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Application of Deepwater Wind South Fork,)	
LLC for a Certificate of Environmental)	
Compatibility and Public Need for the)	
Construction of Approximately 3.5 Miles of)	Case No. 18-T-0604
Submarine Export Cable from the New)	
York State Territorial Waters Boundary to)	
the South Shore of the Town of East)	
Hampton in Suffolk County and)	
Approximately 4.1 Miles of Terrestrial)	
Export Cable from the South Shore of the)	
Town of East Hampton to an)	
Interconnection Facility with an)	
Interconnection Cable Connecting to the)	
Existing East Hampton Substation in the)	
Town of East Hampton, Suffolk County.)	
)	

Citizens for the Preservation of Wainscott, Inc. (“CPW”), by and through its undersigned counsel, respectfully submits this motion pursuant to 16 NYCRR §§ 3.6 and 5.4 for an order compelling PSEG Long Island LLC (“PSEG-LI”) and the Long Island Power Authority (“LIPA”) to respond to certain document requests, as more fully described below. CPW is an intervenor in this case and has submitted three sets of information and document requests to PSEG-LI and LIPA with the goal of acquiring additional information and documents, such as one-line electrical diagrams, necessary to complete its testimony and analysis of alternative routes for the on-shore transmission cable and their electrical feasibility. However, despite countless attempts by CPW to mitigate PSEG-LI’s concerns, PSEG-LI has refused to disclose certain documents to CPW

claiming that the documents are protected from disclosure as Critical Infrastructure Information (“CII” or “CEII”).¹ For the reasons discussed herein and in the affidavit of Allan R. Page and the affirmation of Kevin M. Bernstein attached hereto as **Attachments 1** and **2** and incorporated herein by reference, PSEG-LI should be compelled to disclose such documents, as such information is material and relevant to CPW’s testimony and this proceeding, and CPW is willing to provide significant safeguards to PSEG-LI and LIPA to adequately protect the disclosure of such documents.

BACKGROUND

Deepwater Wind South Fork, LLC (the “Applicant”) is seeking a Certificate of Environmental Compatibility and Public Need (“Certificate”) under Article VII of the Public Service Law (the “PSL”) from the Public Service Commission (the “PSC”) for the construction, operation and maintenance of an electric transmission cable that will connect the South Fork Wind Farm, located offshore in federal waters, to LIPA’s electric grid in the Town of East Hampton, New York. (Application, Pg. 1). The part of the transmission cable that is the subject of this Article VII proceeding includes the submarine segment of the cable in New York State territorial waters, the terrestrial underground segment of the cable in Long Island, and a new interconnection facility (collectively, the “Project”). (Application, Ex. 2). The Applicant has proposed two routes for the terrestrial underground segment of the cable in Long Island: a preferred route (the “Beach Lane Route”) and an alternate route (the “Hither Hills Route”). (Application, Ex. 3).

In order to analyze the Beach Lane Route and the Hither Hills Route and whether less impactful routes exist, CPW has hired a number of consultants, including Allan R. Page of A. Page

¹ At the state level, such information is referred to as Critical Infrastructure Information. On the federal level, it is referred to as Critical Energy Infrastructure Information. Parties generally use these terms interchangeably, although the state and federal definitions are different.

& Associates LLC. Mr. Page is a well-known former senior executive from Central Hudson Gas & Electric, a regulated public utility, and is an electrical engineer and holds an advanced degree in industrial administration. A complete description of Mr. Page's background is contained in his Affidavit. (Page Affidavit, ¶¶ 1-4).

To assist Mr. Page in his review of the Beach Lane Route and Hither Hills Route and in identifying alternative routing options that are less impactful and technically feasible from an electric transmission and system standpoint, on November 20, 2019, CPW submitted information and document requests (the "November 20 Discovery Requests") to PSEG-LI and LIPA. (Bernstein Affirmation, ¶ 2).

Question 7 of the November 20 Discovery Requests ("CPW-1(7)") sought disclosure of "electric substation and transmission one line diagrams indicating sources of supply, interconnection, transformation, and voltage levels for all substations within the eastern part of Long Island including but not limited to East Hampton and Amagansett Substations" (collectively, the "System Diagrams") and requested that LIPA "designate the voltage level, age, and conductor type/size of the circuit which runs along the LIRR between Amagansett and East Hampton Substations." (Bernstein Affirmation, ¶ 3).

Such data, diagrams, and mapping are essential to verify the feasibility of the routing and interconnections of the routes to be proposed by CPW in its testimony from an engineering and existing electric system integration standpoint. (Page Affidavit, ¶ 7). In addition, such data, diagrams, and mapping would potentially allow for additional routing options. (Page Affidavit, ¶

7). Without such information, CPW would be severely handicapped in showing that its proposed routes are technically and economically feasible. (Page Affidavit, ¶ 7).

On December 9, 2019, PSEG-LI responded stating that “Electric substation and transmission one-line diagrams include Critical Energy Infrastructure Information (“CEII”), the disclosure of which could harm LIPA and its electric system.” (Bernstein Affirmation, ¶¶ 2 and 4). They did not explain *why* such information constitutes CEII. Indeed, as discussed below, throughout this process, PSEG-LI and LIPA’s assertions and explanations have been speculative and conclusory. PSEG-LI noted however that they were “willing to meet with a representative from CPW at PSEG Long Island’s office to view these documents on site.” (Bernstein Affirmation, ¶ 4).

In order to view the documents on site, PSEG-LI required Mr. Page and John Conrad (another consultant for CPW) to sign the Consultant Protective Agreement contained in the Ruling Adopting Protective Order. (Page Affidavit, ¶ 9). The Consultant Protective Agreements were executed and filed with the Public Service Commission on January 14, 2020. (Page Affidavit, ¶ 9). The Ruling Adopting Protective Order sets forth safeguards that parties receiving confidential information must implement in order to protect confidential information from disclosure, as well as the requirements for the use of such confidential information, including, but not limited to, the procedures required for using confidential information, such as the System Diagrams, in pre-filed testimony. (Ruling Adopting Protective Order, ¶¶ 16-27).

On January 17, 2020, Messrs. Page and Conrad travelled from Poughkeepsie, New York to meet with representatives of PSEG-LI at their headquarters in Hicksville, New York to view the documents designated as CEII. (Page Affidavit, ¶ 10). As part of the meeting, system diagrams, geographic mapping, and reports were shared; however, although allowed to take notes of the

conversations during the meeting and who attended the meeting from PSEG-LI, they were not allowed to copy any of the document information, take notes on what was read and observed, or draw even rudimentary system diagrams. (Page Affidavit, ¶ 10).

During the January 17, 2020 meeting, CPW discussed the possibility of acquiring CEII in the future from PSEG-LI under a modified version of the Consultant Protective Agreements executed and filed on January 14, 2020, such as a Non-Disclosure Agreement. (Page Affidavit, ¶ 12). At the time of these discussions, PSEG-LI appeared receptive to these additional proposed protective measures. (Page Affidavit, ¶ 12). PSEG-LI informed CPW that its requested documents would be further reviewed to ascertain whether the data might be provided, as requested. (Page Affidavit, ¶ 12). PSEG-LI also asked that CPW submit detailed requests to PSEG-LI and LIPA. (Page Affidavit, ¶ 12).

As a result of the manner in which the information was presented at their meeting on January 17, 2020 and more specifically the unwillingness of PSEG-LI and LIPA to allow CPW's experts the ability to take basic notes about such documents during the meeting, CPW was unable to obtain the information it critically needs; indeed, the ultimate result of the meeting was a de minimis amount of cogent information acquired by CPW. (Page Affidavit, ¶ 11). Nevertheless, while the information CPW has acquired as a result of multiple Information Requests and during the meeting (the latter of which could only be committed to memory) was helpful, CPW's experts continue to find it extremely difficult to analyze electrical options associated with what CPW plans on presenting in its testimony without having the actual documents to verify information (especially now that over two months have passed since the meeting). (Page Affidavit, ¶ 11).

After the meeting, several industry standard Non-Disclosure Agreements were proposed to PSEG-LI and LIPA, including a form which is regularly used with the New York Independent

System Operator (“NYISO”) for information regarding the bulk transmission system in New York. (Bernstein Affirmation, ¶ 6; Page Affidavit, ¶ 13). We also proposed Non-Disclosure Agreements previously used by the CH Energy Group and LIPA for the disclosure of CEII, as well as limiting the disclosure of such information to myself, Mr. Conrad and Mr. Page. (Bernstein Affirmation, ¶ 6; Page Affidavit, ¶ 14). Presumably, as part of the 2015 South Fork Request for Proposal, PSEG-LI and LIPA have already provided the same information to the Applicant, a foreign-owned entity, pursuant to a Non-Disclosure Agreement, without the same concerns. (Bernstein Affirmation, ¶ 14).

In addition, on January 22, 2020 and based in part on the information reviewed at the January 17, 2020 meeting, as well as PSEG-LI’s request to submit detailed requests, additional information and document requests were submitted to PSEG-LI. (Bernstein Affirmation, ¶ 7; Page Affidavit, ¶ 15). The information requests included very detailed questions regarding the Buell, Amagansett and East Hampton Substations, such as voltage levels, conductor sizing and transmission feeding data. (Bernstein Affirmation, ¶ 7; Page Affidavit, ¶ 15). However, despite PSEG-LI and LIPA providing additional information regarding the substations and the significant protections offered by CPW, PSEG-LI and LIPA continue to withhold the actual System Diagrams as CEII. (Bernstein Affirmation, ¶ 8, Page Affidavit ¶ 15).

On February 13, 2020, Mr. Greenblatt emailed Mr. Bernstein stating that they would not disclose the requested information, as such information was protected from disclosure under State and Federal law. (Bernstein Affirmation, ¶ 8). Again, PSEG-LI provided only a conclusory statement to CPW. In response, Mr. Bernstein sent a letter to Mr. Greenblatt on February 28, 2020 explaining that CPW did not believe the requested information was CEII, and, even if it was deemed so, CPW had proposed significant protections (including limiting the distribution to key

consultants and entering into a non-disclosure agreement on top of the already executed Consultant Protective Agreements) such that disclosure would not pose any risk to LIPA and its electric system. (Bernstein Affirmation, ¶ 9). On March 4, 2020, PSEG-LI responded to the February 28th letter and again declined to disclose the System Diagrams. (Bernstein Affirmation, ¶ 10).

In a further attempt to resolve the discovery dispute with PSEG-LI and LIPA, CPW proposed a conference call with PSEG-LI and LIPA. (Bernstein Affirmation, ¶ 11). Representatives of CPW, PSEG-LI and LIPA met by telephone on March 19, 2020 and discussed their various positions and if there was an ability to compromise. (Bernstein Affirmation, ¶ 11). At the end of the call, the parties decided that they could not come to an agreement and that the best way forward was to seek judicial guidance. (Bernstein Affirmation, ¶ 11).

On March 23, 2020, Mr. Bernstein notified ALJ Anthony Belsito by email of the discovery dispute with PSEG-LI and LIPA. (Bernstein Affirmation, ¶ 12). ALJ Belsito turned the matter over to ALJ Gregg Sayre to mediate the dispute. (Bernstein Affirmation, ¶ 12). After the mediation and based on the suggestions of ALJ Sayre, CPW and PSEG-LI exchanged additional emails and information to try and reach a compromise between the parties. (Bernstein Affirmation, ¶ 12). Notwithstanding ALJ Sayre's efforts to mediate the dispute, PSEG-LI and LIPA have continued to refuse to disclose essential documents, and therefore CPW had no choice but to make this Motion to Compel. (Bernstein Affirmation, ¶ 12).

ARGUMENT

Under 16 NYCRR § 5.1, “[P]arties shall fully disclose to each other, upon request, all information (including data, records, objects, and documents) relevant and material to a proceeding in which they are participating and any information likely to lead to such information.” Information is relevant and material to an Article VII proceeding if it assists the Commission in

making the determinations required by section 126(1) of the Public Service Law, including whether “the facility represents the minimum adverse environmental impact, considering the state of available technology and the nature and economics of the various alternatives.” P.S.L § 126(1)(c). 16 NYCRR § 5.8(a) provides additional guidance on the scope of discovery, stating that:

Discovery requests should be tailored to the particular proceeding and commensurate with the importance of the issues to which they relate. They should be limited to materials or information that:

- (1) the requesting party expects to use in cross-examination or in preparing its case;
- (2) are not already possessed by or readily available to that party; and
- (3) are not conveniently obtainable elsewhere. Unduly broad requests will not be allowed.

Here, the System Diagrams are critical in determining the technical feasibility of alternative transmission routes that, if viable, could pose less of an impact on the environment and the community than the Beach Lane Route or the Hither Hills Route, which is directly related to the requirements of P.S.L § 126(1)(c). (Page Affidavit, ¶ 7). In addition, CPW intends to use the System Diagrams in developing its case-in-chief, as well as for cross-examination, and such information is not otherwise available to CPW. However, despite the demonstrated need for the System Diagrams and the ultimate relevance to this Article 7 proceeding, PSEG-LI and LIPA have refused to disclose the System Diagrams as exempt from discovery on CII grounds.

As a preliminary matter, “claims that information is exempt from discovery on the grounds it is . . . critical infrastructure information shall be treated in accordance with § 6-1.4 of this Title.” 16 NYCRR § 5.8(e). Accordingly, PSEG-LI and LIPA are required to “submit a comprehensive brief specifying in detail the reasons why such information should be accorded confidential status”

to the presiding officer. 16 NYCRR § 6-1.4(a)(2). They have not done so. Nor have they complied with 16 NYCRR 5.4(d), which requires objections to document requests to be submitted to and ruled on by the presiding officer.

Under New York law, an “agency may deny access to records or portions thereof that . . . are specifically exempted from disclosure by state or federal statute.” POL § 87(2)(a). CII/CEII is exempted from disclosure under both state law, pursuant to POL § 89(5)(a), and federal law pursuant to the Freedom of Information Act, 5 U.S.C. § 552, and the Federal Energy Regulatory Commission's CEII regulations at 18 C.F.R. § 388.113.

