

1 NEW YORK STATE PUBLIC SERVICE COMMISSION

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3 In the Matter of

4 Case 01-E-1634 - Petition of PPL Global, LLC
for an Order that a Proposed 79.9 Megawatt Oil
5 Fired Peaking Facility in the Town of Brookhaven,
Suffolk County, will be Regulated under a
6 Lightened Regulatory Regime; for a Certificate of
Public Convenience and Necessity for the Proposed
7 Facility; and for Financing Approval

8 Case 01-E-1635 - Petition of PPL Global, LLC
for an Order that a Proposed 79.9 Megawatt Natural
9 Gas Fired Peaking Facility in the Town of Islip,
Suffolk County, will be Regulated under a
10 Lightened Regulatory Regime; for a Certificate
of Public Convenience and Necessity for the Proposed
11 Facility; and for Financing Approval.

12 Case 01-E-1716 - Petition of KeySpan-Port
Jefferson Energy Center, LLC for an Order that
13 a Proposed 79.9 Megawatt Natural Gas Fired
Simple Cycle Peaking Facility in the Town of
14 Brookhaven, Suffolk County, will be Regulated
under a Lightened Regulatory Regime and for a
15 Certificate of Public Convenience and Necessity for
the Proposed Facility

16 Case 01-E-1718 - Petition of KeySpan-Glenwood
17 Energy Center, LLC for an Order that a Proposed
79.9 Megawatt Natural Gas Fired Simple Cycle
18 Peaking Facility in the Town of Oyster Bay, Nassau
County, will be regulated under a Lightened
19 Regulatory Regime and for a Certificate of Public
Convenience and Necessity for the Proposed Facility.

20 Case 01-E-1730 - Petition of CPN Bethpage 3rd
21 Turbine, Inc. For an Order that a Proposed 44
Megawatt Natural Gas fired Simple Cycle Peaking
22 Facility in the Town of Oyster Bay, Nassau County,
will be Regulated under a Lightened Regulatory
23 Regime and for a Certificate of Public Convenience
and Necessity for the Proposed Facility.

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2 MINUTES OF EVIDENTIARY HEARING held at the Offices of
3 Public Service Commission, One Penn Plaza, New York,
4 New York, on December 5, 2001, commencing at 10:30
5 o'clock a.m.

6

7 BEFORE: JACLYN A. BRILLING
8 Administrative Law Judge
9 Public Service Commission
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22 CULLEN & DYKMAN, ESQS.
177 Montague Street
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BY: DAVID T. METCALFE, ESQ.
24

1

2

Citizens Advisory Panel:

2316 Main Street

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P.O. Box 789

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BY: GORDIAN RAACKE, Executive Director

KATHLEEN WHITLEY, Energy Analyst

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6 For OPPONENT:

7

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Brentwood, New York 11717

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For OPPONENT:

10

PETER QUINN

11

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West Islip, New York 11795

12

13 ALSO PRESENT:

14

For PPL Global:

15

James Potter

David Kettler

16

Stephen Marron

17

For KeySpan:

18

Brian T. McCabe

19

For Long Island Power:

20

Richard J. Bolbrock

21

For CPN Bethpage 3rd Turbine, Inc.:

22

John J. Eff, Jr.

John A. Sasso

23

24

* * *

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1 JUDGE BRILLING: Good morning.

2 My name is Jaclyn Brilling. I'm the
3 Administrative Law Judge assigned to these five
4 cases.

5 And I call Cases 01-E-1634, petition of
6 PPL Global, for an Order that a proposed 79.9
7 megawatt oil-fired peaking facility in the Town of
8 Brookhaven, Suffolk County, will be regulated under a
9 lightened regulatory regime, for a Certificate of
10 Public Convenience and Necessity for the proposed
11 facility, and for financing approval.

12 And I also call Case 01-E-1635, petition
13 of PPL Global for a similar Order in the Town of
14 Islip, this time a gas peaking facility.

15 And Case 01-E-1716, petition of KeySpan,
16 Port Jefferson Energy Center, LLC, for a similar
17 Order in the Town of Brookhaven, Suffolk County, also
18 a gas-fired facility.

19 And case 01-E-1718, petition of KeySpan
20 Glenwood Energy Center, LLC, for a similar order in
21 the Town of Oyster Bay, a gas-fired facility.

22 And Case 01-E-1730, petition of CPN
23 Bethpage 3rd Turbine, Inc., for a similar Order for a
24 44 megawatt gas-fired facility in the Town of Oyster

1 Bay, Nassau County.

2 Can I take appearances, starting with my
3 left.

4 MR. METCALFE: David Metcalfe and
5 Margaret Mayora, Cullen & Dykman, counsel to CPN,
6 Bethpage 3rd Turbine, Inc.

7 MS. FORD: Elsa Ford.

8 MR. QUINN: Peter Quinn, Long Island
9 Coalition for Democracy, also a member of the Suffolk
10 County Electrical Agency.

11 MR. RAACKE: Gordian Raacke, Citizens
12 Advisory Panel.

13 MR. D'ANDREA: James D'Andrea, KeySpan
14 Corporation, attorney for KeySpan-Glenwood Energy
15 Center and KeySpan-Port Jefferson Energy Center.

16 MR. GERRARD: Michael Gerrard, with
17 Arnold & Porter, also counsel to KeySpan-Port
18 Jefferson Energy Center and KeySpan-Glenwood Energy
19 Center.

20 MR. LELAND: Richard Leland, Rosenman &
21 Colin, Long Island Power Authority.

22 MR. KASS: Stephen Kass, of Carter,
23 Ledyard & Milburn, co-counsel for Long Island Power.

24 MS. LEISTENSNIER: Ruth Leistensnider

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1 and Andrew Gansberg, for Nixon Peabody, for PPL
2 Global.

3 MR. POTTER: James Potter, for PPL
4 Global.

5 JUDGE BRILLING: Okay.

6 On Monday, December 3rd, some of us had
7 the opportunity to speak in a teleconference about
8 this process, and how we might organize it to get
9 through five cases efficiently.

10 And it was decided that we would swear
11 in everyone at the same time, and enter testimony and
12 cross-examine as panels.

13 And so one procedural issue was raised,
14 though, that I would like to discuss a little further
15 now that we are on the record.

16 The question came from Ms. Ford, and
17 that question was whether Mr. Quinn could effectively
18 adopt her testimony.

19 I think that was your question.

20 At the time I don't think that I was
21 inclined to agree with that, but I've had sometime to
22 think about it, and in some instances where a
23 particular witness isn't available, other witnesses
24 have been known to adopt their testimony.

1 So, if that is what you were asking to
2 do, that I would like to throw out for discussion at
3 this time.

4 MS. FORD: Does that mean we can both
5 speak?

6 JUDGE BRILLING: Well, your testimony
7 was submitted.

8 And I thought what you were asking was,
9 could Mr. Quinn field the questions on your
10 testimony.

11 And the way he could do that is if you,
12 Mr. Quinn, adopted her testimony as your own, as it
13 was given orally here.

14 And then we would entertain any
15 cross-examination questions within the scope of that
16 testimony.

17 MR. QUINN: Would it be possible to
18 enlarge upon her testimony by speaking as an
19 intervenor pro se?

20 Although I wasn't initially a part of
21 the teleconference communication, I did call your
22 office on Monday, subsequent to that phone
23 conversation, to ask that I be allowed to intervene.

24 JUDGE BRILLING: I did not receive any

1 such message.

2 Let's throw it out for discussion at
3 this point.

4 MR. LELAND: Richard Leland, from Long
5 Island Power Authority.

6 We would object to any enlargement
7 beyond prefiled testimony.

8 JUDGE BRILLING: Anyone else?

9 MR. GANSBERG: Andy Gansberg.

10 I don't think it is a question of
11 whether or not this testimony is adopted and placed
12 on the record.

13 I think the question is who would be
14 entitled to cross-examine, who would be inclined to
15 cross-examine either of the witnesses.

16 So, PPL Global does not object to having
17 the testimony entered into the record, but we would
18 object if there is an enlargement of the direct
19 testimony that had not been provided to the parties
20 in a timely fashion.

21 JUDGE BRILLING: Anyone else?

22 MR. METCALFE: David Metcalfe, CPN
23 Bethpage.

24 We have a similar objection to

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1 Mr. Gansberg with respect to enlargement of the
2 direct testimony.

3 MR. GERRARD: Your Honor, Michael
4 Gerrard, for KeySpan.

5 We join in the objection to the
6 enlargement of the testimony beyond what has already
7 been submitted.

8 JUDGE BRILLING: Okay.

9 It's a little bit irregular. The
10 testimony was called for, and Ms. Ford did submit
11 testimony.

12 I'm willing to let you adopt her
13 testimony and entertain cross-examination questions
14 on it.

15 You can certainly get in anything that
16 you want to in the form of cross-examination
17 response.

18 But it is a little irregular to do that.

19 Of course, as a citizen you're welcome
20 to submit anything in writing that you wish to the
21 Secretary of the Commission.

22 And if you don't have that information,
23 I can certainly give that to you at our break.

24 MS. FORD: Okay. Well, what is the

1 deadline for that written submission?

2 JUDGE BRILLING: I would get it in as
3 soon as possible, since the deadline for submission
4 was a week ago.

5 Anything else for housekeeping?

6 Okay. Are all the witnesses seated at
7 the table?

8 MR. GANSBERG: Yes.

9 MR. LELAND: Yes.

10 JUDGE BRILLING: And their
11 representatives who will be advising them are seated
12 at the table, as well?

13 MR. LELAND: Yes, your Honor.

14 JUDGE BRILLING: Could I ask all of the
15 witnesses to please rise and raise your right hand.

16 When you say "I," then you will say your
17 name, and hopefully, the stenographer can record from
18 the name tag.

19 Why don't we start over here with
20 Mr. Kettler.

21 MR. KETTLER: I, David Kettler --

22 JUDGE BRILLING: I can barely read your
23 name plate from here.

24 So why don't you say your name as you go

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1 around the room.

2 MR. KETTLER: David J. Kettler.

3 MR. MARRON: Stephen T. Marron.

4 MR. POTTER: James Potter.

5 MR. BOLBROCK: Richard J. Bolbrock.

6 MR. McCABE: Brian T. McCabe.

7 MR. RAACKE: William Raacke.

8 MR. QUINN: Peter Quinn.

9 MS. FORD: Elsa Ford.

10 MR. SASSO: John Sasso.

11 MR. EFF: John Eff, Jr.

12 (Witnesses sworn by Judge Brilling.)

13 JUDGE BRILLING: Thank you.

14 Okay. I think we should start with --

15 MR. KASS: Your Honor, excuse me.

16 Stephen Kass.

17 May I ask you to clarify something that

18 was said a moment ago with respect to Mr. Quinn's

19 request to put in a letter or written comments?

20 I assume that those were simply comments

21 that he would be writing as a citizen to the

22 Commissioner, and not intended to be part of the

23 record of this proceeding.

24 I did not understand you to be saying

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1 that the record of this proceeding would be kept open
2 for an indefinite period of time.

3 JUDGE BRILLING: No.

4 MR. KASS: Thank you.

5 JUDGE BRILLING: Could we start with PPL
6 Global.

7 And let's begin with Case 01-E-1634.

8 And I would ask you to enter the
9 testimony as you normally would into the record.

10 MR. GANSBERG: Thank you, your Honor.

11 Gentlemen, do you have before you a
12 forty-three-page document of questions and answers
13 entitled "Prefiled Direct Testimony of Potter,
14 Kettler and Marron"?

15 MR. POTTER: Yes.

16 MR. KETTLER: Yes.

17 MR. MARRON: Yes.

18 MR. GANSBERG: Do you have any changes
19 to make in that prefiled direct testimony?

20 Mr. Kettler.

21 MR. KETTLER: Yes, I do. On page 16,
22 line No. 12.

23 JUDGE BRILLING: One six?

24 MR. KETTLER: One six, line No. 12.

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1 I would like to strike the words "as
2 soon as" and enter the words "prior to DEC's," strike
3 the words "issued its."

4 The remainder of the line is the same.

5 And on line 13, after the word
6 "January," enter a comma, and "pouring foundations
7 immediately thereafter."

8 The one last correction, on line 18, the
9 sentence should read, "We have not completely
10 analyzed the impact of." There is a misspelling.
11 That word should be "of."

12 JUDGE BRILLING: Do you have a corrected
13 sheet?

14 MR. GANSBERG: I marked it by hand.

15 JUDGE BRILLING: Could I just see it?
16 Because I didn't get the second one.

17 Thank you.

18 MR. GANSBERG: Mr. Potter, any changes
19 to the testimony?

20 MR. POTTER: Yes, I have one change.

21 On page 2, line 3, that should read
22 "three-and-one-half years," not "two-and-one-half
23 years."

24 MR. GANSBERG: That completes our

1 changes.

2 Gentlemen, if I were to ask you the
3 questions set forth in your prefiled direct
4 testimony, would your answers be as set forth in that
5 testimony?

6 MR. POTTER: Yes.

7 MR. KETTLER: Yes.

8 MR. MARRON: Yes.

9 JUDGE BRILLING: Do you adopt this as
10 your direct testimony in these proceedings?

11 MR. KETTLER: Yes.

12 MR. POTTER: Yes.

13 MR. MARRON: Yes.

14 MR. GANSBERG: Mr. Marron, was Exhibit
15 STM-1, which is a" prepared by you, or under your
16 direction and supervision?

17 MR. MARRON: Yes.

18 MR. GANSBERG: May we have this exhibit
19 marked for identification?

20 JUDGE BRILLING: Mark it as 1 for
21 identification, Exhibit 1 for identification.

22 (Document marked PPL Global Exhibit 1
23 for identification.)

24 JUDGE BRILLING: PPL Global 1.

1 Are there any objections?

2 (No response.)

3 JUDGE BRILLING: Hearing none, we will
4 enter it at this time.

5 (PPL Exhibit 1 received in evidence.)

6 MR. GANSBERG: Mr. Kettler, were the
7 following exhibits prepared by you, or under your
8 direction and supervision?

9 A three-page exhibit marked DJK-1,
10 entitled "David J. Kettler, PE Site
11 Engineering/Design"?

12 MR. KETTLER: Yes, it was.

13 MR. GANSBERG: An exhibit marked DJK-2,
14 a single-page exhibit, entitled "Site Plan Figure No.
15 2."

16 MR. KETTLER: Yes, it was.

17 MR. GANSBERG: And a single-page exhibit
18 marked DJK-3, also entitled "Site Plan Figure 2."

19 MR. KETTLER: Yes, they were.

20 DJK-2 is for the Shoreham site, and
21 DJK-3 is for the Edgewood site.

22 MR. GANSBERG: Thank you.

23 May we have these three exhibits marked
24 for identification?

1 JUDGE BRILLING: Okay. DJK-1, the
2 three-page resume, will be called PPL Global 2.

3 (Document marked PPL Global Exhibit 2
4 for identification.)

5 JUDGE BRILLING: PPL Global 3 will be
6 DJK 2, a one-page site map.

7 (Document marked PPL Global Exhibit 3
8 for identification.)

9 JUDGE BRILLING: And PPL-4, PPL Global
10 4, will be DJK-3.

11 (Document marked PPL Global Exhibit 4
12 for identification.)

13 MR. GANSBERG: And if I haven't already
14 asked, can we have the prefiled direct testimony
15 copied into the record as if read?

16 JUDGE BRILLING: Are there any
17 objections to admission of PPL Global's 2, 3 and 4?

18 (No response.)

19 JUDGE BRILLING: Hearing none, they are
20 entered into the record.

21 (PPL Global's Exhibits 2, 3 and 4
22 received in evidence.)

23 JUDGE BRILLING: Any testimony, any
24 objections?

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1 (No response.)

2 JUDGE BRILLING: That will be entered
3 into the record as if read orally.

4 (Continued on following page.)

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Case 01-E-1634
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PPL Global, LLC

**PREFILED DIRECT
TESTIMONY OF
POTTER, KETTLER, and MARRON**

November 26, 2001

POTTER, KETTLER and MARRON**1 Witnesses and Qualifications**

2 **Q.** Please state your name, title, affiliations, and address.

3 **A.** My name is James S. Potter, and I am Director of Business
4 Development for PPL Global, LLC ("PPL" or "PPL Global"). My
5 business address is One Harbour Place, Suite 11, Portsmouth, New
6 Hampshire 03801.

7 **Q.** What are the duties of your employment?

8 **A.** I am responsible for assembling and supervising teams of consultants,
9 lawyers, contractors and PPL Global staff, overseeing such teams in
10 developing and constructing energy projects, and securing the permits
11 and regulatory approvals necessary to allow construction and operation
12 to proceed. In connection with this process, I am responsible for
13 formulating and negotiating various business arrangements with
14 wholesale purchasers of power (e.g., power supply agreements and
15 interconnection agreements) and fuel suppliers, and serve the role as
16 primary liaison with state and local officials, members of the public, and
17 local groups, who have an interest in the projects being developed.

18 **Q.** How are you qualified to perform your employment duties?

19 **A.** I attended the University of New Hampshire at Durham, N.H. I have
20 been employed for 19 years in various positions relating to the

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POTTER, KETTLER and MARRON

1 development and acquisition of energy related facilities and businesses
2 in both domestic and international markets. I have been employed by
3 PPL Global, LLC for ³~~2~~ and one half years. My accomplishments
4 include the initial development of our Wallingford Energy Facility (250
5 MW), directed the acquisition and managed the operation of our PPL
6 Maine LLC assets (formerly Bangor Hydro). My current
7 responsibilities are focused on development of the projects on Long
8 Island, including those referenced herein, as well as the Kings Park
9 Energy Facility.

10 Q. Please state your name, title, affiliations, and address.

11 A. My name is Stephen T. Marron. I am a member of Economic &
12 Management Consulting Group, 8 Stony Brook Ave., Stony Brook,
13 New York 11790.

14 Q. What are the duties of your employment?

15 A. I am an electrical engineer with specialties in the practice areas of
16 electric generation and transmission planning; gas supply planning;
17 electric and gas integrated resource and strategic planning; energy
18 project financing, siting and analysis; merger, divestiture and
19 acquisition analysis; electric and gas costing, pricing and rate design;

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POTTER, KETTLER and MARRON

1 economic and financial planning; and computer model and information
2 systems.

3 Q. How are you qualified to perform your employment duties?

4 A. I received a Bachelor's degree in Electrical Engineering from Cooper
5 Union and completed a one-year program of graduate-level courses in
6 utility operation, design, analysis and planning at General Electric
7 Company (Power Systems Engineering Course). I was employed by
8 Long Island Lighting Company between 1975 and 1987 in a variety of
9 positions relating to facilities planning, financial planning and
10 engineering and economic and system analyses. I was Managing
11 Consultant at R.J. Rudden Associates between 1987 and 2001 and
12 recently became a member of E&MC Group.

13 Q. Does your curriculum vitae, which is attached as Exhibit ____ (STM-1),
14 fairly and accurately represent your experience in the areas of
15 generation and transmission planning, power project siting and financial
16 analyses and utility ratemaking, regulatory policy analysis, gas supply
17 and transportation planning, integrated resource and demand side
18 management planning and strategic planning and merger, divestiture
19 and acquisition analysis?

20 A. Yes.

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POTTER, KETTLER and MARRON

1 Q. Please state your name, title, affiliations, and address.

2 A. My name is David J. Kettler, and I am the President of David J Kettler
3 Associates, Inc. My business address is 1403 Holiday Park Drive,
4 Wantagh, New York.

5 Q. What are the duties of your employment?

6 A. I have had close to 30 years of extensive experience involving
7 management of complex multi-disciplined projects for the power and
8 solid waste industries, including resource allocation planning,
9 scheduling, contract management, and engineering and licensing
10 support for projects.

11 Q. How are you qualified to perform your employment duties?

12 A. I received a Bachelor of Science in Mechanical Engineering from Pratt
13 Institute in 1972 and attended graduate studies in Business
14 Administration at Pace University from 1973 to 1976. I am a Licensed
15 Professional Engineer in the State of New York.

16 Q. Does your curriculum vitae, which is attached as Exhibit ____ (DJK-1),
17 fairly and accurately represent your experience with respect to facilities
18 such as the Shoreham and Edgewood Facilities which are the subject of
19 these proceedings?

20 A. Yes.

POTTER, KETTLER and MARRON

1 Q. Please describe the scope of the panel's testimony.

2 A. The testimony will address the following subjects:

- 3 1. Background of the Edgewood and Shoreham Facilities;
- 4 2. Site Description;
- 5 3. Need for Facilities;
- 6 4. Alternatives (Demand Side Management, Distributed Generation
- 7 and Renewable Resources); and
- 8 5. Competition

9 **Project Background and Site Descriptions**

10 Q. Please describe the business of PPL Global?

11 A. PPL Global is a limited liability company organized under the laws of
12 Delaware and is an indirect wholly owned subsidiary of PPL
13 Corporation. PPL Global is the domestic development and international
14 operations subsidiary of PPL Corporation, a Fortune 500 Company
15 headquartered in Allentown, PA and which has extensive wholesale and
16 retail energy operations in 42 states and Canada and serves nearly 6
17 million customers in the United States, the United Kingdom and Latin
18 America. PPL Global is developing and constructing generation
19 facilities in the United States with a combined capacity of over 4,500
20 MW.

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POTTER, KETTLER and MARRON

1 Q. Could you please explain how the proposals to construct the Shoreham
2 and Edgewood Facilities ("Facilities") which are the subject of this
3 proceeding originated?

4 A. In May 2001, the Long Island Power Authority ("LIPA") issued a
5 Request for Proposals ("RFP") to develop an oil-fired peaking facility
6 on a portion of the former Shoreham Nuclear Generating Station. PPL
7 Global responded to the RFP in June, 2001, and LIPA announced the
8 selection of PPL Global in September, 2001. PPL Global has been
9 working with LIPA ever since to develop the peaking facility at the
10 Shoreham site.

11 Q. How did the Edgewood Facility come about?

12 A. Once PPL Global submitted a proposal to LIPA for the Shoreham site,
13 PPL Global explored with LIPA the possibility of developing other
14 peaking facilities in cooperation with LIPA. LIPA indicated that it was
15 working with several other developers to try and develop sufficient
16 capacity to meet anticipated peak demands for the summer of 2002.

17 Q. So the Edgewood Facility, from your understanding, was an outgrowth
18 of the discussions LIPA indicated it was having with other developers to
19 develop sufficient capacity to meet anticipated peak demands for the
20 summer of 2002?

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POTTER, KETTLER and MARRON

1 A. Yes.

2 Q. What has your role been for these two Facilities?

3 A. After the two sites were selected by LIPA, I have worked closely with
4 LIPA to provide the necessary information regarding how PPL Global
5 could meet LIPA's needs for the addition of new capacity in a timely
6 fashion on the selected sites. I have been actively involved with LIPA
7 to arrange for procurement of the necessary project equipment (LM6000
8 turbines and associated facilities), establish a realistic schedule for
9 commencement and completion of construction, confer with the various
10 component manufacturers and plant design engineers regarding
11 construction and operation of the proposed Facilities, negotiate the
12 necessary power supply and interconnection agreements with LIPA and
13 confer with state and local officials on a variety of matters relating to
14 the construction and operation of the Facilities. I was also actively
15 involved in the preparation of the Air Permit applications for the
16 Facilities to the Department of Environmental Conservation ("DEC")
17 and the necessary applications to the New York State Public Service
18 Commission (Section 68 approvals and petitions for declaratory
19 rulings).

