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August 18, 2003

VIA FEDERAL EXPRESS

Honorable Jaclyn A. Brillling
Acting Secretary
New York State Public Service Commission
Three Empire State Plaza
Albany, New York 12223-1350

Re: *Application of Equus Power I, L.P. for Certificate of Public Convenience And Necessity, Request For Expedited Treatment, Petition For An Order Regarding Regulatory Regime And Petition For Financing Approval*

Dear Secretary Brillling:

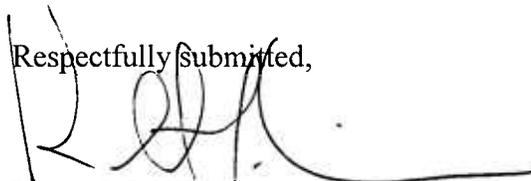
In accordance with the New York State Public Service Commission's regulations set forth in Title 16 of the New York Code of Rules and Regulations, Equus Power I, L.P. ("Equus") submits the following: (1) an original and five (5) copies of its verified Application for Certificate of Public Convenience And Necessity, Request For Expedited Treatment, Petition For An Order Regarding Regulatory Regime And Petition For Financing Approval; (2) a proposed form of notice to be published in Long Island Newsday, appended to the Application as Exhibit 1; (3) the Affidavit of Frank Giacalone in support of Equus' request for expedited treatment of its request for approval of financing, appended as Exhibit 2 to the Application; and (4) a certified copy of Equus' Certificate of Limited Partnership.

In addition to the foregoing copies, also enclosed are three (3) additional copies of the Application. Please date stamp those copies and return them in the enclosed self-addressed, stamped envelope.

Copies of the above referenced application and exhibits have been served on all parties on the attached service list via first-class mail. Please contact me if you have any questions concerning this matter.



Respectfully Submitted,



Kenneth L. Wiseman
Counsel for Equus Power I, L.P.

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

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ORIGINAL

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In the Matter of Equus Power I, L.P.)
Application for Certificate of Public)
Convenience and Necessity Pursuant to)
Public Law §68, Request for Expedited)
Treatment, Petition for an Order Regarding)
Regulatory Regime and Petition for Financing)
Approval Pursuant to Public Service Law §69)

Case 03-E-_____

**VERIFIED APPLICATION FOR CERTIFICATE OF PUBLIC CONVENIENCE AND
NECESSITY, REQUEST FOR EXPEDITED TREATMENT, PETITION FOR AN
ORDER REGARDING REGULATORY REGIME AND PETITION FOR FINANCING
APPROVAL**

Kenneth L. Wiseman
Mark F. Sundback
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Counsel for Equus Power I, L.P.

Dated: August 18, 2003

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

In the Matter of Equus Power I, L.P.)
Application for Certificate of Public)
Convenience and Necessity Pursuant to)
Public Law §68, Request for Expedited) Case 03-E-_____
Treatment, Petition for an Order Regarding)
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**VERIFIED APPLICATION FOR CERTIFICATE OF PUBLIC CONVENIENCE AND
NECESSITY, REQUEST FOR EXPEDITED TREATMENT, PETITION FOR AN
ORDER REGARDING REGULATORY REGIME AND PETITION FOR FINANCING
APPROVAL**

Equus Power I, L.P. (“Equus”), a limited partnership organized and existing under the laws of the State of Texas, submits this (i) application for a Certificate of Public Convenience and Necessity (“CPCN”) under Section 68 of the New York Public Service Law (“PSL”) and Section 21.1 of the Commission’s Rules and Regulations (16 NYCRR § 21.1), (ii) motion for expedited approval pursuant to 16 NYCRR Section 21.10(a), (iii) petition for an order for regulation of the proposed 49 megawatt (“MW”) electric generating facility under a regulatory regime consistent with that set forth in various Commission orders providing for lightened regulation for competitive wholesale generators and (iv) petition for approval of financing of construction of the proposed facility in an amount up to \$49 million pursuant to PSL Section 69 and request that such approval be issued in an expedited basis pursuant to Section 202(6) of the State Administrative Procedure Act. Equus requests the expedited treatment and approval requested herein so that it can commence construction as soon as possible in order that the

proposed facility can achieve commercial operations in time for the 2004 summer peaking season.

Correspondence related to this filing should be addressed to:

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I. INTRODUCTION

As is more fully described below, Equus has entered into a contract in the form of a tolling agreement with the Long Island Power Authority ("LIPA") for the sale of capacity, energy and ancillary services from a 49 MW electric generating facility (the "Facility") to be constructed in the Village of Freeport, Long Island, New York ("Village of Freeport" or "Village"). Under their contractual arrangements, Equus and LIPA contemplate that the Facility will commence commercial operation by June 1, 2004, thus providing LIPA the available capacity, energy and ancillary services in time for the 2004 summer peaking season. Approval of Equus' requests in an expedited fashion as requested herein will assist LIPA in acquiring needed capacity consistent with its Draft Energy Plan 2002-2011 and the future energy needs of Long Island.

