing parties incorrectly argue that the Joint Proposal does not sufficiently shield individuals along the Project Route from EMFs. These parties misunderstand the Commission's purpose and standards in its EMF policy [...] The Commission set electric field (EF) and magnetic field (MF) limits on new transmission facilities in its 1978 and 1990 Orders, respectively, in Cases 26529 and 26559. [...] The Commission found that, while there was not sufficient evidence that the levels of EMFs would endanger human health and safety, there were "possible risks" *that might emerge in the future*. The Commission's approach of "prudent avoidance" recognizes that, "while emerging evidence does not provide a basis for asserting that magnetic fields pose a significant risk, *neither does it allow one to assert categorically that there are no risks.*" The result of the "prudent avoidance" approach is a policy which limits EMF emissions to the *status-quo of the then-existing transmission facilities*. [...] As stated in the policy, if evidence emerges showing that the Commission's EMF limits are not sufficiently protective, then the Commission will revisit its limits in a separate proceeding. Such evidence has not emerged so far, nor have the parties in opposition to the Joint Proposal provided such evidence (internal citations omitted).¹⁰⁴

¹⁰⁴ See The Department of Public Service Staff Reply Statement, filed June 26, 2026 (DMM Item No. 344) at *27-28.

DPS Staff misstates that parties in opposition have not provided evidence related to EMF. They did.¹⁰⁵ But DPS Staff dismisses that evidence (including from the California Department of Education, National Institute for Public Health and the Environment of the Netherlands, the International Agency for Research on Cancer, the World Health Organization)¹⁰⁶ as an “inappropriate” comparison because this proceeding is governed by the laws of New York State and jurisdiction rests exclusively with the Commission.¹⁰⁷ That is actually the point. As DPS Staff noted, the Commission previously found that there were “possible risks” *that might emerge in the future*. The future is now.

The School Districts submit that the scientific literature and other governmental guidance now available warrant reconsideration of standards adopted decades ago and that an immediate and timely review of these guidelines and standards should be undertaken by the Commission. With the advancement of technology and increase in infrastructure since 1990, “status-quo of the then-existing transmission facilities” no longer exists and, as such, it is essential that studies be undertaken for the interest of the public and the protection of children, including the thousands of students that attend the School District. The Commission must ensure that the health and safety of the public is not negatively affected by all projects, including this Project, before determining whether to grant a Certificate and most certainly before any project is implemented. Any other action would be contrary to the statutory mandates prescribed in Public Service Law § 126.

The Record appears to focus solely on compliance without consideration of the potential impact to the health and safety of those in close proximity to the transmission lines. The

¹⁰⁵ See Formal Comments in Opposition to the Joint Proposal Regarding Electromagnetic Fields (EMF), Human Health, and Vulnerable Populations, Submitted by Karen Yanelli, filed June 9, 2026 (DMM Item No. 329).

¹⁰⁶ *Id.*

¹⁰⁷ *Id.* at *30.

Applicant’s Magnetic Field Simulation Report concluded “that the contribution to the magnetic field environment from the proposed Project transmission lines are within the *allowable limits* at the edge of the Project rights-of-way (ROW).”¹⁰⁸ Notably, the Report does not even contain the words “safe”, “safety”, or “health”, except for one (1) citation to the National Institute of Environmental *Health* Sciences to provide a summary of common magnetic field sources, including toasters and washing machines. Is this enough for the Commission to find and determine that the Project is safe for the tens of thousands of individuals, including thousands of school-aged children, that may be impacted by it? The answer cannot be made in the affirmative.

The Record fails to establish that compliance with existing, antiquated standards equates to protection of human health and particularly the health of school-aged children. In fact, the Applicant’s Proposed Findings make no mention of health and safety associated with the transmission lines.¹⁰⁹ Without such analysis applied to this proposed Project, the Commission cannot make a finding of the nature of probable environmental impacts of EMF produced by the transmission lines. Where the Record does not permit the Commission to make the findings and determinations required by Public Service Law § 126, certification is legally unavailable. Because those findings and determinations cannot be made on the present Record, the Application is subject to dismissal under 16 NYCRR § 85-2.15.

¹⁰⁸ See Joint Proposal, Evidentiary Record, Exhibit 7: Environmental Impacts (Exhibit 4, Appendix K of the Application).

¹⁰⁹ See Case 24-T-0446, Joint Proposal, Appendix J, Proposed NYSPSC Findings.

C. Critical Information Necessary to Evaluate and Assess the Nature of Probable Environmental Impacts and the Ability to Avoid or Minimize Significant Environmental Impacts to the School Districts are Absent from the Record and Deferred to Post-Certification Stages, Preventing the Commission from Making the Required Statutory Findings and Determinations Pursuant to the Public Service Law.

The Joint Proposal contains a series of subjective, unenforceable and/or ineffective proposed Certificate Conditions allegedly related to the mitigation of impacts to the School Districts' operations and defers the identification of specific and critical mitigation measures to the Maintenance and Protection of Traffic Plan (MPT Plan)¹¹⁰ and the EM&CP stages.

Specifically, as proposed, the Conditions require:

1. The Applicant to “consult with traversed school districts [...] prior to the commencement of construction and the MPT Plan will reflect the outcomes of those consultations, including any traffic-related measures taken”(emphasis added);¹¹¹
2. The Applicant to “use best efforts to coordinate its construction schedule with the local school districts to ensure that such construction operations will not interfere with the district’s start and dismissal times and bussing schedules” (emphasis added);¹¹² and
3. “The EM&CP shall demonstrate that the Project will not prohibit safe access to any school district building, facility, or property at any time” (emphasis added).¹¹³

However, the Joint Proposal fails to define what it means to “consult” and/or what “best efforts” the Applicant must take. Further, “best efforts” is a subjective standard and is insufficient when it applies to the health and safety of tens of thousands of students. Promised future action, without any adequate enforcement mechanism as is being requested by the Applicant for Commission approval, does not provide present assurances of student safety and does not avoid or minimize significant environmental impacts to the extent practicable.