"Critical infrastructure" is defined in POL §86(5) as "systems, assets, places or things, whether physical or virtual, *so vital to the state that the disruption, incapacitation or destruction of such systems, assets, places or things could jeopardize the health, safety, welfare or security of the state, its residents or its economy.*" (Emphasis added). On the federal level, 18 CFR §388.113(c)(1) defines critical energy infrastructure information as:

[S]pecific engineering, vulnerability, or detailed design information about proposed or existing critical infrastructure that:

- (i) Relates details about the production, generation, transportation, transmission, or distribution of energy;
- (ii) Could be useful to a person in planning an attack on critical infrastructure;
- (iii) Is exempt from mandatory disclosure under the Freedom of Information Act, 5 U.S.C. 552; and
- (iv) Does not simply give the general location of the critical infrastructure.

Given the amount of detailed information provided by PSEG-LI for the East Hampton, Buell and Amagansett Substations to date, it is unclear how the disclosure of the System Diagrams

would pose more of a risk to LIPA's electric system than what has already been provided. (Page Affidavit, ¶ 16). Moreover, other than conclusory statements, PSEG-LI and LIPA have not attempted to explain how the System Diagrams meet either the State or federal standards for confidentiality.

Even if PSEG-LI and LIPA were able to claim that certain information does indeed constitute CII, the supposed sensitivity of such information – which PSEG-LI and LIPA bear the burden of establishing – must be balanced against a requester's legitimate need for the information and the protections offered by the requester to keep CII safe. *See, e.g., E. Richards*, 120 F.E.R.C. P62, 037, 64177-64178 (F.E.R.C. July 13, 2007).

For example, NYISO information about the overall bulk transmission system in New York State is orders of magnitude more critical than the PSEG-LI and LIPA information that focuses almost uniquely on the radial *sub-transmission* system on the eastern end of Long Island. (Page Affidavit, ¶ 13). Despite this fact, the NYISO regularly grants access to CEII because restricting such access would otherwise constitute a constraint of trade in the new transmission open access marketplace. (Page Affidavit, ¶ 13).

Moreover, even if the System Diagrams are deemed CII, such information should be disclosed because CPW has proposed adequate safeguards (i.e., entering into an NDA or similar restrictive agreement, limiting distribution to key consultants of CPW, and ultimately complying with the Ruling on Protective Order, which would require CPW to redact any testimony that refers to information that may be considered CEII) to prevent such information from being used by others for illicit or dangerous purposes.

As in FERC's July 13, 2007 *Order Granting Request for Critical Energy Infrastructure Information*, 120 F.E.R.C. P62,037, 64177 (F.E.R.C. July 13, 2007), the PSC should refuse to

restrict access to the System Diagrams. In that case, FERC determined that it was acceptable to disclose “maps of [the] electrical transmission and distribution network for BGE [Baltimore Gas and Electric], including local distribution networks to feeders” to a university researcher pursuant to a Non-Disclosure Agreement. Such information is very similar to CPW’s request for the System Diagrams. In granting the request for CEII, FERC stated the following:

Although the information requested is CEII, it may be released to requesters with a legitimate need for the information. As CEII Coordinator, I must balance a requester's need for the information against the sensitivity of the information. While the Commission's regulation at 18 C.F.R. § 388.113(d)(3)(i) requires that a requester assert a particular need for and intended use of the information, the primary purpose of the rule is to ensure that information deemed CEII stays out of the possession of terrorists. Accordingly, assessing a requester's legitimacy and securing an executed non-disclosure agreement are paramount factors in determining whether to grant requests for CEII . . . The Commission has recognized that researchers and consultants provide valuable services to the energy industry and that substantial benefits are derived from their work. Accordingly, where Commission staff has verified that the individual requester or firm is a researcher or consultant, the Commission is unwilling to restrict access to information necessary to conduct valuable research or to provide legitimate services.

(emphasis supplied).

In addition, Mr. Page has extensive experience in the energy industry and repeatedly has been provided access to CII throughout his over 40-year career. (Page Affidavit, ¶ 16). Accordingly, he is well versed in the requirements of protecting such information. (Page Affidavit, ¶ 17).

PSEG-LI and LIPA very likely have already provided the System Diagrams to the Applicant, a foreign-owned entity, pursuant to a Non-Disclosure Agreement. (Bernstein

Affirmation, ¶ 14). There is no legitimate reason why the System Diagrams should not also be provided to CPW under appropriate protections.

If CPW is not provided the System Diagrams, CPW would be seriously handicapped in presenting relevant testimony which, in turn, would harm the Public Service Commission's ability to make a fair and fully informed decision.


CONCLUSION

WHEREFORE, based on the foregoing reasons, CPW respectfully requests that an Order be issued directing PSEG-LI and LIPA to respond to CPW-1(7) by disclosing the System Diagrams.

Dated: April 10, 2020
Syracuse, New York

Respectfully submitted,

BOND, SCHOENECK & KING, PLLC

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*Counsel to Citizens for the Preservation of
Wainscott, Inc.*

Attachment 1

Affidavit of Allan R. Page

**STATE OF NEW YORK
PUBLIC SERVICE COMMISSION**

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Application of Deepwater Wind South Fork,)	
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Compatibility and Public Need for the)	
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Town of East Hampton, Suffolk County.)	
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**AFFIDAVIT OF ALLAN R. PAGE IN SUPPORT OF MOTION OF THE CITIZENS
FOR THE PRESERVATION OF WAINSCOTT, INC. TO COMPEL PSEG LONG
ISLAND LLC AND THE LONG ISLAND POWER AUTHORITY TO RESPOND
TO DOCUMENT REQUESTS PURSUANT TO 16 NYCRR §§ 3.6 AND 5.4**

I, Allan R. Page, being duly sworn, deposes and states the following:

1. I am the founder and principal of A. Page & Associates LLC, an energy consulting firm located in Poughkeepsie, New York. I submit this declaration in support of the motion of the Citizens for the Preservation of Wainscott, Inc. (“CPW”) to compel PSEG Long Island LLC and the Long Island Power Authority to respond to document requests.

2. I hold three Bachelor of Science Degrees in Physics, Civil and Electrical Engineering, as well as a Master’s Degree in Industrial Administration from Union College in Schenectady, New York. I am a licensed engineer in New York State.

3. Prior to the founding of A. Page & Associates, I had a 32-year career with Central Hudson Gas & Electric and the CH Energy Group during which, among many other functions, I provided in house engineering services. While I was employed at Central Hudson, I held a number of positions, including District Engineer in the Transmission and Distribution Division, Manager of the Transmission and Distribution Division, Manager of Electric System Design, Assistant Vice President of Engineering, Vice President of Customer Service, and Executive Vice President of Corporate Services. As part of the CH Energy Group, I was President and CEO of a number of competitive business units, as well as President of the CH Energy Group. I have extensive experience in the engineering, construction, operations, maintenance, planning, permitting, and managing of a vertically integrated gas and electric utility in New York State.

4. I retired from Central Hudson and the CH Energy Group to found A. Page & Associates. The firm, which I currently head, provides consulting and advisory services to clients seeking energy related expertise. Since founding A. Page & Associates, I have assisted clients in electric supply purchase off the bulk power system, in the development of renewable energy projects, in interconnections into the NYISO control area, in following a number of Public Service Commission proceedings, including rate cases, the Renewable Portfolio Standard, the Energy Efficiency Portfolio Standard, and a utility company acquisition. Such services are not limited to New York State, and I have consulted in the Caribbean, Europe, Russia, China, India and Africa. My entire career has been spent in the area of energy and energy related services.

5. I was hired by CPW to review and analyze the Applicant's proposed and alternate routes from an electrical transmission perspective, as well as develop alternative routes that may be less impactful or otherwise more economical and electrically feasible.

6. In that regard, I have worked with attorneys from Bond, Schoeneck & King, PLLC to develop information and document requests directed to PSEG-LI and the Long Island Power Authority (“LIPA”).¹ As part of the November 20, 2019 information and document requests to LIPA, I specifically sought electric substation and transmission one line diagrams indicating sources of supply, interconnection, transformation, and voltage levels for all substations within the eastern part of Long Island, including but not limited to the East Hampton Substation and the Amagansett Substation (collectively, the “System Diagrams”).

7. Such data, diagrams, and mapping are very important to verify the feasibility of the routing and interconnections of the routes to be proposed by CPW in its testimony from an engineering and existing electric system integration standpoint. In addition, such data, diagrams, and mapping would potentially shed light on additional routing options. Without such information, CPW would be severely handicapped in showing that its proposed routes are technically and economically feasible.

8. However, on December 9, 2019, PSEG- LI objected to the November 20, 2019 information and document requests claiming that the electric substation and transmission one-line diagrams were not subject to disclosure as Critical Energy Infrastructure Information (“CEII”) and disclosure of such documents could harm LIPA and its electric system. Despite their objection, PSEG-LI stated that they were willing to meet with a representative from CPW at their Long Island office to view these documents on site.

9. In order to view the documents on site, PSEG-LI required John Conrad (another consultant for CPW) and I to sign the Consultant Protective Agreement contained in the Ruling

¹ True and correct copies of the November 20, 2019 and January 22, 2020 information and document requests, as well as PSEG-LI’s responses, are attached to the *Affirmation of Kevin M. Bernstein in Support of Motion of the Citizens for the Preservation of Wainscott, Inc. to Compel PSEG Long Island LLC and the Long Island Power Authority to Respond to Document Requests*.

Adopting Protective Order. The Consultant Protective Agreements were executed and filed with the Public Service Commission on January 14, 2020.

10. On January 17, 2020, Mr. Conrad and I travelled from Poughkeepsie to meet with representatives of PSEG-LI at their headquarters in Hicksville, New York to view the documents designated as CEII. As part of the meeting, system diagrams, geographic mapping, and reports were shared; however, we were not allowed to copy any of the document information, take notes on what was read and observed, or draw even rudimentary system diagrams. PSEG-LI employees stood guard to assure that no notes were being taken during review of the material provided at the meeting. We were allowed to take notes of the conversations during the meeting and who attended the meeting from PSEG.

11. As a result of the manner in which the material was provided and the inability to take basic notes of the meeting materials, the ultimate result was a de minimis amount of cogent information acquired by CPW. While the information acquired during the meeting committed to memory was helpful and I appreciate PSEG-LI's attempt to work with us, it has been extremely difficult to analyze electrical options without having the actual documents to go back to and verify information (especially now that over two months have passed since the meeting).

12. During the January 17, 2020 meeting, we also discussed the possibility of acquiring the CEII in the future from PSEG-LI under a modified version of the Consultant Protective Agreements executed and filed on January 14, 2020, such as a Non-Disclosure Agreement. At the time of these discussions, PSEG-LI appeared receptive to these additional proposed protective measures. We were told that our requested documents would be further reviewed to ascertain whether the data might be provided, as requested. PSEG-LI also asked that we submit detailed requests to PSEG-LI and LIPA.

13. After the meeting, several industry standard Non-Disclosure Agreements were proposed to PSEG-LI and LIPA, including a form which I have used with the NYISO for information regarding the bulk transmission system in New York. This NYISO information is orders of magnitude more critical than the LIPA information on the radial sub-transmission system on the eastern end of Long Island. Despite the fact that the NYISO information is more critical than the radial sub-transmission system on the eastern end of Long Island, the NYISO regularly grants access to CEII because restricting such access would otherwise constitute a constraint of trade in the new transmission open access marketplace.

14. We also proposed Non-Disclosure Agreements previously used by the CH Energy Group and LIPA for the disclosure of CEII.²

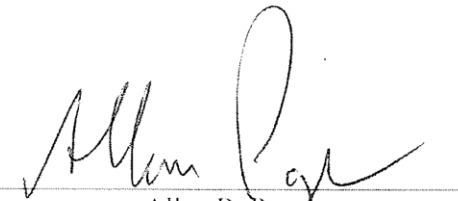
15. In addition, on January 22, 2020 and based in part on the information we reviewed at the January 17, 2020 meeting, as well as PSEG-LI's request to submit detailed requests, additional information and document requests were submitted to PSEG-LI. The information requests included very detailed questions regarding the Buell, Amagansett and East Hampton Substations, such as voltage levels, conductor sizing and transmission feeding data. However, despite PSEG-LI and LIPA providing detailed information regarding the substations, they continue to withhold the actual System Diagrams as CEII.

16. Again, I have spent over 40 years in this industry. It is difficult for me to comprehend the reason for PSEG-LI and LIPA continuing to withhold the System Diagrams given the extensive protections offered and the amount of system data PSEG-LI and LIPA have already provided to the Applicant as evidenced in the Application filed in this proceeding. Over my career,

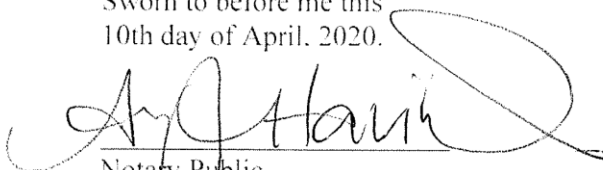
² True and correct copies of the correspondence between CPW and PSEG-LI and the various protections offered to PSEG-LI are attached to the *Affirmation of Kevin M. Bernstein in Support of Motion of the Citizens for the Preservation of Wainscott, Inc. to Compel PSEG Long Island LLC and the Long Island Power Authority to Respond to Document Requests*.

I have routinely been granted access to similar information. As previously stated, the System Diagrams are critical in developing CPW's testimony and should be disclosed to CPW, as I believe such disclosure in the manner suggested by CPW poses no risk to LIPA or its electric system.

17. I have served the electric utility industry and parties that the industry touches faithfully and honestly during the entire extent of my career. Whether it be CEII information, customer account data, competitive market data, personal employee, or client data, I have held all such information and data in confidence. My mission is to provide constructive value in this proceeding. I cannot best serve my clients or the development of a complete, well-informed record in this proceeding without the System Diagrams.


