



February 25, 2014 (updated March 4)

Hon. Kathleen H. Burgess
Secretary, New York State Public Service Commission
Three Empire State Plaza
Albany, NY 12223-1350

Email: secretary@dps.ny.gov

Re: Case 10-E-0501 CPV Valley, LLC

Dear Secretary Burgess:

I am writing from two of my several hats. Allow me address these one at a time. I am President of Orange Environment, Inc., a 501C3 organization that for 32 years has focused on the environmental integrity of the Orange County Region and the health and sustainability of its communities. OEI has commented in the process on CPV in the past and previously was an intervener in the hearings over the Calpine Energy Plant proposed for the same community of Wawayanda. OEI has intervened, studied and driven policy on many of the key environmental and community issues in the region historically. And we have a deep concern over the CPV project.

My initial comments in this matter address OEI's perspective:

1. The PSC has the responsibility for issuing "a certificate of public convenience and necessity" for the CPV project "after due hearing."
2. The PSC must accordingly "determine that such construction or such exercise of the right, privilege or franchise is convenient and necessary for the public service. 3. In making such a determination, the commission shall consider among other factors "the corporation's ability to..."render safe, adequate and reliable service...and provide just and reasonable rates, and whether issuance of a certificate is in the public interest."
4. With regard to item 1 above, OEI submits that there has been no "due hearing" on this matter. The Environmental Impact Assessment review under SEQRA was conducted by the local municipality which lacked resources, objectivity and experience to manage a review of a project of this scope and potential impact. As a result, we did not find the process to be thorough and the resulting review was shallow. Opportunities to

participate were minimal and did not afford us the full potential to contribute. We, and other local organizations, did not find the Lead Agency to be responsive to process or substantive comment. Given the enormity of potential consequence, we do not believe that an adequate record was created on a variety of issues that pertain to the potential for hazards to the community, a lack of need, a selection of best alternative, or an appreciation of potential impacts to the local communities. Given the deficient process and record created, we do not believe that the PSC can authenticate that the standard of “due hearing” has been achieved.

5. With regard to item 2 above, we do not believe that the record demonstrates that the proposed CPV plant is necessary for the public service. In the matter of the Calpine Application nearly two decades ago, OEI took the position that natural gas was then only a transitional fuel with regard to a shift to renewable energy to be achieved within a twenty year period. Part of our settlement with Calpine involved fostering this shift over the projected twenty year life of that plant. In 2014, our view is the same, however, we are looking at CPV at a point when the transition was to be complete and when our investments now should be directed entirely to the renewable energy alternative that was ill-considered by the CPV review. It is instructive that all responsible parties addressing climate change target at a minimum a 20% reduction in Greenhouse Gas emissions by 2020. At the same time, the Stanford University report lead authored by Jacobson (1) shows that renewable energy can be the basis by 2030 of New York electricity, heat and transportation energy needs if we direct investment to this alternative. In short, while Calpine might have proposed a reasonable transition strategy in 1995, we cannot look the same way at CPV in 2014. In 2014, the need and thus the public service and public interest is to see all investments made in renewable energy development. By the time CPV comes on line, the time for fossil fuel powered plants will have eclipsed. As Howard Kunstler, among others, has warned, we may well find ourselves without the investment capital and wherewithal to fully make a renewable transition. No investments in fossil fuel plants should be approved. CPV is not the best alternative to make up New York’s need for base and transition energy.
6. With regard to item 3 above, the matter of safety, economy and rates and public interest are raised. I recently hosted programs here in Orange County and in New Jersey where the overall safety of gas infrastructure was discussed. It was interesting that, first of all, the current literature demonstrates that gas involves many layers of issues---fire/explosion/accident potential, leakage, greenhouse gas contamination and, particularly when backup systems are considered, toxic contamination and air pollution. And, secondly, compounding the interest was the fact that CPV disclosed and discussed few if any of these hazard and health issues in their documentation reviewed in Wawayanda. During the Calpine hearings, OEI presented extensive testimony by George Thurston and Ramona Lall of the New York University School of Public Health. This testimony demonstrated that there are complex cumulative air pollution issues and health concerns in the microregion where CPV will be located that will be exacerbated by a gas-fired power plant. Downwind communities, including Middletown, Goshen, Warwick, Chester, Florida and others will be placed at increased risk of disease. In OEI’s settlement with Calpine, Calpine agreed to fund research by OEI into cumulative air pollution impacts and for mitigatory strategies. The region is out of compliance with the

CAA on at least two NAAQS in any case. The contribution of CPV to compounding that issue needs to be understood. A further innovation in the Calpine permit that came out of the OEI settlement was a Parties of Interest Process that gave local residents access to the plant and the owners and regulators on a regular basis to review air and other environmental performance measures and the clout to force mitigation or closure if such problems were not adequately addressed.