¹¹⁰ Joint Proposal, Appendix D: Proposed Certificate Conditions at Condition 39(d).

¹¹¹ *Id.*

¹¹² Joint Proposal, Appendix D: Proposed Certificate Conditions at Condition 39(e).

¹¹³ Joint Proposal, Appendix D: Proposed Certificate Conditions at Condition 39(j).

Significantly, the Joint Proposal also fails to define “safe access”. The School Districts posit that safe access goes well beyond merely the ability to enter and exit the School Districts’ properties and extends to the roadways around School Districts’ properties that are traversed by the School Districts’ buses and vans, student walkers and bicycle riders, parent vehicles, essential services, emergency vehicles, law enforcement, and fire-fighting vehicles in order to safely and timely reach both the front and back of the School Districts’ school buildings, especially in the event of an emergency.

By way of example, the Syosset CSD inquired of the Applicant, where in the ROW the transmission line will be installed on Robbins Lane, adjacent to the Robbins Lane Elementary School. The Applicant responded that “the Applicant does not have final plan drawings of the currently anticipated cable locations within Robbins Lane adjacent to the Robbins Lane Elementary School, nor is that necessary for this stage of the permitting process.”¹¹⁴ The Roslyn UFSD inquired of the Applicant, where in the ROW the transmission line will be installed on Glen Cove Road, adjacent to the Harbor Hill Elementary School. The Applicant responded that “the Applicant does not have final plan drawings of the currently anticipated cable locations within Glen Cove Road adjacent to the Harbor Hill Elementary School, nor is that necessary for this stage of the permitting process.”¹¹⁵ Nevertheless, a week later, in response to a discovery request made by another party, the Applicant indicated that “at this time, the preliminary route is generally located within the northbound travel lanes of Glen Cove Road. Final details will be provided in

¹¹⁴ PNYE-SCSD-1 at Applicant’s Response to PNYE-SCSD-1.6.

¹¹⁵ PNYE-RUFSD-1 at Applicant’s Response to PNYE-RUFSD-1.6.

the EM&CP covering this phase of work.”¹¹⁶ If true, this would place the transmission lines in the ROW closest to the Roslyn UFSD’s property located on Glen Cove Road – a significant fact.

The Applicant defers establishing critical information relevant to understanding the environmental impact, and instead relies on “the NYSPSC has regularly and recently issued CECPNs for other major electric transmission projects—both terrestrial and submarine—with the same level of detail and accepted that final centerline information and plan drawings will be provided during the EM&CP process.”¹¹⁷

Simply because the Commission may have approved projects elsewhere lacking such specificity does not mean the same should be done *here*, where public school districts have sought party status to ensure that impacts to the School Districts, their students, staff, and school community are identified and appropriately mitigated – *the very purpose of an Article VII proceeding*. It should further be noted that the size and magnitude of this Project cannot be ignored or compared with other Article VII projects that are not substantially similar, located in densely populated areas, on major critical thoroughfares, and directly located near and/or adjacent to school facilities that serve and are responsible for the health and safety and education of thousands of students.

The location of the transmission lines in relation to the School Districts’ school buildings, facilities, playgrounds, and fields necessarily informs, *inter alia*, (i) whether construction is proposed immediately in front of the School Districts’ curb cuts, driveways, and entrances/exits to the School Districts’ properties; and, (ii) the proximity of the School Districts’ students to high-voltage transmission lines and exposure to EMF emanating from the transmission lines.

¹¹⁶ PNYE-GCA-1 at Applicant’s Response to PNYE-GCA-1.6.

¹¹⁷ *Id.*

In *this* proceeding, this level of detail is unequivocally necessary to find and determine the nature of probable environmental impact to the School Districts and, in turn, whether those impacts can be or are avoided or minimized to ensure that safe access to the School Districts' properties is maintained at all times. It is impossible to assess how "safe access" will be maintained should cable installation occur in the ROW closest to the School Districts' property and at the School Districts' driveways and curb cuts.

The missing information is not limited to generalized traffic volumes, accident data or anticipated delays. The Record fails to identify fundamental construction details that necessarily determine the nature and magnitude of the Project's impacts. For example, whether trenching occurs on the side of the roadway immediately adjacent to the School Districts' property or on the opposite side of the roadway will directly determine whether construction obstructs or restricts access to school entrances, curb cuts, driveways, transportation facilities, pedestrian walkways, loading zones, or emergency access points. Likewise, the direction of travel affected by lane closures or traffic restrictions necessarily informs whether school buses, student drop-off and pick-up traffic, emergency responders, and School District vehicles will experience delay, detour, or loss of access. These are not implementation details; they are facts essential to identifying the probable environmental impacts of the Project and to determining whether those impacts can be avoided or minimized to the extent practicable before certification.

Without this level of detail, the Commission cannot find and determine the nature of probable environmental impacts to the School Districts. Moreover, the Commission cannot substitute assumptions, future analyses, or post-certification commitments for the findings and determinations that Public Service Law § 126 requires it to make before certification. Accordingly, the Application must be dismissed and/or the Certificate denied.

POINT II – The Commission Cannot Find and Determine that the Project Avoids or Minimizes to the Extent Practicable Any Significant Adverse Environmental Impacts Because the Record Reveals Impacts to the School Districts that Have Been Identified but are Not Avoided or Minimized, Though They Could Be.

The law is clear: the Commission must find and determine that the Project avoids or minimizes to the extent practicable any significant adverse environmental impact *before* it may grant a Certificate.¹¹⁸

Logically, the Commission necessarily cannot find that significant adverse environmental impacts have been avoided or minimized to the extent practicable where (i) the Record lacks sufficient information to determine the nature of probable environmental impact in the first instance, as discussed *supra*; and, (ii) significant adverse environmental impacts have been identified, but have not been avoided or minimized to the extent practicable based upon the Record.

The Applicant and other Signatories’ sweeping assertions that the Joint Proposal and Record support the required statutory findings are belied by the Record itself. The deficiencies in the Record are not merely evidentiary—they preclude the Commission from making the findings and determinations that Public Service Law § 126 expressly requires as a condition precedent to certification.

