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Commission Meeting of January 26, 2000
Riverhead Town Hall
Present: Mr. Cowen (for New York State), Mr. Dragotta (for Suffolk County), Ms. Wiplush
(for Brookhaven), Mr. Murphree (for Southampton), Mr. Hanley (for Riverhead)

**Resolution on the Core Preservation Area Hardship Exemption
Application of the Long Island Power Authority**

The location of the proposed route for the underground electric transmission line within the Core Preservation Area of the Central Pine Barrens starts from its western terminus at the LIPA Riverhead Substation located north of Nugent Drive; the route follows LIPA's right of way south from the Riverhead Substation to County Route 51 (Riverhead Moriches Road); southwest along the public right of way of County Route 51 to Speonk-Riverhead Road; south along the western portion of the public right of way of Speonk-Riverhead Road to New York State Route 27 (Sunrise Highway); east along the southern portion of the public right of way of Route 27 to Exit 65 (approx.). The project is located in the Town of Southampton and traverses numerous tax map parcels.

Whereas, on January 18, 2000, the Long Island Power Authority filed with the Commission, a request for a core preservation area hardship exemption based on compelling public need for the portion of the underground electric transmission line that will traverse through the Core Preservation area as indicated on revised drawings received on January 21, 2000.

Whereas, a public hearing on the core preservation area hardship exemption based on compelling public need was held by the Commission on January 26, 2000 and a transcript was thereafter made available to the Commission, and

Whereas, the Commission has considered all materials submitted in connection with the application.

Now therefore be it

Resolved, pursuant to the New York State Environmental Quality Review Act ("SEQRA") Part 617.5(35), the Commission hereby determines that the application is a Type II action, and be it further

Resolved, that the Commission hereby determines the application, as submitted meets the criteria for core preservation area hardship based on compelling public need pursuant to New York State Environmental Conservation Law 57-0121 (10)(b) and (c) and be it further

Resolved, that the application for a Core Preservation Area hardship exemption based on compelling public need was approved by the Commission, on this day, with the following specific conditions, that shall be included in a written decision for this application, prepared by Commission Counsel:

1. All requirements and any approvals from the Public Service Commission application and any other agency be received and forwarded to the Commission in their final form.
2. Vegetation proposed for removal shall be either transplanted or subject areas shall be planted with native vegetation as per the agencies having jurisdiction.
3. Notification of construction and schedule of work shall be forwarded to the Commission.

Record of Motion:

Motion by: Mr. Cowen

Seconded by: Mr. Murphree

Vote: Unanimous

CENTRAL PINE BARRENS

JOINT PLANNING AND POLICY COMMISSION

In the Matter of the Application of

LONG ISLAND POWER AUTHORITY (LIPA)

for a core preservation area hardship
exemption to construct an underground
electric transmission line

By letter dated January 13, 2000 and received by the Central Pine Barrens Joint Policy and Planning Commission (the "Commission") on January 18, 2000, the Long Island Power Authority ("LIPA") submitted an application under Environmental Conservation Law section 57-0121(10) for a hardship waiver based on a compelling public need for a proposed underground electric transmission line.

Under section 57-0121(10)(b)(i), "[a]n applicant shall be deemed to have established compelling public need if the applicant demonstrates, based on specific facts, ... [that] [t]he proposed development will serve an essential health or safety need of the municipality...." In addition, under section 57-0121(10)(c): "An application for a permit in the core preservation area shall be approved only if it is determined that the following additional standards also are met:

- (i) The granting of the permit will not be materially detrimental or injurious to other property or improvements in the area in which the subject property is located, increase the danger of fire, endanger public safety or result in substantial impairment of the resources of the core preservation area;
- (ii) The waiver will not be inconsistent with the purposes, objectives or the general spirit and intent of this article; or
- (iii) The waiver is the minimum relief necessary to relieve the extraordinary hardship...."

The Proposed Project

The proposed project involves the construction of an underground electric transmission line 22.5 miles long, a portion of which will run through the Pine Barrens Core Preservation Area. The line will cause roadway and vegetation disturbance related

to trenching operations and the operation of construction equipment. In addition, the project will require the clearing of trees in two areas within the Core Preservation Area: (i) at the intersection of Speonk-Riverhead Road and Sunrise Highway and (ii) at the intersection of Sunrise Highway and Bellows Pond Road.