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1 Q. Does PPL Global currently own or operate any other electric generating
2 facilities on Long Island?

3 A. No.

4 Q. Could you please describe the Shoreham Facility and the site?

5 A. The Shoreham Facility involves the construction and operation of 79.9
6 MW low-sulfur oil-fired generating facility on an approximately 9.9
7 acre site, located entirely within the 900-acre site of the LIPA/KeySpan
8 Shoreham Nuclear Power Station, a decommissioned nuclear powered
9 generation facility located on Long Island Sound in the northeastern
10 corner of the Town of Brookhaven.

11 Q. Are other generating facilities located in the area?

12 A. Additional active generating facilities operated by KeySpan Energy are
13 also located within the boundaries of the 900-acre LIPA/KeySpan site.

14 Q. What are the principal components of the Facility?

15 A. The Facility will consist of two General Electric ("GE") LM6000 low
16 sulfur fuel oil-fired combustion turbine ("CT") generators and
17 associated equipment.

18 Q. What additional equipment is required for the Facility?

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1 **A.** The proposed Facility will include:

- 2 a. Two selective catalytic reduction ("SCR") systems for reduction
3 of nitrogen oxide ("NOx") emissions
4 b. Two exhaust stacks
5 c. Fuel Oil Unloading and Storage area
6 d. Aqueous Ammonia truck unloading area and storage tank
7 e. Mobile Water Treatment area and treated water storage tank
8 f. Main and Auxiliary Transformers
9 g. Control, Electrical and Mechanical buildings; and
10 h. Maintenance Building

11 **Q.** Please describe the CTs, the SCR system and the exhaust stack.

12 **A.** The proposed Facility will incorporate two GE model LM6000
13 combustion turbine generators. Each CT generator has the potential to
14 produce nominally 44 MW of electricity. However the combined net
15 output to the LIPA transmission system from the two CTs will be
16 limited to 79.9 MW. The proposed CT's will employ water injection
17 technology for NOx emission control. Each CT consists of an air
18 compressor, combustion chamber, gas turbine, and an electric generator.
19 Part of the power produced in each CT is used to drive the air

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1 compressor; the remaining power drives the electric generator to
2 produce electric power.

3 The SCR, together with water injection, will be used to control
4 emissions of NO_x. SCR involves the injection of ammonia into the
5 exhaust gas from the CT, which combines with the exhaust gas to
6 reduce emissions of NO_x.

7 Each CT requires a 110-foot exhaust stack. They will be located on the
8 west end of the SCR units. The 110-foot stack height has been
9 established through modeling of air emissions to ensure impacts will
10 remain below Environmental Protection Agency ("EPA") set significant
11 impact levels, while minimizing visual impacts. Access platforms for
12 air testing/monitoring equipment will be provided. The stacks are not at
13 a height that requires lighting pursuant to Federal Aviation
14 Administration ("FAA") guidelines.

15 The two CTs, SCR, and stack trains will occupy an approximately 125 x
16 275 foot area. Auxiliary equipment including the combustion turbine
17 auxiliary skid, a combined NO_x control injection SPRINT water
18 injection skid, an evaporative cooling water skid, and an aqueous
19 ammonia injection skids are contained in this area. The CT air intakes

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1 are located above each turbine. A single main step-up transformer is
2 located immediately east of the CTs.

3 **Q.** Where will the electric generation from the Shoreham Facility
4 interconnect with LIPA's transmission system?

5 **A.** The proposed Facility will interconnect to LIPA's electric system at the
6 Shoreham 69 kV substation located less than one half mile north on the
7 900-acre site of the LIPA/KeySpan Shoreham Nuclear Power Station.
8 An underground line will be designed and constructed by LIPA from the
9 substation to the high side of the Facility's 69 kV generator step-up
10 transformer.

11 **Q.** Does the site plan, which is attached as Exhibit ____ (DJK-2), accurately
12 depict the facilities, as currently planned, for the Shoreham site?

13 **A.** Yes.

14 **Q.** Could you please describe the Edgewood Facility and the site?

15 **A.** The proposed Edgewood Facility site is located in the Edgewood area of
16 the Town of Islip, Suffolk County, Long Island, New York, although
17 this area is also sometimes referred to as Brentwood. The proposed
18 4.8± acre site is entirely within the Pilgrim State Psychiatric Hospital
19 ("Hospital") complex located in the northwestern corner of Islip, north
20 of Deer Park. The site is located in the southwest portion of the

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1 Hospital grounds. The Pilgrim State Psychiatric Hospital Complex is
2 owned and operated by the New York Department of Mental Health.
3 The site consists of three (3) parcels of previously disturbed land, which
4 were once part of the septage leaching field for the Hospital's original
5 sanitary disposal system. The majority of each parcel is underlain by
6 sand and gravel beds that are overgrown with secondary revegetation
7 typical of previously disturbed areas. Trees and brush border each
8 parcel.

9 Q. What other facilities surround the Edgewood Facility site?

10 A. The property contiguous to the site on all sides is entirely within the
11 Hospital grounds. To the north of the proposed project site is an
12 overhead 69 kV transmission line right-of-way and a partially paved
13 road dedicated to servicing LIPA's existing Brentwood Substation. To
14 the north (beyond the service road) and east are additional sand and
15 gravel bed parcels, also part of the former septage leaching field.
16 Immediately to the west of the site is the New York Power Authority
17 ("NYPA") Brentwood generating facility site. NYPA utilized two
18 previously disturbed parcels of land, also part of the former leaching
19 fields, for a new single CT which was placed into operation in August
20 2001 and has generated up to 47 MW of electricity. The southern side

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1 of the site is bordered by undeveloped, wooded Hospital property
2 beyond which lies an existing commercial/industrial subdivision.

3 Q. What are the principal components of the Facility?

4 A. The Facility will consist of two GE LM6000 natural gas fired turbines
5 and associated equipment.

6 Q. What additional equipment is required for the Facility?

7 A. The Edgewood Facility is similar to the Shoreham Facility, except for
8 the type of fuel utilized. The Shoreham Facility will burn distillate fuel
9 oil, whereas the Edgewood Facility will burn natural gas. The proposed
10 Facility will include, in addition to the CT:

- 11 a. Two SCR systems for reduction of NOx emissions
- 12 b. Two exhaust stacks
- 13 c. Natural gas compressor building
- 14 d. Aqueous Ammonia truck unloading area and storage tank
- 15 e. Mobile Water Treatment area and treated water storage tank
- 16 f. Main and Auxiliary Transformers
- 17 g. Control, Electrical and Mechanical buildings
- 18 h. Maintenance Building

19 Q. Please describe the CTs, the SCR system and the exhaust stack.

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1 A. The proposed Facility will incorporate two GE model LM6000 CT
2 generators. Each CT generator has the potential to produce nominally
3 44 MW of electricity. However the combined output from the two CT
4 generators will be limited to 79.9 MW. The CT's will only be fueled
5 with natural gas supplied by KeySpan.

6 The CT's will employ water injection for NO_x air emission control.
7 Each CT generator consists of an air compressor, combustion chamber,
8 CT, and an electric generator. Part of the power produced in each CT is
9 used to drive the air compressor; the remaining power drives the electric
10 generator to produce electric power. In addition, the Facility will
11 employ an oxidation catalyst to control emissions of Carbon Monoxide
12 ("CO").

13 The SCR, together with water injection, will be used to control
14 emissions of NO_x. SCR involves the injection of ammonia into the
15 exhaust gas from the CT, which combines with the exhaust gas to
16 reduce emissions of NO_x.

17 Each CT requires a 105-foot exhaust stack. They will be located on the
18 south side of the SCR units. The 105-foot stack height has been
19 established through modeling of air emissions to ensure compliance
20 with state and federal Ambient Air Quality Standards ("AAQS"), while

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1 minimizing visual impacts. Access platforms for air testing/monitoring
2 equipment will be provided. The stacks are not at a height that requires
3 lighting pursuant to FAA guidelines.

4 Q. Will the Facility utilize any liquid fuel to generate electricity?

5 A. No. Natural gas will be the only fuel used to fuel the two CTs.

6 Q. Where will the Facility obtain its natural gas supply?

7 A. The natural gas supply to the proposed project site will be via
8 KeySpan's Commack Road pipeline that currently services NYPA's
9 adjacent electric generation plant.

10 Q. Where will the electric generation from the Edgewood Facility
11 interconnect with LIPA's transmission system?

12 A. The proposed Facility will interconnect to LIPA's electric system at
13 LIPA's Brentwood 69 kV substation located less than 1,000 feet to the
14 northwest side of the power block of the site. An underground line will
15 be designed and constructed by LIPA from the Brentwood substation to
16 the high side of the Facility's 69 kV generator stepup transformer.

17 Q. Does the site plan, which is attached as Exhibit ____ (DJK-3), accurately
18 depict the facilities, as currently planned, for the Edgewood site?

19 A. Yes.

20 Q. How long will it take to construct the proposed Facilities?

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1 A. Recognizing that these Facilities need to be on-line in time to meet the
2 anticipated peak summer 2002 demand, they will take approximately 6
3 to 6 and one half months from the date of site mobilization.

4 Q. When were you planning to begin site clearing work?

5 A. We anticipated commencing site clearing work as soon as the Public
6 Service Commission issued its approval under Section 68 of the Public
7 Service Law, and had anticipated being on the Commission agenda for
8 approval on November 28, 2001.

9 Q. What activities were planned to be undertaken at the site following site
10 clearance?

11 A. We anticipated beginning grading, excavation and foundation formation
12 ~~as soon as~~ *prior to* DEC's ~~issued its~~ air permit, which was expected in early
13 January, *and pouring foundations immediately thereafter.*

14 Q. Based upon these proceedings, and the delay in receipt of any approval
15 from the Commission under Section 68, can you still have these
16 Facilities completed in time to meet the anticipated peak summer 2002
17 demand?

18 A. We have not completely analyzed the impact of ~~of~~ starting several weeks
19 late. However, it is possible to recover some, if not all, of the lost time
20 if access to the site is granted as soon as possible.

POTTER, KETTLER and MARRON**1 Need for the Facilities**

2 **Q.** Would you please describe the purpose of this section of the testimony?

3 **A.** This section presents the need for PPL Global's Edgewood and
4 Shoreham Facilities. It includes a review of the following areas:

- 5 • Long Island's peak load forecast;
- 6 • Installed Capacity requirements;
- 7 • The events during the summer of 2001;
- 8 • The need for capacity by the 2002 summer; and
- 9 • Support of the need for additional capacity by the Public Service
10 Commission and the New York Independent System Operator
11 ("NYISO").

12 **Q.** Could you please explain how PPL's Edgewood and Shoreham
13 Facilities will help to alleviate shortages in peak load capacity on Long
14 Island?

15 **A.** These Facilities comprise two of a small number of new facilities that
16 have been proposed by LIPA for construction on Long Island that, by
17 virtue of their strategic locations on the LIPA transmission system,
18 access to fuel supplies, and smaller size can be used to quickly increase

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1 the delivered peak-load capacity to Long Island in time to meet next
2 summer's 2002 peak demand needs.

3 Q. Please review the current forecast of LIPA's peak load.

4 A. Based on the latest NYISO forecast of summer peak demands, LIPA's
5 peak electrical load, even after accounting for projected reductions
6 resulting from demand side management, is expected to grow at an
7 estimated 2.2 percent (about 100 MW) per year between 2001 and 2005.
8 (NYISO's 2001 Load and Capacity Report, Table I-1) This is
9 comparable to past increases in demand. Between 1997, the summer
10 before LIPA took over the Long Island Lighting Company ("LILCO"),
11 and the estimated 2001 peak load, the average annual growth rate was
12 2.2 percent. (2001 Load and Capacity Report, Table I-4) If this past
13 summer's August 9, 2001 peak demand of 4,578 MW is factored in, the
14 average annual growth rate in demand would increase to 2.5 percent.

15 Q. What are LIPA's required reserve margins and is LIPA's capacity
16 sufficient to meet summer peak demands?

17 A. With respect to capacity needs, LIPA, as well as other Load Serving
18 Entities ("LSEs") on Long Island, are required by the NYISO to either
19 own, or have contracts for, generating capacity and other resources in
20 sufficient quantity to meet projected peak summer demands plus an

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1 installed capacity reserve requirement of 17.5 percent. This capacity is
2 typically referred to as Installed Capacity or "ICAP".
3 Using data published in the 2001 Load and Capacity Report; LIPA's
4 2001 summer peak demand was forecasted to be 4,519 MW. With the
5 17.5 percent reserve margin applied to that load level, LIPA was
6 required to have approximately 5,309 MW of ICAP in place for the
7 summer period of 2001. In actuality, not including NYPA and the
8 municipally owned and operated generation of the Villages of Rockville
9 Centre and Freeport; only approximately 4,264 MW of generating
10 capacity was in place on LIPA's' Long Island system at the start of the
11 year. The balance of LIPA's need has been satisfied by use of
12 interconnections to Consolidated Edison of New York and ISO-New
13 England. Even with the inclusion of the NYPA Brentwood facility and
14 projected upgrades to KeySpan Energy's gas turbines, Long Island was
15 very close to its capacity limits as shown by the events that occurred this
16 past summer.

17 Q. Does Long Island have "locational" ICAP requirements?

18 A. The NYISO conducts the studies necessary to determine "locational"
19 ICAP requirements. Two areas in New York State have been identified
20 as requiring a locational reserve, Long Island and New York City. In a

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1 study released on February 14, 2001, the NYISO determined that, for
2 the summer period of 2001, the minimum ICAP required on Long
3 Island, which includes load served by LIPA as well as NYPA and the
4 Long Island municipals, was 98 percent of the summer peak demand.
5 The report noted that for 2000 Long Island was deficient by 270 MW.
6 For the summer of 2001, the NYISO indicated that there was a
7 deficiency of 131 MW. With a proposed addition of 146 MW, the
8 reserve would be adequate. Although no breakdown of this 146 MW
9 total was included, PPL Global assumes this included the NYPA
10 Brentwood facility and the subsequently cancelled Enron Far Rockaway
11 barge and other LIPA enhancements to its existing KeySpan facilities.
12 If this 146 MW had been installed, the NYISO indicated that Long
13 Island would have barely satisfied the locational ICAP requirement by
14 15 MW.
15 To further emphasize how serious the shortage of capacity was, for the
16 first time since the NYISO has held capacity auctions, during the
17 summer of 2001, the NYISO was required to hold deficiency auctions
18 for the Long Island region in order to try and procure capacity
19 specifically located on Long Island.
20 Q. Please describe LIPA's capacity situation during the summer of 2001.

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1 A. At the start of the summer of 2001, LIPA's Chairman noted, that "If we
2 have a summer as hot as 1999, new records will be set that could stretch
3 us to the limits of our available resources." (LIPA Press release May 9,
4 2001). A severe heat wave struck in early August 2001. LIPA reported
5 that it had reached a peak of 4,565 MW on August 8, 2001. This was
6 only 80 MW shy of the installed electric capacity of 4,645 MW at the
7 time. The next day, August 9, 2001, LIPA reached a system peak of
8 4,578 MW, while it only had 4,700 MW of generating capacity to meet
9 that demand, leaving virtually no margin for unplanned power plant
10 outages.

11 However, the situation was even more critical on Long Island than these
12 numbers make it appear. LIPA declared a Power Alert and requested
13 that all consumers eliminate all non-essential electric use and conserve
14 as much as possible. The NYISO implemented a 5 percent voltage
15 reduction program and state, county, and town governments closed
16 offices and sent home staff to help reduce the demand. LIPA estimated
17 that, without these actions, the peak would have been 100 to 150 MW
18 higher on August 9, 2001, thus reaching or exceeding available
19 resources. The severity of the situation was summarized in the local

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1 Long Island newspaper Newsday in its article "Too Hot to Handle" that
2 was published the next day, August 10, 2001.

3 "I don't think there's any question this is the tightest the
4 power supply has been in the history of Long Island," said
5 LIPA Chairman Richard Kessel." (Newsday, August 11,
6 2001).

7 Q. Do these peak demands represent the total need on Long Island?

8 A. No. As noted above, in addition to LIPA, NYPA, the Villages, and
9 other energy supply companies also serve load on Long Island. When
10 these demands are added together, a total of 4,906 MW was delivered to
11 the Long Island Control Area on August 8, 2001. (LIPA Press Release
12 August 14, 2001)

13 Q. What would the need for capacity be for Long Island based on those
14 circumstances?

15 A. Applying the 98 percent locational requirement to the 4,906 MW level
16 would require 4,808 MW of installed capacity on Long Island. PPL
17 Global has estimated that the total installed generation on Long Island
18 this past summer was approximately 4,530 MW (NYISO 2001 Load
19 and Capacity Report- Zone K: 4,486 MW plus an estimated 44 MW for
20 NYPA's Brentwood facility). Thus, if this were the standard, Long

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1 Island would have been short of the minimum required capacity level by
2 approximately 275 MW.

3 Q. Has LIPA indicated any changes to the need for capacity as a result of
4 this past summer's events?

5 A. Yes. As a result of this past summer's high demands, LIPA has
6 reviewed its demand forecast and issued a revised forecast. In its draft
7 submittal of its Annual Transmission Baseline Assessment ("ATBA") to
8 the NYISO in October of 2001, LIPA indicated that it had revised its
9 peak demand forecast upwards. The new forecast indicated an increase
10 in the total expected peak demand for the Long Island region for 2001
11 by approximately 97 MW. In subsequent years, 2002 through 2006,
12 there was a declining increase in the level of adjustments such that the
13 new forecast growth is similar to what LIPA had previously forecasted
14 for 2005.

15 Q. What level of capacity has LIPA determined to be needed for the
16 summer of 2002?

17 A. Based on a review of the summer of 2001 peak demand levels, LIPA
18 reanalyzed its need for capacity. Considering the NYISO's statewide
19 and locational requirements and Long Island's unique situation, e.g.,
20 geography, limited import capability, LIPA determined that it needed a

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1 minimum of 400 MW of new capacity for the summer of 2002, of
2 which PPL Global's Edgewood and Shoreham Facilities represent
3 approximately 160 MW. (LIPA Shoreham Energy Center Open House
4 presentation, November 1, 2001)

5 Q. Are the locations of the proposed 407 MW that would be provided by
6 the five new facilities important?

7 A. Yes. Because of the NYISO's locational requirements, the new sources
8 of power must be physically located on Long Island. If sited off-Long
9 Island, without additional transmission interconnections to other regions
10 as well as possible associated off-Long Island reinforcements, no
11 additional capacity could be delivered to Long Island. Even if located
12 on Long Island, the precise location and limitations of the existing
13 transmission lines and load pockets must be considered.

14 Q. Please explain.

15 A. PPL Global understands that all of the facilities proposed to be added to
16 meet peak loads in 2002 were selected to interconnect to the
17 transmission system at voltages of 69 kV. This was done in order to
18 expedite the siting process to meet the summer of 2002 time frame.
19 Had the units been connected to the 138 kV system, additional system
20 impact reviews by the NYISO would have been required and added

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1 considerably to the time required. By connecting to the 69 kV system,
2 LIPA's engineers could quickly analyze the ability to interconnect the
3 proposed facilities to the LIPA system and insure that the power could
4 be delivered during 2002 peak periods directly to the load areas on the
5 69 kV system.

6 **Q.** Has the Public Service Commission acknowledged the difficult capacity
7 situation on Long Island?

8 **A.** Yes. In support of the need for new capacity and as evidence of the
9 severity of the situation on Long Island, Chairman Maureen O. Helmer
10 indicated in her October 10, 2001 letter to LIPA's Chairman, Mr.
11 Kessel, the following:

12 "An analysis of the electric system conditions on Long
13 Island on August 8-9, 2001 leads me to conclude that
14 there is a serious and immediate need for an additional
15 400-500 MW of generating capacity to be constructed on
16 Long Island by May 1, 2002. Without such additional
17 generation on Long Island, a repeat of the August 8-9
18 weather conditions could very well cause the need for load
19 shedding/rotating blackouts on Long Island."

20 **Q.** Has LIPA taken any steps to bring new capacity on prior to 2002?

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1 A. Yes. As a result of this past summer's actual events and the expected
2 growing need for capacity, LIPA announced its intent to develop 407
3 MW on Long Island in time to meet the 2002 summer peak demand.
4 This 407 MW of capacity includes PPL Global's Shoreham and
5 Edgewood Facilities. With growing demand, these new plants, if
6 permitted and constructed, should help to solve Long Island's
7 immediate shortage in 2002.

8 Q. Has the NYISO commented on the situation on Long Island and LIPA's
9 plan to quickly install new capacity?

10 A. Yes. The NYISO issued a press release on November 1, 2001 that
11 expressed the NYISO support for LIPA's plan to install the 407 MW of
12 generation. The NYISO indicated:

13 "Based on our current projections and installed capacity
14 requirements, Long Island is looking at a deficiency of
15 318 MW at peak load next summer under normal weather
16 conditions," said William J. Museler, NYISO President
17 and CEO. "This means that LIPA must secure additional
18 sources of energy or face the unwelcome prospect of
19 rolling blackouts. We believe the development of these
20 new generation sources is a prudent move to help continue

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1 the high degree of electric reliability New Yorkers have
2 enjoyed.”

3 **Alternatives - Demand Side Management, Distributed Generation and**
4 **Renewable Resources**

5 Q. What is the purpose of this section of the testimony?

6 A. The purpose of this section is to discuss alternative measures such as
7 demand side management, which includes conservation, distributed
8 generation and renewable resources and the role they play as compared
9 to the addition of new capacity such as PPL Global's Facilities.

10 Q. Can alternative measures provide sufficient capacity to take the place of
11 the proposed facilities?

12 A. No. Although these alternative resources should be, and are, an
13 essential part of an overall approach to meeting Long Island's needs,
14 these resources alone are not able to meet Long Island's growing energy
15 needs. Additional resources such as PPL Global's Facilities are needed.
16 As indicated in statements of LIPA's Chairman Mr. Kessel, LIPA is
17 pursuing these alternatives to help minimize the need for adding new
18 capacity. These alternative approaches, to the extent successful, should
19 help to reduce the growth in demand in the future, but in the meantime,
20 customers' needs cannot be ignored and new generation is required.

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1 LIPA, and LILCO in the past, have implemented a number of programs
2 that would encourage its customers to help achieve these goals.