A. The Commission Cannot Conclude that the Proposed Certificate Conditions Avoid or Minimize Significant Adverse Environmental Impacts to the School Districts Based Upon Conclusory Assertions That are Unsupported and/or Undermined by the Record.

The Applicant has asserted in this proceeding that “the NYSPSC has historically declined to credit conclusory or unsupported opposition arguments to disturb adoption of a joint proposal. Likewise, the NYSPSC does not accord weight to arguments that lack support in the Record in

¹¹⁸ N.Y. Pub. Serv. Law § 126(1)(c).

making its PSL §126 findings.”¹¹⁹ This proposition cuts in both directions – namely that the Applicant or others’ conclusory and unsupported statements that the Project and the Joint Proposal satisfy the required statutory findings under Public Service Law § 126 or that certain impacts are adequately addressed and/or mitigated by the Project and the Joint Proposal should similarly not be afforded any weight.

The Joint Proposal and the various statements filed in support of the Joint Proposal are replete with conclusory and unsupported assertions. For instance, the Joint Proposal, without support, claims that “the Certificate Conditions impose several elevated restrictions and requirements on the Applicant to minimize roadway and traffic impacts.”¹²⁰ Included in these purported “elevated restrictions,” the Joint Proposal highlights that “the Applicant committed to limit construction around school buildings to certain times of the day where bus traffic is not typical.”¹²¹

Specifically, the proposed Certificate Conditions provide:

Unless otherwise authorized by the governing land use agreement or permit, construction and scheduled maintenance work within 300 feet of a school building or facility shall be confined to 10:00 am to 2:00 PM and 7:00 PM to 5:00 AM when regular school operations are in session Monday through Friday. Standard construction windows control on weekends and when regular school operations are not in session [...].¹²²

Based on the foregoing, the Applicant and the Signatories to the Joint Proposal, present the above-cited proposed Condition as if it is some valiant commitment to protect the School Districts and conclude that this Condition somehow avoids or minimizes impacts to the School Districts

¹¹⁹ See Applicant’s Reply Statement at *12.

¹²⁰ See Case 24-T-0446, Joint Proposal Narrative at *51.

¹²¹ *Id.* at 52.

¹²² See Case 24-T-0446, Joint Proposal, Appendix D: Proposed Certificate Conditions at Condition 66.

and/or that they have full knowledge and understanding of how each School District operates. First, this presupposes that bus traffic is the only potential adverse impact to the School Districts, which it is not, as discussed herein. Second, it is quite curious how such a conclusion can be reached at all as there is no support for such. *Where in the Applicant's limited traffic studies does it show evidence that confining construction activities between the hours of 10:00 a.m. and 2:00 p.m. and 7:00 p.m. 5:00 a.m. avoids or minimizes adverse impacts to the School Districts? Where in the Applicant's limited traffic studies does it show evidence that limitations applying only within 300 feet of a school building or facility avoids or minimizes adverse impacts to the School Districts?* Simply put – the answer is: Nowhere.

Instead, the Record contains the Affidavits of three (3) Superintendents of Schools that state limitations on construction applying only within 300 feet of a school building or facility do nothing to alleviate the anticipated construction-related traffic impacts¹²³ and, further, that allowing construction activities near school buildings and facilities during the school day poses serious health, safety, and education risks to the School Districts' students.¹²⁴ The Superintendents' positions are then supported by relevant facts applicable to each of their respective School Districts.

For example, and as stated above, the North Shore CSD's Transportation Facility is located at 340 Shore Road, Glenwood Landing, New York. As currently proposed, two underground transmission lines are proposed to be installed in the ROW of Shore Road, passing in front of and extending on either side of the Transportation Facility's entrance/exit. As noted, the North Shore

¹²³ See Zublionis Aff. at ¶ 39; Brown Aff. ¶ 36; Rogers Aff. at ¶ 37.

¹²⁴ See generally, Zublionis Aff.; Brown Aff.; Rogers Aff.

CSD's entire transportation operations are conducted from this Transportation Facility¹²⁵ – meaning buses and vehicles must be able to safely and timely enter and exit the Transportation Facility at all times throughout the day. Given the geographic boundaries of the North Shore CSD and the location of its Transportation Facility, most North Shore CSD buses and vehicles enter and exit the property from the South. Measuring 300 feet from the southernmost portion of the Transportation Facility property falls short of even the nearest corner at Glenwood Road.¹²⁶ Glenwood Road is another major thoroughfare to and from the Transportation Facility.¹²⁷ Thus, there is little to no practical effect of proposed Certificate Condition 66 as it relates to the North Shore CSD's Transportation Facility. In addition, the North Shore High School and North Shore Middle School are located at 450 Glen Cove Avenue Glen Head, New York and 505 Glen Cove Avenue, Glen Head, New York, respectively. Glen Cove Avenue is a major access road to both of these school properties and is also the proposed location for an underground transmission line. Similarly, a measure of 300 feet from the southernmost portion of the North Shore CSD's Middle School or High School falls short of any major intersection, which will allow construction elsewhere on these major roads without consideration of the North Shore CSD's operations. Again, there is little to no practical effect of proposed Certificate Condition 66 as it relates to avoiding or minimizing the impacts to the North Shore CSD's High School and Middle School.

Similarly, the only entrance/exit to the Roslyn UFSD's Harbor Hill Elementary School, Facilities and Operations Department and Bus Maintenance Garage is located on Glen Cove Road, where a transmission line is currently proposed to be installed.¹²⁸ A measure of 300 feet from the

¹²⁵ See Zublionis Aff. at ¶ 43.

¹²⁶ *Id.* at ¶ 44.

¹²⁷ *Id.* at ¶ 20.

¹²⁸ See Brown Aff. at ¶ 26.

