S T A T E O F N E W Y O R K

10197

I N A S S E M B L Y

May 10, 2012

Introduced by M. of A. FRIEND -- read once and referred to the Committee on Environmental Conservation

AN ACT to authorize the commissioner of environmental conservation to convey a utility easement over certain real property owned by the state of New York

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Subject to the provisions of this act but notwithstanding any inconsistent provisions of any general, special or local law, the commissioner of environmental conservation (hereinafter referred to as "commissioner") is hereby authorized to enter into a contract for and on behalf of and in the name of the state of New York with the owner of real property located in the town of Orange, county of Schuyler, designated as Sugar Hill Reforestation with identification number 72.00-1-10, or the company with whom such owner of real property has contracted or intends to contract for the provision of electrical power at such location (hereinafter referred to as "grantee"), for a utility easement over a reforestation area in the town of Orange, county of Schuyler, in exchange for such consideration as shall be approved by the commissioner.

S 2. The commissioner may define and convey the easement and right-of-way as authorized pursuant to section one of this act only upon consideration of:

(a) the environmental compatibility of utility poles and utility lines with their surroundings, including the impact of such poles and lines on the natural environment, wildlife and birds, the aesthetics of the region and outdoor recreational opportunities; and

(b) whether or not the public good shall be served by granting such easement.

S 3. The easement authorized to be conveyed pursuant to section one of this act shall be described in an instrument of conveyance describing the metes and bounds of such easement and shall include the following language:

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

LBD15320-04-2

A permanent right of way and easement over the following described parcels of land for the sole purpose of constructing, reconstructing, relocating, extending, operating, inspecting, maintaining, repairing, replacing, and at grantee's pleasure, removing any poles, towers or lines of poles, lines of towers, supporting structures, cables, cross-arms, overhead and underground wires, guys, braces, and other fixtures and appurtenances which the grantee shall require now and from time to time for the transmission and/or distribution of electric current, in, upon, over and across said land and/or the highways abutting or running through said land and including the right to clear or trim vegetation to the edge thereof by manual or mechanical means. Use of chemicals/herbicides for clearing said parcels is prohibited unless prior approval for the same is granted by the department of environmental conservation, division of lands and forests. In order to give such department sufficient notification of, and to allow responsive conveyance of needed stipulations and requirements specific to the clearing and/or trimming actions to be undertaken by the grantee, its employees, contractors and subcontractors, and its successors and assigns, all work dealing with any and all vegetation will be done in accordance with the special terms and conditions as stated in a temporary revocable permit (TRP), or other applicable instrument, issued by such division of lands and forests.

Compensation for the stumpage value for trees to be felled by the grantee shall be paid to such department with the felled trees to become the property of the grantee. Stumpage value is to be determined by a department forester based on the most recent department stumpage price report at the time the trees are felled.

S 4. The commissioner may prescribe additional terms for such exchange of real property. Such contract shall not become binding upon the state until approved by the director of the budget and the state comptroller. Notwithstanding the provisions of the public lands law, the conveyance of the state-owned easement pursuant to such contract shall be without reservation or exception, except as provided for in such contract. Upon certification by the commissioner to the commissioner of general services of a copy of the contract, and certification that the grantee has complied with all terms and conditions of the contract upon their part to be kept and performed, together with a description of the easement and right-of-way to be exchanged, the commissioner of general services shall convey the permanent easement as described in accordance with the provisions of the contract. Any monies received by the department of environmental conservation as part of this exchange of real property shall be deposited in the environmental protection fund.

S 5. This act shall take effect immediately.