A. Equus

Equus is a subsidiary of Equus Power, Inc., a Texas Corporation. Equus Power, Inc. is a company formed for the purpose of developing, owning and operating highly efficient 50 to 250 MW power plants. Equus Power, Inc. has a management team with proven experience in project financing, development and operation and proven success in starting and managing businesses.

Among Equus Power, Inc.'s principals are individuals with extensive experience in the power industry. In particular, Equus Power, Inc.'s Executive Vice President has over 25 years experience in the industry. He has been involved in senior management positions in the development of 16 other power plants with a combined capacity of over 4500 MW. Among those projects are both domestic and international power plants, major power plants with capacity of up to 700 MW and small cogeneration facilities.

Also included in the Equus team is another individual who will serve as Equus' project manager who has over 13 years experience in the power generation industry, focusing mainly on project execution, inclusive of contract administration, project management, EPC management and start-up, commissioning and warranty administration. He gained his experience primarily as an employee of General Electric ("GE"). In that capacity, he gained intimate knowledge of GE's LM 6000, the turbine that will be used at the Facility.

B. The Facility

The Facility will consist of one GE LM 6000 simple cycle gas turbine generating facility, with a nominal rating of 49 MW, to be located adjacent to the Village of Freeport Power Plant Number 2. It will have dual fuel capability, primarily using natural gas, with low sulfur (0.5%) kerosene as a back up fuel. It will be interconnected to the KeySpan Energy Delivery LI gas distribution system through a dedicated lateral to be constructed by the Village of Freeport. The

Facility will be interconnected to the Village of Freeport Municipal Electrical System through a new 69kV breaker and a disconnect switch, pursuant to an interconnection agreement between Equus and the Village of Freeport. The Village of Freeport in turn will construct a 69kV transmission line to interconnect with LIPA's system at the Bellmore Substation. The cost of the Facility will be approximately \$55 million.

The Facility is an open cycle peaker plant. However, it is expected that the Facility will run at a higher capacity factor than is typical of a peaking facility. Based upon the rates agreed to with LIPA, it is anticipated that the Facility will run most hours during the summer peaking season, and will run during winter peaking hours as well. An analysis conducted using 2002 hourly energy prices for the Hudson Valley area, New York City and Long Island showed that the Facility would have been dispatched more than half the time in 2002.

As is explained below, the Facility will be part of a project developed by the Village of Freeport which, when constructed, will entail the construction of two power plants, *i.e.*, the Facility and a similar sized plant owned and operated by the Village. Both generating plants will be located on a single site which will be adjacent to the site of existing generating facilities owned by the Village. Under the State Environmental Quality Review Act ("SEQRA"), an environmental analysis must take into consideration the potential environmental impacts of all facilities included in a project. On June 24, 2002, the Board of Trustees of the Village of Freeport ("Board"), which is the Lead Agency for SEQRA purposes, issued a negative declaration, finding that the project will not have a significant impact on the environment. Since the issuance of that negative declaration, there have been certain minor changes to the planned facilities for the portion of the project to be developed by Equus, principally the addition of a chiller and a water tower. As a result, on August 12, 2003, Equus submitted to the Board a

supplemental environmental analysis for the Board's review. Based upon consultation with its environmental consultants and with the Board, Equus does not anticipate that the minor facilities changes will result in a modification of the Board's negative declaration or, for that matter, the need to issue a new negative declaration. Equus also has submitted an air pollution and control permit application to the Department of Environmental Conservation ("DEC") pursuant to Article 19 of the Environmental Conservation Law and 6 NYCRR Part 201.

C. Arrangements with the Village of Freeport

As indicated above, the Facility will be part of a larger project developed by the Village of Freeport. The intent underlying the Village's project is to replace existing diesel generators at its Power Plant Number 2. The diesel generators have not been popular with area residents or regulators. As a result, following local, state and federal hearings, the decision was made for the Village to decommission the existing diesel generators, and to build a new GE LM 6000 unit adjacent to the existing plant (the "Village Project"). The Village Project has received all required environmental permits and is scheduled to commence construction in September 2003.

In order to share certain project costs, the Village of Freeport decided to bring in a private developer to construct another electric generating facility at the same site as the Village Project. Equus was selected as the private developer to construct the other generating plant.¹ Equus' generating plant will have its own control building and control panel, among other separate facilities. However, Equus will enter into an agreement with the Village of Freeport under which the Village will operate the Facility.

¹ Originally, the Village of Freeport selected PPL Global Power, which ultimately withdrew, leading to Equus' selection.

D. Arrangements with LIPA

Equus has entered into an agreement with LIPA under which Equus will be obligated to sell and provide, and LIPA will be obligated to purchase and receive, the maximum capacity of the Facility, energy and ancillary services. The structure of the agreement is in the form of a tolling agreement, under which LIPA is responsible for scheduling and dispatching the plant and providing all required fuel. Equus is responsible for maintaining the availability and efficiency of the plant, which will be accomplished under the contract with the Village of Freeport to operate the Facility.