Allan R. Page

Sworn to before me this
10th day of April, 2020.


Notary Public

AMY J. HAVILAND
Notary Public, State of New York
Qual. in Onondaga Co., No. 01HA6109879
My Commission Expires May 24, 2024

Attachment 2

Affirmation of Kevin M. Bernstein

)	
Application of Deepwater Wind South Fork,)	
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Existing East Hampton Substation in the)	
Town of East Hampton, Suffolk County.)	
)	

Kevin M. Bernstein, an attorney duly admitted to practice law in the State of New York,
affirms under penalty of perjury pursuant to CPLR § 2106 as follows:

2. On November 20, 2019, I submitted information and document requests (the “November 20 Discovery Requests”) to LIPA. PSEG-LI responded on December 9, 2019.

Attached hereto as **Exhibit A** is a true and correct copy of the November 20 Discovery Requests and PSEG-LI's responses of December 9, 2019.

3. Question 7 of the November 20 Discovery Requests sought disclosure of "electric substation and transmission one line diagrams indicating sources of supply, interconnection, transformation, and voltage levels for all substations within the eastern part of Long Island including but not limited to East Hampton and Amagansett Substations" (collectively, the "System Diagrams") and requested that LIPA "designate the voltage level, age, and conductor type/size of the circuit which runs along the LIRR between Amagansett and East Hampton Substations."

4. PSEG-LI responded stating that "Electric substation and transmission one line diagrams include Critical Energy Infrastructure Information ("CEII"), the disclosure of which could harm LIPA and its electric system." PSEG-LI noted however that they were "willing to meet with a representative from CPW at PSEG Long Island's office to view these documents on site."

5. As such, on January 17, 2020, after executing Consultant Protective Agreements, consultants of CPW (John Conrad and Allan Page) met at the offices of PSEG-LI in Hicksville, New York with representatives of PSEG-LI to review the electric substation and transmission diagrams and related materials. However, as stated by Mr. Page in his affidavit submitted contemporaneously herewith, they were not allowed to take certain notes or otherwise document what they saw. (Page Affidavit, ¶ 10).

6. On January 24, 2020, I, as well as Mr. Page, emailed the assistant counsel for PSEG-LI, Jeffrey Greenblatt. Attached hereto as **Exhibit B** is a true and correct copy of our email exchange with Mr. Greenblatt, which took place from January 24, 2020 to February 7, 2020. During this email exchange, CPW offered to enter into various industry standard Non-Disclosure

Agreements with PSEG-LI and LIPA for the disclosure of CEII, as well as limit the disclosure of such information to myself and Messrs. Conrad and Page.

7. I also submitted additional discovery requests to PSEG-LI and LIPA on January 22, 2020 (the “January 22 Discovery Requests”), which PSEG-LI initially responded to on February 3, 2020 and then supplemented its responses on February 19, 2020 and February 21, 2020. Attached hereto as **Exhibit C** is a true and correct copy of the January 22 Discovery Requests and PSEG-LI’s responses thereto.

8. Although PSEG-LI provided some detailed system information in their responses, they continued to refuse to disclose the System Diagrams, and on February 13, 2020, Mr. Greenblatt emailed me stating that they would not disclose the requested information, claiming such information was protected from disclosure under State and Federal law. Attached hereto as **Exhibit D** is a true and correct copy of the February 13, 2020 email from Mr. Greenblatt.

9. In response, I sent a letter to Mr. Greenblatt on February 28, 2020 explaining that we did not believe the requested information was CEII, and, even if it was deemed so, CPW had proposed significant protections (including limiting the distribution to key consultants and entering into a non-disclosure agreement) such that disclosure would not pose any risk to LIPA and its electric system. Attached hereto as **Exhibit E** is a true and correct copy of my February 28, 2020 letter to Mr. Greenblatt.

10. On March 4, 2020, PSEG-LI responded to my February 28th letter and again declined to disclose the System Diagrams. Attached hereto as **Exhibit F** is a true and correct copy of Mr. Greenblatt’s March 4th letter.

11. In a further attempt to resolve our dispute and as required under the discovery regulations and pursuant to ALJ Belsito’s prior Ruling, I proposed a conference call with PSEG-

LI. Representatives of CPW, PSEG-LI and LIPA met by telephone on March 19, 2020 and discussed their various positions and if there was the ability for a compromise. At the end of the call, the parties decided that they could not come to an agreement and that the best way forward was to seek judicial guidance.

12. On March 23, 2020, I notified ALJ Anthony Belsito by email of the discovery dispute with PSEG-LI and LIPA. ALJ Belsito turned the matter over to ALJ Gregg Sayre to attempt to mediate the dispute. Representatives of CPW, PSEG-LI and LIPA met by telephone with ALJ Sayre on March 25, 2020. After the mediation and based on the suggestions of ALJ Sayre, CPW and PSEG-LI exchanged additional emails and information to try and reach a compromise between the parties. The mediation with ALJ Sayre was not successful, PSEG-LI and LIPA have continued to refuse these essential documents, and therefore CPW had no choice but to make this Motion to Compel.

13. For nearly four (4) months, CPW has attempted to work with PSEG-LI and LIPA in order to reach a compromise. As discussed above and demonstrated in our various email exchanges and phone calls, we have proposed various protections to PSEG-LI and LIPA, including, but not limited to, entering into an additional Non-Disclosure Agreement or similarly restrictive agreement, redaction, and limiting distribution of the System Diagrams to myself and Messrs. Conrad and Page. However, without even attempting to work out the parameters of an NDA, for example, PSEG-LI and LIPA have repeatedly just said no.

14. If CPW is not provided the System Diagrams, which presumably have already been made available to the Applicant (a foreign owned corporation)¹, CPW's hands would be tied in

¹ Attached hereto as **Exhibit G** is a true and correct copy of the CEII Request Form and NDA that was included as part of PSEG-LI's 2015 Request for Proposal for the South Fork, which the Applicant responded to and won for this Project. The CEII Request Form and NDA are also publicly available on PSEG-LI's website at <https://www.psegliny.com/aboutpseglongisland/proposalsandbids/2015southforkrfp/southforkhistory>.

how to present its testimony, which would harm the Public Service Commission (the “PSC”) ability to make a full and fair and fully informed decision. Not providing this information therefore opens the decision that is eventually made by the PSC to the potential that it could be viewed as arbitrary and capricious.

Dated: April 10, 2020
Syracuse, New York

A handwritten signature in cursive script, reading "Kevin Bernstein".

Kevin M. Bernstein

Exhibit A

November 20 Discovery Requests and Responses

Date of Request: November 20, 2019

Case 18-T-0604

Application of Deepwater Wind South Fork, LLC for a Certificate of Environmental Compatibility and Public Need for the Construction of Approximately 3.5 Miles of Submarine Export Cable from the New York State Territorial Waters Boundary to the South Shore of the Town of East Hampton in Suffolk County and Approximately 4.1 Miles of Terrestrial Export Cable from the South Shore of the Town of East Hampton to an Interconnection Facility with an Interconnection Cable Connecting to the Existing East Hampton Substation in the Town of East Hampton, Suffolk County.

INTERROGATORY/DOCUMENT REQUEST

Request No.:	CPW-1 (LIPA)
Directed To:	Long Island Power Authority
From:	Citizens for the Preservation of Wainscott, Inc.

Information Requested:

Subject: Route of Transmission Cable

1. What analysis, studies or evaluations has LIPA conducted regarding the route of the transmission cable? If applicable, please provide copies with your response.
2. Please list and describe each discussion LIPA has had with the Applicant regarding the route of the transmission cable.
3. Has LIPA discussed alternate land routes with the Applicant? If yes, please describe each alternate route.
4. Has LIPA analyzed alternative substations? Please explain.
5. Has LIPA considered stepping down the 138kV voltage to 69kV at the Amagansett substation before interconnecting to the East Hampton substation? If yes, please provide details of the evaluation and copies of any reports. If not, why not. Wouldn't stepping down the voltage at the Amagansett substation substantially reduce or eliminate the proposed new co-location facility at East Hampton?
6. Has LIPA considered interconnecting the transmission cable at the Amagansett substation rather than at the East Hampton substation? If yes, please provide details of the evaluation and copies of any reports. If not, why not.
7. Please provide electric substation and transmission one line diagrams indicating sources of supply, interconnection, transformation, and voltage levels for all substations within

the eastern part of Long Island including but not limited to East Hampton and Amagansett Substations. Specifically, designate the voltage level, age, and conductor type/size of the circuit which runs along the LIRR between Amagansett and East Hampton Substations.

8. Please provide all the LIPA electric system planning studies which address transmission and distribution system needs for all of eastern Long Island. Please indicate whether the planning studies provided are current or whether the studies are being updated based upon the 2019 Climate Leadership and Community Protection Statute. Also, please indicate what impacts the 880 MW Sunrise Windfarm will have on the LIPA transmission and distribution systems. Please note whether the Sunrise Wind Farm delivery cable to Long Island will run parallel to the South Fork Wind Farm 138 kV delivery cable.

Name of Person(s)

Preparing Response:_____ **Date:**_____

PSEG Long Island
Case Name: Application of Deepwater Wind South Fork, LLC
Docket No(s): 18-T-0604

Response to Discovery Request: PSEGLI- CPW-1 (LIPA)
Subject: Route of Transmission Cable
Date of Response: December 9, 2019

Question:

1. What analysis, studies or evaluations has LIPA conducted regarding the route of the transmission cable? If applicable, please provide copies with your response.
2. Please list and describe each discussion LIPA has had with the Applicant regarding the route of the transmission cable.
3. Has LIPA discussed alternate land routes with the Applicant? If yes, please describe each alternate route.
4. Has LIPA analyzed alternative substations? Please explain.
5. Has LIPA considered stepping down the 138kV voltage to 69kV at the Amagansett substation before interconnecting to the East Hampton substation? If yes, please provide details of the evaluation and copies of any reports. If not, why not. Wouldn't stepping down the voltage at the Amagansett substation substantially reduce or eliminate the proposed new co-location facility at East Hampton?
6. Has LIPA considered interconnecting the transmission cable at the Amagansett substation rather than at the East Hampton substation? If yes, please provide details of the evaluation and copies of any reports. If not, why not.
7. Please provide electric substation and transmission one line diagrams indicating sources of supply, interconnection, transformation, and voltage levels for all substations within the eastern part of Long Island including but not limited to East Hampton and Amagansett Substations. Specifically, designate the voltage level, age, and conductor type/size of the circuit which runs along the LIRR between Amagansett and East Hampton Substations.
8. Please provide all the LIPA electric system planning studies which address transmission and distribution system needs for all of eastern Long Island. Please indicate whether the planning studies provided are current or whether the studies are being updated based upon the 2019 Climate Leadership and Community Protection Statute. Also, please indicate what impacts the 880 MW Sunrise Windfarm will have on the LIPA transmission and distribution systems. Please note whether the Sunrise Wind Farm delivery cable to Long Island will run parallel to the South Fork Wind Farm 138 kV delivery cable.

Attachments Provided Herewith: 0

Response:

1. PSEG Long Island did not conduct any analysis, studies or evaluations regarding the preferred route of the transmission cable to the proposed Interconnection Facility Site.
2. PSEG Long Island did not have discussions with the Applicant regarding the preferred route of the transmission cable. PSEG Long Island had discussions with the Applicant regarding the routing of the proposed 69 kV cables from the proposed Interconnection Facility Site to the East Hampton substation. Discussions focused on whether there were any underground obstructions (i.e., existing cables) in the vicinity of the East Hampton Substation.
3. As mentioned in the Applicant's response to CPW-15(13)(d), PSEG Long Island has had discussions with the Applicant regarding a potential route that includes a cable landing at Hither Hills State Park and a terrestrial cable route within state-owned real estate along Old Montauk Highway and Route 27, then the Long Island Rail Road Corridor from Amagansett to the East Hampton Substation. As that response correctly points out, potential impacts from the Project were discussed, including property rights, electrical system reliability impacts, traffic and viewshed impacts, and impacts associated with vegetative clearing.
4. PSEG Long Island did not specifically analyze alternative substations as part of Deepwater Wind South Fork, LLC's Article VII Application; instead, responders to the 2015 SF RFP (defined below) were limited to connecting at the East Hampton Substation and/or the Montauk Substation, as discussed below.

PSEG Long Island LLC through its operating subsidiary, Long Island Electric Utility Servco LLC ("Servco"), as agent of and acting on behalf of Long Island Island Company d/b/a LIPA, issued a June 24, 2015 Request for Proposals for South Fork Resources ("2015 SF RFP"). Servco solicited proposals through the 2015 SF RFP to implement power producing resources and load reduction resources to alleviate South Fork transmission constraints. As part of the 2015 SF RFP, power production resources that could meet the expected peak load requirements on the South Fork of Long Island were limited to connecting at the East Hampton Substation and/or the Montauk Substation. These substations were selected for various reasons, including, but not limited to: (i) limits of injection: to connect to any substation sites east of the East Hampton Substation (such as the Amagansett Substation or the Montauk Substation), the transmission infrastructure would have to be significantly upgraded to accommodate any injection in excess of approximately 30 MW; and (ii) real estate: LIPA owns adequate property at the East Hampton substation to accommodate the interconnection of new facilities.

5. As mentioned in response 3 above, PSEG Long Island has had discussions with the Applicant regarding a potential route that includes a cable landing at Hither Hills State Park and a terrestrial cable route within state-owned real estate along Old Montauk Highway and Route 27, then the Long Island Rail Road Corridor from Amagansett to the East Hampton Substation. While there has been preliminary discussions regarding

stepping down the 138kV voltage to 69kV at the Amagansett substation before interconnecting to the East Hampton substation, there is no evaluation and/or copies of any report to provide.

The SFEC-Interconnection Facility has been proposed by the Applicant; PSEG Long Island has not analyzed whether stepping down the voltage at the Amagansett substation would substantially reduce or eliminate the proposed new co-location facility at East Hampton. PSEG Long Island would defer to the Applicant on this determination.