Roslyn UFSD's property in either direction falls short of any major intersection. The same intersections that the Applicant's Traffic Analysis concluded that "alternative detours may not fully alleviate the delays at this intersection and may move the bottleneck to surrounding intersections" and that "construction during [late night] hours appears more feasible based on the respective analysis results."¹²⁹ As such, there is little to no practical effect of proposed Certificate Condition 66 as it relates to avoiding or minimizing the impacts to the Roslyn UFSD's Harbor Hill Elementary School, Facilities and Operations Department and Bus Maintenance Garage.¹³⁰

Likewise, construction-related traffic impacts to the Syosset CSD's High School and South Woods Middle School are not avoided or minimized by the above Condition in any way whatsoever. Given the location of the transmission line proposed to connect to the substation on South Woods Road, the transmission line does not come within 300 feet of either school building. However, the Syosset CSD's High School and South Woods Middle School are located in the far North of the Syosset CSD's geographic boundaries and South Woods Road serves as a major thoroughfare for Syosset CSD's District-wide transportation of students to access the Syosset CSD's properties.¹³¹ On any given day, South Woods Road is traversed by approximately 60 buses and 650 cars entering/exiting the Syosset CSD's properties to drop-off students in the morning, with similar traffic for student pick up in afternoons.¹³² In addition, the Syosset CSD provides student transportation for field trips and athletic events to and from the Syosset CSD's schools. Often times, traffic is backed up in both directions (North and South), stretching approximately a half-mile to the South, on South Woods Road – far past the Substation and Syosset-Woodbury

¹²⁹ See Evidentiary Record: Exhibit 42: Traffic Analysis at 7-24 to 7-27.

¹³⁰ See Brown Aff. ¶ 36-37.

¹³¹ See Rogers Aff. at ¶ 14.

¹³² *Id.* at ¶ 17.

Road where the transmission line is proposed to traverse.¹³³ Significantly, the LIRR tracks run perpendicular to South Woods Road, between the Substation and the Syosset CSD's High School and South Woods Middle School, rendering very few alternative vehicular routes to these schools.¹³⁴ In short, since there is only one (1) road to the building, it is irrelevant whether the trench across the road is opened 275 feet from the building or 600 feet from the building, either trench renders the road useless.¹³⁵ Furthermore, the Syosset CSD's Robbins Lane Elementary School is located on Robbins Lane. The only entrance/exit to the Syosset CSD's school property is on Robbins Lane, where a transmission line is currently proposed to be installed. A measure of 300 feet from the Syosset CSD's property in either direction falls short of any major intersection, thus allowing construction activities elsewhere on Robbins Lane without consideration of the Syosset CSD's operations.¹³⁶ Thus, there is little to no practical effect of proposed Certificate Condition 66 as it relates to avoiding or minimizing impacts to the Syosset CSD's High School, South Woods Middle School, or Robbins Lane Elementary School.

Based on the foregoing, supported by the specific, factual Affidavits of three (3) Superintendents of Schools, it is clear that the Project and the Joint Proposal do not avoid or minimize construction-related impacts to the School Districts, let alone to the extent practicable. The Applicant's unsupported and conclusory statements to the contrary are legally deficient for the Commission to make the statutorily required findings and determinations. Absent the findings and determinations required by Public Service Law § 126, the Commission lacks the statutory authority to issue a Certificate. Because the present Record does not permit those findings and

¹³³ *Id.* at ¶ 18.

¹³⁴ *Id.* at ¶¶ 17-19.

¹³⁵ *Id.* at ¶ 40.

¹³⁶ *Id.* at ¶¶ 41-42.

determinations to be made, the statutory requirements remain unsatisfied. As a result, the Application must be dismissed pursuant to 16 NYCRR § 85-2.15 and/or the Certificate denied.

B. The Commission Cannot Make the Required Statutory Findings and Determinations That the Project Avoids or Minimizes Significant Adverse Environmental Impacts to the School Districts to the Extent Practicable Based Upon the Record Before it, Because the Record Reveals Certain Mitigation Measures that Could Avoid or Minimize Impacts to the School Districts, However, the Applicant has not Committed to These Measures.

Interestingly, the Applicant has acknowledged impacts of the Project to the School Districts in its discovery responses and has made certain representations that reveal the Project and the Joint Proposal do not avoid or minimize significant adverse environmental impacts to the School Districts to the extent practicable.

Specifically, the Applicant indicated that work on Glen Cove Avenue, North of Glenwood Road within the North Shore CSD “will be sequenced to occur in the summer months as the Applicant understands this segment of road is a primary pathway to access both the NSCSD Middle and High Schools.”¹³⁷ Further, within the Syosset CSD, the Applicant indicated that “work in front of Robbins Lane Elementary School will be conducted in the summer months.”¹³⁸

Thus, the Applicant has conceded that construction schedules can be sequenced in such a way to avoid construction on major access roads to the School Districts’ school buildings and facilities during the school year, limiting such construction to summer months when regular school operations are not occurring. In fact, the Applicant previously made similar concessions during a public webinar hosted by the Applicant on June 25, 2025, during which a representative for the

¹³⁷ See PNYE-NSCSD-1 at Applicant’s Response to PNYE-NSCSD-1.8.

¹³⁸ See PNYE-SCSD-1 at Applicant’s Response to PNYE-SCSD-1.5.

Applicant noted that to avoid conflicts with school operations there is an opportunity to work during off-hours or off-season during the summer.¹³⁹

Based upon the Applicant's representations above, the only reasonable inference is that work on Glen Cove Road within the Roslyn UFSD and work on South Woods Road within the Syosset CSD could and should be similarly sequenced to occur during the summer months or, at the very least, conducted during late-night hours as suggested in the Traffic Analysis.

This limitation, while not eliminating the School Districts' concerns, could serve to mitigate potential impacts to the School Districts far more than proposed Condition 66.

This is true for construction-related traffic impacts, as discussed above, but also for other adverse environmental impacts. For instance, students are highly susceptible to stress from noisy environments, repetitive noise and distracting noise.¹⁴⁰ Allowing construction near school buildings during the day between 10:00 a.m. and 2:00 p.m. does nothing to alleviate these concerns and will only serve to distract and disrupt active educational programs.¹⁴¹ In this respect and others, the Joint Proposal treats impacted entities and species disparately. For example, specific to the avoidance and protection of bald eagles, the proposed Certificate Conditions indicate that "if the bald eagle(s) show signs of distress due to noise associated with the work, then all work, except as necessary for protection of human life or property necessary to maintain grid reliability, must immediately cease."¹⁴² As it relates to construction noise around school buildings that will impact educational programs and student activities, the Joint Proposal is essentially silent. Although the

¹³⁹ The Applicant provided the video recording of the June 25, 2025, 6:00 p.m. Community Webinar hosted by Propel NY Energy in response to the School Districts' discovery demands. *See* PNYE-NSCSD-1 at Applicant's Response to PNYE-NSCSD-1.12.