3 Q. Could you briefly describe some of LIPA's efforts in this area?

4 A. Yes. Starting even prior to the takeover of LILCO, LIPA's Board of
5 Trustees issued a Clean Energy Policy Statement (February 1998)
6 indicating that LIPA recognized the benefits of the promotion of energy
7 efficiency and renewable energy on Long Island. Following this policy
8 statement, LIPA developed and issued a Clean Energy Initiative in May
9 1999. As a result, over the past two years, LIPA has developed and
10 attempted to implement various programs, including conservation, fuel
11 cells, solar projects, geothermal heating and cooling, low income energy
12 efficiency, and wind energy. (Information regarding these programs is
13 posted on LIPA's web site, www.lipower.org.)

14 As an example, going into this past summer, LIPA announced its
15 "Watts Going Down Campaign" which was specifically aimed at
16 reducing electric consumption during periods of high heat and humidity.
17 (LIPA Press Release, June 14, 2001)

18 Q. Please describe the expenditures that LIPA is making to meet these
19 goals.

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1 A. Originally, LIPA committed \$160 million to the 5-year program. The
2 level has increased to \$170 million, with estimated expenditures of over
3 \$40 million per year in 2001 and 2002.

4 Q. Has LIPA achieved any reductions as a result of its efforts?

5 A. Yes. For example, based on public information included in LIPA's
6 June 14, 2001 Press Release, LIPA indicated that it had enlisted 500
7 customers in its 2001 Peak Load Reduction Partnership Program,
8 representing approximately 131 MW of energy consumption.

9 Q. Were these programs implemented this summer?

10 A. As mentioned previously, LIPA called on its consumers and made
11 public appeals, including additional requests to shut down business to
12 help reduce load during peak demand periods.

13 Q. Does the LIPA Load Forecast reflect continuing reliance on these
14 alternatives?

15 A. Yes. As an example, LIPA's peak demand forecast that was included in
16 the NYISO's 2001 Load and Capacity Report was reduced by 94 MW
17 in 2001 and 138 MW in 2002 because of reductions in load anticipated
18 as a result of demand side management programs.

19 Q. In conclusion, given LIPA's efforts to develop alternative resources is
20 there still a need for PPL Global's Facilities?

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1 **A.** Yes. LIPA's load continues to grow. LIPA has indicated that even with
2 its programs, there is a need for new generation, something that PPL
3 Global can help to provide.

4 **Competition and Other Facility Benefits**

5 **Q.** Would you please describe the purpose of this section of the testimony?

6 **A.** This section discusses the following areas with respect to PPL Global's
7 proposed Facilities:

- 8 • The Power Purchase Agreements (PPAs);
- 9 • The dispatch of the proposed power plants;
- 10 • The status of competitive markets in New York;
- 11 • The promotion of competition and market power; and
- 12 • Other plant benefits, including displacement and ancillary
13 services.

14 **Q.** Could you please describe the PPAs for the proposed PPL Global
15 Facilities?

16 **A.** The specific terms of the PPAs between PPL and LIPA are currently
17 being negotiated. In general, these agreements provide for LIPA's
18 purchase of the capacity, energy and ancillary services produced by PPL
19 Global's Facilities for a fixed period of time. LIPA will procure the

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1 Facilities' fuel supply, which is intended to take advantage of LIPA's
2 significant purchasing capacity. The dispatch of the Facilities into the
3 NYISO markets is subject to the discretion of LIPA. Therefore, if LIPA
4 requires the Facilities to serve its native load because of cost
5 considerations, the Facilities' output will be used to serve the
6 requirements of LIPA's customers. If LIPA decides to bid the output of
7 the Facilities into the market, the output will be dispatched and priced
8 according to the rules governing NYISO procedures and applicable
9 FERC-approved tariffs. The availability of the output of these highly
10 efficient units will contribute to the development of the competitive
11 marketplace because they will increase the availability of a greater
12 number of competitive services at lower prices than the average prices
13 now produced by the mix of existing generating units on Long Island.

14 Q. Please describe how the Facility's power would be dispatched by the
15 NYISO.

16 A. The NYISO will dispatch and schedule the plants for operation in the
17 competitive wholesale market. The NYISO schedules the output of a
18 generating plant by dispatching resources according to price, with the
19 lowest priced resources being dispatched to meet load in any hour,
20 subject to transmission, plant operational limits and other security

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1 constraints. By offering its plant to the NYISO for dispatch control, the
2 Facilities will be contributing to the increasing competitiveness of the
3 NYISO markets.

4 A generator that is competitively dispatched by the NYISO only
5 operates when the NYISO determines that the plants' power is needed
6 to meet demand reliably and that the prices that it has offered are less
7 than or equal to those of other power suppliers. When a plant operates,
8 it receives the market-clearing price, which is the price set by the bid of
9 the final marginal producer dispatched by the NYISO to meet load.
10 Therefore, a generator has an incentive to submit bids to the NYISO that
11 are based on its marginal costs (or the plant's operating costs that vary
12 with output of the plant).

13 **Q.** Please describe the progress of the State of New York in establishing
14 competitive electric markets.

15 **A.** New York has made substantial progress in the establishment of
16 competitive wholesale and retail electricity markets. At the wholesale
17 level, the market is fully competitive. Full retail access, however, is not
18 yet complete, and is being implemented in stages. A brief summary of
19 New York's transition to competition follows.

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1 On May 20, 1996, the New York State Public Service Commission
2 issued Opinion 96-12, in which its vision for a competitive electric
3 industry was articulated. In addition to identifying the need for
4 independent operation of the transmission system, the Order required
5 New York State's utilities to prepare restructuring proposals and
6 strongly encouraged the divestiture of generation. After subsequent
7 approval of a number of multi-year rate and restructuring plans, which
8 typically incorporated auction plans for generation, virtually all of the
9 investor-owned utility generation in the State has been divested. Under
10 the new ownership of lightly regulated competitive wholesale providers,
11 these plants are competing with each other in the wholesale electric
12 market supervised and administered by the NYISO.

13 The creation of the NYISO commenced with a filing with the Federal
14 Energy Regulatory Commission ("FERC") on January 31, 1998 of a
15 proposal by the member systems of the New York Power Pool to
16 establish an independent system operator for New York State. The
17 NYISO, once in operation, would ensure the continuation of open
18 access to the transmission system, while creating new opportunities for
19 participation in the wholesale electric markets. Wholesale electricity
20 prices would be determined on a locational basis and established

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1 through competitive bidding. Additional opportunities for generators to
2 market ancillary services, installed capacity, and other products would
3 become available. The NYISO commenced operations in November
4 1999 under FERC-approved tariffs. The Facilities will operate in a
5 competitive wholesale electricity market predominantly populated by
6 competitive wholesale providers that purchase generation sold to them
7 by investor-owned utilities.

8 Recent rulings by FERC are moving the three regions (New York, New
9 England and PJM) toward a single consolidated Regional Transmission
10 Organization ("RTO") to enhance market performance and reliability in
11 all of those areas. The siting of new generation in the Northeast Region
12 will provide new opportunities for economical electricity transactions in
13 the regional market thereby promoting competition in the entire region.

14 Q. Do the PPL Global Facilities provide other benefits compared to LIPA's
15 alternative programs?

16 A. Yes. Demand side management, conservation, distributed generation
17 and renewable resources all have their own unique benefits. However,
18 on Long Island, with the exception of some smaller qualifying facilities
19 built in response to the Public Utility Regulatory Policies Act of 1978
20 ("PURPA") and the NYPA Flynn plant, KeySpan Energy owns all of

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1 the generation. As such, PPL Global's Facilities would start to bring
2 competition on Long Island by adding facilities owned by new market
3 entrants. Plants such as these and other future additions could also
4 increase customer choice of suppliers and thereby open Long Island to
5 more robust retail access programs that are underway in the rest of New
6 York. These Facilities also provide other benefits compared to existing
7 power plants which is discussed below.

8 **Q.** If PPL Global's Facilities have a PPA with LIPA, how will they add to
9 competition in the markets?

10 **A.** During the term of the PPA, LIPA will offer the Facilities into the
11 market. Even during this period, the availability of the PPL Global
12 units provides increased competition. This occurs for three major
13 reasons. First, the Facilities are a new more efficient source of energy.
14 Thus, when burning similar types of fuel, compared to the existing
15 simple cycle and older steam units, the Facilities will offer a lower cost
16 to the market. Second, the Facilities can also reduce the cost of
17 imported power. This occurs because Long Island's marginal unit also
18 impacts the price of power from other areas. To the extent that a lower
19 market clearing price is offered, the cost of off- Long Island power may

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1 be reduced. Finally, the addition of PPL Global's Facilities will start to
2 reduce opportunities to exercise market power..

3 Q. Please explain how the Facilities will reduce opportunities to exercise
4 market power.

5 A. One of the major issues in determining a competitive market is the
6 existence of market power. The concept of market power essentially
7 relates to the ability of any market participant being able to control the
8 market and thus raise the market price of power. Recent events in
9 California have highlighted this concern.

10 Q. Do the LIPA agreements with PPL Global eliminate this problem?

11 A. Only in part. Although the PPAs specify the cost of the power from the
12 Facilities to LIPA, PPL Global will still control the actual operation of
13 their own facilities. One area of special concern to regulators is the
14 ability to withhold a generating unit from dispatch.

15 Q. Please describe the market ownership situation on Long Island.

16 A. Based on the NYISO's 2001 Load and Capacity Report, the total
17 installed generation on Long Island, including the new NYPA
18 Brentwood facility, is approximately 4,530 MW. Ownership is
19 summarized as follows.

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1 Existing Long Island Installed Capacity

Ownership	MW	Percent of Total
KeySpan Generation	4,028.9	89
IPPs (e.g., Refuse, Cogen)	237.1	5
NYPA	180.3	4
Village of Freeport	50.8	1
Village of Rockville Centre	33.6	1
Total	4,530.6	100

2 *Note: Numbers may not add due to rounding.*

3 As noted in the table, KeySpan Generation directly owns 89 percent of
4 the total. This however, understates their share. In the case of NYPA
5 and the Villages of Freeport and Rockville Centre, their capacity is
6 typically used to supply their own needs. In the case of the independent
7 power producers ("IPPs"), many of these are small power plants that
8 have PURPA contracts with LIPA.

9 Thus, when analyzed from an ownership perspective, KeySpan
10 Generation owns almost all of the non-PURPA/non-municipal
11 generation. Even when the ability to import power (approximately
12 1,000 to 1,200 MW) to Long Island is considered, KeySpan Generation

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1 remains the predominant owner. However, LIPA has long-term
2 agreements with KeySpan Generation that provide LIPA with 100% of
3 the capacity, energy and ancillary services from these facilities.

4 Q. Has the issue of market concentration been looked at by the FERC?

5 A. Yes. PPL Global understands that the issue of market power in the
6 ancillary market for 10-minute non-spinning reserves was reviewed by
7 FERC and shown not to exist. However, in support of establishing the
8 market bid cap of \$2.52 plus lost opportunity costs for eastern reserves,
9 FERC in its May 31, 2000 Order on Tariff Filings and Complaints (91
10 FERC ¶ 61,218) indicated:

11 We now find that the conditions under which market-based rate
12 authority for ancillary services was granted do not match the
13 current operational realities of the New York ISO's reserve
14 markets. As a result, markets are even more concentrated than
15 indicated in the original analysis and the prime mitigating factor
16 upon which we relied, the presence of multiple suppliers with the
17 ability to fully satisfy the ISO's ancillary service requirements,
18 does not exist.

19 In addition, while we make no finding here that any supplier
20 engaged in the withholding of capacity, the NY ISO has shown

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1 that capacity that was previously offered to the market is no
2 longer being offered and that the decline in supply offers
3 correlates with a dramatic increase in bid prices. The NY ISO has
4 shown that, as a result, the rates paid by transmission customers
5 for non-spinning reserves rose by approximately \$65 million
6 from January 29 through March 10, 2000. Taken together, we
7 believe that the evidence presented by the NY ISO is sufficient to
8 call into question our continued reliance on market-based rates
9 for non-spinning reserves.

10 The FERC recently denied a request for a rehearing of the May 31, 2000
11 Order with respect to the 10-minute non-spinning reserve bid-caps on
12 November 8, 2001. (97 FERC ¶ 61,154) PPL Global believes that the
13 addition of generation capable of providing 10-minute non-spinning
14 reserves east of the New York transmission constraint, such as PPL
15 Global's Facilities (see below), owned and operated by new market
16 entrants will represent the beginning of a situation in which multiple
17 suppliers will exist, and will help to alleviate any ongoing concerns
18 about the market concentration in 10-minute non-spinning reserves.

19 Q. How does PPL Global's ownership of the new Facilities help correct
20 this situation?

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1 A. PPL Global's ownership helps start the process of introducing
2 competition into the Long Island market. Although only 79.9 MW at
3 each site, its time of typical operation i.e., mid- and peak-load
4 conditions, will help to reduce what some may perceive as a situation
5 that might give rise to the exercise of market power.

6 Q. Will PPL Global be able to exercise market power?

7 A. No. PPL Global's facilities represent a total addition of only about 160
8 MW. With the addition of the total 407 MWs to the existing 4,530 MW
9 of capacity, the total installed capacity increases to 4,937 MW. As
10 such, PPL Global's 160 MW represents only about 3.2 percent of the
11 total capacity and there will be no opportunity for PPL Global to control
12 market prices.

13 Q. What other benefits will the Facilities provide?

14 A. PPL Global's Facilities will provide benefits with respect to the
15 potential displacement of older less efficient power plants and will
16 provide a new competitive source of ancillary power.

17 Q. Please explain the benefits of displacement and its impact on air quality.

18 A. PPL Global's Edgewood and Shoreham Facilities can reduce the run-
19 time of older, less efficient power plants located primarily on Long
20 Island. During non-peak periods, not all of Long Island's power

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1 generating facilities need to operate. During these periods, PPL
2 Global's Facilities may be selected to operate in place of the existing
3 older less efficient units. As a result, when dispatched by the NYISO,
4 because of the new more sophisticated emissions controls, PPL Global's
5 Facilities have the potential to result in significantly lower overall
6 emissions of sulfur dioxide ("SO₂"), NO_x, and carbon dioxide ("CO₂"),
7 and thus reduce the air emissions that contribute to acid rain, smog,
8 global warming, and the public health and ecological problems that are
9 attributed to them.

10 **Q.** What ancillary services will be provided by PPL Global's Facilities?

11 **A.** In addition to ancillary services such as voltage support, because PPL
12 Global's Edgewood and Shoreham Facilities will be a simple cycle
13 combustion turbine facility (as opposed to a combined cycle or steam
14 plant), the units are expected to be capable of providing all of the
15 NYISO's ancillary operating reserve services. For example, the
16 Facilities will be able to provide 10-minute non-spinning reserves, 10
17 minute spinning reserves, and 30-minute reserves. As such, PPL
18 Global's Facilities will offer a new competitive source of competition in
19 each of these markets, offering new supplies, which will enhance the
20 competitiveness of the markets.

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1 New entrants are critical to maintaining and improving the
2 competitiveness of these ancillary services markets, and in particular the
3 10-minute non-spinning reserve market as noted above.

4 Q. Could you please summarize your testimony?

5 A. PPL Global's Facilities are new state of the art facilities that are
6 critically needed by the summer of 2002 and will serve the public in
7 several fundamental roles, including:

- 8 • Helping to meet Long Island's immediate locational capacity needs;
- 9 • Avoiding the unnecessary and costly construction of new
10 transmission lines by siting in Long Island's 69 kV load areas;
- 11 • Supplementing LIPA's alternative energy programs, which include
12 demand side management, distributed generation and renewable
13 resources;
- 14 • Adding new sources and a new owner of generation in the Long
15 Island market, thus promoting greater competition in that electric
16 market;
- 17 • Providing cleaner and more efficient sources of energy compared to
18 other existing similar types of facilities (i.e., CT) on Long Island;

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- 1 • Providing generating facilities that will increase competition in the
2 ancillary services markets on Long Island by virtue of their ability to
3 start up and shut down quickly in order to match electric load; and
4 • Helping to reduce emissions from other power plants that will run
5 less once the Facilities are operating.

6 Q. Does this conclude your testimony?

7 A. Yes.

8

1 MR. GANSBERG: Your Honor, before we
2 begin cross-examination of the PPL Global panel, can
3 I suggest that we include LIPA's witness, Richard
4 Bolbrock, as part of this panel?

5 Because if you have looked at the
6 testimony, there is an obvious overlap, especially on
7 the question of need and alternatives.

8 JUDGE BRILLING: Okay.

9 MR. RAACKE: Your Honor, I would have no
10 objection to that proposal, as long as we can address
11 the question directly to the witness that we are
12 cross-examining.

13 JUDGE BRILLING: There shouldn't be any
14 problem with that.

15 Mr. Kass, are you prepared to enter --

16 MR. KASS: Your Honor, Mr. Leland will
17 take care of that.

18 JUDGE BRILLING: Thank you.

19 MR. LELAND: That's a long walk.

20 JUDGE BRILLING: Did you bring an extra
21 copy of that?

22 MR. LELAND: I'm going to hand it to the
23 Reporter now.

24 JUDGE BRILLING: One for me?

1 MR. LELAND: I'm sure we have one.

2 Mr. Bolbrock, do you have a copy before
3 you, a copy of an eight-page prefiled testimony
4 prepared in this matter?

5 MR. BOLBROCK: Yes, I do.

6 MR. LELAND: And do you have any changes
7 to that testimony?

8 MR. BOLBROCK: Yes, I do.

9 MR. LELAND: And would you read into the
10 record what those changes are, please.

11 MR. BOLBROCK: On page 3, the second
12 answer, it says, "Yes, but," and then I would strike
13 the next three words, which are "the need for."

14 Just a grammatical correction.

15 On the top of page 4, the very top line,
16 the line reads, "Available energy supply and reduced
17 levels of electricity demand," and then I would
18 replace "as well as" with "and despite." It makes it
19 clearer.

20 On page No. 5, the bottom answer, five
21 lines from the bottom, reads, in part, "the
22 Department of Public Service states that." I would
23 then strike the next two words which are "up to," and
24 replace that with "an additional four hundred to or

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1 dash."

2 On page No. 6, the top answer, the very
3 last word says "timeframe."

4 There should be a space between "time"
5 and "frame." It's two words.

6 The second answer on that page, the
7 fourth line down, begins, "Sound cable project would
8 be in existence."

9 I would strike the word "existence" and
10 replace that with the word "service."

11 And those are the changes that I would
12 have.

13 JUDGE BRILLING: I'm sorry, what page
14 was that last one.

15 MR. BOLBROCK: I'm sorry, your Honor?

16 JUDGE BRILLING: What page was the last
17 one on?

18 MR. BOLBROCK: The last one was on page
19 No. 6. It was in the second answer, and it would be
20 the fourth line down in that answer. And strike the
21 word "existence," and replace that word with the word
22 "service."

23 JUDGE BRILLING: Thank you.

24 MR. BOLBROCK: Thank you.

1 MR. LELAND: Are those the only changes
2 that you have to your testimony?

3 MR. BOLBROCK: Yes.

4 MR. LELAND: If I were to ask you the
5 questions set forth in that testimony, what is
6 written in the sworn testimony would be your answer?

7 MR. BOLBROCK: Yes, it would.

8 MR. LELAND: Your Honor, I ask that this
9 be read into the record.

10 And I think that, because Mr. Bolbrock's
11 testimony refers to all the proceedings, that it be
12 deemed read into each of the panels without having to
13 go through this questioning in each panel.

14 JUDGE BRILLING: We can have it read
15 into the record once, and just refer to it later.

16 But there are exhibits attached to this.

17 MR. LELAND: Yes, which I'll refer to in
18 the testimony as documents that were received by
19 LIPA.

20 JUDGE BRILLING: Would you want to enter
21 them as exhibits?

22 MR. LELAND: I would prefer to enter
23 them as part of the testimony, if there is no
24 objection to that.

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1 JUDGE BRILLING: Okay.

2 Any objection?

3 (No response.)

4 JUDGE BRILLING: This will be entered as
5 if read orally, and the exhibits will just be
6 included with the testimony.

7 (Continued on following page.)

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STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

- CASE 01-E-1634 – Petition of PPL Global, LLC for an Order that a Proposed 79.9 Megawatt Oil Fired Peaking Facility in the Town of Brookhaven, Suffolk County, will be Regulated under a Lightened Regulatory Regime; for a Certificate of Public Convenience and Necessity for the Proposed Facility; and for Financing Approval.
- CASE 01-E-1635 – Petition of PPL Global, LLC for an Order that a Proposed 79.9 Megawatt Natural Gas Fired Peaking Facility in the Town of Islip, Suffolk County, will be Regulated under a Lightened Regulatory Regime; for a Certificate of Public Convenience and Necessity for the Proposed Facility; and for Financing Approval.
- CASE 01-E-1716 -- Petition of Keyspan-Port Jefferson Energy Center, LLC for an Order that a Proposed 79.9 Megawatt Natural Gas Fired Simple Cycle Peaking Facility in the Town of Brookhaven, Suffolk County, will be Regulated under a Lightened Regulatory Regime and for a Certificate of Public Convenience and Necessity for the Proposed Facility.
- CASE 01-E-1718 -- Petition of Keyspan-Glenwood Energy Center, LLC for an Order that a Proposed 79.9 Megawatt Natural Gas Fired Simple Cycle Peaking Facility in the Town of Oyster Bay, Nassau County, will be Regulated under a Lightened Regulatory Regime and for a Certificate of Public Convenience and Necessity for the Proposed Facility.
- CASE 01-E-1730 -- Petition of CPN Bethpage 3rd Turbine, Inc. for an Order that a Proposed 44 Megawatt Natural Gas Fired Simple Cycle Peaking Facility in the Town of Oyster Bay, Nassau County, will be Regulated under a Lightened Regulatory Regime and for a Certificate of Public Convenience and Necessity for the Proposed Facility.

DIRECT TESTIMONY OF RICHARD J. BOLBROCK
ON BEHALF OF THE LONG ISLAND POWER AUTHORITY

Q: Please state your name and business address.

A: My name is Richard J. Bolbrock and my business address is 333 Earle Ovington Boulevard, Uniondale, New York.

Q: By whom are you employed and in what capacity?

A: I am Vice President of Power Markets for the Long Island Power Authority ("LIPA"), and have served in this position for approximately three and one-half years.

Q: Please outline your educational and professional background.

A: Prior to joining LIPA in May of 1998, I held several positions at the New England Power Pool over a 24-year period. I also served as Director of Planning and Information Technology for ISO New England. I received my B.S. in electrical engineering and M.E. in electric power engineering from the Rensselaer Polytechnic Institute in 1968 and 1970 respectively. I have over thirty years of experience in the field of analyzing electric capacity issues in the Northeast.

Q: What is the purpose of your testimony?

A: I will discuss how the proposed facilities that are the subject of this hearing will serve the public need for additional generating capacity in LIPA's service area.

Q: Who establishes the resource adequacy criteria dealing with system reliability that LIPA must adhere to?

A: The reliability criteria or rules for planning and operating the New York State Power System are determined by the New York State Reliability Council, LLC, and are administered by the New York Independent System Operator (NY ISO). These rules are posted on the New York State Reliability Council's web site www.nysrc.org.