E. Need for the Facility

LIPA's resource planning is governed by the standards and criteria of the North American Electric Reliability Council, the Northeast Power Coordinating Power Council, the New York Control Area, the New York Independent System Operator ("NYISO") and the New York State Reliability Council. Under the standards established by those organizations, LIPA is required to plan for a sufficient generating margin. According to LIPA's Draft Energy Plan 2002-2011, to satisfy these organizations' standards, LIPA currently is required to maintain an installed capacity reserve of at least 18 percent above its forecast annual peak demand.

LIPA also is required to satisfy locational capacity requirements. A locational capacity requirement specifies the minimum amount of installed capacity from resources located within a locality, considering local generation and transmission import capability, to meet the resource adequacy reliability criteria of the New York State Reliability Council and the Northeast Power Coordinating Power Council. Due to the limited capacity of Long Island's transmission interties with neighboring electrical systems, LIPA currently is required to maintain capacity of 93 percent on Long Island.

As reported in LIPA's Draft Energy Plan 2002-2011, LIPA will have to procure a significant amount of capacity to satisfy these requirements through 2011. As a starting point, LIPA reported that it had a need for an additional 200 MW to meet Long Island's energy needs for 2003. LIPA projected that it would need to add additional resources to grow at a rate of approximately 100 MW per year thereafter through 2011. LIPA forecast that peak load would increase by approximately 1.7 percent per year during this same time period.

The Facility is part of the resource base that LIPA has been depending upon to meet these capacity requirements. In its Draft Energy Plan, LIPA reported that it had been working with the Facility's former developer, PPL Global, to ensure completion of the Facility to help meet Long Island's needs for 2003 and beyond. Since PPL Global withdrew from the project, LIPA has worked with Equus to ensure completion to help meet Long Island's needs for the 2004 summer peaking season and beyond.

LIPA's need for additional generating capacity is evident from the experience of the last two summers. For instance, LIPA has reported that on August 8, 2001, its peak hour demand was 4,565 MW, which was only 80 MW shy of the available electric supply at that day.² On August 9, 2001, LIPA reached a peak hour demand of 4578 MW, which was within just 120 MW of the available firm and emergency supply available to it on that day.³ LIPA projected that the peak demand could have been 100 to 150 MWs higher than the peak demand, but for the massive public appeals made for conservation, outreach to major customers and businesses on Long Island, the closing of state county, town and other government offices, and the 5% voltage reduction in offices ordered by the NYISO that were made that day.⁴ The lack of available

² LIPA Press Release, dated August 10, 2001.

³ *Id.*

⁴ LIPA Press Release, dated August 9, 2001.

capacity for load and reserves also existed during July 2002. On July 3, 2002, peak hour demand broke the record set the previous year, reaching 4939 MW.⁵ On July 29, 2002, that record was broken when demand reached 5059 MW.⁶ Further, summer 2002 peak demand was 10% higher than the peak demand for the 2001 period.⁷

II. EQUUS REQUESTS CERTIFICATE APPROVAL FOR CONSTRUCTION OF THE FACILITY UNDER PSL SECTION 68

Under Section 21.3 of the Commission's regulations, 16 NYCRR § 21.3, an applicant for a certificate under PSL Section 68 must show that (1) the plant is in the public interest, (2) the enterprise is economically feasible, (3) the applicant is able to finance the project, (4) the applicant is able to render adequate service and (5) where similar services are being rendered in the area proposed to be served, there is a public need for the proposed service.⁸ Where similar services are being provided in all or part of the area to be served, to show public need, an applicant must address: (i) the adequacy of existing service to meet the reasonable need of the public, (ii) the ability and willingness of present operators to provide reasonably adequate service and (iii) the degree of competition desirable or required by the public interest.⁹ As shown below, Equus satisfies these standards and therefore should be issued a certificate of public convenience and necessity.

⁵ LIPA Press Release, dated July 3, 2002.

⁶ LIPA Press Release, dated July 30, 2002.

⁷ LIPA Press Release, dated November 14, 2002.

⁸ Section 21.3 of the Commission's regulations also sets forth requirements for certain evidentiary showings in the context of an entity that is requesting authority to sell power at retail to end-use customers in a franchised service territory. Equus intends to sell power strictly at wholesale pursuant to authority to be granted by the Federal Energy Regulatory Commission ("FERC") under Section 205 of the Federal Power Act, 16 U.S.C. § 824 et seq., and is not seeking authority to sell in a franchised service territory. Equus thus respectfully requests a waiver from filing requirements that are not applicable in the context of this application.

⁹ 16 NYCRR § 21.3(g).

First, the public interest and public need provide clear support for the Facility. As shown above, LIPA faces a critical need for increased generation capacity for the summer of 2004 and beyond, and LIPA has worked with Equus toward construction of the Facility to help meet that need in time for the 2004 summer peaking season. To serve the public need, LIPA also has entered into an agreement to purchase the maximum capacity and energy (subject to a contractual dispatch schedule) from the Facility for a 10-year term.