6. PSEG Long Island did not consider interconnecting the transmission cable at the Amagansett substation rather than at the East Hampton substation. PSEG Long Island did not specifically analyze alternative substations as part of Deepwater Wind South Fork, LLCs Article VII Application; instead, responders to the 2015 SF RFP were limited to connecting to the East Hampton Substation and/or the Montauk Substation as discussed in the response to subsection (4) above.
7. PSEG Long Island objects to this request. Electric substation and transmission one line diagrams include Critical Energy Infrastructure Information ("CEII"), the disclosure of which could harm LIPA and its electric system. Notwithstanding the foregoing and without waiving said objection, PSEG Long Island is willing to meet with a representative from CPW at PSEG Long Island's office to view these documents on site.
8. PSEG Long Island objects to the request to provide all the LIPA electric system planning which address transmission and distribution system needs for all of eastern Long Island because it is unduly broad. Additionally, these studies include Critical Energy Infrastructure Information ("CEII"), the disclosure of which could harm LIPA and its electric system. Notwithstanding the foregoing and without waiving said objections, PSEG Long Island is willing to have a representative from CPW come to PSEG Long Island's office and view the annual Ten Year Planning Study on site. PSEG Long Island continuously reviews and updates the transmission and distribution system needs through various system planning studies. One example for such an assessment is the annual Ten Year Planning Study mentioned above. Another option for the Applicant is to obtain a version of this report with all pertinent Critical Energy Infrastructure Information redacted. In this study, PSEG Long Island evaluates the Long Island transmission and distribution system under the ten year load forecast, identifies various system constraints and proposes system upgrades over the ten year period to address those constraints. In order to address transmission constraints in the East End area, PSEG Long Island proposed various transmission projects, such as the Canal to Southampton 69kV new cable (already completed in summer 2019), Wildwood to Riverhead 69kV to 138kV circuit conversion (proposed for summer 2021), Riverhead to Canal 2nd 138kV cable (proposed for summer 2021), Bridgehampton to Buell 69kV new cable (proposed for summer 2023), and East of Buell 23kV to 33kV conversion (proposed for summer 2023), etc.

An annual iteration of the ten year development plan is completed with the latest plan regarding energy efficiency, load modifiers, renewable additions and generation retirements that have been established in support of the Climate Leadership and Community Protection initiatives. For example, the East End analyses considers the contributions from renewable sources such as solar, battery, wind etc.

The impact of the 880 MW Sunrise Windfarm on the LIPA transmission and distribution system is being evaluated as part of the NYISO Interconnection Process. These studies are not completed at this time. NYISO's study will help to indicate what impacts the 880 MW Sunrise Windfarm will have on the LIPA transmission and distribution system.

PSEG Long Island does not know whether the Sunrise Wind Farm delivery cable to Long Island will run parallel to the South Fork Wind Farm 138 kV delivery cable. PSEG Long Island does not define the routes or associated delivery strategy from the developer's source site to the point of interconnection on the LIPA electric system. The two developers associated with these interconnections (*i.e.*, Deepwater and Sunrise) are in a better position to answer this question.

Exhibit B

January 24, 2020 to February 7, 2020 Email Exchange

From: apage@apageassociates.com <apage@apageassociates.com>

Sent: Friday, January 24, 2020 10:54 AM

To: 'Greenblatt, Jeffrey' <Jeffrey.Greenblatt@pseg.com>; 'John Conrad' <jconrad@pve-llc.com>; Bernstein, Kevin <bernstk@bsk.com>

Cc: 'Allan R. Page' <apage@apageassociates.com>

Subject: [External] RE: PSEG Long Island - Local Transmission Plan

Jeff

Thank you, much appreciated.

Another question, the NYISO allows me access to CEII by using the following form provided in the link below.

Would PSEG be receptive to doing something similar.

<https://nyiso.tfaforms.net/187>

Allan R. Page
Principal
A. Page & Associates LLC
9 Vassar Street
Suite 30
Poughkeepsie, New York 12601
Office: 845-452-7455
Cell: 845-797-9686
Fax: 845-452-7581
www.apageassociates.com

From: Bernstein, Kevin

Sent: Friday, January 24, 2020 5:49 PM

To: Greenblatt, Jeffrey <Jeffrey.Greenblatt@pseg.com>

Subject: RE: [EXTERNAL] RE: PSEG Long Island - Local Transmission Plan

Jeff, with the protective order in place, is there still CEII information we have requested that you cannot release? Perhaps we can have a discussion about this next week.

Thanks

Kevin

Kevin Bernstein

Management Committee Chairman
Environmental and Energy Practice Group
315.218.8329 Direct
315.218.8429 Fax
315.727.5283 Cell
kbernstein@bsk.com



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From: Bernstein, Kevin
Sent: Friday, January 31, 2020 5:06 PM
To: Jeffrey Greenblatt (jeffrey.greenblatt@pseg.com) <jeffrey.greenblatt@pseg.com>
Subject: CEII information

Jeff, sorry we haven't connected on this, but in addition to the protective order we have signed, we would be willing to enter into the attached. As you probably know, Allan Page spent decades with Central Hudson so he is especially sensitive to this issue (dissemination of CEII), but also believes he needs to do more than just be able to view the information in an office. If it gives you any more comfort, we can limit the distribution of the information to Allan, John Conrad and me.

Let me know what you think

I will be back in the office on Monday if you'd like to discuss.

Kevin Bernstein
Management Committee Chairman
Environmental and Energy Practice Group
315.218.8329 Direct
315.218.8429 Fax
315.727.5283 Cell
kbernstein@bsk.com



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From: Bernstein, Kevin
Sent: Wednesday, February 05, 2020 8:55 AM
To: Jeffrey Greenblatt (jeffrey.greenblatt@pseg.com) <jeffrey.greenblatt@pseg.com>
Subject: FW: [External] Fwd: Case 18-T-0604 - Town response to Kinsella Interrogatories/Information Request #15

Jeff, as part of discovery another party requested, the attached was provided. It appears to be an NDA between LIPA and the Stakeholder (whomever that is referring to). I would think that if such an NDA was used before that could be used to persuade your management to provide the CEII information we have requested and which would be covered not only by the Protective Order issued by the ALJ but also we would enter into an NDA, either like this or the one both Allan and I forwarded to you. If you are going to be there tomorrow, we can talk further then.

Thanks

Kevin

Kevin Bernstein
Management Committee Chairman
Environmental and Energy Practice Group
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kbernstein@bsk.com



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From: Bernstein, Kevin [<mailto:bernstkt@bsk.com>]
Sent: Friday, February 07, 2020 2:16 PM
To: Greenblatt, Jeffrey
Subject: [EXTERNAL] Further documents

<p style="text-align: center;">***CAUTION***</p> <p>This e-mail is from an EXTERNAL address. The actual sender is (bernstkt@bsk.com) which may be different from the display address in the From: field. Be cautious of clicking on links or opening attachments. Suspicious? Report it via the Report Phishing button. On mobile phones, forward message to IT Security.</p>

Jeff, we need to close the loop on obtaining the documentation Allan Page is asking for.

Kevin Bernstein
Management Committee Chairman
Environmental and Energy Practice Group
315.218.8329 Direct
315.218.8429 Fax
315.727.5283 Cell
kbernstein@bsk.com



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From: Greenblatt, Jeffrey <Jeffrey.Greenblatt@pseg.com>
Sent: Friday, February 07, 2020 2:19 PM
To: Bernstein, Kevin <bernstk@bsk.com>
Subject: [External] RE: Further documents

Sure, I'm a little confused are there specific documents Allan is looking for? I know there was a general "can I obtain CEI info" message – but I don't recall a specific document he wanted access to. I just called your office but you were on another call.

I'm here if you'd like to discuss.

Jeff

Jeffrey Greenblatt
Assistant Counsel Regulatory
PSEG Long Island LLC
333 Earle Ovington Blvd, Suite 403
Uniondale, NY 11553
Jeffrey.Greenblatt@pseg.com
516-222-3545 (office)


From: Bernstein, Kevin [<mailto:bernstk@bsk.com>]
Sent: Friday, February 07, 2020 2:24 PM
To: Greenblatt, Jeffrey
Cc: Allan Page
Subject: RE: [External] RE: Further documents

The documents they looked at when they came to your place but which they were not permitted to copy. I can certainly ask him for a list, but I thought in our first IR we asked for certain documents and you indicated at that time you would allow us to look but not copy or even take notes. At this point, with two NDA forwarded to you to choose from and the Protective Order, I think that offers the protections you need.

Kevin Bernstein
Management Committee Chairman
Environmental and Energy Practice Group
315.218.8329 Direct
315.218.8429 Fax
315.727.5283 Cell
Kbernstein@bsk.com



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From: Greenblatt, Jeffrey <Jeffrey.Greenblatt@pseg.com>
Sent: Friday, February 07, 2020 2:29 PM
To: Bernstein, Kevin <bernstk@bsk.com>
Cc: Allan Page <apage@apageassociates.com>
Subject: RE: [External] RE: Further documents

Okay, can we set-up some time on the calendar for next Friday, February 14th. That will give me a week to review the agreements with folks at PSEG Long Island/LIPA and see what concerns remain. I'm free 12:30-2:30PM that day to discuss/finalize this with you.

From: Bernstein, Kevin [<mailto:bernstk@bsk.com>]
Sent: Friday, February 07, 2020 2:35 PM
To: Greenblatt, Jeffrey
Cc: Allan Page
Subject: RE: [External] RE: Further documents

Jeff, we would prefer to have a decision made sooner since I think this has been going on since you responded to the first IR on December 9 and you had that meeting with Allan and John on I believe January 17. As you know there is a 10 day time period for discovery and I think we have been more than patient and understanding (which is more than I can say for some of my clients) at this point. If PSEG/LI is not going to provide the documents, I would just as soon know about that sooner rather than later. From our perspective, some of the information from PSEG/LI is imperative for our alternatives analysis.

Thanks and let me know one way or the other.

Kevin

Kevin Bernstein
Management Committee Chairman
Environmental and Energy Practice Group
315.218.8329 Direct
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From: Greenblatt, Jeffrey <Jeffrey.Greenblatt@pseg.com>
Sent: Friday, February 07, 2020 2:48 PM
To: Bernstein, Kevin <bernstk@bsk.com>
Cc: Allan Page <apage@apageassociates.com>
Subject: RE: [External] RE: Further documents

Okay, I'll get in touch before Friday.

Exhibit C

January 22 Discovery Requests and Responses

Date of Request: January 22, 2020

Case 18-T-0604

Application of Deepwater Wind South Fork, LLC for a Certificate of Environmental Compatibility and Public Need for the Construction of Approximately 3.5 Miles of Submarine Export Cable from the New York State Territorial Waters Boundary to the South Shore of the Town of East Hampton in Suffolk County and Approximately 4.1 Miles of Terrestrial Export Cable from the South Shore of the Town of East Hampton to an Interconnection Facility with an Interconnection Cable Connecting to the Existing East Hampton Substation in the Town of East Hampton, Suffolk County.

INTERROGATORY/DOCUMENT REQUEST

Request No.:	CPW-2 (LIPA)
Directed To:	Long Island Power Authority / PSEG Long Island
From:	Citizens for the Preservation of Wainscott, Inc.

Information Requested:

Subject: Transmission System

1. Please describe in detail any and all capital plans for upgrading the existing transmission lines and structures that run along the Long Island Rail Road corridor from the Amagansett Substation to the East Hampton Substation.
2. Are you aware of any LIPA transmission system upgrades that will be required to accommodate the cable landing of the 880 MW Sunrise Windfarm?
3. To the extent not previously provided, please provide copies of the Local Transmission Plans developed by LIPA in the past three years and submitted to the NYISO and all supporting documents, studies and work papers. How do the upgrades identified in response to Q2 above align with LIPA's existing planned transmission projects?
4. Within the LTP submitted at the end of 2017, for the East End Load Pocket projects, please indicate which ones have moved from a non-firm to a firm status.
5. What transmission and system upgrades are forecasted to accommodate the Long Island portion of the Climate Leadership and Community Protection Act (CLCPA) calling for 9,000 MW of off-shore wind development by 2035? What additional upgrades are anticipated to be required to support the other generation mandates set forth in the CLCPA?
6. How will the recently enacted DEC Peaker Rules affect peaking units on Long Island, and correspondingly, the transfer capability of the transmission system on Long Island.

7. Describe the recently announced 138 kilovolt underground cable from Southampton to a new substation in Wainscott that LIPA intends to construct. Include in the description a statement of the need for the cable, whether this cable or one similar in nature has previously been considered, the effect the cable is intended to have on the load and capacity management, including peak load, and whether LIPA planned for that cable at the time its board approved entering into agreements related to the Deepwater Wind South Fork project.
8. Has LIPA deferred any transmission upgrades? If yes, please identify the upgrade, the date it was initially intended to proceed, the revised date resulting from the deferral and the basis for the deferral.
9. Please provide peak load forecasts for Long Island east of the Canal Substation longitude.
10. What area wide system upgrades will be required by this Project? What plans are in place to extend 138 kV transmission from mid Long Island to East Hampton Substation?
11. In a memorandum to the LIPA Board of Trustees from Thomas Falcone dated November 14, 2018, Mr. Falcone stated that a principal justification for the Deepwater Wind South Fork project was the cost avoidance of local transmission upgrades. Please describe the need for an interconnection on the South Fork of Long Island in light of the proposed 138 kilovolt underground cable, including but not limited to an accounting of the continued cost avoidance of transmission upgrades, if any, that LIPA projects will realize from the project.
12. Given the identified load growth on the East End, can these local transmission upgrades continue to be avoided? If yes, for how long?
13. Please identify the easements retained by LIPA from the Amagansett Substation to the East Hampton Substation.
14. Could power be transmitted from both the 880 MW Sunrise Windfarm and the 130 MW South Fork Windfarm via a cable or cables running to the same landing side on mid-Island and then some of the power generated by these facilities distributed to eastern LI from there? If yes, please explain. If not, please provide any and all basis for reaching that determination.

