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SUBCHAPTER G. CERTIFICATES OF ENVIRONMENTAL COMPATIBILITY AND PUBLIC NEED
PART 86. GENERAL EXHIBITS

§ 86.1 General requirements

Each exhibit shall contain:

(a) a title page showing:

- (1) the applicant's name;
- (2) the title of the exhibit; and
- (3) the proper designation of the exhibit; and

(b) if consisting of 10 or more pages, a table of contents citing, by page and section number or subdivision, the component elements or matters contained in the exhibit.

§ 86.2 Exhibit 1: general information regarding application

(a) A corporate applicant shall state:

- (1) name;
- (2) address;
- (3) telephone number; and
- (4) the name and business address of the principal officer of the applicant.

(b) A noncorporate applicant shall provide information similar or equivalent to the information required of a corporate applicant under subdivision (a) of this section.

(c) If the applicant desires service of a document or other correspondence upon an agent, Exhibit I shall so state, giving the name, address and telephone number of the agent for service.

§ 86.3 Exhibit 2: location of facilities

(a) The applicant shall submit detailed maps, drawings and explanations showing the right-of-way for each proposed facility. Such maps, drawings and explanations shall include:

(1) New York State Department of Transportation maps (1:24,000 topographic edition), showing:

(i) the proposed right-of-way (with control points indicated), covering an area of at least five miles on either side of the proposed facility location;

(ii) where the construction or reconstruction of the proposed facility would necessitate permanent clearing or other changes to the topography, vegetation or man-made structures.

(iii) any known archaeological, geologic, historical or scenic area, park or untouched wilderness on or within three miles of the right-of-way;

(2) New York State Department of Transportation maps (scale 1:250,000) showing the relationship of the proposed facility to the applicant's overall system with respect to:

(i) the location, length and capacity of the proposed facility, and of any existing facility related to the proposed facility;

(ii) the location and function of any structure to be built on, or adjacent to, the right-of-way;

(iii) the location and designation of each point of connection between an existing and proposed facility; and

(iv) nearby, crossing or connecting rights-of-way or facilities of other utilities.

(b)(1) The applicant shall submit black-and-white or color aerial photographs of such coverage to show at least 1,200 feet on each side of the proposed right-of-way, and of such scale and detail to enable discrimination and identification of all natural and cultural features. Such aerial photographs shall include overlays:

(i) clearly identifying the proposed right-of-way;

(ii) showing where the construction of the proposed facility would necessitate permanent clearing or other changes to the topography, vegetation or man-made structures;

(iii) showing the location of access and maintenance routes; and

(iv) showing the location of the facility on the right-of-way.

(2) Aerial photographs shall reflect the current situation. Aerial photographs of urban areas and urbanizing fringe areas shall be taken within six months of the date of filing. All aerial photographs shall indicate by whom and on what date the photographs were taken.

§ 86.4 Exhibit 3: alternatives

(a) The applicant shall submit a statement explaining what consideration, if any, was given to:

(1) any alternative route;

(2) the expansion of any existing right of-way of the applicant or of another;

(3) any alternate method which would fulfill the energy requirements with comparable costs. Such statement shall include the comparative advantages and disadvantages of any alternative considered.

(b) The applicant shall, on New York State Department of Transportation maps, indicate any alternative route considered.

§ 86.5 Exhibit 4: environmental impact

(a) The applicant shall submit a statement describing any study which has been made of the impact of the proposed facility on the environment. That statement shall include a description of the methods employed in making that study and a summary of its findings.

(b) The applicant shall state:

(1) what changes, if any, the construction and operation of the proposed facility might induce in the physical or biological processes of plant life or wildlife through any permanent or significant temporary change in the hydrology, topography or soil of the area;

(2) what efforts, if any, have been made to assure:

(i) that any right-of-way avoids scenic, recreational and historic areas;

(ii) that any right-of-way will be routed to minimize its visibility from areas of public view;

(iii) that any right-of-way has been planned to avoid heavily timbered areas, high points, ridge lines and steep slopes; and

(iv) that the selection of any proposed right-of-way preserves the natural landscape and minimizes conflict with any present or future planned land use;

(3) what, if any, plans have been formulated to keep any right-of-way clearing to the minimum width necessary to prevent interference of vegetation with the proposed facility;

(4) what, if any, schedule or method of clearing the right-of-way has been formulated to take into account soil stability, protection of natural vegetation, and the protection of adjacent resources (including the protection of any natural habitat for wildlife);

(5) what, if any, plans have been made to protect vegetation and topsoil not cleared, from damage from construction and operation of the facility;

(6) what, if any, provision has been made to protect fish and other aquatic life from harm from the use of explosives or pollutants in or near streams and other bodies of water;

(7) what, if any, pesticide or herbicide will be used in construction or maintenance of the proposed facility (including the volumes and manner of use);

(8) what, if any, plans have been made to locate and design appurtenant structures to minimize the environmental impact of the structures (including visual and noise disturbance); and

(9) what, if any, provisions have been made for cleanup and restoration of the project area after construction.

