

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
storage tank under section 22.5.13.

electric transmission line 22.5 miles long

HEARING in the above-captioned matter held

on the 26th day of January, 2000, at 3:00 P.M., at

Riverhead Town Hall, Town Board Meeting Room, 210

Howell Avenue, Riverhead, New York, pursuant to

Notice of Hearing, and before Patricia Patriss,

Notary Public of the State of New York.

1 | A P P E A R A N C E S:

ROBERT J. GAFFNEY, Chairman
Suffolk County Executive
BY: ROY S. DRAGOTTA

FELIX J. GRUCCI, JR., Vice Chairman
Supervisor, Town of Brookhaven
BY: BARBARA WIPLUSH

RICHARD W. HANLEY, Member
Town of Riverhead

RAY E. COWEN, P.E., Member
DEC Regional Director
Representing George Pataki, Governor

WILLIAM H. SPITZ, Chief
Water Supply Office, NYSDEC

JEFFERSON MURPHREE, Member
Town of Southampton

JAMES P. RIGANO, ESQ.
Attorney for Commission

800

1 [THE HEARING WAS CALLED TO ORDER BY
2 ROY S. DRAGOTTA, ACTING CHAIRMAN, AT 3:01
3 P.M.]

4 MR. DRAGOTTA: Okay, I would like to call this
5 public hearing to order. My name is Roy
6 Dragotta, acting as Chairman of this
7 Commission, representing Rob Gaffney who
8 is the Chairman.

9 I will ask the members to go
10 around the table and identify themselves
11 for the record.

12 MR. HANLEY: My name is Rich Hanley;
13 representing the Town of Riverhead.

14 MS. WIPLUSH: Barbara Wiplush; representing
15 Felix J. Grucci, Jr., for the Town of
16 Brookhaven.

17 MR. COWEN: Ray Cowen; representing Governor
18 George Pataki.

19 MR. MURPHREE: Jefferson Murphree; for the Town
20 of Southampton.

21 MR. RIGANO: James Rigano; counsel to the
22 Commission.

23 MR. DRAGOTTA: For the record, this is the
24 Notice of Public Hearing:
25 "Pursuant to the Environmental

1 Conservation Law Article 57-0121(10),
2 notice is hereby given that a public
3 hearing will be held by the Central Pine
4 Barrens Joint Planning and Policy
5 Commission on January 26, 2000 on the
6 matter of an application for core
7 preservation area hardship exemption based
8 on compelling public need. The subject of
9 the hearing is:

trenching operations and the operation of construction equipment.

"The project will require clearing of trees in two areas as depicted on drawings submitted by the applicant.

The first area is the intersection of Speonk-Riverhead Road and Sunrise Highway (less than 20 trees), and the second area is the intersection of Sunrise Highway and Bellows Pond Road (affected area is approximately 300 feet wide).

"Project Location: The proposed route of the underground transmission line that is the subject of this hearing is that portion of the transmission line to be located within the Core Preservation Area of the Central Pine Barrens.

"The proposed route of the transmission line 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

1 to Speonk-Riverhead Road; south along
2 western portion of the public right of way
3 of Speonk-Riverhead Road to New York State
4 Route 27 (Sunrise Highway); east along the
5 southern portion of the public right of
6 way of Route 27 to Exit 65
7 (approximately).

8 "The transmission line will then
9 continue along a route outside of the
10 Central Pine Barrens boundary. The
11 project is located in the Town of
12 Southampton and traverses numerous tax map
13 parcels."

14 That is the notice of public
15 hearing. I will call Mr. Davidson up and
16 have him sworn in.

17 B I L L D A V I D S O N, having been duly sworn,
18 testified as follows:

19 MR. DAVIDSON: My name is Bill Davidson. My
20 business address is Long Island Power
21 Authority, 333 Earle Ovington Boulevard,
22 Uniondale, New York 11553.

23 MR. RIGANO: Off the record.

24 [DISCUSSION OFF THE RECORD.]

