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NYS BOARD ON ELECTRIC GENERATION SITING
AND THE ENVIRONMENT

Meeting of:

NYS Board on Electric Generation Siting
and the Environment

THURSDAY, JUNE 28, 2012
2:00 p.m.

Agency Building 3
19th Floor
Albany, New York

COMMISSIONERS:

GARRY A. BROWN, Chairman of the New York State Public
Service Commission and Chairman of the Siting Board

LOUIS ALEXANDER, alternate for Joe Martens, Commissioner
of the New York State Department of Environmental
Conservation

KEITH CORNEAU, alternate for Kenneth Adams, Commissioner
of Economic Development and President and CEO of
Empire State Development

KEVIN GLEASON, alternate for Nirav Shah, M.D.,
Commissioner of New York State Department of Health

1 CHAIRMAN BROWN: This is a meeting of the
2 Article VIII Siting Board constituted for case
3 12-F-0173, joint petition of AES Eastern Energy LP and
4 Somerset Cayuga Holding Company, Inc. for authority to
5 transfer the certificate of environmental compatibility
6 and public need for Somerset generating station.

7 I am Garry Brown, Chairman of the New York
8 State Public Service Commission, and Chairman of the
9 Article VIII Siting Board.

10 To my immediate right is Louis Alexander,
11 alternate for Commissioner Joe Martens of the New York
12 State Department of Environmental Conservation.

13 To his right is Keith Corneau, alternate for
14 Commissioner Kenneth Adams of the New York State Empire
15 State Development.

16 To my left is Kevin Gleason, alternate for
17 Commissioner Nirav Shah, M.D. of the New York State
18 Department of Health.

19 Secretary Brilling, are there any changes to
20 the matters noticed for discussion at today's meeting?

21 SECRETARY BRILLING: No, there are no
22 changes.

23 CHAIRMAN BROWN: Thank you.

24 The joint petition of AES Eastern Energy LP

1 and Somerset Cayuga Holding Company, Inc. will be
2 presented by General Counsel of the Public Service
3 Commission, Peter McGowan.

4 MR. MCGOWAN: Thank you, and good afternoon.

5 AES operates coal fired power plants that
6 were acquired -- that were first certified, actually, by
7 the Siting Board in 1978 and then were acquired from
8 NYSEG in 1999.

9 AES filed for Chapter 11 bankruptcy
10 protection in January after struggling with high coal
11 costs and declining power prices.

12 The transfer transaction that is before the
13 board today arises out of a bankruptcy settlement
14 authorizing creditors of AES to acquire the Somerset and
15 Cayuga facilities.

16 So, by petition dated April 13, 2012, AES,
17 together with their affiliates, seek approval from the
18 board to transfer the certificate of environmental
19 compatibility and public need related to the coal
20 plants.

21 Today is the final approval. There have
22 already been several other approvals by the bankruptcy
23 court, by FERC. The Public Service Commission earlier
24 today approved a Section 70 transfer authority. I

1 believe the DEC has issued an intent to go forward with
2 the transfer of the permits.

3 So, today is the final action in the chain
4 of approvals that are required.

5 Under the pertinent regulations, a party
6 proposing to transfer the certificate must state reasons
7 in support and show that the transferee is qualified to
8 carry out the provisions of the certificate and must
9 submit for review the proposed transfer agreements.

10 The petitioners have satisfied these
11 requirements. The petitioners state in their pleadings
12 that the proposed transfer will facilitate the orderly
13 transfer of the Somerset facility from AES to the newly
14 established corporate entity pursuant to the terms of
15 the settlement agreement, an asset purchase agreement
16 dated April 2012.

17 The petitioners also indicate that the
18 proposed transfer and related transactions will
19 significantly improve the Somerset facility's overall
20 financial condition and allow for its continued
21 operation.

22 There are no physical changes expected from
23 this transfer. And they have indicated that they will
24 operate the facilities in accordance with the

1 requirements specified in the certificate and all
2 applicable environmental laws.

3 So, the recommendation is to approve the
4 certificate transfer.

5 CHAIRMAN BROWN: Okay. Are there any
6 questions or comments from the board members?

7 Seeing none, I think we can then take a vote
8 on this transfer.

9 All those in favor of the recommendation
10 please signify by saying aye.

11 (Response of "aye".)

12 Opposed?

13 (No response.)

14 Hearing none, the recommendation is
15 approved.

16 Madam Secretary, is there anything else to
17 come before this board today?

18 SECRETARY BRILLING: Not at this time.

19 CHAIRMAN BROWN: Thank you. The meeting is
20 adjourned. Thank you very much.

21 (Meeting adjourned at 2:09 p.m.)

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