Q: What is the resource adequacy criteria relevant to the LIPA service area?

A: For the LIPA service area (consisting of Nassau, Suffolk, and portions of Queens Counties), the NY ISO requires that LIPA own, or have contracts for, generating capacity and other resources in order to meet peak summer demand, plus a minimum reserve requirement of 18%. This minimum installed capacity reserve requirement is typically referred to as Installed Capacity or "ICAP". This reserve requirement is needed to account for a variety of uncertainties including the possible outages of power plants, as well as weather conditions that may be warmer than anticipated, as was the case during the summers of 1999 and 2001. In addition to the 18% reserve capacity requirement, the ISO has deemed Long Island as one of two special areas in New York State (the other being New York City) that has a locational installed capacity requirement. The requirement for on-island capacity is due to Long Island being geographically removed from the major transmission infrastructure in New York State's electric grid. The locational requirement is currently set at 98% of the expected summer peak demand. This means that 98% of LIPA's capacity requirement must physically be located on Long Island.

Q: Has the minimum resource adequacy criteria you just described been adhered to in the LIPA service area?

A: Yes, but the need for additional electric generating capacity is needed to avoid customer load shedding (i.e. rolling blackouts) next summer. Without new generating capacity, LIPA will not meet resource adequacy criteria during peak system loads projected for the summer of 2002.

Q: Please explain how you reach this conclusion?

A: In August of 2001, the public need for additional generating capacity was particularly evident. On August 8th, 2001 the Long Island system experienced a peak demand of approximately 4,906 MW. During that period, the LIPA system had virtually no reserve energy available despite its implementation of numerous measures intended to maximize

available energy supply and reduce levels of electricity demand, as well as exceptional equipment (transmission and generation) availability.

Q: What measures, if any, did LIPA undertake to maximize supply during this period?

A: Measures targeted at maximizing available energy supply included the operation of all available equipment and maximizing the purchases of energy from the power grid. Because of regional demands for electricity during the peak demand period, there was no additional capacity available that could be purchased from the NY ISO and/or transmitted to LIPA's service area. Virtually all of the generating facilities available to LIPA on Long Island were operating, and well over 95% of the on-island generating capacity was available. In addition, power recovery projects at the Glenwood, Barrett and Holtsville generating stations had recently been completed and were providing almost 80 MW of power. The NYPA Brentwood facility (44 MW) had just been placed in operation in July, 2001. Without these projects, the Long Island area would have experienced rolling blackouts.

Q: Did LIPA undertake any measures to reduce the demand for electricity during the peak demand period?

A: Yes. During this period, LIPA relied upon a number of emergency load relief measures to reduce the amount of electricity needed in the Long Island service area. For example, state and local governments were asked to close offices early in the work day to reduce electricity demand, and LIPA's largest customers were paid to reduce their energy use by either closing or reducing their operations or by using alternative power sources. LIPA sponsored widely publicized voluntary appeals for energy conservation measures. The NY ISO also ordered a 5% system-wide voltage reduction.

Q: What do the events of August 2001 indicate about the peak demand period expected in the summer of 2002?

A: Even with LIPA's aggressive efforts to maximize supply and reduce electricity demand, Long Island was, and continues to be, very close to its ability to reliably serve its customers. Blackouts were narrowly averted during the August 2001 heat wave. Had any significant equipment failures occurred on LIPA's system during the peak demand period, even with the emergency measures that had been implemented to reduce system load, rotating area black-outs would have been necessary to maintain the integrity of the system. Given the age of the bulk of generating infrastructure on Long Island, LIPA was very fortunate that no significant interruptions in electric service occurred during the August heat wave. As noted previously, equipment availability was exceptional, well beyond what can prudently be expected. The majority of the generating capacity in the LIPA service area comes from facilities that are more than 30 years old, and a significant portion of the generating capacity comes from facilities that are more than 40 years old. If the exact same conditions (i.e. weather the same as August 8-10 and exceptional equipment availability) were to occur during the summer of 2002, load shedding would be required because the expected load growth on Long Island could not be served.

Q: In what ways can system reliability in the LIPA service area be improved?

A: To reduce the chances of power interruptions and maintain system reliability, LIPA must provide for the immediate construction of additional on-island generating capacity. Both the New York State Department of Public Service and the NY ISO have concurred that there is a serious and immediate need for additional generating capacity within the LIPA service area. The ISO projects a deficiency of 318 MW at peak load during the summer of 2002, even under normal (not extreme) weather conditions. See Exhibit A (Press release from New York Independent System Operator dated October 30, 2001). In addition, the Department of Public Service states that up to 500 MW of new generating capacity is needed on Long Island to provide a reasonable assurance of adequate electric supply during the summer of 2002. See Exhibit B (Correspondence from Maureen Helmer to Richard Kessel dated October 10, 2001). Moreover, it is projected that the demand for electricity on Long Island will increase by 100 MW per year.

Q: What specific measures does LIPA intend to undertake to provide for additional electric generating capacity?

A: Recognizing that at least 400 MW of additional capacity is needed by the summer of 2002 to meet peak summer demands and maintain system reliability, LIPA has determined that the only generating source that could meet this time constraint would be small combustion turbine generators. Consequently, LIPA initiated discussions and solicited proposals from a number of generating companies for the construction and operation of combustion turbine generators on Long Island. Among these generating companies, LIPA ultimately identified the petitioners in these proceedings as companies best suited to construct and operate the necessary generating capacity within the short timeframe.

Q: Did LIPA consider other proposed additions to the LIPA grid in its determination to provide for the construction of combustion turbine facilities?

A: Yes. For example, LIPA considered the status of major electric generating facilities proposed for the LIPA service area, and determined that none of these projects would be operational by the summer of 2002. Also considered was whether the proposed cross-sound cable project would be in existence by the summer of 2002. LIPA determined that regulatory approval in Connecticut, as well as construction time, were still uncertain and therefore this project could not be counted on to meet summer 2002 needs.

Q: Did LIPA consider alternatives such as demand side reduction measures or the use of alternative or renewable fuels to address the current deficit in generating capacity?

A: Yes. LIPA is very proud of its very aggressive efforts to promote alternative and renewable sources of electricity such as fuel cells, solar, wind generation and geothermal systems. While these emerging technologies are promising in addressing future energy needs, they are not yet able to generate a sufficient supply of electricity to appreciably reduce the existing deficit prior to next summer's peak demand period. Similarly,

although demand reduction programs directed at energy conservation and load management have been successful at reducing energy consumption, the reduced demand falls far below what is needed to meet system reliability criteria for next summer.

Q: Does LIPA have a resource plan or strategy for dealing with system reliability for the summer of 2002?

A: Yes. LIPA has adopted what is referred to as a "three-pronged approach" to meeting resource adequacy criteria in the future. First, the LIPA Board of Trustees has adopted a \$170 million Clean Energy Initiative. This five year program includes a variety of commercial and residential energy efficiency programs and clean technologies such as solar, wind, fuel cells and geothermal systems. Second, LIPA is pursuing additional off-island transmission such as the proposed cross-sound cable project connecting Long Island and Connecticut. Third, LIPA is pursuing additional on-island generation such as the projects that are the subject of these proceedings. In fact, had LIPA not embarked on its aggressive Clean Energy Initiative, even more generating capacity than proposed for next summer would be required. For the reasons stated above, it is my opinion that the proposed facilities that are the subject of these proceedings are critically needed to maintain the availability and reliability of electric service to consumers on Long Island.

Q: Would you please comment on the efficiency of the proposed facilities versus existing generating equipment operating on Long Island?

A: Exhibit C shows power output for each 1000 MBtu of fuel, or in other words, depicts fuel efficiency. The lower the average heat rate, the higher the power output per fuel input. This lowers the amount of fuel needed and reduces the overall fuel cost. About 85% (3902 MW) of the current LIPA facilities have average heat rates above 10,000 BTU/KWh, with about 35% (1599 MW) having average heat rates of over 12,000 BTU/KWh. The proposed facilities, using natural gas combustion turbines to generate electricity, have much lower average heat rates. Their heat rates are in the range of 9,000 – 10,000 BTU/KWh. As a result, the newer units require less fuel to generate the same

amount of electric wattage, making them more efficient. As a result, the new units are expected to displace generation from older units during non-peak periods, which will result in an overall reduction in air emissions.

Q: How will the proposed facilities impact the electric marketplace on Long Island?

A: Having multiple generators each capable of providing for the marginal needs of the load is a fundamental requirement for effective competition. By increasing the supply of generation that would ultimately be available for bidding into the NY ISO market, the project advances the development of a statewide competitive power market. Moreover, LIPA's decision to engage a number of independent power developers, including the petitioners, to construct projects on Long Island serves to further broaden the base of potential suppliers to serve Long Island loads.

Q: How can the proposed facilities foster the development of a competitive market when LIPA is purchasing the full output from the three power development companies?

A: While LIPA is purchasing the full output, it will be bidding such output into the markets administered by the NY ISO. In general, this will increase the amount of energy available for bidding into the NY ISO and thereby decrease the Long Island zonal price, compared to the amount and price of energy that would otherwise be available but for the proposed facilities. It should be noted that the terms of LIPA's purchase power agreements with the petitioner and the other developers are for varying periods. When these agreements expire, the developers will be free to enter either into bilateral contracts directly for the sale of the facilities' outputs or bid into the NY ISO market, thus further contributing to the development of a competitive market.

AFFIDAVIT OF RICHARD J. BOLBROCK

I, Richard J. Bolbrock, being duly sworn, depose and say that the statements contained in my testimony in this proceeding are true and correct to the best of my knowledge, information, and belief.

Executed on this 26th day of November, 2001.


Richard J. Bolbrock

COUNTY OF NASSAU)
) ss.
STATE OF NEW YORK)

Subscribed and sworn to before me, the undersigned notary public, this 26th day of November, 2001.


Notary Public

My Commission Expires: November 13, 2005

SAVOCCHI NANCY
Notary Public, State of New York
No. 01SA5051846
Qualified in Nassau County
Commission Expires Nov 13, 2005

SAVOCCHI NANCY
Notary Public, State of New York
No. 01SA5051846
Qualified in Nassau County
Expires November 13, 2005

NEWS RELEASE**NEW YORK
INDEPENDENT
SYSTEM OPERATOR**

10/30 John F&E Bert

For Immediate Release:
Tuesday, October 30, 2001

Contact:

Carol E. Murphy	518-356-7580
Steven C. Sullivan	518-356-7605
Ken Klapp	518-356-6253

NYISO Expresses Support For LIPA Turbine Plan

- Electric Grid Operator Says Plans Supported By Projections -

(Guilderland, NY, October 30, 2001) – Citing projections for another tight summer next year for electricity supplies in New York City and on Long Island, the New York Independent System Operator (NYISO) today expressed its support for the Long Island Power Authority's (LIPA's) recently-announced plan to install 10 new turbine generators within its service territory by next summer.

Under the terms of LIPA's recently-announced plan, the utility would contract with private energy companies, Calpine Corporation, PPL, KeySpan and FPL Energy to develop, own and operate a total of 10 state-of-the-art General Electric LM 6000s. Combined, the 10 new turbine units will be capable of generating a total of 407.6 MW of electricity.

"Based on our current projections and installed capacity requirements, Long Island is looking at a deficiency of 318 MW at peak load next summer under normal weather conditions," said William J. Museler, NYISO President and CEO. "This means that LIPA must secure additional sources of energy or face the unwelcome prospect of rolling blackouts. We believe the development of these new generation sources is a prudent move to help continue the high degree of electric reliability New Yorkers have enjoyed."

In its special "Power Alert" report released in March of 2001, the NYISO recommended that Long Island should be one of the primary areas of focus for siting new power plants and moreover emphasized the critical nature of the short-term situation saying: "With demand for electricity increasing and generating reserves dwindling, even if the new plants this report recommends are expeditiously licensed and constructed, it will be difficult in the short run to avoid disruptions in service. This will be true particularly in New York City and on Long Island..." (NYISO Power Alert, Page 4)

"We are pleased that LIPA is involving the private sector in this effort," said Museler. "With LIPA's strong backing and the private sector's expertise in developing plants like this, it makes it a win-win situation."

###

The New York Independent System Operator ("NYISO")—www.nyiso.com—is a not-for-profit corporation established in 1999 to facilitate the restructuring of New York State's electric industry. Based in New York's Capital Region, in addition to administering the State's wholesale energy markets, the NYISO operates the State's high voltage electric transmission system. Last year, the NYISO's market volume exceeded \$5.2 billion, more than all of the other Northeast markets combined.

New York Independent System Operator . 3890 Carman Road . Schenectady, NY 12303

It is not unusual for medium or large generating units to experience an electrical or mechanical problem that causes it to trip (disconnect from the electric grid) for hours or days until the problem can be rectified. If that had happened, system operators would have had to shed load (disconnect/blackout parts of Long Island) so that the entire system would not black out. If one of the largest generators, or one of the largest transmission lines, had failed, approximately ten percent (300 to 600 MW) of the load on Long Island would have been disconnected – and there would still have not been any reserve should another failure have occurred in the ensuing hours.

Although LIPA and KeySpan performed their duties superbly on those days, it was both lucky and fortunate that not a single major failure occurred on Long Island on August 8-9. There is no assurance that such luck will be repeated in the future, nor that the people of Long Island will have reliable service next summer without the addition of new generating capacity.

Based on the facts from August 2001, approximately 400 MW of additional capacity would have been needed to avoid load shedding (rotating blackouts) for the failure of one of the large Northport generating units or even slightly more to protect against the loss of one of the largest transmission lines. In addition, it is prudent to add generating capacity to cover the yet to be forecasted load growth over the following 12 months on Long Island. That growth forecast will probably be in the 0-100 MW range.

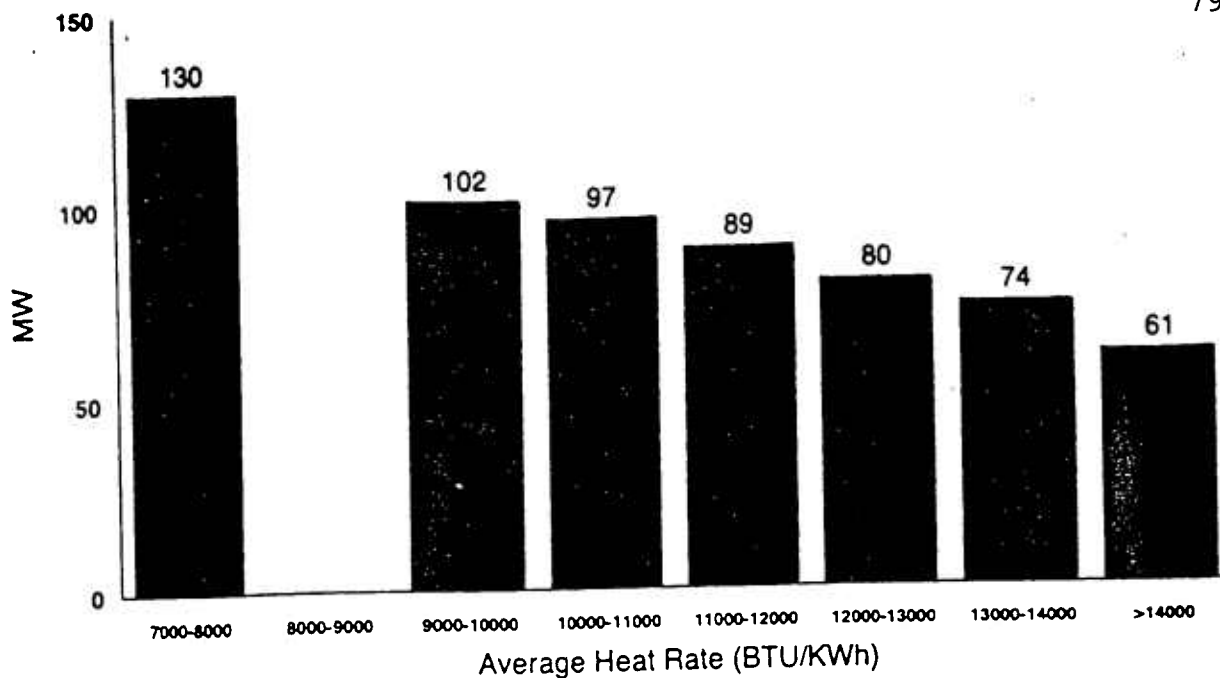
Conclusion

There is a serious and immediate need for 400-500 MW of new generating capacity on Long Island to provide reasonable assurance of adequate electric supply for Long Island during Summer 2002.

Sincerely,

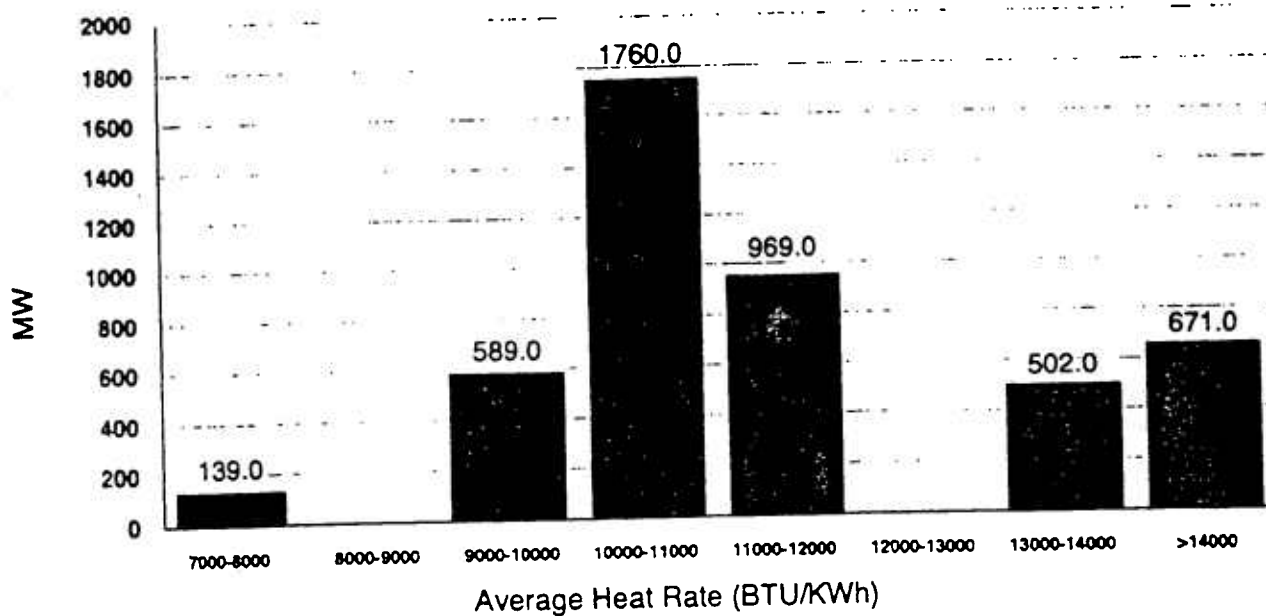
Maureen O. Helmer /RAS

Maureen O. Helmer
Chairman



Power Output for Each 1000 MBtu of Fuel
Figure 1.E-1

LONG ISLAND POWER AUTHORITY



Generation Capacity by Heat Rate
Figure 1.E-2

LONG ISLAND POWER AUTHORITY

1 MR. LELAND: Thank you, your Honor.

2 MR. GANSBERG: Your Honor, I just wanted
3 to clarify the procedure for the panel, your Honor.

4 Will other panel members be permitted to
5 answer questions directed at a specific panel member?

6 JUDGE BRILLING: I think we are putting
7 them up as a panel for a reason, and that is that, as
8 an entity, you can respond to a question the best way
9 you can with your collective knowledge.

10 Now, we can begin asking questions of
11 this group. I think that would make most sense, and
12 then we can go to the other witnesses at a later
13 time.

14 MR. LELAND: If I may, one more thing.

15 We previously, by letter dated November
16 27th delivered to the Secretary of the Commission,
17 submitted the environmental assessment prepared by
18 Long Island Power Authority, put in as part of its
19 testimony.

20 And we would like to ask that that be
21 marked and made part of the record, both the negative
22 declaration and the environmental assessment.

23 JUDGE BRILLING: Well, we can do that,
24 or I can just take notice of the fact that it was

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1 filed with the Secretary.

2 MR. LELAND: That would be fine.

3 JUDGE BRILLING: All right.

4 MR. LELAND: As long as it is made part
5 of the record.

6 JUDGE BRILLING: I believe it would be
7 made part of the record by referring to it and taking
8 administrative notice.

9 But if anyone would prefer to do it a
10 different way, frankly, it is less costly for all the
11 parties if we try to keep the page numbers down.

12 MR. GANSBERG: No objection, your Honor.

13 JUDGE BRILLING: So, as indicated, a
14 letter was sent to the Secretary, Secretary Deixler,
15 on November 27th, and it requested -- let me just
16 read the letter.

17 "In support of Long Island Power
18 Authority's testimony in the referenced proceedings,"
19 and it lists the five cases.

20 "Please find enclosed a copy of the
21 negative declaration and associated attachments
22 issued by LIPA in connection with its summer 2002
23 combustion turbine project.

24 "The facilities proposed in the above

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1 proceedings are encompassed by the negative
2 declaration."

3 And attached to it was an environmental
4 assessment dated November 13, 2001.

5 That has been filed with the Secretary.

6 Okay.

7 MR. GANSBERG: The witnesses are
8 available for cross-examination, your Honor.

9 JUDGE BRILLING: Very good.

10 Thank you.

11 Questions?

12 Ms. Ford.

13 MS. FORD: I wanted to know if
14 Pennsylvania Power and Light is considering
15 purchasing the NYPA plant already at the site?

16 MR. POTTER: First of all, the direct
17 entity is PPL Global, it is not Pennsylvania Power
18 and Light.

19 Secondly, we are not at this point in
20 time, considering the purchase of that asset.

21 JUDGE BRILLING: Which asset are you
22 referring to, which site?

23 MS. FORD: At the Brentwood site, last
24 June a NYPA plant was constructed, and it is like an

1 adjoining site to the site for this proposal.

2 MR. GANSBERG: The Brentwood site is
3 what is referred to in the caption as Islip.

4 MS. FORD: It is called Brentwood.

5 JUDGE BRILLING: Okay. Thank you.

6 MS. FORD: One more question. On
7 November we made a tour of the NYPA site, and east of
8 it, to this site, there was a stack of yellow pipes
9 on the ground.

10 And I just wondered if there was any
11 work already done at this site, the proposed site?

12 MR. POTTER: The answer to that is no.

13 MS. FORD: Okay.

14 JUDGE BRILLING: Any further questions?

15 MS. FORD: I have some.

16 JUDGE BRILLING: Continue.

17 MS. FORD: This is for LIPA.

18 And I wanted to know about the NYPA
19 plant that is there, does that run continuously, or
20 does it just run at peak time, or does it run when
21 there is low bid for electricity?