Under the agreement, Equus will sell capacity and energy to LIPA based upon fixed rates, subject only to annual adjustments for inflation. These rates are very competitive. As previously indicated, notwithstanding the peaker design of the Facility, it would have been dispatched more than half the time in 2002. Thus, output of the Facility and the pricing structure agreed to with LIPA will help control prices paid by Long Island retail ratepayers, a benefit over and above the benefit of the increased capacity the Facility will provide to LIPA to meet its capacity requirements. The availability of the output of the Facility thus will provide benefits to the marketplace as a whole by increasing competition. In that regard, the NYISO will dispatch generators on a competitive basis. Existing generating plants generally will operate only when the NYISO determines that their output is available at prices that are equal to or less than the energy available from other generators. As a consequence, adding the generation available from the Facility into the mix of potential supplies will provide an incentive for existing generators to control costs and improve performance, thereby helping to push down prices in the overall market.

Further, the Facility will be sharing infrastructure costs with the Village of Freeport for a gas pipeline, transmission facilities, site environmental remediation, and noise reduction enhancements at the site (all being constructed by the Village of Freeport as part of its project

but which also will be for the benefit of the Facility) that will help reduce costs to Village ratepayers. Additionally, the unit is equipped with advanced combustion systems and emissions controls intended to manage emissions to low levels consistent with New York state goals.

The foregoing factors clearly establish the public need for the Facility and that the public interest will be furthered by its construction.

The Facility also is economically feasible. The long-term agreement with LIPA ensures that the maximum capacity, energy and ancillary services will be purchased from the Facility consistent with its design as a peaker plant. Further, because the agreement is structured as a tolling agreement, LIPA, not the Facility, will take the risk of fluctuating fuel prices.

Financing will be obtained through private placement debt in the amount of up to \$43 million. In addition, Equus will be obligated to put up two letters of credit, each in the amount of \$3 million. It is not anticipated that the two letters of credit could be outstanding at the same time. However, both will have reinstatement obligations in the event of draws. The balance of the financing requirements will come in the form of private equity investments of cash or equipment or a combination of both. The debt financing will be made on a non-recourse, project-financed basis with the Facility serving as collateral for repayment of the debt. The debt and equity investments in the Facility will be financed entirely from private sources whose investment objectives include New York energy markets.

Finally, the Facility will be able to render adequate service. The plant will be designed and constructed by a third-party EPC contractor experienced with building plants of this type. The EPC contractor intends to utilize specific local contractors experienced with similar construction in the Long Island market. The EPC contract is a firm price, date specific agreement which contains incentives for project complete and plant performance.

As previously explained, the Facility will be operated by the Village of Freeport. The Village has operated its own electric system for over a century. It is the largest municipal electric utility on Long Island. Currently, it operates two power plant stations, consisting of seven separate generators with installed capacity of 44 MW. It will operate the Facility along with the operation of another 44 MW facility to be constructed by the Village and that is expected to be operational in early 2004. The Village of Freeport unit also will be a simple cycle LM 6000 peaker plant with similar auxiliary and fuel systems. Operations and short term maintenance can be performed efficiently by the Village of Freeport operations staff that will be trained to operate and maintain their own LM 6000 facility. Further, spare parts and major maintenance can be managed more efficiently through the use of shared stores and the operator's experience with qualified contractors.

Thus, as shown above, the Facility meets the requirements for a CPCN. Further, an order approving the issuance of a CPCN would be consistent with recent orders by the Commission. *See, e.g., Nissequoque Cogen Partners*, No. 03-E-0100 (issued February 20, 2003); *Global Common Greenport LLC*, No. 02-E-1419 (issued January 24, 2003); *Jamaica Bay Peaking Facility, LLC*, No. 02-E-1417 (issued December 19, 2002); *PSEG Power Bellport, LLC*, No. 02-E-1445 (issued December 18, 2002). Accordingly, Equus requests that the Commission find that the Facility is in the public interest and issue a CPCN on an expedited basis as requested in Section III *infra*.

III. EQUUS REQUESTS EXPEDITED TREATMENT

Pursuant to Section 21.10 of the Commission's regulations, 16 NYRCC 21.10, Equus requests that this application for a CPCN be treated on an expedited basis. As noted above, the intent of LIPA and Equus is that the Facility will commence commercial operations by June 1,

2004 in time for the 2004 summer peaking season. In order to achieve that goal, it is necessary to commence construction as soon as possible.

Equus submits that expedited approval of this application thus will be consistent with, and will further, the goal of meeting Long Island's electric needs for the summer of 2004. Expedited approval of this application also will promote the policy objective of adding much needed generation in the Long Island region and will further the goal of encouraging the development of competitive generation.¹⁰

**IV.
EQUUS REQUESTS TO BE REGULATED CONSISTENT WITH
THE LIGHTENED REGULATORY REGIME FOUND
APPROPRIATE FOR OTHER WHOLESALE GENERATORS**

A. The Commission Has Approved A Lightened Regulatory Regime For Wholesale Generators

Commencing in 1994, the Commission has issued various orders approving a lightened regulatory regime for wholesale generators. *See, e.g., Wallkill Generating Company, L.P.*, No. 91-E-0350 (issued April 11, 1994) ("Wallkill"); *Carr Street Generating Station, L.P.*, No. 98-E-1670 (issued April 23, 1999) ("*Carr Street*"); *AES Eastern Energy, L.P.*, No. 99-E-0148 (issued April 23, 1999) ("*AES Eastern*"); *Global Common Greenport LLC*, No. 02-E-1419 (issued January 24, 2003) ("*Global Common*"). As a basis for imposing that lightened form of regulation, the Commission specified, for example in *Carr Street*, that it was appropriate to impose a different form of regulation upon new forms of electric service providers that differ in character from traditional electric utility monopoly providers.