25 MR. DAVIDSON: Good afternoon. My name is Bill

1 Davidson and I am the Director of
2 Government Relations at the Long Island
3 Power Authority.

4 I will briefly outline the
5 reasons why the proposed transmission line
6 between LIPA's Riverhead and Southampton
7 substations is needed for operation of the
8 LIPA system in the summer of 2000, thereby
9 necessitating our request for a hardship
10 exemption.

11 During the summer of 1999, the
12 LIPA electric system experienced
13 unprecedented electric loads, particularly
14 on the South Fork of Long Island. On July
15 5, 1999, the load served by South Fork
16 substations reached a level that was
17 twenty-five percent higher than the
18 previous 1998 peak. Had the load been
19 higher, the voltages on the transmission
20 system would have dropped below the level
21 necessary to sustain flow of power into
22 the area.

23 To prevent this phenomenon, an
24 automatic load shedding system would have
25 been activated, affecting approximately

thirty-two percent of the customers in this area.

Analysis of the 1999 summer experience made it clear that LIPA would need to take action in the year 2000 to provide an adequate margin for operation of the electric system in the South Fork.

While additional generation on the South Fork could provide electric supply for benefits, it would defer, but not eliminate the need for a new transmission line. Further, there were a number of environmental and timing considerations that made operation of additional generating capacity less likely for the summer of 2000.

LIPA also considered implementation of a targeted conservation and demand side management program. LIPA estimates that a peak reduction of approximately three megawatts can be achieved on the South Fork through LIPA's Clean Energy Initiative, far short of the reduction required to prevent a threatened collapse of the electric system on the

South Fork.

Based on these considerations,

LIPA decided to implement the existing transmission plan for the South Fork on an accelerated schedule for completion by the summer of 2000, coupled with a targeted conservation and DSM program.

Given the need for a second

independent transmission supply to the

South Fork, upgrade of the existing

sixty-nine kilovolts line was not an

option. Further, it was found that the

existing right of way was inadequate for construction of an overhead line and limited for underground construction by terrain and easement limitations.

Similarly, the Long Island

Railroad right of way was found to be

limited in certain areas by terrain

considerations.

The choice of the underground

route described during previous meetings with the Pine Barrens Commission and its staff became the sole remaining practicable solution.

13 Great care has been taken to
14 design a route and a construction
15 methodology which will minimize
16 environmental impacts in all aspects of
17 the project. In that regard, LIPA would
18 like to express our appreciation for the
19 help and advice given to us by numerous
20 community groups and the guidance given by
21 the Pine Barrens Commission and its staff
22 as we have prepared what we hope will be
23 an approvable application.

24 I have with me Steve Dalton who
25 is a Manager at Keyspan Energy and Adam

1 Yablonsky who can provide any technical
2 answers to any questions that you may
3 have.

4 MR. COWEN: Would you mark these as exhibits,
5 please?

6 [WHEREUPON DOCUMENTS WERE MARKED AS
7 EXHIBITS 1 THROUGH 4 FOR IDENTIFICATION.]

8 MR. COWEN: Can you go over these documents
9 and refer to them by number?

10 MR. DAVIDSON: Yes, sure. I'd be happy to.

Exhibit 3 is the Long Island

1 Power Authority's Environmental Management
2 and Construction Plan, EM&CP. It is a
3 document that we are required to produce
4 to the Public Service Commission as a part
5 of the licensing process for obtaining
6 approval from them, for the construction
7 of the transmission line, and this
8 document was submitted by LIPA to the
9 Commissioner in December of 1999.

10 One thing I should add is that an
11 amended EM&CP will be submitted to the
12 Public Service Commission no later than
13 February 1st, which is their required
14 deadline, and the reason for that is
15 twofold; one is that the submission of the
16 Environmental Management and Construction
17 Plan, EM&CP is designed to incorporate the
18 drawings we have submitted to the Pine
19 Barrens Commission, which is Exhibit 4,
20 and the second reason for that is that at
21 the Public Service Commission Evidentiary
22 Hearing there were additional questions
23 that developed from that public hearing,
24 and for those reasons there will be an
25 amended EM&CP to be submitted to the

1 | Public Service Commission.