¹⁴⁰ *See* Zublionis Aff. at ¶ 71; Brown Aff. at ¶ 69; Rogers Aff. at ¶ 69.

¹⁴¹ *See* Zublionis Aff. at ¶ 74; Brown Aff. at ¶ 72; Rogers Aff. ¶ 72.

¹⁴² *See* Joint Proposal, Appendix D: Proposed Certificate Conditions at Condition 74(b)(iii)(4).

proposed Certificate Conditions require the Applicant to “coordinate its construction schedule with a traversed school district to minimize interfere to the *maximum extent practicable* with school district operations,” (emphasis added)¹⁴³ in that context, the Joint Proposal fails to define the “maximum extent practicable”, rendering the condition a subjective standard without any enforcement mechanism available to the School Districts should construction-related noise negatively impact the School Districts’ educational programs.¹⁴⁴ Without providing enforceable safeguards now at the certification stage restricting construction activities in close proximity to school buildings to times when school is not in session, the Project fails to avoid or minimize adverse environmental impacts to the extent practicable. This cannot and should not be overlooked or ignored by the Commission.

The Joint Proposal contains a single proposed Certificate Condition to address fugitive dust and airborne debris from construction activities.¹⁴⁵ The Joint Proposal provides no information as to how fugitive dust and airborne debris from construction activities will be managed, especially near bus stops and/or the School Districts’ buildings, fields and playgrounds. The Joint Proposal provides no method by which to test fugitive dust and airborne debris for contaminants to inform the required level of mitigation efforts. The Joint Proposal provides no mechanism by which the School Districts can stop work should fugitive dust and airborne debris encroach upon the School Districts’ properties or impact a student’s ability to safely wait at their bus stop. Instead, the Joint Proposal relies on the EM&CP phase to “specify appropriate measures that will be used to minimize fugitive dust and airborne debris from construction activity.”¹⁴⁶ Further, limitation of

¹⁴³ *Id.* at Condition 66.

¹⁴⁴ See Zublionis Aff. at ¶ 72; Brown Aff. at ¶ 73; Rogers Aff. ¶ 73.

¹⁴⁵ See Joint Proposal, Appendix D: Proposed Certificate Conditions at Condition 99.

¹⁴⁶ See Joint Proposal, Appendix E: Specifications for Development of Environmental Management and Construction Plan at A(15).

construction within 300 feet of a school building or property to between 10:00 a.m. and 2:00 p.m., directly coincides with the School Districts’ physical education programs, recess times, and lunch times, that often occur outside, weather permitting.¹⁴⁷ Students cannot be outside if fugitive dust is present or lingering. Further, stopping construction at 2:00 p.m. does not guarantee that fugitive dust and airborne debris from construction activities has fully dissipated by the time students are exiting school buildings to load on to buses.¹⁴⁸ In addition, the Record fails to include any study or documentation to adequately and appropriately address how fugitive dust will be addressed near highly sensitive locations, such as the schools located within the School Districts, or how any contaminated soil and related dust particles encountered will be handled near highly sensitive locations. Without even a basic mitigation plan or an enforceable Condition or limitation of construction activities near school buildings to the summer months, the Joint Proposal fails to avoid or minimize adverse impacts to the health and safety of the School Districts’ students, staff, and school communities related to fugitive dust and airborne debris associated with construction activities. These environmental impacts to tens of thousands of students likewise cannot be overlooked or ignored by the Commission.

The Joint Proposal acknowledges the need to “coordinate with relevant utilities [...] to minimize outages and to discuss appropriate notice to be provided to end-use customers” and, further provides *after* a Certificate is issued “the Certificate holder will begin the process of consulting with relevant utilities regarding the Project’s construction schedule to, among other things, coordinate system outage requirements, if any, and avoid or minimize conflicts with

¹⁴⁷ See Zublionis Aff. at ¶ 67; Brown Aff. at ¶ 65; Rogers Aff. at ¶ 65.

¹⁴⁸ *Id.*

relevant utilities’ internal construction programs.”¹⁴⁹ The Joint Proposal requires coordination with the relevant utilities to avoid or minimize conflicts with the utilities’ internal construction programs, while only requiring “appropriate notification”, whatever that shall mean, to end-use customers.

However, any outages or disruption to the School Districts’ utility services, including electric, water, and sewage, by definition create an emergency condition for the School Districts potentially requiring evacuation and/or closure of schools¹⁵⁰ The Joint Proposal fails to address outages, disruption, or interruption to any and all utility services required to keep the School Districts’ school buildings, facilities, and properties operating safely and legally during construction activities. At all times, the School Districts must operate and maintain critical life-safety equipment such as smoke detectors and fire alarms; safely light interior corridors and staircases; maintain State-regulated temperatures in classrooms; maintain fresh air ventilation in classrooms; maintain food safety through refrigeration and warming; and maintain refrigeration for student medications.¹⁵¹ The School Districts cannot operate under uncertainties, nor can they take risks with students’ health and safety. In fact, each School District is required by the State to develop and maintain school safety and evacuations plans in the event of an emergency, including loss of utilities to the School Districts’ building and facilities¹⁵² – the Applicant must not be allowed to compromise these life-safety systems as part of its construction operations.

¹⁴⁹ See Joint Proposal, Appendix D: Certificate Conditions at Condition 96.

¹⁵⁰ See New York Education Law § 409, 8 NYCRR Part 155. See also Zublionis Aff. at ¶ 60; Brown Aff. at ¶ 58; Rogers Aff. at ¶ 57.