Name of Person(s)

Preparing Response: _____ **Date:** _____

PSEG Long Island
Case Name: Deepwater Wind Article VII
Docket No(s): 18-T-0604

Response to Discovery Request: CPW-0002_LIPA
Witness:

QUESTION:

1. Please describe in detail any and all capital plans for upgrading the existing transmission lines and structures that run along the Long Island Rail Road corridor from the Amagansett Substation to the East Hampton Substation.
2. Are you aware of any LIPA transmission system upgrades that will be required to accommodate the cable landing of the 880 MW Sunrise Windfarm?
3. To the extent not previously provided, please provide copies of the Local Transmission Plans developed by LIPA in the past three years and submitted to the NYISO and all supporting documents, studies and work papers. How do the upgrades identified in response to Q2 above align with LIPA's existing planned transmission projects?
4. Within the LTP submitted at the end of 2017, for the East End Load Pocket projects, please indicate which ones have moved from a non-firm to a firm status.
5. What transmission and system upgrades are forecasted to accommodate the Long Island portion of the Climate Leadership and Community Protection Act (CLCPA) calling for 9,000 MW of off-shore wind development by 2035? What additional upgrades are anticipated to be required to support the other generation mandates set forth in the CLCPA?
6. How will the recently enacted DEC Peaker Rules affect peaking units on Long Island, and correspondingly, the transfer capability of the transmission system on Long Island.
7. Describe the recently announced 138 kilovolt underground cable from Southampton to a new substation in Wainscott that LIPA intends to construct. Include in the description a statement of the need for the cable, whether this cable or one similar in nature has previously been considered, the effect the cable is intended to have on the load and capacity management, including peak load, and whether LIPA planned for that cable at the time its board approved entering into agreements related to the Deepwater Wind South Fork project.
8. Has LIPA deferred any transmission upgrades? If yes, please identify the upgrade, the date it was initially intended to proceed, the revised date resulting from the deferral and the basis for the deferral.
9. Please provide peak load forecasts for Long Island east of the Canal Substation longitude.
10. What area wide system upgrades will be required by this Project? What plans are in place to extend 138 kV transmission from mid Long Island to East Hampton Substation?

11. In a memorandum to the LIPA Board of Trustees from Thomas Falcone dated November 14, 2018, Mr. Falcone stated that a principal justification for the Deepwater Wind South Fork project was the cost avoidance of local transmission upgrades. Please describe the need for an interconnection on the South Fork of Long Island in light of the proposed 138 kilovolt underground cable, including but not limited to an accounting of the continued cost avoidance of transmission upgrades, if any, that LIPA projects will realize from the project.
12. Given the identified load growth on the East End, can these local transmission upgrades continue to be avoided? If yes, for how long?
13. Please identify the easements retained by LIPA from the Amagansett Substation to the East Hampton Substation.
14. Could power be transmitted from both the 880 MW Sunrise Windfarm and the 130 MW South Fork Windfarm via a cable or cables running to the same landing side on mid-Island and then some of the power generated by these facilities distributed to eastern LI from there? If yes, please explain. If not, please provide any and all basis for reaching that determination.

RESPONSE:

1. There are no capital plans for upgrading the existing transmission lines and structures that run along the Long Island Rail Road corridor from the Amagansett Substation to the East Hampton Substation. The East of Buell 23 kV to 33 kV Conversion project involves changing the nominal operating voltage of the transmission lines in this corridor to 34.5kV from 23kV. However, the transmission lines that run along the Long Island Rail Road corridor from the Amagansett Substation to the East Hampton Substation will not specifically require capital work.
2. At this time, PSEG Long Island has not determined the LIPA transmission system upgrades that will be required to accommodate the cable landing of the 880 MW Sunrise Windfarm. The NYISO Interconnection Process is necessary to make this determination and that is not completed yet.
3. PSEG Long Island objects to the request to provide all supporting documents, studies, and work papers in connection with the Local Transmission Plans developed by LIPA over a three year period because it is overly broad and unduly burdensome. Additionally, these documents, studies, and work papers include Critical Energy Infrastructure Information (“CEII”), the disclosure of which could harm LIPA and its electric system. Notwithstanding the foregoing and without waiving said objections, PSEG Long Island is attaching the Local Transmission Plans that were presented to the NYISO in 2017, and 2019. In 2018, only an update was provided to the NYISO. These documents are:
 - LIPA_LTP_Presentation_10-23-2019_NON_CEII.pdf
 - LIPA_LTP_Presentation_11-03-2017_NON_CEII.pdf
 - LIPA_LTP_Presentation_Update_6-28-2018_non_CEII_JD_FINAL.PDFNo upgrades were identified in response to CPW-2(2) above, since transmission system upgrades that may be required will be determined at a later date.

4. Within the LTP submitted at the end of 2017, for the East End Load Pocket projects, the following projects moved from a non-firm to a firm status: (i) 23kV Navy Road Substation; and (ii) 69kV Southampton to Canal New Circuit.
5. The upgrades that may be required to support the CLCPA have not yet been determined.
6. PSEG Long Island is working with National Grid to determine how the peaking units currently under contract to LIPA will comply with the enacted regulation. PSEG Long Island expects that National Grid will file the Compliance Plan with DEC by March 2, 2020. Transmission system impacts, if any, have not been determined yet.
7. A 138 kV cable had been planned from Southampton to Wainscott to meet load growth, but there is no longer a plan to build a new substation in Wainscott. A plan for a 69kV-operated circuit built to 138kV design standards is now being considered between Southampton and Deerfield to address load growth in the area.
8. Yes, PSEG Long Island has deferred transmission upgrades over the last five years in the location east of the Southampton Substation. For that specific location, the chart below identifies the upgrade, the date it was initially intended to proceed, and the revised date resulting from deferral. The question also asked for “the basis for the deferral.” Note that in-service dates are affected by many different variables and are always subject to change. PSEG Long Island determines, on a regular basis, the optimal capital plan based on changing system conditions, forecasts, and community feedback.

Project	Original In Service Date	Current In Service Date
Canal – Southampton Cable	2017	In Service 2019
Navy Road Substation	2018	2021
East of Buell Conversion Projects	2019	2024
Canal – Wainscott Cable (Replaced w/ Southampton – Deerfield)	2022	2027
Canal – Deerfield Double Circuit Reconfiguration	2024	2025
Bridgehampton – Buell New Underground Circuit	2017	2024

9. PSEG Long Island contacted CPW on January 30, 2020 to clarify the specific area CPW was interested in for this question; CPW indicated that the interest in this question is for the South Fork area. Therefore, below is a table showing the peak load forecast for the South Fork area on Long Island under normal weather conditions, developed in the fall of 2019. The forecast includes reductions for energy efficiency and renewables but excludes demand relief and the load modifier reductions due to the East Hampton and Montauk batteries. The annual growth in peak load is projected to slowly increase over time due to

underlying economic and demographic growth combined with the diminishing impacts of reductions.

Year	South Fork Peak Load Forecast MW
2020	318
2021	324
2022	328
2023	333
2024	340
2025	347
2026	354
2027	361
2028	370
2029	379
2030	389

10. As of this time the need for area wide system upgrades has not been determined for this Project. The project is currently under the Facilities Study stage of the NYISO interconnection process and other performance requirement studies are yet to be completed. There are currently no plans to extend 138kV transmission from mid Long Island to East Hampton Substation.
11. The South Fork Wind Farm was selected as a result of the South Fork RFP that was issued in 2015. Various portfolios were evaluated and resulted in the selection of a portfolio that consists of: offshore wind, transmission projects, battery storage, load reduction initiatives, and emergency generators. The selection of this portfolio resulted in the deferral of projects indicated in the table below.

Project	Original In Service Date	Current In Service Date
Canal – Southampton Cable	2017	In Service 2019
East of Buell Conversion Projects	2019	2024
Canal – Wainscott Cable (Replaced w/ Southampton – Deerfield)	2022	2027
2 nd Riverhead – Canal Cable	2020	2021
Wildwood – Riverhead Conversion	2017	2021
Bridgehampton – Buell New Underground Circuit	2017	2024

12. Yes, considering the current data and forecasts, the following projects (i) Canal – Deerfield Double Circuit Reconfiguration; (ii) Southampton – Deerfield New Underground Circuit; and (iii) Bridgehampton – Buell New Underground Circuit may be avoided for a period of one to two years from the currently planned in service date.
13. PSEG Long Island objects to the request to identify the easements retained by LIPA from the Amagansett Substation to the East Hampton Substation since this request seeks production of documents that are neither relevant to, nor reasonably calculated to lead to, the discovery of admissible evidence in this Article VII proceeding. Notwithstanding the foregoing and without waiving said objection, and although these documents are publically available, the following attachments contain easements that PSEG Long Island obtained from its own files:
 - a. CPW-002 (13) Attachment 1;
 - b. CPW-002 (13) Attachment 2;
 - c. CPW-002 (13) Attachment 3;
 - d. CPW-002 (13) Attachment 4; and
 - e. CPW-002 (13) Attachment 5.
14. PSEG Long Island has not studied such a configuration. The 880 MW Sunrise Windfarm has not finished being studied yet, so a determination of whether another 130 MW could land there is not possible at this time. Additionally, LIPA/PSEG Long Island is not the developer of the 880 MW Sunrise Windfarm, the developer is ultimately responsible for establishing landing sites.

Date of Request: January 22, 2020

Case 18-T-0604

Application of Deepwater Wind South Fork, LLC for a Certificate of Environmental Compatibility and Public Need for the Construction of Approximately 3.5 Miles of Submarine Export Cable from the New York State Territorial Waters Boundary to the South Shore of the Town of East Hampton in Suffolk County and Approximately 4.1 Miles of Terrestrial Export Cable from the South Shore of the Town of East Hampton to an Interconnection Facility with an Interconnection Cable Connecting to the Existing East Hampton Substation in the Town of East Hampton, Suffolk County.

INTERROGATORY/DOCUMENT REQUEST

Request No.:	CPW-3 (LIPA)
Directed To:	Long Island Power Authority / PSEG Long Island
From:	Citizens for the Preservation of Wainscott, Inc.

Information Requested:

Subject: Substations

1. For the East Hampton Substation, please provide the following:
 - a. Any planned or in progress upgrades or changes to the voltage, conductor, equipment, generation, located within or around the station.
 - b. Any in progress or previously developed electric system planning area studies which include the East Hampton Substation.
 - c. The voltage and source or sources of electric transmission feed into the East Hampton Substation and the origin for these feeds into the East Hampton Substation.
 - d. The summer normal/long term emergency/ short term emergency MVA ratings of the electric transmission circuit(s) feeding into East Hampton Substation.
 - e. The total peak summer loading on the East Hampton Substation. The total peak winter loading on the East Hampton Substation.
 - f. What is the current status of the NYISO 130 MW Interconnection System Reliability Impact Study and/or Facility Study for the project? Has the applicant requested that LIPA negotiate the terms of the Interconnection Agreement for this project? If yes, is an Interconnection Agreement currently in place and, if not, what is the current status of those negotiations?
 - g. If a change in routing is warranted in the Article VII proceeding, please describe the steps LIPA would take to make a corresponding change in the current PPA or agreement with Deepwater.
 - h. Is there any discussion currently underway at LIPA with regard to feeding the energy from the Sunrise Wind Farm to the eastern part of Long Island? If so, what upgrades

would need to take place at East Hampton Substation and the transmission feeds into East Hampton Substation?

- i. Does the NYISO list any part of the East End Load Pocket Critical Energy Infrastructure Information?
2. For the Buell Substation, please provide the following:
 - a. Voltage and conductor type/size of the feeds into the Buell Substation. Please identify whether any of the cable feeds into the substation are direct buried, the size of the conductors, cable rating, and phase to phase operating voltage.
 - b. The total peak summer loading on the Buell Substation. The total peak winter loading on the Buell Substation.
 - c. Voltage and number of circuits feeding out of the Buell Substation. Please identify whether any of the cable feeds out of the substation are direct buried, the size of the conductors, cable rating, and phase to phase operating voltage.
 - d. Destination of the transmission feeding out of or into the Buell Substation.
 - e. The summer normal/long term emergency/ short term emergency MVA ratings of the electric transmission circuits feeding from Buell Substation.
 - f. A plot plan of the site ownership by LIPA beyond the substation perimeter fencing.
 - g. If a change in routing is warranted in the Article VII proceeding would LIPA be receptive to an upgrade of the Buell Substation?
 3. For the electric transmission running along the LIRR from the East Hampton Substation (Buell) to Amagansett Substation, please provide the following:
 - a. The phase to phase nominal voltage of the lines.
 - b. The total peak summer loading on the circuits. The total peak winter loading on the circuits.
 - c. The nominal insulation rating of the lines i.e. what nominal voltage may the lines be upgraded to without insulation or spacing upgrades or modifications? If the line was upgraded to 69 Kv what would be the typical structure height and span length?
 - d. The conductor type/size for the transmission.
 - e. Height of the transmission structures, highest, lowest, average.
 - f. When the transmission lines were constructed or the vintage of the circuits. Currently, are there pole or structure replacements planned?
 - g. What type of right of way does LIPA have for the lines, i.e. width, owned in fee, rights?
 - h. The summer normal/long term emergency/short term emergency MVA ratings of the electric transmission.
 - i. Are there any other loads fed off the transmission?
 - j. Are there any planned or in progress voltage, conductor, insulation, or equipment upgrades for the transmission? If upgrades are planned, is there a scheduled time to complete the upgrades and have such upgrades been placed in the operating budget?
 - k. How would LIPA address an overhead voltage and conductor upgrade to the existing transmission circuit if determined to be in the public interest in the Article VII proceeding?