The first issue that the Commission has addressed in these various orders is whether the entity seeking to be regulated under the lightened regulatory regime is an electric corporation

¹⁰ Attached as Exhibit 1 is a copy of a Notice of Application to be published in the Long Island Newsday. Equus will file an affidavit of publication following publication of the notice.

under PSL Section 2(13) and whether the entity will be engaged in the manufacture of electricity under PSL Section 5(1)(b). In each instance, the Commission has ruled that the entity fell within the terms of those definitions and therefore was an electric corporation under New York law. Having made that determination, the Commission determined that each of the entities was subject to provisions such as PSL Sections 11, 19, 24, 25 and 26.

However, the Commission also found that various other provisions of the Public Service Law were inapplicable to each of the entities. For instance, the Commission found that Article 2 is restricted by its terms to the provision of service to retail residential customers, and therefore was inapplicable to wholesale generators. The Commission also found that certain provisions of Article 4 also are restricted to retail service.¹¹ The provisions of Article 4 that the Commission found apply to wholesale generators are: Section 66(6), pertaining to the filing of an annual report; Section 68, providing for the certification of electrical plant; Section 69, concerning securities issuances; Section 69-a, concerning reorganizations; and Section 70, concerning the transfer of securities or systems. As to PSL Section 66(6), the Commission has held that a wholesale generator may fulfill its obligations to file an annual report by submitting the material that it is obligated to file with the FERC. As to PSL Section 70, the Commission has presumed that "Section 70 regulation would not 'adhere to transfer of ownership interests in entities upstream from the parents of a New York competitive electric generation subsidiary, unless there is a potential for harm to the interest of captive ratepayers sufficient to override the presumption.'" *AES Eastern*, p. 7, quoting *Wallkill*, pp. 91-10.

¹¹ See, e.g., PSL §§ 66(12), regarding the filing of tariffs; 66(21), regarding storm plans; 67, regarding inspection of meters; 72, regarding hearings and rate proceedings; 75, regarding excessive charges; and, 76, regarding rates charged religious bodies and others.

With respect to PSL Article 6, the Commission has held that it was enacted largely to address potential abuses associated with large utility holding companies, or growing out of utility dealings with affiliates and subsidiaries, that might force retail rates higher. Thus, the only provision within Article 6 that the Commission has imposed on all wholesale generators is PSL Section 119-b, concerning the protection of underground facilities from damage by excavators. The Commission also conditionally has imposed PSL Sections 110(1) and (2) to the extent that issues are raised concerning market power. However, the Commission has found that such issues are absent where a wholesale generator directly contracts with a traditional utility for the sale of generation and the wholesale generator does not have a power marketer affiliate.

B. Request for Regulation under Lightened Regulatory Regime

Equus requests that it be regulated under the lightened regulatory regime described in *Wallkill*, *Carr Street*, *AES Eastern* and *Global Common* and that it thus be regulated in the manner, and be afforded the same flexibility that is available to, other wholesale generators. Like other wholesale generators, Equus will file for status as an Exempt Wholesale Generator with the FERC and will seek authority from the FERC to sell capacity, energy and ancillary services at wholesale under FPA Section 205. As previously indicated, Equus will furnish its capacity, energy and ancillary services directly to LIPA at fixed rates under a power purchase agreement that was the product of arms-length negotiation. Further, Equus is not affiliated with a power marketer. Accordingly, Equus submits that it satisfies the criteria to be regulated under the same lightened regulatory regime as other wholesale generators, including the inapplicability at this time of PSL Sections 110(1) and (2) based upon the lack of a power marketing affiliate.

V.
EQUUS REQUESTS APPROVAL FOR FINANCING

PSL Section 69 requires the Commission's authorization for an electric corporation to enter into indebtedness payable over a period of greater than 12 months. The Commission has ruled that in the case of a competitive wholesale generator that is subject to lightened regulation, the scrutiny that is necessary is less than that required of a financing request by a monopoly utility. *Athens Generating Company, L.P.*, No. 01-E-0816 (issued July 30, 2001) ("*Athens*"), p. 3. With respect to a competitive wholesale generator, the Commission has stated that an in-depth analysis need not be undertaken, and swift Commission action can be taken on the basis of the representations in the petition itself. *Id.*

Equus projects that it will require a sum of up to \$49 million to finance construction of the Facility, consisting of \$43 million in debt and two letters of credit, each in the amount of \$3 million. As previously indicated, financing will be obtained through private placement debt. The debt financing will be made on a non-recourse, project-financed basis with the Facility serving as collateral for repayment of the debt. The balance of the financing requirements will come in the form of private equity investments of cash or equipment or a combination of both.