22 What is the history since it started?

23 MR. BOLBROCK: Richard Bolbrock.

24 That plant is not owned by LIPA, it is

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1 owned by the New York Power Authority, and I'm
2 unfamiliar with its operation.

3 You would have the ask the New York
4 Power Authority that question.

5 MS. FORD: Nobody else knows the answer?

6 JUDGE BRILLING: Can any of the other
7 panelists respond to the question?

8 Apparently not.

9 MS. FORD: Will the Pennsylvania Power &
10 Light Global LL, will that plant run only during
11 peak, or will it also run when bids are low, or
12 otherwise?

13 MR. LELAND: Could we identify for the
14 record the person sitting next to Ms. Ford who is
15 feeding her questions?

16 JUDGE BRILLING: Sure.

17 Would you like to give us your name.

18 MS. GARCIA: Lisa Garcia, of the New
19 York Public Interest Group.

20 JUDGE BRILLING: Thank you.

21 MR. KASS: Is Ms. Garcia here as counsel
22 for the questioner, or in what capacity is she here?

23 We do not believe they are a party.

24 MS. GARCIA: We are not a party.

1 JUDGE BRILLING: Okay.

2 So you're doing it on your own time?

3 MS. GARCIA: Yes.

4 MR. POTTER: Could you repeat the
5 question, please.

6 MS. FORD: Yes. I wanted to know, when
7 the plant would be open, would it be running at full
8 power, would it be running only a few days, would it
9 be running when bids are low for electricity from it?

10 MR. POTTER: It would run when its bid
11 price is lower than the competing units on Long
12 Island.

13 MS. FORD: Not only -- thank you.
14 Can Peter ask a question directly?

15 MR. QUINN: How does that translate into
16 the number of days per year, approximately, that you
17 estimate the plants to operate?

18 MR. POTTER: The project is being
19 contracted for by Long Island Power Authority. They
20 act as the party that will submit the bids to the New
21 York ISO.

22 Those bid prices will determine the run
23 time of the unit.

24 MR. QUINN: There is no forecasted

1 period of time under which that contract suggests how
2 many days a year you would conceivably operate?

3 MR. POTTER: We haven't forecasted it
4 for that particular plant. Perhaps LIPA has.

5 But I think the expectation is that it
6 will be competitive to a lot of the other generating
7 units on Long Island.

8 MR. QUINN: Would it be safe to say that
9 a ballpark number, since we are talking about -- I
10 believe we are talking about a peak load plant or
11 plants, that it would have to be within the framework
12 of June 1st to September 30th, or 120 days?

13 MR. POTTER: I don't know what you're
14 asking.

15 Is it safe to say --

16 MR. QUINN: Well, I'm speaking the
17 number of days that this conceivably could operate.

18 Since you haven't given me a definitive
19 number, I thought perhaps you could recite within the
20 framework of peak load periods from June 1st to
21 September 30th, 120 days, that there must be a
22 schedule of days within that that you could indicate
23 to us its operation.

24 MR. POTTER: As I indicated earlier, the

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1 operation of the facility is a function of bid prices
2 that are submitted by LIPA to the New York ISO. If
3 those bid prices are lower than the competing units
4 in any given hour, it will operate.

5 MR. QUINN: Well, let me understand.

6 If conceivably there were no peak load
7 days in excess of the need for 4,000 megawatts during
8 next summer, those two plants would not operate at
9 all?

10 MR. POTTER: No, that is not correct.

11 MR. QUINN: Well, what number of
12 megawatts conceivably have to be used in order to
13 start up and operate the peak loading plants?

14 That is generally considered a peak
15 load, if you are in excess of 4,000 megawatts.

16 MR. POTTER: But it doesn't matter
17 whether it is a peak load, or base load, need on Long
18 Island.

19 If the unit operates as a result of its
20 bid price, if the bid price is lower than the
21 competing unit on Long Island at any given hour, it
22 will operate.

23 If it is not lower, it will not operate.

24 MR. QUINN: So that base load

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1 intermediate or peak loading plants are not factored
2 into consideration, it is simply a matter of ISO
3 prices?

4 MR. POTTER: It is a matter of bid
5 prices.

6 MR. QUINN: Bid prices?

7 MR. POTTER: Yes.

8 MR. QUINN: Thank you.

9 MS. FORD: I'm interested in also in the
10 79.9 megawatt operation.

11 There was a statement that monitoring
12 would be if necessary.

13 What kind of monitoring would be
14 provided for keeping the operation below 80?

15 MR. POTTER: Could you ask the question
16 again?

17 MS. FORD: I understand that the request
18 was for 79.9 megawatts of operation.

19 MR. POTTER: Right.

20 MS. FORD: And that the question of
21 monitoring would open, that if monitoring would be
22 deemed necessary, I wondered if there was
23 consideration to waive monitoring, or what form of
24 monitoring would be made available?

1 MR. POTTER: If the Commission -- go
2 ahead.

3 MR. GANSBERG: Your Honor, in the
4 application, PPL Global has agreed to a
5 legally-binding commitment to maintain the operation
6 of the units in each location at below 80 megawatts.

7 PPL Global will be willing to accept a
8 condition, should the Commission deem it appropriate,
9 to monitor the actual output of the units in order to
10 determine that the actual output remains below 80 .

11 MS. FORD: Is that publicly available?

12 JUDGE BRILLING: I think what
13 Mr. Gansberg is suggesting is that if the Commission
14 wishes to impose a condition, which presumably would
15 be made part of an Order, that they would adhere to
16 that, that the Commission would impose a monitoring
17 process.

18 MS. FORD: Thank you.

19 JUDGE BRILLING: Is that what you just
20 said?

21 MR. GANSBERG: Yes.

22 JUDGE BRILLING: Any further questions?

23 MR. QUINN: Would it be possible for me
24 to submit an exhibit prepared by LIPA related to

1 electric usage and peak loading days based on the
2 contention from the company at Brentwood, PPL Global
3 and others that there is a need for these generating
4 plants?

5 JUDGE BRILLING: Why don't you show it
6 to LIPA.

7 MR. QUINN: This was provided to me by
8 LIPA a week ago.

9 And since I don't have copies -- this is
10 from LIPA.

11 They were submitted to me a week ago,
12 when they provided me a copy of the Clean Air
13 Initiative. I was actually seeking --

14 MR. KASS: What document does this come
15 from?

16 MR. QUINN: It was in the folder of the
17 Clean Air Initiative.

18 I received it from Dan Zoeski, from your
19 company.

20 JUDGE BRILLING: So, as part of some
21 kind of an advertising initiative?

22 MR. QUINN: No.

23 No, what it explains is how many hours
24 during the summer peak load is achieved, and it is a

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1 graph for the years '98, '99 and 2000.

2 And, in it, it shows that in 1998 they
3 needed -- that their peak load achieved was a little
4 over 4,000 megawatts for one hour, and no other time
5 during the year did they exceed 3,750 megawatts.

6 MR. KASS: You're asking us whether --

7 MR. QUINN: All I want to do is submit
8 this as an exhibit. I want to submit it as Exhibit
9 A.

10 JUDGE BRILLING: Let me ask LIPA.

11 Do you recognize this document?

12 Does it identify it, the source, as
13 coming from LIPA on the document?

14 MR. KASS: No, it does not.

15 MR. QUINN: No, it doesn't. But I
16 received it in a packet of material from Dan Zoeski,
17 after I had made a request to Seth Polkower, the
18 Operations Officer of LIPA, and this was what was
19 submitted with the Clean Air Initiative booklet or
20 report.

21 And I am simply reciting the data.

22 JUDGE BRILLING: And who is this
23 gentleman at LIPA who gave this to you?

24 MR. QUINN: Dan Zoeski.

1 JUDGE BRILLING: What is his title?

2 MR. QUINN: What is his title?

3 JUDGE BRILLING: Is he from your
4 information office?

5 MR. BOLBROCK: No, he is with our Clean
6 Energy Initiative.

7 MR. QUINN: He is the Director of the
8 Clean Energy Initiative for LIPA.

9 JUDGE BRILLING: Okay. Let me just ask
10 this question, Mr. Quinn.

11 What question did you have about this?
12 Let's go off the record for now.

13 MR. QUINN: Okay.

14 (Recess had.)

15 JUDGE BRILLING: Let's go back on the
16 record.

17 Hold on, Mr. Quinn.

18 While we were off the record, there was
19 a discussion about a document that is in the
20 possession of Mr. Quinn.

21 Mr. Quinn indicates that he received it
22 from LIPA, and Mr. Quinn wishes to have it marked as
23 an exhibit.

24 And we will do that tentatively. We

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1 will give LIPA two days to verify the authenticity of
2 the document, its information, and LIPA will then
3 advise me whether they have objection to having it
4 remain in the record.

5 So could you describe the document,
6 please.

7 MR. QUINN: Yes, it's a document that
8 shows three years of hours at or above percentage of
9 peak hourly load from the year January to December in
10 1998, with similar period of time for '99, and a
11 similar period of time for the year 2000.

12 And the purpose of submitting this as an
13 exhibit is to illustrate that there is absence of
14 need for new generating plants, the point being
15 that --

16 MR. LELAND: Your Honor, if I may?

17 If Mr. Quinn is going to ask a question,
18 that is fine.

19 If Mr. Quinn is going to make a speech
20 about what he thinks a piece of paper that has yet to
21 be authenticated indicates, that's something entirely
22 different, and I think that is objectionable.

23 JUDGE BRILLING: He is just laying a
24 little foundation.

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1 So let's get to the entering of the into
2 the record.

3 You would like that marked as an
4 exhibit.

5 MR. QUINN: Right.

6 JUDGE BRILLING: Let's do that.

7 Let the stenographer mark it, please,
8 and then he can give it back to you, so you can ask
9 questions with it.

10 MR. QUINN: Yes.

11 JUDGE BRILLING: At some time later, we
12 will have it copied.

13 Could you give it to the stenographer,
14 so we can have it marked.

15 We will call this Quinn 1 for
16 identification.

17 (Document marked Quinn's Exhibit 1 for
18 identification.)

19 JUDGE BRILLING: Go ahead.

20 MR. QUINN: The three-year period on
21 this document shows that the company used energy, or
22 energy consumption in those three years exceeded
23 4,000 megawatts, for a total of thirty-five hours,
24 thirty-five hours.

1 JUDGE BRILLING: Do you have a question,
2 sir?

3 MR. QUINN: And my question is, on the
4 basis of that, does LIPA, or any of the proponents of
5 the generating plants, still agree that there is
6 substantial need for these generating plants?

7 MR. BOLBROCK: The answer is yes.

8 MR. QUINN: And why?

9 MR. BOLBROCK: I think I covered to it
10 in my testimony.

11 JUDGE BRILLING: Can you summarize why.

12 MR. BOLBROCK: Yes. First, let me just
13 say that I believe Mr. Quinn is, from one of the
14 glances that I had of the document, he is
15 misinterpreting the information that was provided
16 there.

17 He referred to it as dealing with
18 energy. It does not deal with energy, at least the
19 way it was labeled, it dealt with peak loads.

20 So I think he is misinterpreting what
21 was there.

22 But, very succinctly, actual experience
23 of last summer, during August, when we had a heat
24 wave similar to the heat wave that occurred in 1999,

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1 when LIPA also set a new summer peak, LIPA had
2 exceptional generating and transmission equipment
3 availability, far beyond that what is planned for,
4 and given the age of the generating units, something
5 that is not prudent to anticipate would occur going
6 forward.

7 At that point in time, LIPA was
8 purchasing emergency power from off island, over its
9 limited transmission system, interconnection system.
10 It had all of its units virtually available and
11 producing the full amount of output that they could
12 produce at that time, had instituted a number of
13 emergency operating procedures, including a five
14 percent voltage reduction that was ordered by the New
15 York independent system operator, which reduces load.

16 Including public appeals, direct appeals
17 to large businesses.

18 Including implementing its peak load
19 reduction program where we actually pay large
20 customers to reduce their load, either by changing --
21 shutting down processes, or turning on their own
22 backup generation, including instituting the LIPA
23 Edge Program, which is a thermostat, remote
24 thermostatically controlled system for air

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1 conditioners, that could be done through the
2 Internet.

3 And given all of that, and particularly
4 taking into account the exceptional availability of
5 equipment, LIPA had no operating reserve left, which
6 meant that had a contingency occurred, for example,
7 loss of a generating unit, or had one of our major
8 transmission interconnections tripped, particularly
9 the two that are rated at about 600 megawatts, there
10 would have been rotating blackouts reported on the
11 island.

12 So the very next contingency would have
13 caused that.

14 Going forward, we have a fairly strong
15 load growth on the island, roughly in the order of
16 about 100 megawatts per year.

17 And if we fast forward it to the summer
18 of 2002, with some load growth, and we had the exact
19 same conditions occur, weather conditions, and we had
20 this exceptional equipment availability, we would
21 have rolling blackouts, because we would not even be
22 able to serve the load growth, let alone provide for
23 loss of equipment.

24 MR. QUINN: Are you saying,

1 Mr. Bolbrock, that there is no excess capacity over
2 which the company faced with its 800 megawatts?

3 Is the not true that you, in your own
4 budget report, had 5,309 megawatts plus tinkering
5 with the transmission lines and the plant in
6 Brentwood, that is probably around 5,500 megawatts of
7 total capacity and purchase power?

8 MR. BOLBROCK: I don't understand the
9 question, or where you came up with the number s.

10 MR. QUINN: Well, the 5,309 is in your
11 own Long Island Power Authority proposed 2001 budget
12 operations and capital.

13 The 44 megawatts are what are already in
14 place in Brentwood.

15 And a report from Seth Whole Power, at
16 one of the LIPA meetings, indicated that with some
17 tinkering of the transmission and distribution lines,
18 you were able to achieve reduction in energy use of
19 some 70 plus megawatts.

20 So that my point is, with adding those
21 numbers together, you currently have close to 5,500.

22 MR. BOLBROCK: Well, if you're adding
23 the Brentwood unit in those numbers, first of all,
24 that's NYPA unit.

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1 LIPA does not purchase the output of
2 that unit. NYPA uses it, to the best of my
3 knowledge, to supply the load that they have under
4 contract on Long Island, and that is not LIPA load.

5 MR. QUINN: Well, I can't find the
6 location, but it seems to me, with respect to that,
7 you have included it, those 44 megawatts, in the LIPA
8 output.

9 MR. BOLBROCK: I don't know what
10 document you're referring to.

11 MR. QUINN: This is the document that
12 LIPA prepared for its 2001 budget, the current year.

13 And the number was included.

14 I just can't find it at the moment. I
15 didn't mark it.

16 Are there no alternatives to these
17 generating plants that you're proposing?

18 Is there no other course except to adopt
19 each of these plants being proposed?

20 MR. BOLBROCK: No, there is no other
21 option for next summer to meet the critical need that
22 exists for next summer.

23 MR. QUINN: Would it be presumptuous of
24 me to suggest alternatives at this point, or should I

1 simply file that with my written testimony?

2 JUDGE BRILLING: I think, if you have a
3 question, you should ask it.

4 MR. QUINN: Suppose --

5 JUDGE BRILLING: Excuse me. Just let me
6 stop you for a moment.

7 You're using acronyms. The stenographer
8 may not be aware of the acronyms.

9 And just for the record, LIPA, L-I-P-A,
10 Long Island Power Authority. And NYPA, N-Y-P-A, is
11 New York Power Authority.

12 I'm trying to make a list for the
13 stenographer's benefit.

14 Please be mindful that the record is
15 only as clear as you make it.

16 Thank you.

17 MR. QUINN: Suppose LIPA pursued an
18 energy rebate program for refrigerators, and did it
19 starting the new year, or shortly thereafter, as a
20 means of having people purchase energy efficient
21 refrigerators, as opposed to the kitchen clinkers
22 that they currently own, many of them, or most of
23 them own.

24 In other words, changing from 1,000 to

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1 1,500 kilowatt hours on an annual basis, to being
2 steered toward buying a refrigerator that uses less
3 than 500 kilowatt hours on an annual basis.

4 Cutting, in some cases, their use by
5 two-thirds, in many cases, by cutting it in half.

6 Would that be a kind of program which
7 costs ultimately far less money than it would cost to
8 produce all of these plants, generating plants, a way
9 of changing direction and reducing megawatt usage,
10 rather than continuing to argue that we are
11 increasing by 100 megawatts a year?

12 Could we lower megawatt usage through a
13 program like that by 200 megawatts, and reduce the
14 fear and concern that LIPA has that there will be
15 blackouts and brownouts?

16 JUDGE BRILLING: Mr. Quinn, you're going
17 to have to try and frame your question a little more
18 succinctly than that.

19 I don't think it is fair to ask a
20 witness to respond to a question when there is five
21 in one.

22 MR. BOLBROCK: I'll respond to that
23 question.

24 JUDGE BRILLING: Yes.

1 MR. BOLBROCK: LIPA, in fact, has a very
2 aggressive, and is leading the state in its energy
3 efficiency and renewable technology programs.

4 In fact, had not LIPA been very
5 aggressive, and established a five-year, \$160 million
6 clean energy fund, and increased that recently by
7 another \$10 million, to \$170 million, the need for
8 capacity on Long Island, and the rate of growth would
9 be even more dramatic than it is.

10 Instead of needing 400 megawatts, next
11 summer, we would need probably several hundred
12 megawatts more. Instead of the load growing at 100
13 megawatts a year, it would clearly be growing at a
14 faster pace.

15 So I would submit that LIPA is taking
16 that into account, and that is part of the strategy
17 going forward.

18 MR. QUINN: You say that the Clean
19 Energy Initiative is expending \$32 million dollars a
20 year?

21 MR. BOLBROCK: This year, it is higher
22 than that. On average, it is \$170 million divided by
23 five years, and that varies year to year.

24 MR. QUINN: But, in fact, you're

1 spending less than that. In 1999, according to your
2 own prepared materials, the Clean Energy Initiative,
3 in 1999, you spent actual \$8.54, not \$32 million.

4 In 2000, you spent \$21.5 million,
5 instead of \$32 million.

6 And while you project for 20001 \$41.4
7 million, and if based upon projections and actual
8 spending, it will come in far less.

9 MR. KASS: Is this a question, or is
10 this direct testimony?

11 JUDGE BRILLING: Mr. Quinn, you're
12 asking questions now, you're not testifying.

13 MR. QUINN: Well, what I'm saying is
14 that are you then expending the money that you claim
15 to spend on energy efficiency?

16 MR. BOLBROCK: The answer is yes.

17 JUDGE BRILLING: Okay.

18 MR. QUINN: I believe the data that I
19 supplied is sufficient.

20 Thank you.

21 MS. FORD: I want to know at what stage
22 is the facility now? Is it at the implementation
23 stage, what stage is it at now?

24 MR. LELAND: Which facility are you

1 referring to, Ms. Ford?

2 MS. FORD: Oh, I'm sorry, the Brentwood,
3 Edgewood facility.

4 At what stage is it in the process?

5 JUDGE BRILLING: Hold on.

6 Are we even in the same docket?

7 MR. GANSBERG: Yes, Brentwood, Edgewood
8 is the same as the Town of Islip.

9 JUDGE BRILLING: When I started out, I
10 said we are supposed to be asking questions on Docket
11 No. 6034, which is the Town of Brookhaven.

12 So I guess the record is going to have
13 to reflect that questions have been intermingled
14 here.

15 If you've asked them already, please
16 don't ask them again.

17 Why don't you respond now, as long as
18 the question has been asked.

19 MR. GANSBERG: Just for clarification,
20 your Honor, Docket 0-E-1634 relates to the Brookhaven
21 unit, which is on the Shoreham site.

22 JUDGE BRILLING: Right.

23 MR. GANSBERG: And it's oil fired.

24 Docket 0-E-1635 relates to the Islip

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1 facility, which is natural gas fired, and is located
2 in Brentwood, sometimes known as, referred to as
3 Edgewood.

4 Those are both projects sponsored by PPL
5 Global LLC.

6 JUDGE BRILLING: Can you respond to the
7 question?

8 MR. GANSBERG: Yes.

9 MR. POTTER: The facility is in the
10 latter stages of the development phase, and we hope
11 that with the successful conclusion of this hearing,
12 and acquiring additional permits, that we will
13 proceed with limited construction activities here
14 sometime during the month of December.

15 JUDGE BRILLING: Any further questions
16 from Ms. Ford?

17 No?

18 Ms. Ford?

19 MS. FORD: No.

20 JUDGE BRILLING: Thank you.

21 Mr. Raacke, did you have questions?

22 MR. RAACKE: Yes, your Honor, I do.

23 Before I enter the questions for the
24 panel, I have a procedural question, actually.

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1 Are the parties expected or allowed to
2 submit briefs and further comments on this proceeding
3 after today?

4 And what are you, your Honor, and the
5 Commission planning on doing to bring this case to
6 closure.

7 JUDGE BRILLING: I hadn't contemplated
8 that. I suppose we can have a discussion at the end
9 of this hearing.

10 I'm going to reserve whether briefs can
11 be submitted.

12 The record will be submitted directly to
13 the Commission.

14 I do not intend to issue a recommended
15 decision, if that is your question.

16 MR. RAACKE: My first question to the
17 Panel, again, for the record, my name is Gordian
18 Raacke.

19 A question to PPL Global that was
20 touched on earlier here is, if PPL Global does not
21 know how many days the plant will operate, would the
22 company be willing to limit the number of days of
23 operation as part of its permit?

24 MR. POTTER: As part of what permit?

1 MR. RAACKE: The operating permit for
2 the plant.

3 Are you proposing to stipulate a certain
4 number of days that the plant would operate?

5 MR. POTTER: Are you referring to an air
6 permit?

7 MR. RAACKE: Yes.

8 MR. POTTER: Okay. The air permit
9 already establishes a certain limited number of hours
10 that the facility can operate.

11 It is limited by tonnage, tonnage of nox
12 emissions in a year.

13 That has the same effect of limiting the
14 run time to total number of hours in a year.

15 MR. RAACKE: So it will limit the
16 pollutants, but not limit the number of days the
17 plant can operate?

18 MR. POTTER: It has the same effect. By
19 limiting the tonnage on an annual basis, it has the
20 same effect of establishing a run time, a total cap
21 on run time, in any given period.

22 MR. RAACKE: I just want to clarify what
23 you're proposing, or entertaining to propose is to
24 limit the number of days that the plant could run?

1 MR. POTTER: That is not the way the air
2 permit works.

3 MR. RAACKE: On page 6 of your
4 testimony, beginning on line 12, you state that,
5 further down on line 14, you state that LIPA
6 indicated that it was working with several other
7 developers to try and develop sufficient capacity to
8 meet anticipated peak demand for the summer 2002.

9 You then go on to say that the Edgewood
10 facility was an outgrowth of the discussion LIPA
11 indicated it was having with other developers to
12 develop sufficient capacity.

13 Could you clarify for us the term
14 "outgrowth."

15 MR. POTTER: Basically, basically we are
16 selected to proceed with the negotiations on the
17 Shoreham facility, and the development of a project
18 at the Shoreham site with LIPA.