¹⁵¹ See Zublionis Aff. at ¶¶ 59-62; Brown Aff. at ¶¶ 57-60; Rogers Aff. at ¶¶ 56-60.

¹⁵² See New York Education Law § 409, 8 NYCRR Part 155. See also Zublionis Aff. at ¶ 48; Brown Aff. at ¶ 44; Rogers Aff. at ¶ 52.

However, the Joint Proposal fails to make the commitment to sequencing construction on major access roads to the School Districts' school buildings and facilities during the summer months or late-night hours – an appropriate and necessary commitment at the certification stage. This is further evidenced by the Joint Proposal's commitments to certain time-of-year restrictions for construction to avoid impacts to, for example, parks, the Atlantic and shortnose sturgeon, and Northern long-eared bats, etc.¹⁵³ Exceptions to construction times and enforceable commitments to the same have been made for parks, sea life, and animal species, *but not for thousands of school-aged children*.

To avoid or minimize impacts to the School Districts associated with potential utility outages from construction related activities, construction activities near school buildings should and can be limited to the summer months or late-night hours. Given the clear ability to do so, based upon the Applicant's own representations – anything other than limiting construction in close proximity to the School Districts' buildings and facilities and along major access roads to the School Districts' buildings and facilities to summer months would therefore significantly fall short of the requirement to “*avoid or minimize*” the adverse environmental impacts to the School Districts associated with construction-related traffic, noise, and fugitive dust.

Absent controlling, enforceable conditions providing adequate mitigation measures, as discussed herein, the Commission cannot find or determine that the Project avoids or minimizes significant adverse environmental impacts to the extent practicable. The Record simply does not support the findings and determinations that Public Service Law § 126 requires before a Certificate may be issued. Accordingly, dismissal is warranted.

¹⁵³ *Id.* at Conditions 65 and 74.

C. The Record Lacks Specific Details Required by the Commission to Make the Required Statutory Finding That the Project Avoids or Minimizes Significant Adverse Environmental Impacts to the School Districts.

The necessity that safe access to the School Districts' buildings, facilities, and properties be maintained at all times cannot be understated and cannot be deferred to the EM&CP phase. The Joint Proposal provides absolutely no enforceable mechanism to ensure that the School Districts' properties can be timely accessed by emergency services in the event of an emergency. This is simply unacceptable and places the health and safety of tens of thousands of students in jeopardy.

For example, as discussed *supra*, the Applicant does not have final plan drawings currently anticipating cable locations within the ROW and indicates such is not necessary at this stage of the permitting process.¹⁵⁴ However, this level of detail is *necessary* to determine whether the Project avoids or minimizes significant environmental impacts to the School Districts.

The concern for the absence of this information is further compounded by the following proposed Certificate Condition:

Certificate Holder will require construction personnel to restore driveways or, if no driveway, front entryways, where such access is impacted by ongoing construction activities promptly upon good faith request and assertion of immediate need for such access of the person owning or occupying such property and, in any case, **within 15 minutes of such request**. Similarly, Certificate Holder shall require construction personnel to restore the driveway or, if no driveway, front entryway access to each terrestrial property impacted by ongoing construction activities each day before ending construction activities for that day (emphasis added).¹⁵⁵

This proposed Condition does not ensure immediate, safe access to the School Districts' entrances and exits while construction is ongoing, particularly during an emergency. A delay of 15

¹⁵⁴ PNYE-RUFSD-1 at Applicant's Response to PNYE-RUFSD-1.6; PNYE-SCSD-1 at Applicant's Response to PNYE-SCSD-1.6.

¹⁵⁵ Joint Proposal, Appendix D: Proposed Certificate Conditions at Condition 39(k).

minutes to restore access to emergency vehicles and personnel during a life-safety event is not only unacceptable, it is irresponsible. The Joint Proposal fails to establish how restoration is to occur. To the extent metal plating will be utilized, the Joint Proposal fails to establish that the same is rated and adequate to support fully loaded and fueled buses or fully loaded and fueled emergency and fire-fighting vehicles. Similarly, the roadways in front of the School Districts' school building and facilities must remain open for emergency access and/or emergency evacuations. Any delay, let alone one of 15 minutes, is unacceptable and could be the difference between life and death.

This is not a theoretical concern. By way of example, the Syosset CSD has experienced situations requiring immediate evacuation of its buildings to ensure the health and safety of its students. In these instances, it is necessary to safely relocate students, which requires access to the Syosset CSD's bus loops for safe student transport.¹⁵⁶ Loading buses on the street or curb is a last resort for emergent purposes, and not part of a planned design.¹⁵⁷ For example, a transmission line is proposed to be installed in the ROW of Robbins Lane traversing immediately in front of the Syosset CSD's Robbins Lane Elementary School. At this location, a construction contractor punctured a gas main adjacent to the building, requiring students and staff to evacuate the building in under 60 seconds in the middle of December. Those students and staff boarded buses to stay warm, but those buses needed to be loaded on the roadway at a safe distance from the building.¹⁵⁸ This situation represents an emergent condition that required staff and students to safely evacuate school property in an extremely short time – the Syosset CSD could not have waited 15 minutes to evacuate the building.¹⁵⁹

¹⁵⁶ See Rogers Aff. at ¶ 52.

¹⁵⁷ *Id.*

¹⁵⁸ *Id.* at ¶ 51.

¹⁵⁹ *Id.* at ¶¶ 49 and 51.

Similarly, and by way of illustration, the Roslyn UFSD has experienced several instances of emergency services requiring the use of the Roslyn UFSD's Harbor Hill Elementary School as a landing point for helicopters conducting medical evacuations.¹⁶⁰ In these instances, it was necessary for emergency responders to *timely* access Roslyn UFSD's property.¹⁶¹ In addition to emergency responders, Central Office Administrators and other medical emergency personnel had to *immediately* access the Roslyn UFSD's properties.¹⁶² Delayed access to the Roslyn UFSD's school buildings and facilities could quite literally mean the difference between life and death, not just of the Roslyn UFSD's students and staff, but its surrounding community members. The Roslyn UFSD's obligations to maintain a secure and safe environment in these sensitive locations cannot be compromised or hindered by the Applicant's construction activities.¹⁶³

Without assessing where in the ROW the transmission line will be installed, particularly in relation to the ROW adjacent to the School Districts' property, including fields, playgrounds, pedestrian walkways and bicycle paths where students access and are frequently located, and the curb cuts, driveways, and entrances/exits to School Districts' properties, the Commission cannot find that the Project avoids or minimizes adverse environmental impacts to the extent practicable.