The public need for this project has been set forth in the application which reads as follows: "The proposed electric transmission line will serve the essential public health and safety of the residents and communities of eastern Long Island and, in particular, the South Fork by providing electric energy and electric capacity that otherwise could not be effectively supplied without this project. The South Fork of Long Island is within an electric load pocket wherein existing electric transmission and generation facilities restrict the ability of LIPA to serve existing electric loads." The unprecedented electric loads in this area during the summer of 1999 lead LIPA to believe that it would need to take action in the year 2000 to continue to provide adequate service to the area. According to LIPA, high electric loads, combined with a failure to remedy the situation, could result in prolonged electric supply disruptions for tens of thousands of customers on the South Fork. "[I]t is essential that this project's construction and operation be immediately implemented to address the existing and future electric load requirements of the South Fork." This information was reiterated in the hearing transcript referred to below. Testimony was also provided on the lack of other viable alternatives and the extent of care which was taken to design a route and a construction methodology to minimize environmental impacts.

Commission Hearings

At a Commission hearing held on January 26, 2000, Steve Dalton and Adam Yablonsky of Keyspan Energy and Bill Davidson, Director of Government Relations at LIPA testified under oath as to the impacts which are anticipated to result from the proposed project. According to Mr. Dalton, the applicant is planning on constructing the transmission line in such a manner that a minimum number of trees are disturbed. In most areas where the line will be constructed, there is a minimum buffer of four to six feet between the transmission line and the trees. No trees would need to be removed except in limited areas specifically described during the hearing. According to the testimony of Mr. Dalton, less than twenty trees would be cleared at the intersection of Speonk-Riverhead Road and Sunrise Highway and approximately 400 and 500 trees would be cleared at the intersection of Sunrise Highway and Bellows Pond Road. The total area of trees to be removed is less than one-quarter acre. (Transcript (tr.) pg. 19 and 20.) Mr. Davidson agreed that this arrangement is the minimum relief necessary in that it disturbs the minimum number of trees possible. (tr. pg. 20.) In addition, trees will be replanted when possible. There was also testimony that the project will not increase the danger of fire or endanger public safety, and will have no impact on groundwater, since no discharges or releases are anticipated from the project. (tr. pg. 28.)

LIPA also submitted several maps showing the specific location of the transmission line and the two areas described above where trees in the Core Preservation Area will be removed. These maps were introduced as Exhibit four during the hearing.

In addition to the above referenced testimony, LIPA has submitted an Environmental Management and Construction Plan ("EM & CP Plan") dated December 1999, as Exhibit three, during the hearing. The EM & CP Plan reports that the proposed project will be designed in such a manner as to cause a minimum amount of disturbance to existing vegetation, as follows: Trees which must be removed will be identified and photographed, and their removal pre-approved, prior to construction activities; topsoil will be segregated from subsoils and replaced as such; the design of the construction route will minimize the need to trim and remove trees and shrubs; and the roots of remaining trees will be protected. The EM & CP Plan further outlines steps to ensure the protection of surface and groundwater resources and to prevent erosion and control drainage in the work areas. Promptly after the project is complete, a qualified nursery, supervised by the National Resources Manager, will restore the area by preparing the soil for subsequent plantings, applying topsoil on unpaved areas and planting grass seeds, shrubs and trees.

Conclusion

Based on the content of the application, the testimony, the maps and the Environmental Management and Construction Plan, LIPA has sufficiently demonstrated that its proposed project will serve "an essential health or safety need", will not be "materially detrimental or injurious to other property or improvements in the area" and will not "increase the danger of fire, endanger public safety or result in substantial impairment of the resources of the core preservation area." In addition, the Commission's grant of a hardship waiver will not be inconsistent with the purposes, objectives or the general spirit and intent of this article, and the waiver is the minimum relief necessary to relieve the hardship.

Accordingly, the waiver is granted, with the following conditions:

- The project which is approved is that specifically represented in the record and as specifically represented in the revised Environmental Management and Construction Plan, Exhibit three.
- LIPA must give the Commission copies of the revised Environmental Management and Construction Plan which incorporates the drawings LIPA has submitted to the Commission (Exhibit four) during the Commission hearing and address the questions which developed during a public hearing held by the Public Service Commission. This document must be submitted to the Commission prior to the commencement of any work on the project.
- All requirements and any approvals from the Public Service Commission application and any other agency must be received

and forwarded to the Commission in their final form prior to any work on the project.

- Vegetation proposcd for removal shall be either transplanted or subject areas shall be planted with native vegetation as required by the agencies having jurisdiction.
- Notification of construction and schedule of work shall be forwarded to the Commission.

A SEQRA determination is not required in this matter under NY Environmental Conservation Law section 8-0111(5)(b)

ADOPTED BY
THE CENTRAL PINE BARRENS
JOINT PLANNING AND POLICY
COMMISSION
FEBRUARY 16, 2000