19 As a result of those discussions and
20 negotiations, LIPA felt that it was prudent to
21 proceed with negotiations on the Edgewood facility
22 site, as well.

23 JUDGE BRILLING: Okay. Again, for the
24 record, I guess we are going to be including Case

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1 01-E-1635, and that is the petition of PPL Global for
2 a Certificate of Public Convenience and Necessity for
3 a 79.9 megawatt gas fired facility in the Town of
4 Islip, also known as Brentwood, also known as
5 Edgewood, even though I've tried to limit it to just
6 the Town of Brookhaven.

7 But as long as your entire panel is
8 sworn, I guess that does make more sense.

9 Let's just entertain questions at both
10 of the PPL programs. But let's be clear which
11 facility we are identifying in the question.

12 MR. RAACKE: I apologize.

13 JUDGE BRILLING: It probably makes more
14 sense to do it that way.

15 MR. RAACKE: On page 7 of your
16 testimony, on line 3, you say that, "After the two
17 sites were selected by LIPA, I have worked closely
18 with LIPA to provide the necessary information
19 regarding how PPL Global could meet LIPA's needs for
20 the addition of new capacity in a timely fashion on
21 the selected sites."

22 Would you first identify who is
23 testifying here?

24 MR. POTTER: Jim Potter.

1 MR. RAACKE: Mr. Potter?

2 MR. POTTER: Yes.

3 MR. RAACKE: Could you, Mr. Potter,
4 could you clarify how the sites were selected by
5 LIPA?

6 MR. POTTER: No.

7 MR. RAACKE: You have no information as
8 to how the sites were selected?

9 MR. POTTER: I think that question is
10 better directed towards the LIPA officials.

11 MR. RAACKE: And I have some questions
12 for Mr. Goldbart on that issue later on.

13 You have no idea as to what process was
14 used to select those sites?

15 MR. POTTER: Correct.

16 MR. RAACKE: On line 6 of page 7, you
17 state that, "I have been actively involved with LIPA
18 to arrange for procurement of the necessary project
19 equipment."

20 Could you describe your involvement.

21 MR. POTTER: In order to bring these
22 projects on line in the time period within which LIPA
23 wants them to operate, which is the summer of 2000 of
24 next year, you have to have procured certain

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1 equipment, certain critical path equipment, such as
2 combustion turbines, SCR equipment, other balanced
3 plant equipment.

4 So, in order for LIPA to determine who
5 they are going to work with, they had to make sure
6 that the party that they were working with had that
7 capability, had that equipment on order.

8 MR. RAACKE: And Mr. Potter, you are, of
9 course, referring solely to the equipment used in
10 your project?

11 MR. POTTER: That's correct.

12 MR. RAACKE: When did LIPA contact your
13 company initially to solicit proposals for
14 generation?

15 MR. POTTER: I believe it was May when
16 the initial Shoreham RFP was issued.

17 MR. RAACKE: Regarding the Edgewood
18 facility, 1635, when did LIPA contact your company to
19 solicit proposals for that facility?

20 MR. POTTER: It was in subsequent months
21 when we started to proceed with negotiations on the
22 Shoreham site.

23 MR. RAACKE: Could you be a little more
24 specific on "subsequent"?

1 MR. POTTER: It might have been two to
2 three months after we were selected for the Shoreham
3 project. I don't recall the exact date.

4 MR. RAACKE: What form did that
5 communication take?

6 MR. POTTER: I'm sorry, could you ask
7 the question again, please.

8 MR. RAACKE: What form did the
9 communication with LIPA take place?

10 Did you receive solicitation from LIPA
11 by phone call; or what manner?

12 MR. POTTER: As a result of discussions
13 on Shoreham, they felt that we were a qualified
14 company, and capable of delivering power by the
15 summer of next year, and therefore, thought that we
16 would be a good candidate to proceed with a similar
17 project on the Edgewood site.

18 MR. RAACKE: When you say "they felt,"
19 how did they express that feeling to you?

20 MR. RAACKE: Through direct contact,
21 saying why don't we sit down and talk about a similar
22 project.

23 There was no formal solicitation for
24 that.

1 JUDGE BRILLING: A similar project in
2 Brentwood.

3 MR. RAACKE: When you say there was no
4 formal communication, do you mean that there was no
5 written communication.

6 MR. POTTER: I stated there was no
7 formal solicitation.

8 MR. RAACKE: Was there a written request
9 of any kind?

10 MR. POTTER: No.

11 MR. RAACKE: Was there an exchange of
12 memoranda?

13 MR. POTTER: We simply proceeded with
14 negotiations on the project on that site.

15 MR. RAACKE: Are there any documents
16 that you are aware of that track the negotiations?

17 MR. POTTER: That track the
18 negotiations?

19 MR. RAACKE: Yes.

20 MR. POTTER: No.

21 MR. RAACKE: So is it fair to say that
22 still today there is no written in request, no
23 written solicitation, or no other written documents
24 on this solicitation for this project?

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1 We are talking 6035.

2 MR. POTTER: Not that I'm aware of.

3 MR. RAACKE: Who handled the
4 solicitation process at LIPA in your dealings?

5 MR. POTTER: For the Shoreham project?

6 MR. RAACKE: Tell me for the Shoreham
7 project first, please.

8 MR. POTTER: Was the question who
9 handled the formal solicitation for the Shoreham
10 project? Is that your question?

11 MR. RAACKE: Who were the people at LIPA
12 that you were dealing with, or are the
13 representatives from PPL Global you were dealing
14 with?

15 MR. POTTER: Well, there were a number
16 of representatives with LIPA, including LIPA's
17 witness, including other individuals within LIPA,
18 that were a part of that whole process.

19 MR. KASS: Your Honor, may I say that
20 this general line of questioning that we have been
21 listening to, goes into the details of a procurement
22 process, which is not the scope of this proceeding,
23 as far as we are aware.

24 I request that the witness be directed

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1 to move on to some relevant subject.

2 MR. RAACKE: Your Honor, some applicants
3 in these cases have claimed that need does not have
4 to be determined in this proceeding, as long as a
5 project was solicited through a competitive bidding
6 process, and that is why I was asking these
7 questions.

8 JUDGE BRILLING: Okay.

9 MR. GANSBERG: That is not quite
10 accurate.

11 I think the more accurate way to phrase
12 this is to say if these plants were constructed on
13 the schedule contemplated, would contribute to
14 competition in New York State's electric markets.

15 MR. RAACKE: I'm not referring to that
16 statement, I'm referring to a case that was decided,
17 actually, not by PP&L, as far as I know, but decided
18 by several other applicants, and that is the Walkill
19 case.

20 JUDGE BRILLING: I think a couple of
21 more questions would be in order.

22 But I think we have established that
23 this was an informal process, it was not in response
24 to an RFP, in particular, for this particular

1 facility.

2 MR. RAACKE: Is it fair, then, to say,
3 Mr. Potter, that, as you said, there was no RFP,
4 there was no request for a proposal involved in the
5 Edgewood, Brentwood facility selection? But is it
6 fair to say that you were selected by LIPA without
7 the benefit of a competitive bidding process?

8 MR. POTTER: I can't comment as to
9 whether the process was a competitive one or not.

10 MR. RAACKE: When did you submit your
11 proposal?

12 MR. POTTER: Which project are you
13 referring to?

14 MR. RAACKE: The Edgewood.

15 MR. POTTER: I never said I submitted a
16 proposal.

17 MR. RAACKE: Let me move on to the power
18 supply agreement, the power purchase agreement.

19 Is it true that you are currently in
20 negotiations over the terms and conditions of the
21 power purchase agreement?

22 MR. POTTER: Yes, it is. That is
23 correct.

24 MR. RAACKE: Is it true that the

1 agreement has not been finalized?

2 MR. POTTER: That is correct.

3 MR. RAACKE: When do you expect to reach
4 final agreement on the agreement?

5 MR. KASS: Your Honor, we would object
6 to any further questions about the terms of the
7 agreement that is still being negotiated.

8 JUDGE BRILLING: He is asking about an
9 assumption of when it might conclude.

10 It is a term.

11 Do you have an estimate?

12 MR. POTTER: Sure. I think we have an
13 expectation to complete those negotiations within the
14 next thirty days.

15 MR. RAACKE: Have you, or are you
16 planning to submit the draft agreement as part of
17 this proceeding into the record?

18 MR. POTTER: No.

19 MR. RAACKE: It would be helpful for all
20 parties, I believe, to review that agreement.

21 Do you have any particular reason why
22 you're not planning to submit that?

23 MR. GANSBERG: His lawyer instructed him
24 to answer the question no; that is his reason.

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1 Your Honor, the terms of the power
2 purchase agreements being negotiated are, of course,
3 confidential at this point.

4 We did discuss in general terms the
5 nature of those agreements, and are prepared to
6 answer questions as to the effect that those
7 agreements might or might not have on competition.

8 But, obviously, we don't want to get
9 into the detailed terms of the negotiations ongoing
10 by the parties.

11 JUDGE BRILLING: Do you have some
12 overall questions about the agreement?

13 MR. RAACKE: I do have some questions,
14 but I actually have them for Mr. Bolbrock, so if
15 that's all right, we will come back to that later?

16 JUDGE BRILLING: All right.

17 MR. RAACKE: There was no written
18 proposal for this project. Is it then also fair to
19 say that -- well, let me go back.

20 I was going to ask you whether you
21 amended any aspect of your proposal during this
22 process.

23 If there is no written proposal that you
24 started out with, would you say that this project was

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1 defined as we see here today from the beginning?

2 MR. POTTER: Are you referring to the
3 Edgewood project?

4 MR. RAACKE: To the Edgewood project,
5 correct.

6 MR. POTTER: What is a proposal?

7 MR. RAACKE: A proposal would describe
8 the facility, the site, the technology, the time
9 frame, completion, stuff like that.

10 MR. POTTER: I think, through an
11 informal process, LIPA and PPL jointly reached the
12 conclusion that it was in both parties' best
13 interests to solve immediate power crisis for next
14 summer, and proceed to developing negotiations for a
15 power purchase agreement.

16 MR. RAACKE: Are you aware of certain
17 criteria that LIPA used to select your proposal?

18 In other words, did LIPA communicate
19 with you certain criteria that they would use to
20 evaluate your project, let's call it?

21 MR. POTTER: No, I'm not aware of what
22 criteria they used.

23 MR. RAACKE: Did LIPA inform your
24 company of certain requirements that LIPA had

1 regarding minority and women-owned businesses?

2 MR. POTTER: Yes, they have actually
3 informed us of those obligations.

4 MR. RAACKE: They did so as part of this
5 solicitation process?

6 MR. POTTER: What solicitation process
7 are you referring to?

8 MR. RAACKE: Let's just call it this
9 process, then.

10 MR. POTTER: For the Edgewood project?

11 MR. RAACKE: Yes.

12 MR. POTTER: And you're asking if we
13 were notified of what?

14 MR. RAACKE: Were you informed of
15 certain requirements regarding minority and
16 women-owned businesses that LIPA has as per the
17 statute?

18 MR. POTTER: I believe we were informed
19 earlier in the process about that obligation upon
20 LIPA, yes.

21 MR. RAACKE: In the Edgewood project?

22 MR. POTTER: I believe so, yes.

23 MR. RAACKE: Did you submit any
24 documents to LIPA on that issue?

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1 MR. KASS: Objection, your Honor.

2 MR. LELAND: Objection, relevance.

3 JUDGE BRILLING: Repeat the question.

4 MR. RAACKE: Did you submit any
5 documents to LIPA on the issue of minority and
6 women-owned businesses?

7 MR. KASS: Objection on the ground that
8 it is not relevant, your Honor.

9 We are pursuing a line already. You
10 have been very lenient with the questioner.

11 JUDGE BRILLING: You want to know if PPL
12 Global submitted anything by way of compliance with
13 these legal obligations?

14 MR. RAACKE: Correct.

15 JUDGE BRILLING: Did you or didn't you?

16 MR. POTTER: I don't believe we have.

17 JUDGE BRILLING: Next question.

18 MR. RAACKE: Did LIPA indicate -- and
19 again this is on the Edgewood site -- did LIPA
20 indicate any preference on sites, technology, size,
21 contractual terms, in this process?

22 MR. POTTER: Absolutely. In the normal
23 course of negotiations they always define their
24 preferences.

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1 MR. RAACKE: And what were those?

2 MR. POTTER: I don't think those
3 specific terms and conditions we are prepared to
4 answer at this point in time.

5 MR. RAACKE: Well, let's talk about the
6 contract terms.

7 Did LIPA express any preferences
8 regarding terms of the power purchase agreement?

9 MR. POTTER: Of course they do. In the
10 course of normal negotiations for any contact, they
11 indicate what their preferences are.

12 MR. RAACKE: Do you recall what they
13 were?

14 MR. GANSBERG: Your Honor, I think now
15 we are getting into the specific terms for the
16 negotiations between the parties.

17 JUDGE BRILLING: LIPA is here, you can
18 ask them those questions.

19 MR. RAACKE: All right.

20 JUDGE BRILLING: You're asking what
21 preferences were, or if other alternatives were
22 discussed?

23 MR. RAACKE: Well, I'm asking -- I'm
24 trying to, your Honor -- all I'm trying to do is

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1 trying to ascertain what this process was, and what
2 this process consisted of that led to the selection
3 of PPL Global to build a facility for the Edgewood
4 site.

5 JUDGE BRILLING: Okay.

6 MR. RAACKE: There was a request for
7 proposal issued on the Shoreham site. However, on
8 the Edgewood site, apparently there is no such RFP
9 issued.

10 The selection process, solicitation
11 process, must have been conducted in some form. And
12 I'm trying to get to the bottom of that.

13 MR. GANSBERG: Part of the problem is he
14 is asking the wrong party.

15 JUDGE BRILLING: From your side of the
16 equation, you enter into discussions, there was a
17 back and a forth.

18 I think what he is asking you is, from
19 your side of the table, what did the process consist
20 of.

21 So to the extent that you can concisely
22 state that, that would be helpful.

23 MR. POTTER: I understand.

24 I know what process they implemented

1 with us. I have no idea what process they
2 implemented with other parties.

3 And what process they implemented with
4 us I'm very clear on.

5 They sat down and decided that because
6 of our availability of equipment, and our interest in
7 constructing facilities on Long Island, that we were
8 a good candidate to proceed with discussions on
9 development of a project there.

10 I suspect they had that same discussion
11 with several other parties at the same time.

12 MR. RAACKE: How did the site selection
13 work? Can you elaborate on that, at the Edgewood,
14 Brentwood site?

15 MR. POTTER: Well, there are several
16 critical site assessment issues that have to be
17 reconciled through the permitting process, and
18 through the negotiating process.

19 One critical one is access to
20 transmission systems that support the project.
21 Another is access to site, and access to natural gas.

22 These are sort of normal or natural
23 criteria that any project that needs to put
24 electronics on the system, and utilize gas for

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1 operations, and have a viable site, would go through.

2 JUDGE BRILLING: May I ask you how many
3 more questions you have for this panel?

4 MR. RAACKE: I'm done with questions for
5 the panel on -- I'm done, actually.

6 Now I do have some questions for
7 Mr. Bolbrock.

8 JUDGE BRILLING: About how long, how
9 many questions?

10 MR. RAACKE: I have about five pages of
11 questions for Mr. Bolbrock.

12 JUDGE BRILLING: Can you give me a time
13 estimate on that?

14 MR. RAACKE: Well, that depends, in
15 part, on the answers that I receive from the witness.

16 But these questions pertain, not only to
17 the PP&L project, but we can also ask the projects if
18 these questions do not only pertain to 1634 and 1635.

19 JUDGE BRILLING: I just wanted to know
20 how long, how many questions you have for the two PPL
21 projects. We are not entertaining questions now
22 about the other ones.

23 MR. RAACKE: I can't really give you a
24 time estimate. I would expect to be able to go

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1 through it within --

2 JUDGE BRILLING: I'm not trying to limit
3 you, I just want to have an idea.

4 MR. RAACKE: I would think maybe, I have
5 five pages here, maybe an hour?

6 JUDGE BRILLING: I just thought you said
7 the five pages included your questions of other
8 projects?

9 MR. RAACKE: Well, they refer to
10 Mr. Bolbrock's testimony, which covers all the five
11 cases, including the PP&L case.

12 MR. GANSBERG: It would be more
13 efficient to allow Mr. Raacke to ask those questions
14 of Mr. Bolbrock whether or not they refer to PPL
15 Global's project or KeySpan.

16 JUDGE BRILLING: Before we get into
17 questions involving the other projects, then, I want
18 to open up the other panel. It's just going to make
19 this record completely unruly.

20 Does anyone have questions of either the
21 PPL Global group or LIPA with respect to the two
22 projects that we have been talking about, the one in
23 the Town of Brookhaven and the one in the Town of
24 Islip?

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1 MS. FORD: A quick clarification
2 question.

3 I just wanted to know at this point in
4 time, today, is there any required monitoring of the
5 79.9 megawatt capacity?

6 MR. GANSBERG: Not yet.

7 There may well be after the order is
8 issued by the Commission, or perhaps part of the air
9 permit.

10 But, as of the moment, there is no
11 required monitoring.

12 MS. FORD: Would there be --

13 JUDGE BRILLING: What kind of monitoring
14 are you talking about, air emissions?

15 MS. FORD: Generating --

16 JUDGE BRILLING: Exceeding the 79.9
17 capacity?

18 MR. KASS: Your Honor, I believe that
19 they are asking, or she is being coached to ask this
20 question for matters unrelated to this proceeding.

21 But Ms. Garcia, who is sitting next to
22 her, is handing her these questions.

23 She is really interested in ten issues,
24 and that's why the questions are irrelevant to this

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1 issue.

2 JUDGE BRILLING: But the response is
3 that there is nothing in place currently, except that
4 I did hear the company say earlier that the
5 Commission, they would certainly adhere to whatever
6 conditions were imposed upon them by the Commission
7 an Order.

8 MR. GANSBERG: That is correct.

9 JUDGE BRILLING: Any other questions?
10 Any other questions of these two? Okay.
11 At this point, I would like to take a
12 five-minute break.

13 And then, when we come back on the
14 record, I would like to have the panels ready to
15 respond. That would be the KeySpan group and the CP
16 and Bethpage group, because I suspect that
17 Mr. Raacke's questions of LIPA on those other
18 projects may involve or need to tie in with testimony
19 submitted by those other parties.

20 So, when we come back on the record, we
21 will resume with Mr. Raacke's questions of LIPA, but
22 I want to make sure that the other panels are ready.

23 All right?

24 Five minutes.

1 (Recess had.)

2 JUDGE BRILLING: Okay everybody, let's
3 resume.

4 MR. KASS: Your Honor.

5 JUDGE BRILLING: Yes.

6 MR. KASS: As we resume, and before we
7 continue with what I assume will be these five pages
8 of questions, I would like to reiterate the objection
9 that I have been making intermittently to the
10 previous line.

11 This is a hearing on the questions of
12 the need for these facilities, and their ability to
13 contribute to a competitive market.

14 This is not a hearing on the procurement
15 process that LIPA follows, nor is it a hearing on the
16 terms of any proposed agreements still being
17 negotiated with the individual applicants, nor is it
18 a hearing upon the negotiation process, or the RFP
19 process, or the alternative selection process, which
20 was competitive, followed by LIPA in identifying
21 these applicants to build these facilities and
22 purchase power.

23 All of those details, or that selection
24 process, procurement process, are outside the scope

1 of this hearing, and we respectfully submit that all
2 of Mr. Raacke's past comments and his prospective
3 questions with respect to that issue are out of
4 order, and should be rejected.

5 JUDGE BRILLING: And they will be given
6 the weight that is appropriate for them to be given.

7 So, I would just want to make a
8 statement here, as well.

9 We all knew, based on a telephone call
10 when we started today, that we had a short time
11 frame. So we have to confine our questions to the
12 questions that the Commission is interested in
13 hearing.

14 You can use up your time asking
15 questions about things that are not necessarily going
16 to be treated with any particular import by the
17 Commission.

18 The Commission is interested in need,
19 environmental impact, and the effect on competition.
20 You know that, it is in the order.

21 I suggest that you address your
22 questions to those issues.

23 All right?

24 I tried to be understanding about

1 participation by parties who are not used to
2 participating in these proceedings, tempus fugit, and
3 we must move along. All right?

4 And by the same token, I don't want to
5 get involved in a lot of objections, and wasting time
6 with procedural matters that really take up time, as
7 well.

8 MR. KASS: I appreciate it, your Honor,
9 and this is why I'm making this comment now.

10 JUDGE BRILLING: All right.

11 MR. KASS: I just simply note that it is
12 not just a question of tempus fugit, although we
13 concur with that.

14 These are sensitive and important
15 issues, have nothing to do with this proceeding. We
16 do not have a record on it. It would be
17 inappropriate, and misleading and prejudicial to many
18 of the parties in this room for anyone to come away
19 with an incomplete perception of that process.

20 JUDGE BRILLING: I heard you.

21 Thank you.

22 What I'm going to ask now is a time
23 check.

24 I'm going to start --

1 Mr. Raacke, you said you have about an
2 hour?

3 You don't have an hour to ask questions.
4 You are probably going to have to confine your
5 questions to less time than that, or move them along.

6 We have until about 2:45. I can't
7 stretch it any longer than that. All right?

8 So, I'm going to ask you to confine
9 yourself to thirty minutes for now for your
10 questions.

11 Ms. Ford, Mr. Quinn, do you have any
12 questions of the other projects?

13 MS. FORD: No.

14 MR. QUINN: No.

15 JUDGE BRILLING: PPL Global, do you have
16 questions of any witnesses?

17 MR. GANSBERG: No, your Honor.

18 JUDGE BRILLING: You do not.

19 LIPA.

20 MR. KASS: We do not have questions for
21 the witnesses.

22 JUDGE BRILLING: KeySpan?

23 MR. METCALFE: Not currently.

24 JUDGE BRILLING: Not currently. Do you

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1 want to reserve five minutes?

2 MR. D'ANDREA: I don't need to reserve
3 five minutes, no.

4 JUDGE BRILLING: Okay, then I guess you
5 have more time than that.

6 MR. RAACKE: Your Honor, I just wanted
7 to reply to LIPA's counsel about the problems here.

8 I'm simply raising this issue in this
9 proceeding because several of the applicants have
10 cited a case called Walkill certificate ruling in
11 their applications, where the Commission wrote, "We
12 have determined that a facility can be presumed to be
13 needed where the developer is a winning bidder in a
14 competitive utility auction.

15 I don't want to go into a lot of detail,
16 but this issue was raised, and therefore, I was
17 pursuing this line of questioning.

18 I'll be more than happy to --

19 JUDGE BRILLING: I understand, and I
20 heard what you said the first time.

21 Your statement is in the record. You
22 did refer to the Walkill facility earlier, when you
23 were asking the questions.

24 MR. GANSBERG: Your Honor, may I make a

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1 comment on that?