2 MR. COWEN: In addition to that, on Exhibit 4
3 there are some notes. I believe there
4 were special notes that were put on those
5 plans. Can you go over those?

6 MR. DAVIDSON: May I ask Mr. Yablonsky and
7 Mr. Dalton to come up to discuss that?

8 MR. DRAGOTTA: Yes, and we will have them sworn
9 in.

10 S T E V E D A L T O N, having been duly sworn,
11 testified as follows:

12 A D A M Y A B L O N S K Y, having been duly sworn,
13 testified as follows:

14 MR. DRAGOTTA: Would you both please identify
15 yourselves?

16 MR. DALTON: My name is Steve Dalton;
17 Kevspan Energy.

18 MR. YABLONSKY: Adam Yablonsky; from Keyspan
19 Energy.

20 MR. DAVIDSON: Steve, can you go over some of
21 the notes that are on those plans?

22 MR. DALTON: These drawings show the
23 transmission lines --

24 MR. RIGANO: (INTERPOSING) Can you identify
25 the maps?

1 MR. DALTON: Sheets five, six, seven, and
2 eight are titled Underground Transmission
3 Route Plan of the Long Island Power
4 Authority and --

5 MR. DRAGOTTA: (INTERPOSING) Exhibit 4 consists
6 of seven drawings.

7 MR. DALTON: What is shown here is a plan view
8 of the transmission line as it goes south,
9 and this is Sheet five that I have open
10 now. Six, seven, and eight progress
11 further south along Speonk-Riverhead Road.

12 On Speonk-Riverhead Road the
13 transmission line is shown to the shoulder
14 of the road. This was done in order to
15 provide a minimum of a six foot buffer
16 from the trees that are existing along the
17 west shoulder of the road, and these
18 drawings were drawings that were requested
19 to show that the transmission line will
20 indeed be able to avoid these trees.

21 (INDICATING)

22 MR. COWEN: One of those notes refers to a
23 four foot minimum no disturbance buffer
24 between the edge of the project and the
25 tree line, and I think we have discussed

1 exactly what that means, but can you
2 elaborate on what the term no disturbance
3 buffer means?

4 MR. DALTON: That means there will be no
5 disturbance -- I'm trying to think of a
6 better word than that, just so it's not
7 repeated.

19 MR. COWEN: It may be conduit and things like
20 that, but there will be some disturbance;
21 correct?

22 MR. DALTON: We will lay equipment down there,
23 but there would not be that much
24 weightbearing activity.

25 MR. COWEN: Is there a separate note on the

1 plan that explains that?

2 MR. YABLONSKY: Yeah, I believe at the top here,
3 (INDICATING) and at a couple of the
4 locations the area is relatively small so
5 it will invade only a couple of feet into
6 that, but it will be no more than four
7 feet.

8 MR. COWEN: The record should reflect that
9 there is actually a note on the plans that
10 says "No disturbance buffer."

11 MR. YABLONSKY: If I can add to that. The reason
12 we have two cross sections on the drawing
13 is because the cross section identified
14 to the right of that is the typical cross
15 section along Speonk-Riverhead Road where
16 just the conduits are being installed,
17 whereas, the cross section on the
18 left-hand side -- actually, there are
19 three locations where fiberoptics will be
20 installed because the fiberoptics cannot
21 be installed on the roadway because the
22 top of the manholes are not really
23 designed to stand the weight of trucks,
24 so because of that, they are going to be
25 off of the road.

1 So, that's why we're going for a
2 four foot no disturbance buffer in those
3 three locations.

4 MR. DALTON: We also indicated on sheets two
5 of thirty-eight and another drawing how it
6 will be installed on the LIPA right of
7 way. So, there's a drawing that shows
8 that detail.

23 MR. COWEN: We have this sheet here
24 (INDICATING) and do you have a sheet that
25 shows us the intersection of

1 Speonk-Riverhead Road and Sunrise Highway
2 where the transmission line enters Sunrise
3 Highway?

4 MR. DAVIDSON: That would be Sheet eight.

5 MR. COWEN: I believe on both Sheet eight and
6 Sheet twenty-three there are notes
7 regarding the removal and transplantation
8 of trees. Do you want to go into that a
9 little bit?