Anything short of prohibiting construction at the School Districts' curb cuts, requiring cables to be installed in the ROW furthest from the School Districts' properties and limiting installation of the transmission cables in close proximity to School Districts' properties to the summer months or late-night hours with no lane closure during the school day, does not avoid or

¹⁶⁰ See Brown Aff. ¶ 50.

¹⁶¹ *Id.*

¹⁶² *Id.*

¹⁶³ See Brown Aff. at ¶ 50.

minimize adverse environmental impacts to the health and safety of the School Districts' students, staff, and school community.

Based on the foregoing and the Record before the Commission, the Commission cannot make the required statutory finding and determination that the Project avoids or minimizes significant environmental impacts to the extent practicable. The Commission's statutory obligation is to make the findings and determinations required by Public Service Law § 126 before certification—not after it. Because the present Record does not permit those findings, dismissal is warranted.

POINT III – The Project and the Joint Proposal Do Not Satisfy Public Service Law § 126 Because they Fail to Address the Unique Statutory Interests of the School Districts and Other Parties Most Adversely Affected by the Project. Local Opposition Cannot Be Ignored and Must Be Considered by the Commission.

The Signatories purport to present the Joint Proposal as a comprehensive settlement “that resolves all issues in this proceeding among the Signatory Parties.”¹⁶⁴ In reality, the Joint Proposal reflects a series of claimed compromises made by and between primarily the Applicant and the State agencies, while failing to protect the interests of those most severely impacted by the proposed Project, including the School Districts.¹⁶⁵ A subset of formerly adversarial parties cannot and should not speak for the remaining adversarial parties, especially those most impacted by the proposed Project.

Conspicuously absent from the list of Signatories are the vast majority of local municipalities, school districts, residents, local business owners, and civic associations in and

¹⁶⁴ Joint Proposal, Cover Letter, April 30, 2026 (DMM Item No. 284).

¹⁶⁵ The School Districts respectfully request that the Commission take official notice of the arguments raised in the School Districts' Initial Statements and the Reply Statements pertaining to the flawed settlement process in this proceeding as if set forth fully herein. *See* North Shore CSD's Initial Statement at *38; North Shore CSD's Reply Statement at *21; Roslyn UFSD's Initial Statement at *38; Roslyn UFSD's Reply Statement at *21; Syosset CSD's Initial Statement at *38; Syosset CSD's Reply Statement at *21.

around Nassau County who are parties to this proceeding, most of whom also participated in settlement discussions, and all of whom, by virtue of seeking party status, have asserted they will be directly impacted as a result of the Project, if approved. The lack of support by entities, including the School Districts, and individuals living and working in areas directly affected by the construction of the Project should not and cannot be ignored by the Commission.

DPS Staff asserts that “a mathematical tabulation of support versus opposition is not a basis for the Commission’s determination to approve or deny an application under Article VII; as such, these oft repeated arguments should be completely ignored.”¹⁶⁶ Interestingly, both DPS Staff and the Applicant have previously argued to the Commission that the number of parties in support of a Joint Proposal is somehow evidence that the statutory requirements of Public Service Law § 126 have been met.¹⁶⁷ DPS Staff and the Applicant cannot have it both ways.

Notwithstanding that fact that the eighteen (18) entities who opposed the Joint Proposal represent tens of thousands of individuals, including thousands of school-aged children, and irrespective of the “mathematical tabulation” of support versus opposition, the Commission should take serious consideration of the nature of the entities who have raised opposition to the Joint Proposal and the nature of the concerns raised therein, including the School Districts.

¹⁶⁶ See DPS Staff Reply Statement at *13-14.

¹⁶⁷ See Case 19-T-0684, *Application of New York Transco LLC for a Certificate of Environmental Compatibility and Public Need Pursuant to Article VII of the New York Public Service Law to Construct, Operate, and Maintain a New, Double-Circuit 54.5-Mile 345/115 Kilovolt Electric Transmission Line and Related Facilities Located in the Town of Schodack, Rensselaer County; the Towns of Stuyvesant, Stockport, Ghent, Claverack, Livingston, Gallatin, and Clermont in Columbia County; and the Towns of Milan, Clinton, and Pleasant Valley in Dutchess County*, DPS Staff Letter in Lieu of Brief Opposing JI Motion, filed October 28, 2020 (“Given the number of parties that have agreed that the Application has met the statutory requirements in order for the Commission to grant a Certificate of Environmental Compatibility and Public Need Pursuant to Article VII, it cannot be reasonably determined that ‘it shall appear that the statutory requirements for a certificate cannot be met.’”); see also Case 19-T-0684, *supra*, Applicant’s Opposition to the Joint Intervenors’ Motion to Dismiss New York Transco LLC Article VII Application, filed October 28, 2020 (“Given the number of parties that have agreed to the Joint Proposal and the voluminous testimony and exhibits in the record demonstrating that the Project meets the statutory requirements [...]”).

A review of pending and recently decided Article VII proceedings before the Commission reveals that public school districts in New York have not previously sought party status in an Article VII proceeding, participated in settlement negotiations, or raised formal opposition to a Joint Proposal. Although the School Districts may be novel participants in Article VII proceedings, their unique perspective must not be dismissed as an anomaly; rather, their participation demands rigorous consideration and evaluation. As political subdivisions of the State, the School Districts carry non-discretionary statutory mandates under New York law that directly impact public welfare. Consequently, the School Districts' participation, including the unmitigated concerns of each School District, should be afforded the same weight and procedural consideration traditionally granted to State agencies, ensuring that School Districts' concerns are avoided or minimized to the maximum extent practicable *before* a Certificate is granted.