2 The Walkill case is a series of, I would
3 say, at least five different Orders. We cited them
4 for the proposition that a Section 68 certificate is
5 required for a generating station below 80 megawatts.

6 Mr. Raacke, I believe, is citing an
7 earlier Commission decision, which was decided under
8 a competitive bidding regime adopted in the late
9 eighties, that has since been discarded, and the
10 substitute for that is the new competitive regime
11 adopted by the Commission between 1997 and the
12 present day.

13 So PP&L Global, and I believe the other
14 parties do not believe that the precedent for which
15 Mr. Raacke is citing Walkill applies to any of the
16 applications in this case.

17 JUDGE BRILLING: Okay.

18 MR. RAACKE: That is not so according to
19 the applications cases that were put before the
20 Commission from the other applicants.

21 Let's move on.

22 JUDGE BRILLING: Your questions now are
23 of the LIPA panel?

24 MR. RAACKE: Yes.

1 JUDGE BRILLING: Okay.

2 MR. RAACKE: Mr. Bolbrock, let me ask
3 you some questions regarding the determination of
4 need.

5 On page 6 of your testimony, in your
6 answer at the top, you say that recognizing that at
7 least 400 megawatts of additional capacity is needed
8 by the summer, and so forth.

9 Do you have that section of your
10 testimony?

11 MR. BOLBROCK: Yes, I do.

12 MR. RAACKE: What studies did LIPA
13 conduct to support this claim?

14 MR. BOLBROCK: The analysis that we did
15 looked at both actual experience, and also looked at
16 the requirements that are determined by the New York
17 State Reliability Council, as well as the New York
18 Independent System Operator, as to what our minimum
19 needs are to meet the generation reliability criteria
20 as established by the New York State Reliability
21 Council.

22 I think that, regardless of the type of
23 theoretical analysis which was done, which, by the
24 way, supports the need, that the actual experience of

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1 this last summer was so compelling that, in and of
2 itself, it provided sufficient reason to proceed with
3 the 400 megawatts.

4 And, in fact, as I indicated in my
5 testimony, this analysis was independently backed by
6 both the Public Service Commission, who indicated a
7 critical need for four to five hundred megawatts in
8 capacity on the Island, as well as the New York ISO,
9 who indicated a minimum need of 318 megawatts under
10 normal weather conditions, not the type of weather
11 conditions that we experienced in August of this
12 year, as well as July of 1999, two years ago.

13 MR. RAACKE: Since you mentioned an
14 analysis, as opposed to a study, let's just jump to
15 the section of your testimony where you refer to a
16 three-prong approach.

17 Let me find it. I don't know if you
18 have it.

19 On page 7 of your testimony, at the top,
20 you see the question that says, does LIPA have a
21 resource plan?

22 MR. BOLBROCK: Yes.

23 MR. RAACKE: You answered there that
24 LIPA has adopted what is referred to as a

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1 three-pronged approach.

2 I did not quite understand your answer.

3 Does that mean that you do not have a resource plan
4 at this point?

5 MR. BOLBROCK: No, it means that we do
6 have a resource plan.

7 The answer was yes.

8 MR. RAACKE: So LIPA does have a
9 resource plan. Have you submitted that in this
10 proceeding?

11 MR. BOLBROCK: No.

12 MR. RAACKE: Could I ask you to provide
13 that for the record?

14 MR. LELAND: We object to that, your
15 Honor.

16 There is no basis for asking for further
17 "plan," in the discussion or particular document in
18 evidence in the proceeding.

19 MR. RAACKE: Your Honor, if LIPA has a
20 resource plan and is basing it on the analysis of
21 need for this facility, or these facilities on that
22 plan, I think we should see it in this proceeding.

23 MR. KASS: Your Honor, LIPA has its own
24 authority to formulate its own resource plan, it does

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1 that.

2 It's not a matter that is subject to the
3 Commission's review, and it has not been submitted as
4 part of Mr. Bolbrock's testimony, and this is not a
5 discovery proceeding.

6 So we have not submitted it, we have
7 felt that it is not appropriate or necessary for
8 purposes of this proceeding, and we would like to
9 leave the record, as far as we are concerned, exactly
10 as it is.

11 JUDGE BRILLING: I think they would
12 prefer to leave the record exactly as it is, they
13 would prefer not to submit it as justification for
14 need.

15 Do you have any questions about how they
16 determined the need?

17 MR. RAACKE: Well, of course, if,
18 without seeing the resource plan, I would then pursue
19 a line of questioning that would ask you how your
20 resource plan determined, or came to the conclusion,
21 that we need at least 400 megawatts.

22 Can you give us a little bit of a
23 description as to the process that was used to
24 compile your resource plan, and the gist of the

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1 resource plan?

2 JUDGE BRILLING: Let me just ask a
3 question, before you respond.

4 Does this relate to information that you
5 put on the record earlier in response to the
6 questioning by Mr. Quinn and Ms. Ford?

7 MR. BOLBROCK: I think it is in my
8 prefiled testimony.

9 JUDGE BRILLING: Can you summarize it
10 briefly.

11 MR. BOLBROCK: Basically, the LIPA board
12 of trustees adopted as the first and foremost portion
13 of the resource strategy, the Clean Energy
14 Initiative, which is funded, as I indicated
15 previously, as a five-year program of energy
16 efficiency and global technologies, at a \$170 million
17 level.

18 Secondly, the LIPA board of trustees has
19 authorized LIPA to pursue the addition of off island
20 transmission, interconnections.

21 LIPA is not only physically an island,
22 it's also electrically an island, with have limited
23 ability to import power from other regions.

24 And part of the plan is to construct a

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1 cross-sound cable, connecting the markets in New
2 England, eastern Canada and upstate New York to Long
3 Island.

4 And LIPA had also issued an RFP
5 soliciting additional off island transmission to
6 possibly be built in the future.

7 So the second portion of the strategy is
8 to more closely interconnect Long Island to the rest
9 of the eastern inter-connection.

10 And finally, the last leg of the plan is
11 to cause to have constructed additional generation on
12 island.

13 And we are required to do that by the
14 New York independent system operator, who has
15 concluded that due, in large part, to Long Island's
16 limited interconnections with the outside world, and
17 hence, its limited ability to import emergency power,
18 when needed, that in order to meet the reliability
19 criteria as established by the New York State
20 Reliability Council, that it is necessary for LIPA to
21 have a certain proportion of its capacity physically
22 located on the Island.

23 MR. RAACKE: When was LIPA's research
24 plan completed?

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1 MR. BOLBROCK: The resource plans are
2 living documents, they are works in progress,
3 particularly in today's changing environment.

4 In 1999, the markets were opened up in
5 New York State. The New York independent system
6 operator was formed, and we had this wholesale energy
7 market concept.

8 The industry is currently transforming
9 from a single state RTO to what it would appear to
10 be, a northeastern, North America regional
11 transmission organization.

12 And by necessity, and as is proven in
13 the changing environment, and with the new
14 technologies that LIPA is heavily investing, in such
15 as solar, wind, geothermal fuel cells, to have a plan
16 that is flexible to meet the changing conditions,
17 LIPA is not going to repeat the mistakes that were
18 made by LILCO in putting all their eggs in one
19 basket, and what turned out to be a very inflexible
20 project known as the Shoreham loop area.

21 The plan is one that has been laid out,
22 and is constantly changing direction.

23 For example, --

24 MR. RAACKE: Your Honor, if I may.

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1 MR. BOLBROCK: Can I answer your
2 question?

3 MR. RAACKE: I asked a simple question,
4 I wanted the date. I said when was the LIPA resource
5 plan completed.

6 MR. BOLBROCK: And I was explaining that
7 there isn't a single date.

8 I want to complete my answer.

9 MR. KASS: I think that is sufficient.

10 MR. RAACKE: The term that you used for
11 the resource plan is somewhat confusing to me. You
12 said it is a living document.

13 Does that imply that the document is
14 actually not in writing, or does it just imply that
15 it is subject to alterations at a later point in
16 time?

17 MR. BOLBROCK: Again, it's clearly, the
18 resource planning strategy is clearly one that is
19 designed to be modified.

20 Even though it has a center piece of
21 energy efficiency and renewable technologies, even
22 that component is reviewed on a regular basis by the
23 LIPA board of trustees.

24 And based on staff recommendations,

1 those programs are modified, changed, augmented, and,
2 in some cases, eliminated.

3 Certainly, the addition of additional
4 transmission interconnections is something that will
5 be reviewed on a case by case basis.

6 MR. RAACKE: Again, I simply wanted to
7 know whether the plan is in writing. I'm not sure
8 whether it is or not.

9 MR. BOLBROCK: Portions of the plan are.

10 MR. RAACKE: Portions of the plan are in
11 writing.

12 Is the plan effective?

13 MR. KASS: In effect?

14 MR. RAACKE: Is the plan -- the plan
15 that LIPA uses to make its resource decisions.

16 Or has the plan been adopted by the LIPA
17 board of trustees?

18 MR. BOLBROCK: I think the component
19 parts of the plan have been adopted by the LIPA
20 board.

21 The energy initiative has been adopted
22 by the LIPA board.

23 The immediate projects for summer of
24 2002 have been adopted by the LIPA board.

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1 The LIPA board has authorized the cross
2 sound cable to be constructed.

3 MR. RAACKE: Has the plan been subject
4 to public hearings? Has LIPA's resource plan been
5 subjected to public hearings?

6 MR. BOLBROCK The components of the plan
7 have.

8 MR. RAACKE: Is the plan consistent with
9 LIPA's statute?

10 MR. KASS: Objection.

11 MR. LELAND: Objection, your Honor.

12 JUDGE BRILLING: I think you'd better
13 reconsider that one again, Mr. Raacke.

14 MR. RAACKE: I'll withdraw that
15 question.

16 Is it true that LIPA has retained Stone
17 Webster as consultants to compile a research plan?

18 MR. KASS: The relevance of that
19 question, your Honor?

20 What has that got to do with what we are
21 talking about in this hearing.

22 MR. RAACKE: I'm, once again, trying to
23 get a handle on what exactly is LIPA's resource
24 plan -- what kind of an animal that is.

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1 MR. KASS: It's been asked and answered
2 several times already.

3 MR. RAACKE: Let me rephrase the
4 question, then.

5 Are there plans under way to compile a
6 comprehensive resource plan?

7 MR. LELAND: The same objection, your
8 Honor.

9 JUDGE BRILLING: No, I don't think so.
10 I think that is a different question.

11 You have, from what I've heard you say,
12 you have a series of policy statements or components
13 that have been discussed over time with the board,
14 and it may appear in different documents.

15 What Mr. Raacke is asking, do you have a
16 reason to put them all together into one document.

17 It is a pretty simple question.

18 MR. BOLBROCK: The answer is yes.

19 MR. RAACKE: And I was referring to
20 Stone Webster as the consultant you hired to put all
21 these pieces into one plan; is that correct?

22 MR. BOLBROCK: We hired them to assist
23 us in doing that, yes.

24 MR. RAACKE: Is it also true that you're

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1 working with a coalition of groups on Long Island
2 called the Sustainable Energy Alliance, to assist you
3 in compiling such a plan?

4 MR. BOLBROCK: Yes.

5 MR. RAACKE: And this plan has not been,
6 this planning process has not been completed yet?

7 MR. BOLBROCK: As I indicated earlier,
8 this type of planning process will never be
9 completed, it is always a work in progress.

10 MR. RAACKE: Well, I'm referring to
11 the -- let's call it the Stone Webster compilation.

12 MR. BOLBROCK: There is an effort under
13 way to try to put it in one document at a point in
14 time, a snapshot in time, what LIPA's resource plan
15 is.

16 MR. RAACKE: Let's move on to a
17 different topic.

18 On page 7 of your testimony, in the
19 middle of that page, you say, the fifth line from the
20 bottom of your answer, in the middle, you state that,
21 "In fact, had LIPA not embarked on its aggressive
22 Clean Energy Initiative, even more generating
23 capacity than proposed for next summer would be
24 required."

1 Would it also be correct, then, to state
2 that if LIPA were to embark on a more aggressive
3 Clean Energy Initiative effort, less generation
4 capacity would be required?

5 MR. KASS: For next summer, is that the
6 question?

7 The question was not clear.

8 MR. RAACKE: This is not the statement,
9 but the statement by the witness does not seem to
10 specify a time frame here.

11 MR. LELAND: I disagree.

12 MR. BOLBROCK: It is talking about next
13 summer.

14 MR. RAACKE: I'm sorry, next summer.

15 MR. BOLBROCK: Any additional
16 expenditures in that area would be infinitesimal in
17 helping the capacity situation for next summer. It
18 would not be money well spent.

19 MR. RAACKE: As part of your planning
20 process, part of LIPA's planning process, has LIPA
21 reviewed LILCO's, the Long Island Lighting Company's
22 goals, previous goals, for demand site management and
23 peak reductions?

24 MR. BOLBROCK: Yes.

1 MR. RAACKE: And that review went into
2 some of the components of LIPA's research plan?

3 MR. BOLBROCK: Please explain what you
4 mean by "went into."

5 We reviewed what LILCO had done.

6 MR. RAACKE: And considered that as part
7 of your research plan; is that correct?

8 MR. BOLBROCK: It was background
9 information.

10 MR. RAACKE: Are you aware that LILCO's
11 ESM program targets were considerably higher than
12 LIPA's program targets?

13 MR. BOLBROCK: I wouldn't necessarily
14 agree that that's correct.

15 And not only that, it's an apples and
16 oranges comparison.

17 Because LILCO, the approach that LIPA
18 adopted -- and this is a credit to the LIPA board of
19 trustees, because the results are less immediate, but
20 are longer lasting, LIPA has adopted a market
21 transformation approach to energy efficiently. LILCO
22 never adopted that plan. They just, when they were
23 trying to meet a need for the summer, or to satisfy a
24 regulatory requirement, provided certain dollar

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1 amounts, and had some targets.

2 When they took that funding away,
3 whatever they achieved quickly eroded, usually
4 immediately.

5 LIPA has taken a longer term view, and
6 is trying to actually transform the market in these
7 various areas.

8 So the type of comparisons you draw are
9 really inappropriate.

10 MR. RAACKE: Well, my question was
11 whether you were aware of LILCO's ESM targets.

12 Would you accept, subject to check, that
13 LILCO's peak production target was 200 megawatts for
14 2002?

15 MR. BOLBROCK: I don't know that that is
16 correct.

17 JUDGE BRILLING: He is asking you if you
18 will accept it, subject to check.

19 MR. BOLBROCK: Yes.

20 JUDGE BRILLING: Would you have a way to
21 check that?

22 MR. BOLBROCK: I would think so.

23 JUDGE BRILLING: Can you respond?

24 MR. BOLBROCK: I have to ask a question.

1 Based on what time frame?

2 In other words, did they do that in
3 1990, was it a target in 1990? Was it a target in
4 1996.

5 JUDGE BRILLING: That is what I'm asking
6 you.

7 Do you have a way to verify that?

8 MR. BOLBROCK: I would think so. I'm
9 not absolutely sure, but I would suspect that I would
10 have a way.

11 MR. KASS: Maybe you have a copy of the
12 projections in front of you, and you can check.

13 MR. RAACKE: I don't have a copy in
14 front of me. I think this comes from a New York
15 power pool tabulation.

16 JUDGE BRILLING: Please proceed.

17 MR. RAACKE: Please stop me when we are
18 running out of time.

19 JUDGE BRILLING: Don't worry.

20 MR. RAACKE: Can you tell this what a
21 LIPA's target is for 2002?

22 MR. BOLBROCK: For 2002, we are
23 attempting to put under contract approximately 200
24 megawatts of peak load reduction.

1 MR. RAACKE: Does that include load
2 shedding?

3 MR. BOLBROCK: I'm not sure I understand
4 what distinction you are trying to make.

5 MR. RAACKE: Does that include voluntary
6 shedding of load in emergency situations.

7 MR. BOLBROCK: In the peak load
8 reduction program, which is a specific program, is
9 one where we pay commercial and industrial customers
10 to reduce load on demand at, typically, two p.m. and
11 six p.m.

12 And they do that either by shutting off
13 processes, or by utilizing backup generation.

14 That is the 200 megawatts that I'm
15 referring to.

16 MR. RAACKE: Does LIPA have any other
17 peak load reduction programs outside the 200
18 megawatts?

19 MR. BOLBROCK: There is the LIPA Edge
20 Program, for commercial customers. LIPA installs
21 thermostats which can be controlled by LIPA, as well
22 as remotely by the customer, via the Internet.

23 This is an innovative, state-of-the-art
24 program that we began a pilot on this last year.

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1 MR. RAACKE: On page 6 of your
2 testimony, at the bottom, you state that LIPA is very
3 proud of its very aggressive program efforts to
4 promote alternative and renewable sources of
5 electricity, such as fuel cells, solar, wind
6 generation and geothermal systems.

7 Do you have that page of your testimony?

8 MR. BOLBROCK: Yes.

9 MR. RAACKE: Is it fair to say that LIPA
10 announced that it will meet ten percent of its energy
11 needs with renewable energy sources by 2010?

12 MR. BOLBROCK: That is a goal, yes.

13 MR. RAACKE: What is LIPA's
14 implementation schedule for that?

15 MR. KASS: The relevance of that to this
16 proceeding?

17 MR. RAACKE: I'm sorry?

18 MR. KASS: I'm objecting on the ground
19 that it does not appear to be relevant to the matter
20 before us today.

21 MR. RAACKE: Your Honor, the testimony
22 submitted refers specifically to LIPA's efforts on
23 renewable energy, and renewable energy sources could,
24 of course, in part, offset the need for fossil fuel

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1 generating facilities.

2 That is why I'm asking these questions.

3 MR. BOLBROCK: I'll try answering the
4 question for the sake of expediency here.

5 I go on to say while we are very proud
6 of this, we are not able to generate a sufficient
7 supply of electricity to appreciably reduce the
8 existing deficit prior to next summer's peak demand.

9 So I'll answer the question by saying
10 not by next summer.

11 JUDGE BRILLING: Okay, continue.

12 MR. RAACKE: I was asking what LIPA's
13 implementation schedule is. If the answer is "not by
14 next summer," I'll take it.

15 MR. LELAND: That was the answer.

16 JUDGE BRILLING: That was the answer, I
17 believe.

18 MR. RAACKE: What percentage of LIPA's
19 energy and capacity currently comes from the
20 resources you mentioned here?

21 MR. BOLBROCK: It's a small percentage
22 presently. I don't know the exact number.

23 We could get that.

24 MR. RAACKE: Less than one percent?

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1 MR. BOLBROCK: It's a small number.

2 MR. RAACKE: Would you be willing to
3 submit that into the record at a later point?

4 MR. LELAND: LIPA is not willing to keep
5 the record open, unless the Judge orders us to do so.

6 I don't see the reason to do so for that
7 question.

8 JUDGE BRILLING: Is it under ten
9 percent?

10 MR. LELAND: Yes.

11 JUDGE BRILLING: Under ten percent.

12 That is sufficient.

13 MR. RAACKE: Is it considerably under
14 ten percent?

15 I have a feeling that it is around one
16 percent or less.

17 MR. BOLBROCK: It is under ten percent.

18 JUDGE BRILLING: Can you be any more
19 specific than that?

20 MR. BOLBROCK: I just don't know
21 offhand.

22 JUDGE BRILLING: All right.

23 MR. RAACKE: As part of your resource
24 plan, part of LIPA's resource plan, has LIPA

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1 conducted an achievable potential study for these
2 resources, and if so, what were the results?

3 MR. BOLBROCK: For which resources?

4 MR. RAACKE: For the resources you cite
5 here on page 6 of your testimony as renewable, as the
6 resources that you are very proud of, and you called
7 it very aggressive efforts.

8 MR. BOLBROCK: We are currently doing a
9 feasibility study on off-shore wind power.

10 MR. RAACKE: So the answer is, then, I
11 take it, that LIPA has not conducted any?

12 MR. BOLBROCK: Not for everything that
13 is listed here, no.

14 MR. RAACKE: Can you explain how you can
15 make a statement, then, that you have concluded that
16 these resources are not able to generate sufficient
17 supply of electricity if you have not estimated their
18 potential?

19 MR. BOLBROCK: By next summer?

20 It would be not possible to install
21 these very small, each of which are very small in
22 size, that quantity of capacity by next summer.

23 First of all, to try and find people
24 willing to do it, to supply it.

1 I think it is safe to say, if we tried
2 to do it with solar, that there is not enough solar
3 manufacturing capacity in the world currently, as an
4 example.

5 MR. RAACKE: That's your opinion. I was
6 merely asking about whether LIPA has conducted an
7 achievable potential study.

8 MR. BOLBROCK: No. As I indicated, we
9 are doing that for off-shore wind power.

10 MR. RAACKE: Move to page 7, at the top,
11 referring to a demand reduction program here.

12 How did LIPA determine the appropriate
13 amount of expenditures on its demand side management
14 programs?

15 MR. BOLBROCK: As I indicated
16 previously, the LIPA board made a policy decision to
17 set aside \$160 million, which they subsequently
18 increased to a \$170 million five-year fund, a large
19 portion of that to be spent on demand reduction
20 programs.

21 MR. RAACKE: My question was how did
22 LIPA determine the size of that fund?

23 How do we know that \$170 million is
24 exactly the right amount?

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1 MR. BOLBROCK: That's a judgment issue,
2 but fundamentally, in looking at programs, we do cost
3 benefit analysis.

4 And with the exception of a couple of
5 programs, there is a positive benefit when all
6 factors are taken into account.

7 MR. RAACKE: So I take it, then, that
8 LIPA has not conducted a prudential study on demand
9 side management?

10 MR. BOLBROCK: That is correct.

11 MR. RAACKE: Does LIPA have certain
12 goals and time lines for its DSM efforts?

13 How did LIPA determine the
14 appropriateness of those annual goals and time lines?

15 MR. KASS: Again, your Honor, we are
16 going in circles.

17 It's clear that the alternative programs
18 are being explored by the questioner, and as stated
19 by the witness, has not been achievable for this
20 summer in order to meet the purpose of these
21 facilities.

22 The rest of the questions are really not
23 aimed at the issues before your Honor. Instead, they
24 are aimed at some other agenda it seems.

1 MR. RAACKE: Your Honor, the question
2 pertains to the question of need for a facility, and
3 the question is whether appropriate and aggressive
4 DSM programs could reduce the need for the facility.

5 JUDGE BRILLING: I believe you've asked
6 the question, and he has answered it.

7 I believe what he said was that they
8 looked at it, and they don't think that by next
9 summer these programs could be achievable to offset
10 the need.

11 He said it a couple of times. So I
12 think you have to ask a different question.

13 MR. RAACKE: I understand that. I was
14 merely getting to the point.

15 I wanted to find out whether that was
16 merely the witness' opinion, or whether that was
17 based on any kind of study report analysis.

18 JUDGE BRILLING: Okay. Then that's a
19 yes or no question.

20 MR. BOLBROCK: It's my informed
21 professional judgment.

22 MR. RAACKE: Are you familiar with
23 LIPA's 1991 study connected by Ellis Institute,
24 entitled "LIPA Conservation and Load Management Plan

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1 for Long Island"?