1. For the Amagansett Substation, please provide the following:
 - a. The number of circuits that feed out of Amagansett.
 - b. The number of circuits that feed into Amagansett.
 - c. The voltage rating and summer peak loading for the circuits feeding out of Amagansett.
 - d. The total summer peak and the total winter peak loading for the substation.
 - e. How may the substation loading be reserved for loss of the transmission between East Hampton and Amagansett?
 - f. Any in-progress or previously developed electric system planning area studies which include the Amagansett Substation.
 - g. Any planned or in-progress upgrades or changes to the voltage, conductor, equipment, located in the Amagansett Substation.
 - h. A plot plan of the site ownership by LIPA beyond the substation perimeter fencing.
 - i. The size, phase to phase voltage, terminal point, of any cable feeding in or out of the substation. For the cables along Route 27 what is the vintage and are the cables direct buried.
 - j. If a change in routing is found to be in the public interest in the Article VII proceeding, how could LIPA upgrade the Amagansett Substation to accommodate this routing designation?

Name of Person(s)

Preparing Response: _____ **Date:** _____

PSEG Long Island
Case Name: Deepwater Wind Article VII
Docket No(s): 18-T-0604

Response to Discovery Request: CPW-0003_LIPA
Witness:

QUESTION:

1. For the East Hampton Substation, please provide the following:
 - a. Any planned or in progress upgrades or changes to the voltage, conductor, equipment, generation, located within or around the station.
 - b. Any in progress or previously developed electric system planning area studies which include the East Hampton Substation.
 - c. The voltage and source or sources of electric transmission feed into the East Hampton Substation and the origin for these feeds into the East Hampton Substation.
 - d. The summer normal/long term emergency/ short term emergency MVA ratings of the electric transmission circuit(s) feeding into East Hampton Substation.
 - e. The total peak summer loading on the East Hampton Substation. The total peak winter loading on the East Hampton Substation.
 - f. What is the current status of the NYISO 130 MW Interconnection System Reliability Impact Study and/or Facility Study for the project? Has the applicant requested that LIPA negotiate the terms of the Interconnection Agreement for this project? If yes, is an Interconnection Agreement currently in place and, if not, what is the current status of those negotiations?
 - g. If a change in routing is warranted in the Article VII proceeding, please describe the steps LIPA would take to make a corresponding change in the current PPA or agreement with Deepwater.
 - h. Is there any discussion currently underway at LIPA with regard to feeding the energy from the Sunrise Wind Farm to the eastern part of Long Island? If so, what upgrades would need to take place at East Hampton Substation and the transmission feeds into East Hampton Substation?
 - i. Does the NYISO list any part of the East End Load Pocket Critical Energy Infrastructure Information?
2. For the Buell Substation, please provide the following:
 - a. Voltage and conductor type/size of the feeds into the Buell Substation. Please identify whether any of the cable feeds into the substation are direct buried, the size of the conductors, cable rating, and phase to phase operating voltage.
 - b. The total peak summer loading on the Buell Substation. The total peak winter loading on the Buell Substation.
 - c. Voltage and number of circuits feeding out of the Buell Substation. Please identify whether any of the cable feeds out of the substation are direct buried, the size of the conductors, cable rating, and phase to phase operating voltage.

- d. Destination of the transmission feeding out of or into the Buell Substation.
 - e. The summer normal/long term emergency/ short term emergency MVA ratings of the electric transmission circuits feeding from Buell Substation.
 - f. A plot plan of the site ownership by LIPA beyond the substation perimeter fencing.
 - g. If a change in routing is warranted in the Article VII proceeding would LIPA be receptive to an upgrade of the Buell Substation?
3. For the electric transmission running along the LIRR from the East Hampton Substation (Buell) to Amagansett Substation, please provide the following:
- a. The phase to phase nominal voltage of the lines.
 - b. The total peak summer loading on the circuits. The total peak winter loading on the circuits.
 - c. The nominal insulation rating of the lines i.e. what nominal voltage may the lines be upgraded to without insulation or spacing upgrades or modifications? If the line was upgraded to 69 Kv what would be the typical structure height and span length?
 - d. The conductor type/size for the transmission.
 - e. Height of the transmission structures, highest, lowest, average.
 - f. When the transmission lines were constructed or the vintage of the circuits. Currently, are there pole or structure replacements planned?
 - g. What type of right of way does LIPA have for the lines, i.e. width, owned in fee, rights?
 - h. The summer normal/long term emergency/short term emergency MVA ratings of the electric transmission.
 - i. Are there any other loads fed off the transmission?
 - j. Are there any planned or in progress voltage, conductor, insulation, or equipment upgrades for the transmission? If upgrades are planned, is there a scheduled time to complete the upgrades and have such upgrades been placed in the operating budget?
 - k. How would LIPA address an overhead voltage and conductor upgrade to the existing transmission circuit if determined to be in the public interest in the Article VII proceeding?
 - l. For the Amagansett Substation, please provide the following:
 - a. The number of circuits that feed out of Amagansett.
 - b. The number of circuits that feed into Amagansett.
 - c. The voltage rating and summer peak loading for the circuits feeding out of Amagansett.
 - d. The total summer peak and the total winter peak loading for the substation.
 - e. How may the substation loading be reserved for loss of the transmission between East Hampton and Amagansett?
 - f. Any in-progress or previously developed electric system planning area studies which include the Amagansett Substation.
 - g. Any planned or in-progress upgrades or changes to the voltage, conductor, equipment, located in the Amagansett Substation.
 - h. A plot plan of the site ownership by LIPA beyond the substation perimeter fencing.
 - i. The size, phase to phase voltage, terminal point, of any cable feeding in or out of the substation. For the cables along Route 27 what is the vintage and are the cables direct buried.
 - j. If a change in routing is found to be in the public interest in the Article VII proceeding, how could LIPA upgrade the Amagansett Substation to accommodate this routing designation?

RESPONSE:

1. In connection with the East Hampton Substation

- a. As identified in the Local Transmission Plan (dated October 23, 2019) which was submitted in response to CPW-2, the East of Buell 23 kV to 33 kV Conversion project will result in upgrading the voltage at the 23 kV side of East Hampton to a nominal operating voltage of 34.5 kV.
- b. PSEG Long Island objects to this request to provide any in progress or previously developed electric system planning area studies which include the east Hampton Substation because it is overly broad and unduly burdensome. Additionally, these studies include Critical Energy Infrastructure Information (“CEII”), the disclosure of which could harm LIPA and its electric system. PSEG Long Island continuously reviews and updates the transmission and distribution system needs through various system planning studies. One example for such an assessment is the annual Ten Year Planning Study. Notwithstanding the foregoing and without waiving said objections, PSEG Long Island previously met with representatives from CPW (*i.e.*, John A. Conrad from PVE, and Allan Page from A. Page & Associates LLC) on Friday, January 17th at PSEG Long Island’s Hicksville Office. These representatives asked to view the annual unredacted Ten Year Planning Study in person and on site, and PSEG Long Island obliged.
- c. Two 69kV circuits feed East Hampton substation during normal peak summer operating conditions:
 - 69-969 Bridgehampton to East Hampton; and
 - 69-970 Buell to East Hampton.In addition, there is a 5 MW battery that connects to East Hampton on the 13.8kV distribution system, and 6 MW of diesel generators connecting to the 69kV transmission system.
Additional circuits connecting to East Hampton substation feeding 23kV load are:
 - 23-927 East Hampton to Buell; and
 - 23-931 East Hampton to Amagansett
- d. In the summer operating period the respective Normal/LTE/STE ratings are:
 - 69-969 Bridgehampton to East Hampton is rated 112/112/112 MVA.
 - 69-970 Buell to East Hampton is rated 106/112/112 MVA.For the circuits feeding 23kV load the ratings are:
 - 23-927 East Hampton to Buell is rated 33/36/37 MVA.
 - 23-931 East Hampton to Amagansett is rated 36/46/46 MVA.
- e. The total peak loading on the East Hampton Substation was 36 MW in the 2019 summer operating period. For the 2018-19 winter operating period it was 23 MW.
- f. The Deepwater South Fork Wind project is split into two queue positions within the NYISO process. The statuses are as follows:
 - Q#612 (90 MW): Project is still in NYISO Facility Study phase. Interconnection Agreement efforts will begin once the Facility Study part 1 is complete.

- Q#695 (40 MW): We had a call with NYISO for Facility Study kick off in December 2019. Interconnection Agreement efforts will begin once the Facility Study part 1 is complete.
- g. The question asked is posing a hypothetical rather than seeking factual information. Since this request is not relevant to the Article VII proceeding, is vague and overbroad, LIPA objects to this request.
 - h. There is no discussion currently underway at LIPA with regard to feeding the energy from the Sunrise Wind Farm to the eastern part of Long Island.
 - i. Data related to the transmission system, including transmission in the East End load pocket, is reviewed, updated, and submitted through the NYISO for incorporation by the NYISO into the NYISO reliability analysis databases. The NYISO reliability analysis databases containing electric system network data, including steady state, dynamic, and short circuit data, are classified as CEII. We are not familiar with any formal NYISO list of the “East End Load Pocket Critical Energy Infrastructure Information”.

2. In connection with the Buell Substation:

- a. During peak summer operating conditions:
 - 69-968 OH from Bridgehampton – 336 MCM ACSS
 - 69,000 Volts, Aluminum (ACSS), Overhead with a summer rating of 939 amps
 - 69-958 UG from Southold - 1500 MCM, Pipe Type Cable – HPGF
 - 69,000 Volts, Copper, 1500 MCM, in Pipe with a summer rating of 925 amps
 - 23-927 from East Hampton GT - 336 MCM ACSS
 - 23,000 Volts, Aluminum (ACSS), Overhead with a summer rating of 832 amps
- b. In the 2019 summer operating period, the peak summer loading on the Buell substation was 41 MW. In the 2018-19 winter operating period, the peak winter loading on the Buell substation was 28 MW.
- c. The following transmission circuits feed out of the Buell Substation during peak summer operating conditions:
 - 69-970 OH from East Hampton GT – 336 MCM ACSS
 - 69,000 Volts, Aluminum (ACSS), Overhead with a summer rating of 883 amps
 - 23-928 to Amagansett OH - 336 MCM ACSS
 - 23,000 Volts, Aluminum (ACSS), Overhead with a summer rating of 832 amps
 - 23-930 to Amagansett OH - 336 MCM ACSS
 - 23,000 Volts, Aluminum (ACSS), Overhead with a summer rating of 832 amps

The following distribution circuits feed out of the Buell Substation: 9E-178, 9E-934, 9E-937, 9E-985, 9E-991, 9E-992.

- The phase-to-phase operating voltage for these distribution feeders is 13.2kV.
 - The feeders are primarily OH mainline conductor (336 AL) with a summer rating of 517A.
 - The feeders exit the substation underground. Typical exit within the substation is through cable in conduit.
 - Exit cables are as follows:
 - 9E-178 - 2/C 750MCM CU EPR 15KV
 - 9E-934, 9E-937, 9E-985, 9E-992 - 2/C 1000 AL XLPE 15KV
 - 9E-991 - 2/C 750MCM CU XLPE 15KV
- d. The remote ends of the circuits feeding out of or into the Buell Substation are Southold (69-958), Bridgehampton (69-968), East Hampton (69-970 & 23-927), and Amagansett (23-928 & 23-930).
- e. 69-970 Buell to East Hampton is rated 106/112/112 MVA (Normal/LTE/STE) in the summer operating period.
 23-928 Buell to Amagansett is rated 33/36/37 MVA (Normal/LTE/STE) in the summer operating period.
 23-930 Buell to Amagansett is rated 33/36/37 MVA (Normal/LTE/STE) in the summer operating period.
- f. PSEG Long Island objects to this request since it seeks information that is not relevant to the Article VII proceeding. Notwithstanding the foregoing and without waiving said objection *see* CPW-003(2)(f) Attachment attached.
- g. The question asked is posing a hypothetical rather than seeking factual information. Since this request is not relevant to the Article VII proceeding, is vague and overbroad, LIPA objects to this request.
3. For the electric transmission running along the LIRR from the East Hampton Substation (Buell) to Amagansett Substation
- a. The current phase to phase nominal voltage of the lines is 23 kilovolts.
- b. The peak flow experienced on 23-928 during the 2019 summer operating period was 12.4 MW. The peak flow experienced on 23-928 during the 2018-19 winter operating period was 6.5 MW.
 The peak flow experienced on 23-930 during the 2019 summer operating period was 12.6 MW. The peak flow experienced on 23-930 during the 2018-19 winter operating period was 6.5 MW.
- c. In regards to the nominal voltage question:
 23 kilovolts is the rating of the lines
 33 kilovolts is the design rating
 In regards to upgrading to 69kV:

The response previously submitted on 2-3-20 is being supplemented based on the various scenarios presented in the “Circuit routing options from the existing

Amagansett Substation heading west” memorandum from John A. Conrad, PVE LLC, and Allan R. Page, A. Page & Associates LLC. The existing conditions of the electric transmission running along the LIRR from the East Hampton Substation to Amagansett Substation includes: double circuit 23 kV rating (33 kV is the design rating of the structures), with structures that are approximately 65 to 81 feet above ground.

There are a few different scenarios that may be asked about. In the scenario where the existing 33kV double circuit lines are upgraded to 69 kV circuit lines - - typically (*i.e.*, not based on actual engineering) this would require replacing existing structures. Typical 69 kV double circuit (side-to-side) structures are 65’ to 75’ and higher above ground depending on a variety of factors. Span lengths can vary but would likely remain similar to the existing.

However, in the scenario where you add a new 69kV circuit while maintaining the existing 33 kV double circuit as an underbuilt on the same structure, in order to meet clearance requirements, typical (*i.e.*, not based on actual engineering) heights of proposed transmission structures with one 69kV circuit and double 33kV circuits underbuilt could be between 90 and 100 feet above grade. Note that new construction of three transmission circuits on one structure is uncommon in this service territory.