10 MR. YABLONSKY: At the intersection of
11 Speonk-Riverhead Road and Sunrise Highway
12 we're going across over Speonk-Riverhead
13 Road and installing the conduits on a
14 recently cleared, what appears to be a
15 recently cleared area, to the north
16 shoulder of the highway, and we are going
17 to have to remove something around the
18 number of six to ten trees, which I
19 believe we mentioned at previous meetings.
20 That would be the clearing of less than
21 twenty trees at the north shoulder of
22 Sunrise Highway.

23 There will be a hydraulic
24 operation that will install the cable
25 underneath Sunrise Highway facing south

7 At Bellows Pond Road we're going
8 to have to take out about a hundred and
9 fifty linear feet on each side of Bellows
10 Pond Road in that particular location, and
11 we are proposing to replant trees as
12 opposed to transplanting trees, and I
13 believe that is also indicated on each
14 drawing.

15 MR. DRAGOTTA: Anyone else?

16 MR. RIGANO: Can you describe the amount of
17 trees, or alternatively, the length and
18 width of the area where the trees would be
19 removed?

20 MR. DALTON: At the last meeting I believe we
21 discussed this, and it was less than a
22 quarter of an acre of trees that would
23 have to be cleared at the intersection of
24 Speonk-Riverhead Road and Sunrise Highway.

25 We were talking somewhere in the

area of less than twenty trees at
Speonk-Riverhead Road and Sunrise Highway,
and somewhere between four hundred and
five hundred trees to be cleared at the
intersection of Sunrise Highway and
Bellows Pond Road.

7 MR. RIGANO: And the core area is
8 approximately how many miles?

9 MR. YABLONSKY: Sixteen.

10 MR. DALTON: Sixteen miles and a quarter.

11 MR. RIGANO: And the area where the trees
12 would be removed are indicated on the map
13 that are in Exhibit 4; correct?

14 MR. DALTON: Yes.

15 MR. RIGANO: Why don't you go ahead? I have
16 some other things to ask.

17 MR. COWEN: I guess I do have two more things
18 to ask.

19 In designing this alignment we've
20 had many discussions back and forth, at
21 this point (INDICATING) this alignment is
22 the minimum relief necessary, in that it
23 disturbs the minimum number of trees; is
24 that correct?

25 MR. DAVIDSON: Yes, that is correct.

1 MR. COWEN: And actually, in a sense you are
2 going into the paved area with this line
3 down here; correct? (INDICATING)
4 MR. DALTON: Yes, that's right.
5 MR. COWEN: Mr. Davidson, I want to clarify
6 one thing. The need for this transmission
7 line, that is based upon the current
8 population of the South Fork, correct?
9 MR. DAVIDSON: That is correct. What brought us
10 to this point was that the electric load
11 that the Long Island Power Authority's
12 system experienced in the summer of 1999
13 reached a level that was twenty-five
14 percent higher than the previous 1998
15 peak, and that has occurred over the last
16 decade, and the concern that we have is to
17 make sure that we maintain the integrity
18 with the customers that we already have
19 for this coming summer.
20 MR. RIGANO: Could I see what was referred to
21 as Exhibit 3? The letter requesting the
22 hardship hearing permit. I'm sorry,
23 that's Exhibit 1 that requests the
24 hardship.
25 Is this request for the hardship

1 being made by Keyspan or LIPA?

2 MR. DAVIDSON: The Long Island Power Authority
3 is the applicant, and we are the owner of
4 the electric transmission system on Long
5 Island. We own the present overhead 69
6 kilovolt system, and we would be the owner
7 of the proposed route. LIPA is the
8 applicant for the Public Service
9 Commission as well.

10 MR. RIGANO: So, if the permit is issued, it
11 should be issued in the name of LIPA?

12 MR. DAVIDSON: Yes, for example Mr. Dalton and
13 Mr. Yablonsky are Keyspan employees acting
14 on behalf of LIPA.

15 MR. RIGANO: That's fine.

16 MR. DAVIDSON: The Long Island Power Authority
17 is the owner of the system.

18 MR. RIGANO: I just wanted to make sure that
19 if we were to issue the application that
20 we would issue it under the right name.