7. Issues of economy and rates are also not addressed. Even with shale gas, there remains an amazing volatility in the gas industry and in rates for consumers. Again, in comparison to renewable energy investments, there is not a clear case for gas. This issue is not critically examined in the review. Economics was a crucial factor in the defeat of a gas fired plant proposal in Middletown in the early 1990s. It should be added, that when externalities are added, there is not a favorable comparison between natural gas and renewable energy. There is a good likelihood that fracking will not occur in New York, for this reason, and that it will eventually be curtailed or required to cover external costs (pollution liabilities, etc.) elsewhere. These factors should be considered in granting a license to CPV.
8. Finally, cumulative of these other factors, is the public interest served by issuing a permit to CPV. The question here includes this issue of "light review." In our perspective, light review is never in the public interest and, given the preponderance of unresolved issues here, it is certainly not appropriate here.
9. Rather, PSC should hold an issues hearing and commence an administrative review on the questions listed here. We believe that the preponderance of evidence will rule out this project at this time. And it will direct our attention to the renewable energy alternatives discussed by Jacobson, which we believe can be further improved by programs of community-based, decentralized and distributed energy, building buildings that are energy neutral or positive and dramatically rethinking our transportation, agriculture and industrial sectors. We look forward to laying this pathway out in an administrative hearing.
10. As a second issue for adjudication, we would present Dr. Thurston and an update to his testimony on Calpine, which remains very current as an issue. Toward this end, I am appending the testimony given by Thurston on December 18th, 2001 as well as his current CV. We intend to demonstrate that the CPV plant is a significant threat to communities using the same airshed and that, unless fully mitigated, it is a second issue that militates against issuing the PSC's approval for the plant and certifying its public interest.
11. A third potential issue for adjudication arises from my second hat and my opinion as an expert regarding relevant potentially significant adverse impacts from the CPV project. 12. I am an Environmental Psychologist who has taught at Ramapo College of New Jersey for 39 years in the Environmental and Sustainability Studies programs and who has personally conducted many of the key studies in my field on the Psycho-Social Impacts associated with environmental contamination and degradation, producing the book that is viewed as a classic in this field (Contaminated Communities, Westview Press, 1988 and 2004) as well as many other books, papers, chapters and presentations. I have done numerous studies of energy, waste and industrial facilities in the context both of projecting future impact as well as measuring adverse impacts already in evidence. The

EIS for the CPV project ignores these issues.

13. I am confident from my experience that the CPV plant will negatively impact the quality of life, enjoyment of home and family and personal and community function. Such impacts are often not explored adequately, and they are not here. Even in the context of the Environmental Justice analysis, where such issues should be explored in addition to the social and economic impacts, they are overlooked. Among the expected impacts will be visual and other conditions of community degradation, with resulting environmental stigma. There will be distrust of environmental quality, with concerns about health and safety. These impacts will occur even if no contaminating events happen at CPV. But should incidents occur, such impacts will be magnified dramatically. The result is stress on individuals and communities, a potential decline in over psychological and social functioning, a decline in real estate market and value and in people's comfort in the safety of their homes and communities and major issues of distrust and discord. While CPV will bring some positive benefits as well, there is not currently a sufficient basis to conclude that positive benefits will offset adverse significant impact. Based on my experience, there is a very good likelihood that they will not.
14. OEI would raise these psycho-social impacts as a third issue for adjudication that is directly relevant to the certification required of the PSC. My vita is attached.

Submitted this day February 25, 2014



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1. M.Z. Jacobson, et al., "Examining the feasibility of converting New York State's all-purpose energy infrastructure to one using wind, water, and sunlight," *Energy Policy* 57 (2013), pp. 585–601.

Personal Work:

Edelstein, Michael R. *Contaminated Communities: Coping with Residential Toxic Exposure (Second Edition)*. Boulder, Co.: Westview Press/Perseus Books, 2004.

Edelstein, Michael R. and William Makofske. *Radon's Deadly Daughters: Science, Environmental Policy and the Politics of Risk*, Rowman and Littlefield, 1998;

Edelstein, Michael R., Maria Tysiachniouk, Ph.D. and Lyudmila V. Smirnova, Ph.D. (Eds.) *Cultures of Contamination: Legacies of Pollution in Russia and the U.S.* Vol. 14 of *Research in Social Problems and Public Policy*, Elsevier, 2007;

Edelstein, Michael R, Astrid Cerny and Abror Gadaev. *Disaster By Design: The Aral Sea and Its Lessons for Sustainability.* Vol. 20 of *Research in Social Problems and Public Policy.* London: Emerald, 2012.

Attached:

Affidavit of expert opinion submitted on behalf of OEI by George Thurston, Ph.D. on December 18th, 2001.

CV of George Thurston, Ph.D.

CV of Michael R. Edelstein, Ph.D.