- d. 336.4 Aluminum (ACSS).
 - e. There are structures approximately 65 to 81 feet above ground.
 - f. The transmission lines were installed in the 1920s to 1930s. There are currently no planned projects to replace poles or structures.
 - g. PSEG Long Island objects to this request since it seeks information that is not relevant to the Article VII proceeding. Notwithstanding the foregoing and without waiving said objection, LIPA has easements of variable widths over private land adjacent to the LIRR ROW, as well as an agreement with the LIRR. See attachments contained in response to CPW-002(13).
 - h. 23-928 Buell to Amagansett is rated 33/36/37 MVA (Normal/LTE/STE) in the summer operating period.
23-930 Buell to Amagansett is rated 33/36/37 MVA (Normal/LTE/STE) in the summer operating period.
 - i. The transmission feeds Amagansett substation and Amagansett substation feeds loads to its east.
 - j. There is a plan to convert the circuits to a nominal operating voltage at 34.5 kV from 23kV. The scheduled time to complete upgrades is tentatively scheduled for summer 2023.
 - k. The question asked is posing a hypothetical rather than seeking factual information. Since this request is not relevant to the Article VII proceeding, is vague and overbroad, LIPA objects to this request.
4. For the Amagansett Substation:

- a. There are two transmission circuits that feed out of Amagansett. These circuits are:
23-938 to Montauk
23-942 to Hither Hills
There are two distribution feeders that feed out of Amagansett. These circuits are:
9Z-694
9Z-807
- b. There are three circuits that feed into Amagansett. These circuits are:
23-928 from Buell
23-930 from Buell
23-931 from East Hampton
- c. Both transmission circuits feeding out of Amagansett have an operating voltage of 23 kilovolts. These circuits are designed to 34.5 kilovolts. The summer peak loading on 23-942 to Hither Hills is 13.5 MW. The summer peak loading on 23-938 to Montauk is 11.8 MW.
Both distribution feeders out of Amagansett have an operating voltage of 13.2kV. The feeders have a summer peak loading of: 9Z-807 = 386 Amps, 9Z-694 = 172 Amps.
- d. The summer peak loading in 2019 for Amagansett was 14.2 MW. The winter peak loading in the 2018-2019 winter operating period for Amagansett was 9 MW.
- e. Amagansett load is fed through the transmission system in the west. There are three circuits that feed Amagansett, one from East Hampton, and two from Buell. It would be expected that the two circuits between Buell and Amagansett would pick up for the loss of transmission between East Hampton and Amagansett.
- f. PSEG Long Island objects to this request to provide any in progress or previously developed electric system planning area studies which include the Amagansett Substation because it is overly broad and unduly burdensome. Additionally, these studies include Critical Energy Infrastructure Information (“CEII”), the disclosure of which could harm LIPA and its electric system. PSEG Long Island continuously reviews and updates the transmission and distribution system needs through various system planning studies. One example for such an assessment is the annual Ten Year Planning Study. Notwithstanding the foregoing and without waiving said objections, PSEG Long Island previously met with representatives from CPW (*i.e.*, John A. Conrad from PVE, and Allan Page from A. Page & Associates LLC) on Friday, January 17th at PSEG Long Island’s Hicksville Office. These representatives asked to view the annual unredacted Ten Year Planning Study in person and on site, and PSEG Long Island obliged.
- g. The East of Buell Conversion Projects will result in changing the nominal operating voltage at Amagansett to 34.5 kilovolts from 23 kilovolts. In addition, there is FEMA work currently to re-conductor the entire feeder 9Z-807 mainline to 4/0 Cu wire by the end of 2020.

- h. PSEG Long Island objects to this request since it seeks information that is not relevant to the Article VII proceeding. Notwithstanding the foregoing and without waiving said objection, *see* CPW-003(4)(h) Attachment attached.
- i. All of the transmission circuits feeding in or out of the substation are operating at 23 kilovolts.
 - 23-928 into Amagansett Substation (OH circuit and dip into yard)
 - 23-930 into Amagansett Substation (OH circuit and dip into yard)
 - 23-931 into Amagansett Substation (OH from East Hampton GT)
 - 23-938 out of Amagansett Substation (To Montauk), Direct Buried, 1997 vintage
 - 23-942 out of Amagansett Substation (To Hither Hills), Direct Buried, 1993 vintageAll of the distribution feeders have a nominal operating voltage of 13.2 kV nominal. Both feeders exit the substation underground with 2/C 750MCM CU EPR 15kV. After exit, they rise up to overhead mainline 336 Al.
- j. The question asked is posing hypothetical rather than seeking factual information. Since this request is not relevant to the Article VII proceeding, is vague and overbroad, LIPA objects to this request.

Exhibit D

February 13, 2020 Email from Mr. Greenblatt

From: Greenblatt, Jeffrey <Jeffrey.Greenblatt@pseg.com>
Sent: Thursday, February 13, 2020 5:02 PM
To: Bernstein, Kevin <bernstk@bsk.com>
Subject: [External] Case 18-T-0604 - Request for CEII Information

Dear Mr. Bernstein,

You asked me if your consultant, Allan Page, could have certain information designated as Critical Energy Infrastructure Information ("CEII").

Since this information is protected from disclosure under both State and Federal law, the individuals I spoke with at both LIPA and PSEG Long Island cannot comply with your request for access to this information.

Jeffrey Greenblatt
Assistant Counsel Regulatory
PSEG Long Island LLC
333 Earle Ovington Blvd, Suite 403
Uniondale, NY 11553
Jeffrey.Greenblatt@pseg.com
516-222-3545 (office)



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Exhibit E

February 28, 2020 Letter

KEVIN M. BERNSTEIN
kbernstein@bsk.com
P: 315-218-8329
F: 315-218-8429

February 28, 2020

VIA ELECTRONIC MAIL

Jeffrey Greenblatt
Assistant Counsel Regulatory
PSEG Long Island LLC
333 Earle Ovington Blvd, Suite 403
Uniondale, NY 11553
Email: Jeffrey.Greenblatt@pseg.com

RE: ACCESS TO CRITICAL ENERGY INFRASTRUCTURE INFORMATION

Dear Jeff:

We are in receipt of your responses to Citizens for the Preservation of Wainscott, LLC's ("CPW") information requests, pursuant to which CPW requested access to certain electric system planning area studies (including circuit data, system diagrams, and locations) related to the East Hampton Substation and the Amagansett Substation (the "Requested Information"). As discussed in the in-person settlement discussions and our separate discussions, we need this specific information in order to further detail the viable alternative routes that exist. We understand that PSEG LI has claimed that such information is Critical Energy Infrastructure Information ("CEII") and release of such information could harm LIPA and its electric system, and, therefore, PSEG LI has denied access to such information on those grounds.¹

As you are aware, 16 NYCRR 6-1.3(b)(3) provides that "A person or entity submitting, or otherwise making available, critical infrastructure information to the Department shall clearly state the reason(s) why the information should be excepted from disclosure, as provided in § 87(2) of the Public Officers Law." We do not believe that PSEG LI's claim that the requested information "could harm LIPA and its electric system" is sufficient to meet the requirements of 16 NYCRR 6-1.3(b)(3).

Moreover, "Critical infrastructure" is defined in Public Officers Law § 86(5) as "systems, assets, places or things, whether physical or virtual, so vital to the state that the disruption,

¹ Although we appreciate that representatives of CPW were able to meet with PSEG-LI to review certain of the Requested Information, they were not allowed to take any notes or to have summaries of the materials, which has seriously hampered CPW's ability to analyze the proposed and alternative routes.

February 28, 2020

Page 2

incapacitation or destruction of such systems, assets, places or things could jeopardize the health, safety, welfare or security of the state, its residents or its economy." On the federal level, 18 CFR §388.113(c)(1) provides guidance in that it further defines critical energy infrastructure information as specific engineering, vulnerability, or detailed design information about proposed or existing critical infrastructure that relates details about the production, generation, transportation, transmission or distribution of energy that could be useful to a person in planning an attack on critical infrastructure. Based on PSEG LI's limited response, it is impossible for CPW to decipher on what grounds the Requested Information is CEII.

As you know, CPW, as an intervenor in this Article VII proceeding, has proposed various alternative routes for the South Fork Wind Farm and is in need of the Requested Information, which presumably was already provided to Deepwater Wind South Fork, LLC, as the Applicant in this case. Representatives of CPW have been working proactively and collaboratively with you and other representatives of PSEG LI over the last three (3) months (in person, by phone and by email) to gain access to the Requested Information in a manner that is suitable for all parties. While we were shown some data briefly on January 17, 2020 at your offices in Hicksville, we were barred from taking any notes, or even bringing in any writing utensil, on the relevant items required to undertake the required work. Among other actions, CPW has entered into the Protective Agreement, proposed several industry-standard Non-Disclosure Agreements and various other restrictions, and has engaged representatives (e.g., Allan Page of A. Page and Associates) who have regularly been granted access to CEII by the NYISO – which certainly maintains more sensitive CEII than the Requested Information. Given CPW's proposed safeguards, we do not believe that release of the Requested Information poses any risk to "the health, safety, welfare or security of the state, its residents or its economy."

Accordingly, we are trying one last time to resolve this issue collaboratively. As stated, the Requested Information is necessary for the review of the various alternatives in this Article VII proceeding. Please let us know by March 4, 2020 if PSEG LI will release the Requested Information.

Very truly yours,

BOND, SCHOENECK & KING, PLLC



Kevin M. Bernstein, Esq.

KMB/SMH

cc: Settlement Parties

Exhibit F

March 4, 2020 Letter



March 4, 2020

VIA ELECTRONIC DELIVERY

Kevin M. Bernstein, Esq.
Bond, Schoeneck & King, PLLC
One Lincoln Center
Syracuse, NY 13202-1355
Email: kbernstein@bsk.com

Re: Case 18-T-0604 - Application of Deepwater Wind South Fork, LLC for a Certificate of Environmental Compatibility and Public Need for the Construction of Approximately 3.5 Miles of Submarine Export Cable from the New York State Territorial Waters Boundary to the South Shore of the Town of East Hampton in Suffolk County and Approximately 4.1 Miles of Terrestrial Export Cable from the South Shore of the Town of East Hampton to an Interconnection Facility with an Interconnection Cable Connecting to the Existing East Hampton Substation in the Town of East Hampton, Suffolk County
Access to Critical Energy Infrastructure Information

Dear Mr. Bernstein:

INTRODUCTION

In this case, the Citizens for the Preservation of Wainscott, LLC ("CPW") claim that alternative routes should be employed by Deepwater Wind to interconnect with the transmission and distribution system operated by PSEG Long Island LLC ("PSEG Long Island") as service provider for the Long Island Power Authority ("LIPA"). Neither PSEG Long Island nor LIPA is the applicant in this proceeding, and neither submitted to the Department of Public Service or any other party information about the feasibility of alternative routes that CPW describes as a preferred alternative to the Project.

CPW now seeks from PSEG Long Island/LIPA the following:

1. Electric substation and transmission one-line diagrams indicating sources of supply, interconnection, transformation, and voltage levels for all substations within the eastern part of Long Island including but not limited to East Hampton and Amagansett Substations; and
2. All the LIPA electric system planning studies which address transmission and distribution needs for all of eastern Long Island.

In addition to objections on relevance grounds, PSEG Long Island has also advised CPW that it declines disclosure because the information sought by CPW is clearly critical electric infrastructure information ("CEII") which both state and federal law and regulation protect because of the harm to the health, safety and economic well-being of the community that may

result from unlawful disclosure. Circularly, by letter dated February 28, 2020, you argue that “it is impossible for CPW to decipher on what grounds the Requested Information is CEII.”

To avoid further litigation and in the continued spirit of cooperation, PSEG Long Island reiterates and summarizes its reasoning for denial of your discovery requests for CEII information.

DISCUSSION

Public Officers Law Section 89(5)(1-a) states in pertinent part:

A person or entity who submits or otherwise makes available any records to any agency, may, at any time, identify those records or portions thereof that may contain critical infrastructure information, and request that the agency that maintains such records except such information from disclosure.

N.Y. Pub. Off. Law § 89(5)(1-a). Critical infrastructure is defined by law to mean “systems, assets, places or things, whether physical or virtual, so vital to the state that the disruption, incapacitation or destruction of such systems, assets, places or things could jeopardize the health, safety, welfare or security of the state, its residents or its economy.” *Id.* §86(5). New York’s statutory exception tracks federal law and regulation promulgated by the U.S. Federal Energy Regulatory Commission (“FERC”) which protects against disclosure of critical energy infrastructure information consisting of “specific engineering, vulnerability, or detailed design information about proposed or existing critical infrastructure that:

- (i) Relates details about the production, generation, transportation, transmission, or distribution of energy;
- (ii) Could be useful to a person in planning an attack on critical infrastructure;
- (iii) Is exempt from mandatory disclosure under the Freedom of Information Act, 5 U.S.C. 552; and
- (iv) Does not simply give the general location of the critical infrastructure.

18 C.F.R. § 388.113(c)(2).

CPW’s request for diagrams indicating “sources of supply, interconnection, transformation, and voltage levels for all substations within the eastern part of Long Island” as well as planning studies for transmission and distribution needs fall precisely within the purpose of the CEII exception which is to protect assets whose “disruption, incapacitation or destruction . . . could jeopardize the health, safety, welfare or security of the state, its residents or its economy.” N.Y. Pub. Off. Law § 86(5). The information relates to sensitivities regarding the transmission and distribution system and goes far beyond merely seeking “general location” information pertaining to the grid. 18 C.F.R. § 388.113(c)(2)(iv). PSEG Long Island and LIPA regard such information as highly sensitive and while CPW may believe it should have access to be able to pursue its objections to the Project, that subjective interest does not outweigh PSEG Long Island and LIPA’s obligations to the safety and welfare of the community and its economy.