21 MR. DAVIDSON: Yes, okay.

22 MR. RIGANO: The drawings that represent
23 Exhibit 4, those will be submitted to the
24 Public Service Commission?

25 MR. DAVIDSON: Yes, they will be incorporated

1 into the current plan that is being
2 amended as a submission no later than
3 February 1st, so the drawings that we have
4 submitted to you today are going to be a
5 part of the final Environmental Management
6 and Construction Plan, EM&CP, and one of
7 the reasons we have not submitted an
8 amended Environmental Management and
9 Construction Plan, is because we wanted to
10 make sure that it would incorporate all of
11 the documents that the Pine Barrens
12 Commission had requested of us, and as
13 well to add substance to some of the
14 questions that have been asked on other
15 matters and at the public hearing on
16 January 20th.

17 MR. RIGANO: Thank you. With regard to the
18 EM&CP that was submitted today, the
19 Commission has one of the Exhibits which
20 shows an area of tree clearing, and I just
21 wanted to confirm that several of the
22 areas are outside the Central Pine
23 Barrens; is that correct?

24 MR. DALTON: That is correct.

25 MR. RIGANO: I just have a couple of other

1 questions.

2 At one of the prior meetings I
3 had noticed that an underground boring is
4 proposed to pass through the wetland
5 areas; is that correct?

6 MR. DALTON: Yes.

7 MR. RIGANO: And there are comments about
8 tiger salamanders. Is there any
9 information that Keyspan has regarding the
10 tiger salamanders in the area, or
11 alternatively, is there any reason that
12 this would impede on the tiger
13 salamanders?

14 MR. DALTON: A study was done, and to the best
15 of my knowledge there were no tiger
16 salamanders that were observed during
17 those field surveys.

18 MR. RIGANO: If there were tiger salamanders,
19 I believe that you have expressed that
20 there would be no impact on the tiger
21 salamanders; is that correct?

22 | MR. DALTON: Yes.

23 MR. RIGANO: I just want to ask a few more
24 questions. I want to ask what are the
25 potential consequences and concerns if

this application is not approved?

2 MR. DAVIDSON: Our concern, which is reflected
3 in my statement, is that the electric load
4 that we've experienced on the South Fork,
5 which on July 5, 1999, the load was
6 twenty-five percent greater than it had
7 been at anytime, in any previous summer,
8 and had the load gotten any higher, the
9 voltages on the transmission system would
10 have dropped below the level necessary to
11 sustain flow of power into the area.

21 If the system had not activated
22 this automatic load shedding system, then
23 the entire South Fork would have gone down
24 and there would have been damage to the
25 equipment, and the customers would have

1 experienced a very long duration without
2 power for a very long period of time, and
3 there would be a great expense in
4 restoring the system that would have been
5 very badly damaged.

6 We would have lost a third of the
7 customers on the South Fork.

8 MR. RIGANO: Okay, and with regard to feasible
9 alternatives outside of the core area, I
10 take it that LIPA and Keyspan have
11 evaluated alternatives, and my question is
12 are there feasible alternatives to the
13 core area?

14 MR. DAVIDSON: We did look at the possibility of
15 applying to the Town of Southampton for
16 permission to add generating capacity. We
17 did not make that application because in
18 the course of the evaluation it was
19 determined that for timing reasons, as
20 well as environmental reasons, it would
21 have been very difficult for us to have
22 that project approved by the Town in time
23 for July 1, 2000.

we already have, but for a variety of reasons we had to reject those alternatives.

Among one of those reasons was that the present LIPA right of way was inadequate for construction of an overhead line, and limited for underground construction by terrain and easement limitations.

Similarly, the Long Island Railroad right of way was found to be limited in certain areas by terrain considerations, and beyond that we anticipated that there would be enormous difficulties with government issues and with getting overhead transmission capacity approval throughout the entire city, including the core area of the Pine Barrens.