The enumerated list of statutory mandates, *supra*, is not an exhaustive list of the School Districts' statutory mandates, but rather a representative sampling of the stringent mandates placed on the School Districts to ensure the health, safety, and education of their students. With these mandates, obligations, duties, and responsibilities in mind, the School Districts sought party status in this proceeding to attempt to address the negative impact of the Project to the School Districts, including to their operations, finances, educational and instructional programs, and tax base, and most importantly to the health and safety of the School Districts' students, staff, and school community.

The various statements filed by the participating State agencies in support of the Joint Proposal make clear that such support is contingent on the Joint Proposal serving the State agency's

*respective and specific interest.*¹⁶⁸ In fact, this point is actually highlighted by the Applicant: “Whether it be the stringent *water quality standards*; the time-of-year restrictions and minimization measures that *protect rare, threatened, and endangered species*; protection for *existing roadways and existing infrastructure*; the protections provided to the relevant *Significant Coastal Fish and Wildlife Habitat*; or any number of other interests the State agencies are statutorily bound to protect, the Joint Proposal appropriately protects those interests while still allowing the Project to be constructed” (emphasis added).¹⁶⁹ Absent from the Applicant’s recitation are protections for the School Districts’ school-aged children whose attendance at the School Districts’ schools is compulsory and whose education, health and safety the School Districts (and the State) are statutorily bound to protect.

The Joint Proposal prioritizes *parklands*¹⁷⁰ over *school properties*. The Joint Proposal prioritizes *commercial fishing operations*¹⁷¹ over *education operations*. The Joint Proposal prioritizes *animal species*¹⁷² over *children*. The Joint Proposal prioritizes *utility companies*¹⁷³ over *utility users*, like the School Districts.

¹⁶⁸ See Statement of the City of New York, dated June 8, 2026 (“New York City’s Statement”) (DMM Item No. 315); The Department of Agriculture and Markets Statement in Support of the Joint Proposal, dated June 8, 2026 (“AGM’s Statement”) (DMM Item No. 325); Statement in Support of the Joint Proposal New York State Department of Environmental Conservation, dated June 8, 2026 (“DEC’s Statement”) (DMM Item No. 306); Affidavit of Michael Morris in Support of the Joint Proposal, dated June 4, 2026 (“Morris Affidavit”) (DMM Item Nos. 307 and 310); Affidavit in Support of Joint Proposal of Jason Brenner, P.E., dated June 5, 2026 (“Brenner Affidavit”) (DMM Item No. 300); Affidavit in Support of Joint Proposal of Muthiah T. Vijayendran, dated June 3, 2026 (Vijayendran Affidavit”) (DMM Item No. 302); and, Affidavit of Ian Francis, dated June 5, 2026 (“Francis Affidavit”) (DMM Item No. 303).

¹⁶⁹ See Case 24-T-0446, New York Transco LLC’s and the New York Power Authority’s Statement in Support of the Joint Proposal, dated June 8, 2026 (“Applicant’s Statement”) (DMM Item No. 323) at *17.

¹⁷⁰ Joint Proposal, Appendix D: Proposed Certificate Conditions at Condition 65.

¹⁷¹ *Id.* at Condition 53.

¹⁷² *Id.* at Condition 74.

¹⁷³ *Id.* at Condition 21.

The Project should not be permitted to proceed while protecting State initiatives, wildlife, commercial fishing interests, utility infrastructure, and parklands without providing comparable protection for the school-aged children, educators, and staff whom the School Districts are statutorily obligated to protect.

Despite the clear ability to do so, the Project and the Joint Proposal fail to make a commitment to sequencing construction near the School Districts' schools or on major access roads to the School Districts' school buildings and facilities during the summer months or late-night hours, which would reduce, not eliminate, many of the concerns raised by the School Districts related to traffic impacts, safe and continuous access to the School Districts' properties, fugitive dust, noise, and utility outages in connection with the School Districts' statutorily mandated educational and instructional programs and transportation services.

The School Districts implore the Commission to rigorously examine the unique statutory vulnerabilities raised herein. When these concerns are given the weight that they are owed, the only reasonable conclusion is that the Project and Joint Proposal fail to avoid or minimize adverse environmental impacts as mandated by the Public Service Law. Because the Applicant has failed to meet this statutory threshold, the statutory requirements for certification have therefore not been satisfied, and the Application cannot proceed on the present Record. Accordingly, the Commission cannot make the required statutory findings and determinations and, as a result, the Commission must dismiss the Application and/or deny the Certificate.

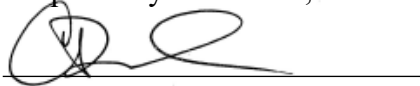
CONCLUSION

For the reasons set forth above, the Project, the Joint Proposal, and the Record do not permit the Commission to make the mandatory findings and determinations required by Public Service Law § 126. The Project and the Joint Proposal fail to establish the nature of the Project's probable

environmental impacts, fail to demonstrate that significant adverse impacts have been avoided or minimized to the extent practicable, and therefore fail to support a finding that the Project serves the public interest, convenience, and necessity. The Commission will impose a confiscatory burden on the School Districts, causing irreparable harm, by approving a Project that fails to mitigate the significant adverse impacts it will impose on the School Districts, thereby materially burdening the School Districts' ability to fulfill their state-imposed statutory obligations to protect the health and safety of thousands of school-aged children and to provide safe educational, instructional, and transportation services to thousands of students as required by law. These deficiencies are not matters that may be deferred to the EM&CP stage; they are statutory prerequisites to certification. Because the Record does not permit the Commission to make the mandatory findings and determinations required by Public Service Law § 126, the statutory prerequisites for certification remain unsatisfied. Until those findings and determinations can lawfully be made, the Commission is without authority to issue the requested Certificate.

Accordingly, pursuant to Public Service Law § 126 and 16 NYCRR § 85-2.15, the School Districts respectfully request that the Commission dismiss the Application and/or deny the requested Certificate, and grant such other and further relief as the Commission deems just and proper.

Dated: July 29, 2026
Hauppauge, New York

Respectfully Submitted,
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