The U.S. power grid has long been considered a logical target for a major attack by those who would seek to do our Nation significant harm. Indeed, in continuing the embargo against public disclosure of detailed maps depicting the New York City fiber optic conduits and systems – closely analogous to the information at issue here – Judge Shlomo S. Hagler observed that attacks on such systems are “a real life danger that we have experienced in a different context but has dramatically affected New Yorkers in so many different and painful ways.” *Matter of Crawford v. New York City Dept. of Info. Tech. & Telecom.*, 43 Misc.3d 735, 743 (Sup. Ct., New York Cnty.), *app. dismissed* 136 A.D.3d 591 (1st Dep’t 2016). *Accord Rankin v. Metropolitan Transp. Auth.*, 101127/2010, 2010 N.Y. Misc. LEXIS 3829, at *13 (Sup. Ct., New York Cnty. (Aug. 10, 2010) (Sherwood, J.) (“[public] disclosure [of detailed subway system mapping] could have potentially devastating effect by making available to potential terrorists highly sensitive material concerning structural details of the stations, the location of electrical, computer and other equipment and other information which would enhance the ability of such terrorist to maximize the damage to the NYCTA subway system and increase the loss of lives.”).

As in *Crawford* and *Rankin*, *supra*, the electric substation and transmission one-line diagrams and electric system planning studies contain detailed descriptions, including locations and engineering capacities of the aspects of the Long Island power grid affected by the Deepwater Wind Project. They contain, moreover, detailed disclosures of the location and nature of various substations and other highly critical system components, the benefits and shortcomings of interconnections and other confidential engineering information. The public disclosure of this information would effectively provide a “blueprint” of the eastern part of Long Island’s portion of the power grid to any person or entity interested in harming or damaging it or the ratepayers served thereby. Accordingly, PSEG Long Island declines CPW’s requests for critical electrical infrastructure information.

Respectfully submitted,

Jeffrey R. Greenblatt

Jeffrey R. Greenblatt
Assistant Counsel Regulatory
Attorney for PSEG Long Island LLC on Behalf of and
as Agent for the Long Island Lighting Company d/b/a LIPA

cc: All Parties (via E-Mail)

Exhibit G

CEII Request Form and NDA from 2015 South Fork RFP

CRITICAL ENERGY INFRASTRUCTURE INFORMATION (“CEII”) REQUEST INSTRUCTIONS

The attached form is intended to facilitate your request to the Long Island Electric Utility Service LLC, a New York Limited Liability Company (“Agent”), as agent of and acting on behalf of the Long Island Lighting Company d/b/a LIPA (“LIPA” or “Company”) for information that is classified as CEII, as defined herein and in the attached form of CEII Non-Disclosure Agreement. The Federal Energy Regulatory Commission (“FERC”) has defined CEII as “specific engineering, vulnerability, or detailed design information about proposed or existing critical infrastructure that: (1) relates details about the production, generation, transportation, transmission, or distribution of energy; (2) could be useful to a person in planning an attack on critical infrastructure; (3) is exempt from mandatory disclosure under the Freedom of Information Act, 5 U.S.C. 552 (2000); and (4) does not simply give the general location of the critical infrastructure.” For the purposes of the attached CEII Non-Disclosure Agreement, CEII also includes “Critical Infrastructure” information as described in §388.113(c)(2) of the regulations of the Federal Energy Regulatory Commission, which defines “Critical Infrastructure” as “existing and proposed systems and assets, whether physical or virtual, the incapacity or destruction of which would negatively affect security, economic security, public health or safety, or any combination of those matters.”

The attached form documents are intended to cover separate and discrete requests for information. These requests must be specific to the individual submitting the request and to the information requested. Each person within an entity or organization who seeks access to the CEII must complete these forms. A separate CEII request form and Non-Disclosure Agreement must be submitted each time CEII is requested.

In order for the Company to consider your request, you must complete, sign, date and return the following:

1. CEII Request Form; and
2. CEII Non-Disclosure Agreement (“NDA”)**

**NDA is not required if you are an employee of or consultant to certain federal or state government agencies.

Company will not act upon your request until all of the above steps are completed and the completed documents are reviewed by the Company.

Please understand that changes to these form documents are not permissible.

**PLEASE BE ADVISED THAT THE DISCLOSURE OF CEII TO YOU IS DISCRETIONARY,
AND THE COMPANY MAY REJECT YOUR REQUEST FOR ANY REASON.**

**CRITICAL ENERGY INFRASTRUCTURE INFORMATION (“CEII”)
REQUEST INSTRUCTIONS**

1. This form must be accompanied by a signed CEII Non-Disclosure Agreement, unless you are making the request as an employee of or consultant to a federal or state agency. If you have already signed a CEII Non-Disclosure Agreement, please provide a copy of such executed CEII Non-Disclosure Agreement.

2. The undersigned requests the following information: [describe in detail]

3. The undersigned represents warrants and agrees that the information is needed and will be used solely for the following purpose [describe in detail]:

4. Give the name of your employer and your title:

Employer: _____

Your Title: _____

5. Description of the general activities of the requestor’s organization and the person requesting the information:

6. If you are a consultant, provide the name and contact information, including email address of an individual at the organization that has retained you so that we may verify your role:

Name: _____

Company: _____

Email: _____

Phone: _____

Verifier Name: _____

Organization: _____

Email: _____

Phone: _____

I acknowledge that the foregoing is true and accurate, and agree to give the Company immediate notice and updated information if any of the foregoing information becomes no longer true. I also consent to Company sharing the fact that this request has been made and/or granted, and agree that the Company and Agent shall have no liability to me whatsoever in connection with this request.

Signature: _____

Name (including middle initial): _____

Organization: _____

Business Address: _____

Email: _____

Phone: _____ Fax: _____

Date: _____

**CRITICAL ENERGY INFRASTRUCTURE INFORMATION ("CEII")
NON-DISCLOSURE AGREEMENT**

This CEII NON-DISCLOSURE AGREEMENT (this "Agreement") is made as of the _____ day of _____ 20____ ("Effective Date") by the undersigned ("Recipient") in favor of the Long Island Lighting Company d/b/a LIPA ("LIPA" or "Company"), acting by and through its agent, Long Island Electric Utility Servco LLC ("Agent").

WHEREAS, Recipient has requested that the Company disclose to Recipient certain information, all or a portion of which may be classified by the Company as (1) CEII, as defined by the Federal Energy Regulatory Commission ("FERC") in 18 C.F.R. 388.113(c)(1), or (2) information regarding "Critical Infrastructure" as that term is defined in 18 C.F.R. 388.113(c)(2).

WHEREAS, FERC has defined CEII as "specific engineering, vulnerability, or detailed design information about proposed or existing critical infrastructure that: (1) relates details about the production, generation, transportation, transmission, or distribution of energy; (2) could be useful to a person in planning an attack on critical infrastructure; (3) is exempt from mandatory disclosure under the Freedom of Information Act, 5 U.S.C. §552 (2000); and (4) does not simply give the general location of the critical infrastructure;" and

NOW, THEREFORE, for access to certain CEII in the possession and/or control of the NYISO, and/or other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, Recipient agrees as follows:

1. Definition of CEII. For purposes of this Agreement, "CEII" shall include both FERC CEII and Critical Infrastructure information under New York Public Officers Law §86(5). CEII shall include: (i) all information designated as such by the Company, whether furnished to Recipient before or after the date hereof, whether oral, written or recorded/electronic, and regardless of the manner in which it is furnished; and (ii) all reports, summaries, compilations, analyses, notes or other information which contain such information. Company considers the drawings, diagrams and/or maps requested by the Recipient to be CEII.
2. Use and Protection of CEII.
 - (a) Recipient shall maintain all CEII in a secure place. Recipient may make copies of CEII, but such copies become CEII and subject to this Agreement. Recipient may make notes of CEII and may perform analyses in reliance on CEII, consistent with Section 2(c) of this Agreement, which notes and analyses shall also be treated as CEII if they contain CEII. Recipient shall clearly mark all CEII as "Critical Energy Infrastructure Information."
 - (b) Recipient shall not discuss the CEII it has received with another individual, and shall not disclose the CEII it has received to another individual, without first checking with the Company to confirm that the individual in question has also received the same and/or has executed Company's CEII Non-Disclosure Agreement.

(c) Recipient shall not knowingly use CEII directly or indirectly for an illegal or non-legitimate purpose. Recipient shall use the CEII only for the purpose Recipient specified in the Company's CEII Request Form.

(d) In the event that Recipient is required to disclose CEII in compliance with an order or subpoena of a court, administrative agency, arbitration panel, or similar authority, Recipient shall (i) first provide the Company with prompt written notice of such order or subpoena, provided such notice is not prohibited by law, (ii) afford the Company an opportunity to seek a protective order or other protective relief, and (iii) provide reasonable cooperation and assistance to the Company with such efforts. In the event Recipient is required to disclose CEII in compliance with such order or subpoena, Recipient shall furnish only that portion of the CEII which Recipient's legal counsel advises it is legally required to disclose, and shall exercise its best efforts to secure confidential, non-public treatment of the CEII it is required to disclose.

3. Return of CEII. Company retains all right, title and interest in any and all CEII that it provides to Recipient under this Agreement. The Company may, at any time and in its sole discretion, direct Recipient by written notice to return some or all of the CEII that the Company has provided to Recipient. Upon receipt of such notice, Recipient shall promptly and fully comply with the Company's directions, returning all CEII as specified, including all copies, reproductions, summaries, compilations, analyses or extracts thereof recorded in any medium. Recipient shall certify to the Company in writing that it has done so. Provided, however, Recipient may, only if and to the extent required by law, retain a record copy of the CEII it returns.
4. Change in Status. If any of the information provided to the Company by Recipient in the CEII Request Form changes (*e.g.*, Recipient leaves his or her employ or the consulting engagement cited in the request is terminated), Recipient shall immediately provide written notice to the Company of that fact, together with complete and accurate updated information. Company may, on the basis of such change of information, direct Recipient to return some or all of the CEII previously provided to Recipient.
5. No Company or Agent Liability. Neither Company nor Agent makes any express or implied warranty or representation as to the accuracy or completeness of the CEII provided to Recipient under this Agreement. The Company and Agent shall have no liability whatsoever based upon the CEII that is provided to Recipient under this Agreement, and shall have no liability based upon any errors or omissions contained in that CEII.
6. Indemnity. To the greatest extent permitted by law, Recipient shall indemnify and hold harmless the Company and Agent and their officers, employers, directors, agents, contractors and assigns ("the Indemnitees") from and against any and all claims, losses, liabilities and expenses, including attorney's fees, incurred by a an Indemnitee as a result of Recipient's violation of its obligations under this Agreement.
7. Equitable Remedies. Recipient agrees and acknowledges that money damages alone

would be an inadequate remedy for its breach of this Agreement. In the event that Recipient breaches or threatens to breach this Agreement, the Company, in addition to any other remedies available at law or in equity, shall be entitled to obtain a restraining order, injunction or similar remedy in order to specifically enforce the provisions of this Agreement.

8. Term. This Agreement shall commence on the Effective Date and shall remain in effect until all of the CEII, provided by the Company to Recipient under this Agreement is either (i) no longer classified by the Company as CEII or (ii) returned to the Company by Recipient.
9. No Recipient Assignment. Recipient shall not assign, subcontract or otherwise delegate any of its rights or obligations under this Agreement without the prior written consent of the Company, which consent the Company may withhold or condition in its absolute discretion. Any such assignment without the Company's prior written consent shall be void.
10. Notices.
 - (a) Notices provided under this Agreement shall be in writing and addressed or delivered to the representatives specified in this Agreement. Notices shall be delivered by any one of the methods set forth below and shall be deemed received (i) upon delivery, when personally delivered; (ii) upon receipt, when sent by registered or certified mail; (iii) upon receipt when sent by recognized overnight delivery service (such as FedEx); (iv) upon receipt when sent by electronic mail and (v) upon confirmation of receipt by facsimile machine printed confirmation. Copies of all correspondence regarding this Agreement shall also be sent to these representatives.
 - (b) Notices to Recipient shall be directed to the following individual(s):

Organization _____

Attn: Contact _____

Department/Title _____

Address: _____

City, State, _____ Zip _____

Telephone: _____

Facsimile: _____

Electronic Mail: _____

- (c) Notices to the Company shall be directed to the following:

**Long Island Utility Servco
as agent and acting on behalf of
Long Island Lighting Company d/b/a LIPA
Attn: Legal Department
333 Earle Ovington Blvd, Suite 403
Uniondale, NY 11553**

- (d) Recipient or the Company may change their respective representatives designated herein by written notice to the other Party.

11. Miscellaneous.

- (a) Governing Law. This Agreement shall be governed by the substantive law of the State of New York, without regard to any conflicts of laws provisions thereof (except to the extent applicable, Sections 5-1401 and 5- 1402 of the New York General Obligations Law).
- (b) Amendments. No amendment, modification or waiver of any of the terms or conditions of this Agreement shall be effective unless set forth in a writing signed by the Company and Recipient. Any purported amendment, modification or waiver that fails to comply with the foregoing shall be void and of no effect.
- (c) Severability. If any provision of this Agreement is held to be invalid or unenforceable, the remaining provisions shall remain in effect.
- (d) Headings. Headings set forth herein are inserted for convenience and shall have no effect on the interpretation or construction of this Agreement.
- (e) Non-Waiver. The failure of the Company to demand strict performance of the terms of this Agreement, or to exercise any right conferred by this Agreement, shall not be construed as a waiver or relinquishment of its right to assert or rely on any such term or right in the future.
- (f) Entire Agreement. This Agreement constitutes the entire agreement between the Company and Recipient with respect to its subject matter and supersedes any prior negotiations, discussions, agreements or understandings between them as to this subject matter.
- (g) Survival. The Recipient remains bound by the provisions of this Agreement unless the Company rescinds the CEII designation or a court of competent jurisdiction finds that the information does not qualify as CEII.

IN WITNESS WHEREOF, Recipient has executed this CEII Non-Disclosure Agreement effective as of the date first set forth above.

By executing this CEII Non-Disclosure Agreement, Recipient certifies that no changes have been made to the form Agreement tendered to Recipient by the Company. Any modifications to the form Agreement shall be considered null and void.

Signature: _____

Name (please print):_____

Organization:_____

Address: _____

[Rev. 9/23/15]