20 MR. RIGANO: Thank you. Can I see that
21 Exhibit?

22 MR. DALTON: (HANDING) The only thing I'd like
23 to add to that is LIPA has looked into
24 other actions to augment, but not
25 eliminate the need for this project.

1 There is not anything else that will
2 satisfy or meet the needs, and LIPA did
3 look at other alternatives to this route
4 as part of its application, but there is
5 no other adequate alternative.

6 This is the least disturbance
7 route.

8 MR. RIGANO: Will the project increase danger
9 of fire or endanger public safety?

10 MR. DAVIDSON: No.

11 MR. DALTON: If I can add to that. For the
12 record, LIPA's letter to Mr. Cowen does
13 address those issues.

14 MR. RIGANO: My final question is, will there
15 be any impact on the water from this
16 project?

17 MR. DAVIDSON: No.

18 MR. RIGANO: There are no discharges or
19 releases that are anticipated from this
20 project?

21 MR. DAVIDSON: No, the cable is solely
22 dielectric.

23 MR. RIGANO: I have no further questions.
24 Thank you.

25 MR. DRAGOTTA: Does anyone here have any

1 | questions?

4 MR. AMPER: I just have remarks, not
5 questions.

6 MR. DRAGOTTA: Go ahead.

7 MR. AMPER: My name is Richard Amper. I'm
8 the Executive Director of the Long Island
9 Pine Barrens Society; 315 East Main
10 Street, Riverhead.

1 compatible with the purposes of the Pine
2 Barrens. The reason I raise this issue is
3 that this Commission has been known to
4 grant a hardship exemption based on the
5 grounds of compelling public need alone,
6 and they have also been known to determine
7 whether the hardship exemption is based on
8 the grounds of compelling public need.

9 I would just ask that the
10 Commission, in reviewing this application,
11 consider whether the request of an
12 application for core preservation area
13 hardship waiver is based on compelling
14 public need, and that it be considered
15 with the terms of the application.

16 The public notice, I see, defines
17 the language contained in the request from
18 the applicant, but you fellows are going
19 to look at this, and you fellows are going
20 to look at all kinds of other things down
21 the road.

22 This Commission may find that it
23 is a compelling public need, and you will
24 want to act cautiously in determining the
25 wise way to provide for a waiver that does

1 not harm the Pine Barrens.

2 You will determine whether the
3 transmission of this line meets compelling
4 public need in terms of health and safety.
5 You fellows will know best how to handle
6 this, and we'll leave that in your hands,
7 but I would suggest to you that the
8 applicants more generally request that it
9 is compatible with the Pine Barrens
10 Commission, and those waivers are issues
11 that you've had previously, and by the
12 way, which you have dealt with issues on
13 the grounds of compelling public need in
14 the past, and you will find a way to serve
15 the purposes of the applicant and the Pine
16 Barrens Commission without undermining the
17 integrity of the Pine Barrens Commission
18 and future applications.

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1 MR. DRAGOTTA: Are there any other comments?
2
3 Seeing none, I will close this
4 hearing. Thank you gentlemen.
5 [WHEREUPON THIS HEARING WAS CONCLUDED AT
6 3:47 P.M.]

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EXHIBITS MARKED FOR IDENTIFICATION

Exhibits 1 through 4: Documents

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CERTIFICATION

STATE OF NEW YORK)) ss:
COUNTY OF SUFFOLK)

I, PATRICIA PATRISS, a Notary Public in and for
the State of New York, do hereby certify:

9 THAT this is a true and accurate record of the
10 Public Hearing held on the 26th day of January,
11 2000 at 3:00 P.M., before ROY S. DRAGOTTA, Acting
12 Chairman, as reported and transcribed by me.

13 I further certify that I am not related, either
14 by blood or marriage, to any of the parties herein; and
15 THAT I am in no way interested in the outcome
16 of this matter.

17 IN WITNESS WHEREOF, I have hereunto set my
18 hand this 2nd day of February, 2000.

Patricia Patriss
PATRICIA PATRISS