As discussed above, the Facility will help LIPA satisfy its need for system supply and reliability for the summer of 2004. Therefore, Equus requests that the Commission authorize Equus under PSL Section 69 to obtain financing for the Facility in an amount up to \$49 million. Equus further requests that the Commission grant such authorization on an expedited basis pursuant to Section 202(6) of the State Administrative Procedures Act. Equus requires expedited approval in order that it be in a position to commence commercial operations no later than June 1, 2004. The Commission has granted such expedited authorization in the past in similar circumstances. *PSEG Power Bellport, LLC*, No. 02-E-1445 (issued December 18, 2002)

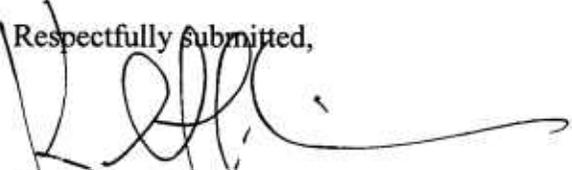
("Bellport"); *Athens*, pp. 3-4. Attached hereto as Exhibit 2 is the Affidavit of Frank Giacalone, Executive Vice President of Equus, in support of this request for expedited authorization.

Equus further requests that the Commission grant it the flexibility to substitute financing entities and change payment terms and amounts of its financing without having to seek new Commission authorization so long as the total financing amount is less than or equal to the original amount requested herein (up to \$49 million). Equus requires that flexibility in order to quickly modify its financing to take advantage of changing market conditions. The Commission has granted such flexibility in the past. *See, e.g., Bellport*, pp. 8-9; *Global Common*, pp.8-9.

VI. CONCLUSION

For the foregoing reasons, Equus requests that the Commission grant this (i) application for a Certificate of Public Convenience and Necessity, (ii) request for expedited approval, (iii) petition for an order for lightened regulation, (iv) petition for approval of financing on an expedited basis and (v) for such other and further relief as is necessary or appropriate in furtherance of the relief sought by Equus.

Respectfully submitted,



Kenneth L. Wiseman
Mark F. Sundback
Andrews & Kurth L.L.P.
1701 Pennsylvania Avenue, N.W.
Washington, D.C. 20006
(202) 662-2700

Counsel for Equus Power I, L.P.

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

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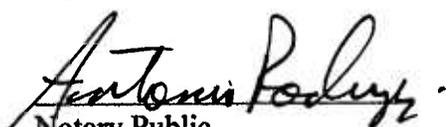
VERIFICATION

State of Texas)
) ss.:
County of Harris)

Rocky Sembritzky, being duly sworn, deposes and says that he is Chief Executive Officer and President of Equus Power I, L.P., applicant and petitioner in the above-captioned proceeding; that he has read the foregoing application and petition and knows the contents thereof; and that the same are true to the best of his own information and belief.

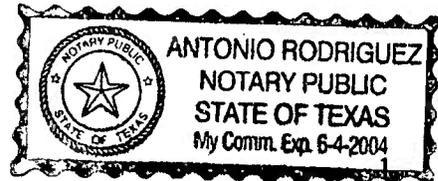

Rocky Sembritzky
CEO and President
Equus Power I, L.P.
1701 Hermann Drive
Suite 2802
Houston, Texas 77004

I do hereby certify that on this 15 day of August, 2003, August personally appeared before the undersigned Notary Public and made oath to the foregoing.


Notary Public

My Commission expires: 6-4-2004

[SEAL]



**NOTICE OF APPLICATION OF
EQUUS POWER I, L.P.**

Equus Power I, L.P. ("Equus"), a Texas limited partnership, has filed an application with the Public Service Commission for a certificate of public convenience and necessity to construct and operate a 49 MW simple cycle gas turbine generating facility in the Village of Freeport, Long Island, New York.

Equus has requested that the hearing required by the Public Service Law be held before the Public Service Commission on the basis of the application and accompanying material and such exhibits, and other information as may be filed by any party or the Staff or the Public Service Commission, and that oral testimony may not be taken.

Any person opposed to the granting of the certificate, within 10 days of the publication of this notice, should notify in writing the secretary of the Public Service Commission at Agency Building 3, Empire State Plaza, Albany, New York 12223, of the reasons for the opposition.

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

In the Matter of Equus Power I, L.P.)	
Application for Certificate of Public)	
Convenience and Necessity Pursuant to)	
Public Law §68, Request for Expedited)	Case 03-E-_____
Treatment, Petition for an Order Regarding)	
Regulatory Regime and Petition for Financing)	
Approval Pursuant to Public Service Law §69)	

AFFIDAVIT OF FRANK GIACALONE

State of Texas)
) ss.:
County of Harris)

I, Frank Giacalone, being duly sworn, depose and say:

1. I am Executive Vice President of Equus Power I, L.P. ("Petitioner"), and the Executive Vice President of Equus Power, Inc., the parent company of Petitioner. My responsibilities include commercial development, management, regulatory and permitting oversight and asset management of Equus facilities.