(c)(1) If any portion of the proposed facility is to be constructed underground, the applicant shall state what, if any, provisions have been made to avoid clearance of the entire right-of-way. If the clearance proposed will go to the mineral soil, the applicant shall state:

(i) the width of the clearance;

(ii) what, if any, provisions have been made for the replacement of topsoil removal during construction;

(iii) what, if any, provisions have been made for removing excess soil excavated during construction; and

(iv) what, if any, plans have been made for stabilizing the cleared area with vegetation and erosion control devices.

(2) If any underground portion of the proposed facility will be constructed in or adjacent to a stream or other body of water, the applicant shall state:

(i) what, if any, plans have been made to prevent erosion of the banks;

(ii) what, if any, techniques (such as cofferdams) will be used; and

(iii) what, if any, plans have been made to use the water from such streams or other bodies of water for pipe-testing or other purposes (including volumes of water involved and methods for release of water once used).

§ 86.6 Exhibit 5: design drawings

The applicant shall submit design, profile and architectural drawings and descriptions of the proposed facility. Such drawings and descriptions shall include:

(a) the length, width and height of any structure;

(b) the material of construction, color and finish; and

(c) a profile of the centerline of the right-of-way at exaggerated vertical scale.

§ 86.7 Exhibit 6: economic effects of proposed facility

The applicant shall submit a statement describing any anticipated effects the construction or operation of the proposed facility may induce in the residential, commercial or industrial land-use patterns of any area adjacent to any portion of the proposed facility.

§ 86.8 Exhibit 7: local ordinances

(a) The applicant shall submit a list of all local ordinances, laws, resolutions, regulations, standards, and other requirements applicable to the proposed facility, together with a statement that the location of the facility as proposed conforms to all such local legal provisions, except any that the applicant requests that the commission refuse to apply because, as applied to the proposed facility, such local legal provision is unreasonably restrictive in view of the existing technology, factors of costs or economics, or the needs of consumers whether located inside or outside any particular municipality. If the applicant desires the commission to refuse to apply one or more local legal provisions, it shall submit a statement justifying the request.

(b) The statement of justification shall show that the request cannot be obviated by design changes to the proposed facility, the request is the minimum necessary, and the adverse impacts of granting the request are mitigated to the maximum extent practicable. The statement shall include a demonstration:

(1) for requests grounded in the existing technology, that there are technological limitations (including governmentally imposed technological limitations) related to necessary facility component bulk, layout, process or materials that make compliance by the applicant technically impossible, impracticable or otherwise unreasonable;

(2) for requests grounded in factors of costs or economics (likely involving economic modeling), that the costs to consumers associated with applying the local legal provision outweigh the benefits of applying such provision; and

(3) for requests grounded in the needs of consumers, that the needs of consumers for the facility outweigh the impacts on the community that would result from refusal to apply the local legal provision.

§ 86.9 Exhibit 8: other pending filings

The applicant shall state whether it has pending, or knows of others who have pending, with this commission or with any other governmental department or agency (State or Federal), an application or filing which concerns the subject matter of the proceeding before the commission. If one or more such applications or filings is pending, the applicant shall state, for each application or filing pending, whether the granting of any such other application or filing will have any effect on the grant or denial of a certificate, and whether the granting of a certificate will have any effect upon the grant or denial of any such other application or filing.

§ 86.10 Exhibit 9: cost of proposed facility

(a) The applicant shall provide a detailed estimate of the total capital costs of the proposed facilities covered by the application. The estimate shall show the estimated cost of:

- (1) right-of-way;
- (2) surveys;
- (3) materials;
- (4) labor;
- (5) engineering and inspection;
- (6) administrative overhead;
- (7) fees for legal and other services;
- (8) interest during construction; and
- (9) contingencies.

(b)(1) The applicant shall include a brief statement of the source of the information used as the basis for the estimates required by subdivision (a) of this section.

(2) If not stated elsewhere, the applicant shall include data on preliminary bids, if any, for the proposed facilities, and recent experience cost data for similar facilities.

(c) Upon the demand of any party or of staff counsel, the applicant shall supply the work papers from which the estimates required by subdivision (a) of this section were made.