2. I graduated from Widener University in 1973 with a degree in Mechanical Engineering and am a registered professional engineer in New York. I have over 25 years experience in the electric industry. Through senior management positions I have held with held with several publicly held companies, I have had responsibility for development of 16 power plant projects with a combined capacity of over 4500 MW. Among those projects are both domestic and international power plants, major power plants with capacity of up to 700 MW and small cogeneration facilities. I make the following statements based upon my background and experience and my direct, first-hand knowledge of the facts herein.

3. Petitioner proposes to construct and operate an electric generating facility in the Village of Freeport, Long Island, New York ("Village of Freeport" or "Village"). The generating plant will consist of one GE LM 6000 simple cycle gas turbine, with a nominal rating of 49 MW (the "Facility"). The Facility is part of a larger project being developed by the Village of Freeport. The intent underlying the Village's project is to replace existing diesel generators at its Power Plant Number 2. As part of its project, the Village will construct its own generating plant at a site that will be shared by the Facility. Petitioner will share certain infrastructure costs with the Village, such as the costs of a gas pipeline, transmission facilities, site environmental remediation, and noise reduction enhancements at the site (all being constructed by the Village of Freeport as part of its project) that will help reduce costs to Village ratepayers.

4. The Long Island Power Authority ("LIPA") Draft Energy Plan 2002-2011 has identified a need to add additional resources to grow at a rate of approximately 100 MW per year from 2004 through 2011. LIPA has forecast that peak load would increase by approximately 1.7 percent per year during this same time period. The Facility is one of the resources that LIPA specifically has identified as assisting it in meeting its needs for more capacity. Originally, the Facility was to be developed for the summer of 2003 by PPL Global Power. PPL Global Power, however, withdrew from the project, and the Village of Freeport then selected Equus to be the developer of the Facility. Equus has worked with LIPA toward the goal of having the Facility commence commercial operations by June 1, 2004, so that it will be available for the 2004 summer peaking season.

5. Construction of the Facility cannot commence until Petitioner has been granted a certificate of public convenience and necessity ("CPCN"), the Facility has submitted its Notice of Intent for coverage under the New York State Department of Environmental Conservation

("NYSDEC") General Permit GP-02-01 for Stormwater Discharges from Construction Activities and an air permit has been obtained from the New York Department of Environmental Conservation ("DEC") Petitioner believes that the DEC will issue an air permit within 90 to 120 days from the date the application for the permit was filed. Thus, Equus expects the air permit to be issued between November 11, 2003 and December 11, 2003. I estimate that construction and operational testing of the Facility will require 22 weeks from the time the air permit is issued. The completion of construction within this tight schedule is possible because required construction of infrastructure (such as a gas pipeline, transmission facilities and other shared facilities) is being undertaken by the Village of Freeport as part of the overall project, and the Village will commence construction activities in September 2003. Therefore, in coordination with the Village's construction schedule, contractor coordination and shared resources, I project that the Facility can be completed by the projected June 1, 2004 commercial operation date assuming the air permit is received in the time frame discussed above.

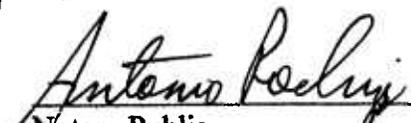
6. Aside from permitting issues, the other significant hurdle in achieving commercial operation by June 1, 2004 is to obtain financing as soon as possible. Petitioner needs that financing to cover the costs of third-party vendors for: site preparation consisting of clearing, excavation, grading and road access; construction services; equipment; and materials. Petitioner does not have available internal funds and will be relying upon financing to contract for the foregoing services, equipment and materials. A significant delay in commencing the process of contracting for these services and equipment, *e.g.*, for example with the EPC contractor, would jeopardize the ability to commence commercial operations by the anticipated in-service date.

7. If the Commission grants Petitioner's request for emergency approval of financing at its September 17, 2003 meeting, Petitioner will be able to retain a qualified EPC contractor, complete site preparation and procure the necessary equipment and materials to begin construction immediately upon receipt of the air permit and complete construction by the anticipated commercial operations date. Even if the Commission grants Petitioner's request for financing approval at its October 22, 2003 meeting, it should be possible to complete the project in a timely fashion, although an inability to contract for the necessary services, equipment and materials until after that meeting will put the project on a schedule with little room for contingencies.

8. Further, failure to obtain the authority to obtain financing until the Commission's November 2003 meeting would cause a delay such that it is highly improbable that the Facility would be capable of being completed in time for the 2004 summer peaking season as contemplated by Petitioner and LIPA.

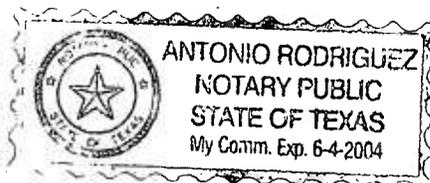

Frank Giacalone

I do hereby certify that on this 15 day of August, 2003, FRANK GIACALONE personally appeared before the undersigned Notary Public and made oath to the foregoing.


Notary Public

My Commission expires: 6-4-2004

[SEAL]



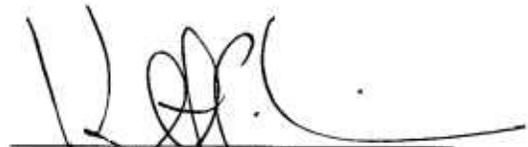
CERTIFICATE OF SERVICE

I hereby certify that on August 18th, 2003, I caused true and correct copies of the foregoing Verified Application For Certificate Of Public Convenience And Necessity, Request For Expedited Treatment, Petition For An Order Regarding Regulatory Regime And Petition For Financing Approval, inclusive of the exhibits thereto, to be served by first class mail, postage prepaid upon the following:

Hub Bianco
Freeport Electric
220 W. Sunrise Highway
Freeport, NY 11520

Jeffrey C. Genzer
Duncan, Weinberg, Genzer & Pembroke, P.C.
1615 M Street, N.W.
Suite 800
Washington, D.C. 20036-3266

William Davidson
Sarah Barrish-Straus
Long Island Power Authority
333 Earle Ovington Boulevard
Suite 403
Uniondale, NY 11553



Kenneth L. Wiseman

Corporations Section
P.O.Box 13697
Austin, Texas 78711-3697



Geoffrey S. Connor
Assistant Secretary of State

Office of the Secretary of State

The undersigned, as Secretary of State of Texas, does hereby certify that the attached is a true and correct copy of each document on file in this office as described below:

EQUUS POWER I, L.P.
Filing Number: 800211547

Certificate of Limited Partnership

June 06, 2003

In testimony whereof, I have hereunto signed my name officially and caused to be impressed hereon the Seal of State at my office in Austin, Texas on August 11, 2003.



A handwritten signature in black ink, appearing to read "G. Connor".

Assistant Secretary of State

Form 207
(revised 5/01)

This space reserved for office use.

Return in Duplicate to:
Secretary of State
P.O. Box 13697
Austin, TX 78711-3697
FAX: 512/463-5709



FILED
In the Office of the
Secretary of State of Texas

JUN 06 2003

Corporations Section

Filing Fee: \$750

Certificate of

Limited Partnership

**Pursuant to
Article 6132a-1**

1. Name of Limited Partnership

The name of the limited partnership is as set forth below:

EQUUS POWER I, L.P.

The name must contain the words "Limited Partnership," or "Limited," or the abbreviation "L.P.," or "Ltd." as the last words or letters of its name. The name must not be the same as, deceptively similar to or similar to that of an existing corporate, limited liability company, or limited partnership name on file with the secretary of state. A preliminary check for "name availability" is recommended.

2. Principal Office

The address of the principal office in the United States where records of the partnership are to be kept or made available is set forth below:

Address: 5603 Willers Way

City	State	Zip Code	Country
Houston	Texas	77056	USA

3. Registered Agent and Registered Office (Select and complete either A or B, then complete C.)

A. The initial registered agent is a corporation by the name set forth below:

OR

B. The initial registered agent is an individual resident of the state whose name is set forth below:

First Name	Middle Initial	Last Name	Suffix
Jeffery		Anon	

C. The business address of the registered agent and the registered office address is:

Street Address	City		Zip Code
5603 Willers Way	Houston	TX	77056

4. General Partner Information

The name, mailing address, and the street address of the business or residence of each general partner is as follows:

General Partner 1

Legal Entity: The general partner is a legal entity named:

Equus Power, Inc., a Texas corporation

Individual: The general partner is an individual whose name is set forth below:

First Name	M.I.	Last Name	Suffix

MAILING ADDRESS OF GENERAL PARTNER 1

Mailing Address	City	State	Zip Code
5603 Willers Way	Houston	Texas	77056

STREET ADDRESS OF GENERAL PARTNER 1

Street Address	City	State	Zip Code
5603 Willers Way	Houston	Texas	77056

General Partner 2

Legal Entity: The general partner is a legal entity named:

Individual: The general partner is an individual whose name is set forth below:

Partner 2--First Name	M.I.	Last Name	Suffix

MAILING ADDRESS OF GENERAL PARTNER 2

Mailing Address	City	State	Zip Code

STREET ADDRESS OF GENERAL PARTNER 2

Street Address	City	State	Zip Code
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5 - Supplemental Information

Text Area:

[The attached addendum are incorporated herein by reference.]

Effective Date of Filing

A. This document will become effective when the document is filed by the secretary of state.

OR

B. This document will become effective at a later date, which is not more than ninety (90) days from the date of its filing by the secretary of state. The delayed effective date is _____

Execution

The undersigned sign this document subject to the penalties imposed by law for the submission of a false or fraudulent document.

Name Equus Power, Inc.	Name
By:  JEFFERY ANON, President	
Signature of General Partner 1	Signature of General Partner 2