2 MR. BOLBROCK: I'm aware of such a
3 study, yes.

4 MR. RAACKE: Have you considered the
5 findings of that study in your resource plan and your
6 DSM programs?

7 MR. BOLBROCK: That study is so
8 outdated, that instead of 1991, it might as well have
9 been an 1891 study.

10 It was not only a decade ago, but in
11 terms of where the industry is, it might as well have
12 been a hundred years ago.

13 That study is no longer valid.
14 Certainly, it would have to be done all over again to
15 determine whether it is even in the ballpark now.

16 MR. RAACKE: The study, as you now
17 indicated, a 441 megawatt achievable DSM potential
18 within the decade. Are you telling me that it's
19 outdated.

20 Has LIPA updated this study.

21 MR. BOLBROCK: No.

22 MR. RAACKE: Is there any reason why
23 LIPA has chosen not to update that study?

24 MR. BOLBROCK: Those studies, in my

1 experience, and having been responsible for that kind
2 of a study when I was Director of New England Power
3 Planning, the New England power planning pool, I
4 found that those studies are highly speculative, that
5 they really don't provide a definitive answer.
6 They're very sensitive to the judgments one wants to
7 make.

8 And, in fact, you can design those
9 studies so you get the answer that you want, and
10 usually that's how those studies are done.

11 So we have found not a lot of value, and
12 after giving us a lot of debate internally as to
13 whether it was worth the effort resources to form
14 such a study, determined that it had marginal value,
15 at best.

16 In any case, relative to next summer, it
17 clearly would have absolutely value.

18 MR. RAACKE: Are you familiar with the
19 Pace University's energy projects and citizens
20 advisory panel's reports, entitled "Power Choices"?

21 MR. BOLBROCK: Yes, I'm aware of that
22 report.

23 Q Did you consider the findings of that
24 report in your resource plan.

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1 MR. BOLBROCK: That report, to the best
2 of my knowledge, was based solely on a 1991 study,
3 with some type of a cursory review of that study, and
4 therefore, I personally don't put any credence in
5 that report.

6 JUDGE BRILLING: So, the answer is no?

7 THE WITNESS: The answer is no.

8 JUDGE BRILLING: Thank you.

9 MR. RAACKE: Talking about studies, this
10 particular study also referred to the State Energy
11 Plan, which brings up another question.

12 Is LIPA's resource plan consistent with
13 the New York State Energy Plan?

14 MR. BOLBROCK: Do you mean the plan that
15 is under development, or the several-year-old plan?

16 MR. RAACKE: The plan that is currently
17 effective, the plan that LIPA is currently using.

18 MR. BOLBROCK: To the best of my
19 knowledge, it is.

20 MR. RAACKE: It is?

21 MR. BOLBROCK: To the best of my
22 knowledge.

23 MR. RAACKE: Was there a determination
24 made that it is?

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1 MR. BOLBROCK: Not an explicit
2 determination.

3 MR. RAACKE: Let's move to page 8 of
4 your testimony, on the top.

5 You talk about displacement, the issue
6 of displacement.

7 Has LIPA conducted any computer modeling
8 to support the claim that the turbine units would
9 displace nonpeak output from older existing plants?

10 MR. BOLBROCK: There have been some
11 simulations that are performed. However, just given
12 the E rates alone, you don't even need to perform a
13 simulation to make that determination.

14 MR. RAACKE: So, the answer is no?

15 MR. BOLBROCK: The answer is yes.

16 MR. RAACKE: My question, Mr. Bolbrock,
17 was, has LIPA conducted any computer modeling?

18 MR. BOLBROCK: Yes.

19 MR. RAACKE: Have you submitted the
20 computer models in this proceeding?

21 MR. BOLBROCK: No.

22 MR. RAACKE: Would you agree to submit
23 it?

24 MR. KASS: Excuse me, your Honor.

1 Part of that information is already in
2 the record, in the EA that has been referred to.

3 MR. RAACKE: I'm sorry, sir, I can't
4 hear you.

5 MR. KASS: The EA that has been
6 submitted does include some information regarding the
7 results of modeling. It takes that into account.

8 JUDGE BRILLING: This is the
9 environmental assessment?

10 MR. KASS: Yes.

11 MR. RAACKE: Your statement here on page
12 8 of your testimony, at the top, is that the new
13 units are expected to displace generation from older
14 units during nonpeak periods.

15 This seems to contradict at least the
16 prior testimony by PP&L Global, if you take a look at
17 page 41 of the testimony by Keppler & Marron, page
18 40, line 1, and let me know when you're there,
19 please.

20 JUDGE BRILLING: Page 40 line 1?

21 MR. RAACKE: I'm sorry, page 41, line 1.

22 JUDGE BRILLING: Thank you.

23 MR. BOLBROCK: I see no contradiction.

24 MR. RAACKE: The PP&L testimony states

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1 that during this period, PP&L Global facilities may
2 be selected to operate in place of existing
3 facilities, whereas yours does not include that
4 qualifier.

5 Can you explain?

6 MR. BOLBROCK: I'll stand by my
7 statement.

8 MR. LELAND: For the record, the
9 statement is that they are expected to displace
10 generation.

11 There's a difference between "may" and
12 "expected to."

13 JUDGE BRILLING: So is it your statement
14 that these things are consistent, and they mean the
15 same thing?

16 MR. BOLBROCK: I don't see any
17 inconsistency. I believe them to be consistent.

18 JUDGE BRILLING: Let's move on.

19 MR. RAACKE: It is difficult for other
20 parties to understand this displacement argument
21 without the benefit of knowing the facts surrounding
22 the power purchase agreement.

23 Would you agree that economic factors
24 would play a role in assessing displacement?

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1 MR. BOLBROCK: Economics do play a role,
2 basically, the key factor being the heat rate of the
3 units.

4 I submitted an appendix to my testimony,
5 to demonstrate it, and it supports my statement.

6 MR. RAACKE: Can you provide any
7 information regarding the economics, the cost of
8 power capacity and, ancillary services from these
9 plants that would support your displacement argument?

10 MR. BOLBROCK: I you refer to the
11 difference in heat rates between the existing fleet
12 of plants on Long Island and these newer units. And
13 given that LIPA would have access to roughly the same
14 price of fuel, the argument makes itself. It would
15 be evident.

16 MR. RAACKE: Are there other factors,
17 other economic factors, other than heat rate, that
18 would go into assessing the potential displacements?

19 MR. BOLBROCK: That's by far the most
20 significant.

21 MR. RAACKE: Wouldn't you also need to
22 look at the cost of generating electricity, providing
23 capacity and ancillary services?

24 MR. BOLBROCK: That's basically the type

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1 of information that the heat rate data is providing.

2 MR. RAACKE: It provides information on
3 the fuel costs. Are there other costs that you would
4 have to look at, other than fuel costs?

5 MR. BOLBROCK: We would consider
6 variable L and M costs, start-up costs.

7 JUDGE BRILLING: Operations and
8 maintenance.

9 MR. RAACKE: Capital costs?

10 MR. BOLBROCK: No. If that were the
11 case nuclear units wouldn't run, and they run at base
12 level.

13 MR. RAACKE: Are there certain
14 conditions in the power purchase agreement that would
15 affect the economics of this plant?

16 MR. BOLBROCK: The power purchase
17 agreements are under negotiation. I understand there
18 isn't a power purchase agreements at the moment.

19 MR. LELAND: We object to "at the
20 moment," your Honor, with respect to the terms of the
21 negotiated power purchase agreement, we reiterate
22 that objection .

23 JUDGE BRILLING: He asked if there was
24 anything in the agreement, and I believe the witness

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1 answered that there was no agreement.

2 MR. LELAND: Correct.

3 MR. RAACKE: Well, let me talk about a
4 power supply agreement, in general, then.

5 Is it your opinion that terms and
6 conditions that might be contained in the power
7 supply agreement would affect the economics of
8 operating a plant that ultimately would have an
9 effect on assessing whether displacement took place
10 or not?

11 JUDGE BRILLING: It's a hypothetical.

12 You can answer the question.

13 MR. BOLBROCK: Yes.

14 MR. RAACKE: And you would agree that,
15 at this moment, we have no way to review the power
16 purchase agreement, and therefore, have no way to
17 assess whether your assessment of the displacement is
18 accurate?

19 MR. BOLBROCK: I would disagree with
20 that.

21 Again, I provided in my testimony heat
22 rate data that speaks very clearly to the issue of
23 displacement.

24 JUDGE BRILLING: Can we just take five

1 minutes. I just want to take another presence check.

2 In the interim, has anyone determined a
3 line of inquiry they wish to pursue?

4 Are we accumulating questions as we go
5 along?

6 Okay, so we have a couple more.

7 I don't see a need to push you, impose
8 such stringent time conditions, if others aren't
9 accumulating questions, but if you think that you are
10 developing a line of questioning based on what you
11 are hearing, I would appreciate it if you would alert
12 me to that. Okay?

13 Please proceed.

14 Excuse me, also, if the stenographers
15 need a rest, just let us know.

16 MR. RAACKE: Let's move on to another
17 issue.

18 This is the issue of competitive
19 markets.

20 On page 8 of your testimony, in the
21 middle, you state in your answer: Why LIPA is
22 purchasing the full output will be bidding such
23 output into the markets administered by the New York
24 independent system operator.

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1 I'm a little bit confused by some of the
2 statements and some of the testimony provided by the
3 other parties here.

4 Are you saying that LIPA will purchase
5 the output and bid it into the New York ISO area, or
6 are you saying that under certain conditions that may
7 be the case?

8 MR. BOLBROCK: LIPA is required to bid
9 into the ISO. It's not an option.

10 MR. RAACKE: Just so I understand this,
11 this does not mean that LIPA will not be using the
12 power, the energy capacity, and so on, from the
13 facilities on Long Island; is that correct?

14 MR. BOLBROCK: What it says is that we
15 will be bidding the output into the ISO market.

16 MR. RAACKE: All the time, a hundred
17 percent?

18 MR. BOLBROCK: Yes.

19 MR. RAACKE: Why did LIPA decide to
20 purchase a hundred percent of the capacity energy and
21 ancillary services from these facilities?

22 MR. BOLBROCK: It was a negotiated
23 arrangement, and we needed the 400 megawatts to meet
24 next summer's needs.

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1 MR. RAACKE: Are you telling us that
2 LIPA would have been a happy to find a different
3 arrangement?

4 MR. KASS: I object to that. That's
5 hypothetical, and it's not related to what is, again,
6 the issue in this proceeding, which is competitive
7 benefit of these facilities.

8 MR. RAACKE: Well, the witness, in
9 response to my question why LIPA made this decision,
10 simply said that it was a negotiated agreement.

11 MR. BOLBROCK: And I further went on to
12 say that we needed the capacity for next summer.

13 MR. RAACKE: Would you agree that such
14 long-term power supply agreements for a hundred
15 percent of capacity energy shift the risk from the
16 developers away from the developers and onto LIPA and
17 its rate payers?

18 MR. BOLBROCK: No.

19 MR. RAACKE: Could you explain that?

20 MR. BOLBROCK: Well, first of all, I
21 don't consider for the Brentwood facility, a
22 three-year contract, to be a long-term contract,
23 number one.

24 MR. RAACKE: It's a three year contract?

1 MR. BOLBROCK: Yes.

2 MR. RAACKE: What is the length of the
3 other agreements?

4 MR. BOLBROCK: Subject to verification,
5 I believe the Shoreham term is fifteen years.

6 MR. RAACKE: Do they range anywhere from
7 three to twenty-five years?

8 MR. BOLBROCK: That's correct.

9 MR. RAACKE: And would you explain again
10 why you do not consider that a shifting of risk.

11 MR. BOLBROCK: The same way we wouldn't
12 consider the -- it is a shifting of risk that took
13 place when LIPA entered into the fifteen-year power
14 supply agreements for the KeySpan island generation.

15 In fact, that turned out to be maybe the
16 best part of the LIPA deal that protected the LIPA
17 rate payers from the price increases seen across the
18 rest of the state and the country.

19 I just wouldn't make that generic
20 conclusion.

21 MR. RAACKE: Well, how would you then
22 describe the risk in entering into long-term power
23 supply agreements?

24 MR. BOLBROCK: You would have to give me

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1 more specifics there.

2 MR. RAACKE: Let's start with, is there
3 risk that gets shifted from one party to another?

4 MR. BOLBROCK: Well, it depends on the
5 specifics of the arrangement, not just the term.
6 That's only one component.

7 MR. RAACKE: Is there a financial risk?

8 MR. BOLBROCK: It depends on the
9 specifics of the agreement.

10 MR. RAACKE: Let me move on to a similar
11 question regarding the competitive market.

12 Is it fair to say, then, that a more
13 competitive market would develop if the developers
14 did not get long-term power supply contracts from
15 LIPA in these projects?

16 MR. BOLBROCK: I don't know that that's
17 a generic statement, either, because ultimately LIPA,
18 as required by the ISO, would be bidding that
19 capacity into the market, and the developers would be
20 required, as members of the ISO, to bid that capacity
21 into the market.

22 MR. RAACKE: By virtue of having a
23 long-term power purchase agreement with these
24 facilities, would it be fair to say that LIPA,

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1 essentially controls the output, a hundred percent of
2 the output from these plants for the length of the
3 contract?

4 MR. BOLBROCK: LIPA will be able to
5 dispatch or to bid those units into the ISO as if
6 they were LIPA units, with very little restriction,
7 if any.

8 MR. RAACKE: Would you agree that a
9 company would exercise market power that owned all of
10 the nine projects if there was a different
11 arrangement here, and XYZ generating company --

12 MR. KASS: It calls for a conclusion of
13 law, market power. It's a legal term. It's used as
14 a phrase of art in many different contexts, and ought
15 not be treated so lightly here.

16 You ought to define what you mean by
17 that.

18 JUDGE BRILLING: Could you put some
19 brackets around that statement and try to define it a
20 little bit more?

21 MR. RAACKE: Certainly.

22 What I'm trying to find out is the
23 benefit of signing long-term power supply agreements
24 and the impact on competitive markets, because that

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1 is something is Commission is interested in.

2 LIPA decided, obviously, to build nine
3 projects here, two of which were given to PPL Global,
4 two to KeySpan, and to several other developers, but
5 LIPA would control the output from all of these
6 plants for a certain length of time.

7 If LIPA had not done that, or had not
8 planned to do that, would you argue that there may be
9 a potential for greater market power?

10 Let me rephrase it. Maybe it isn't very
11 clear.

12 What I'm trying to say and ask you is,
13 was this decision intended to reduce market power, or
14 the potential of market power on Long Island?

15 MR. BOLBROCK: It was intended to make
16 sure that we had adequate capacity to meet the
17 reliability needs of the customers on Long Island for
18 next summer.

19 The competitive benefits that it brings
20 is really a side benefit, and really secondary for
21 what our goals was for getting to these arrangements.

22 MR. RAACKE: Let me move on to the
23 competitive bidding process, or the solicitation
24 process, or whatever else it may be called. I'm not

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1 sure of what the proper term for this would be.

2 JUDGE BRILLING: I'm really going to
3 limit your questioning on this to a couple of
4 questions.

5 MR. RAACKE: Well, then let me just ask
6 one question.

7 Can you support the statements that were
8 made earlier by PPL Global, by Mr. Potter and others?

9 MR. BOLBROCK: Which statements are you
10 referring to?

11 JUDGE BRILLING: The record statements.

12 MR. BOLBROCK: On the selection process?
13 To the best of my recollection those are
14 accurate.

15 JUDGE BRILLING: Thank you.

16 MR. RAACKE: So it is true that LIPA did
17 somehow solicit these proposals, but with the
18 exception of the Shoreham site, LIPA solicited the
19 proposals without issuing a request for proposals?

20 MR. BOLBROCK: That's correct.

21 MR. RAACKE: Was the information that
22 LIPA provided to the bidders -- was the solicitation
23 information available publicly and to all bidders at
24 the same time?

1 MR. BOLBROCK: The solicitation being
2 the Shoreham RFP?

3 MR. RAACKE: No. The solicitation for
4 the other plants, including the Brentwood plant,
5 excluding --

6 MR. BOLBROCK: There wasn't a
7 solicitation issued, per se.

8 Maybe I can help clarify it.

9 LIPA had issued RFP's last year for a
10 project, two sites that were going to be owned by
11 LIPA. One was a Far Rockaway site, and the other was
12 the Shoreham site.

13 Responses to the Shoreham RFP, I
14 believe, were by a dozen different developers.

15 Coincident with that, LIPA had been
16 engaged in discussions with many, many developers on
17 the Island, many of whom approached LIPA because they
18 were generally aware of the need for new capacity on
19 the Island.

20 As a result of specifically the Shoreham
21 RFP, LIPA came to know exactly what developers had
22 the ability to deliver projects in a short period of
23 time and had an opportunity to find out what projects
24 they had done; whether they had the equipment either

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1 under control, or had the equipment available, the
2 technologies they would use, and generally speaking,
3 our judgment on which developers could actually, in a
4 very short time frame, cause these projects to be
5 constructed.

6 MR. RAACKER: So the information that led
7 to the submission of bids was not available publicly;
8 is that correct?

9 MR. BOLBROCK: I think it's fair to say
10 that, at least to the best of my knowledge, there
11 are -- I do not know of any developers who were
12 unaware of what LIPA was trying to accomplish for
13 next summer.

14 And the information was -- when we say
15 "information," I'm not sure of what type of
16 information you're referring to, but basically, we
17 were looking to install projects that could be on
18 line prior to the summer of 2002, and pretty much
19 from the developer's standpoint, that's what they
20 needed to know.

21 MR. RAACKER: How did you publicize your
22 intention?

23 MR. LELAND: Objection. We have already
24 gone through this.

1 JUDGE BRILLING: I think he just said on
2 the record that they did not have a formal
3 solicitation process. I believe he just said that it
4 was generally known in the development community that
5 these projects were being discussed.

6 Do you have any more specific questions?

7 MR. RAACKE: Did LIPA reject any
8 proposals?

9 MR. BOLBROCK: We had discussions with
10 many developers, including discussions with
11 developers for the sites in question. As I
12 indicated, we had twelve proposals in response, or
13 twelve different developers who responded to the
14 Shoreham ,RPF and we selected one.

15 MR. RAACKE: I'm referring to the
16 non-Shoreham projects.

17 MR. BOLBROCK: We had discussions with
18 many developers, and we made judgments as to whether
19 we thought they could bring the needed capacity to
20 the table.

21 We had negotiations going on with
22 multiple developers, some who were suggesting
23 essentially the same sites.

24 I'm not sure -- I guess I'm blocking at

1 the word "reject."

2 We didn't select is the way I would
3 review that.

4 JUDGE BRILLING: Is it fair to
5 characterize what you have been saying -- let me just
6 try to sum up -- when you interviewed those
7 developers that did respond to you are Shoreham RFP,
8 at the same time, did you engage them in conversation
9 about other sites that you might be considering,
10 including the Town of Islip?

11 MR. BOLBROCK: I think that's a fair
12 characterization.

13 Shortly thereafter -- and really, we
14 were asking developers what sites do you have,
15 because one of the big challenges here was getting an
16 appropriate site, a site that would have proximity to
17 the transmission system, so it wouldn't require any
18 significant transmission reinforcements, because that
19 wouldn't be able to be done by next summer.

20 JUDGE BRILLING: Okay, that's why you're
21 saying that it was generally well-known by the
22 developers that you were planning those different
23 locations, because you were, in fact, engaging them
24 in conversation?

1 MR. BOLBROCK: We were engaging them,
2 and many of them came to us, not necessarily for
3 projects next summer, but for projects.

4 I'd venture a guess that, on average,
5 that we were meeting with a developer a week who came
6 to us who were proposing projects.

7 And one can go, for example, to the New
8 York ISO web site, and you can find a list of
9 proposed projects for Long Island listed there, where
10 developers had submitted an application and requests
11 for a system reliability impact study.

12 There are a lot of proposals on Long
13 Island. We are constantly engaged in discussions
14 with developers. So it's very easy to get the word
15 out.

16 JUDGE BRILLING: Okay. Other than the
17 conversations you had with developers as you were
18 engaged in conversations about the Town of Brookhaven
19 RFP, did you receive, gratuitously, any proposals
20 from other developers?

21 MR. BOLBROCK: We received, you know,
22 expressions of interest.

23 And fundamentally, the scenario would be
24 that a developer would say, I read the statements

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1 your Chairman made in NEWSDAY, and we would like to
2 help you out. And we would like to talk.

3 We had, you know, what I would call
4 very robust competitive negotiations ongoing.
5 Obviously, this is no secret to the developers in the
6 room here that we were playing one off against
7 another, and working each of them, and trying to get
8 a better deal from each of them.

9 In the constraint that we needed, first
10 of all, an important factor which was our judgment as
11 to whether a developer could actually do this by next
12 summer. That was the key and foremost criteria.

13 JUDGE BRILLING: I understand what
14 you're saying, but Mr. Raacke has been taking a long
15 time to try and elicit this very response from you,
16 and it wasn't until I asked the question that you
17 gave it.

18 Please listen to his question, and
19 please try and respond as forthrightly as you can.

20 MR. RAACKE: You asked the question much
21 more directly, your Honor.

22 JUDGE BRILLING: Thank you.

23 MR. RAACKE: I should turn it over to
24 you.

1 JUDGE BRILLING: Lessons learned.

2 MR. RAACKE: So, there is no RFP in
3 cases other than the Shoreham case --

4 JUDGE BRILLING: And please don't keep
5 asking the same questions when you know the answer.

6 MR. RAACKE: I would bring this to a
7 closure here.

8 I have a few more questions on this, and
9 I'll make it brief.

10 Was there a particular reason that LIPA
11 chose not to use an RFP process?

12 MR. BOLBROCK: Yes. We found, first of
13 all, that it wasn't necessary because we had engaged
14 all the players in the discussion, and had uncovered
15 them from the Shoreham RFP.

16 And very clearly an RFP process adds
17 months to a determination, and we recognized early on
18 that this was a tremendous challenge, and that our
19 firm belief is that literally there would be a high
20 probability of the lights going off next summer, if
21 we don't bring this generation on by the summer.

22 So we are trying to be as efficient, and
23 to cut the time frame down, as possible.

24 And by not going through a formal RFP

1 process, and by engaging people essentially in
2 negotiations from day one, rather than issuing an
3 RFP, and giving them time to respond, and doing it in
4 a serial fashion, we found this just to be a more
5 efficient way, and dramatically increased the
6 probability of bringing these projects on line to
7 meet the need for next summer.

8 MR. RAACKE: One criteria that you
9 mentioned earlier was site availability, and now
10 you're saying also that time was a criteria used.

11 MR. BOLBROCK: Well, site availability
12 has to do with time.

13 Again, the key criteria is being able to
14 get these units licensed and constructed, and
15 delivering power to the grid by the summer of 2002.

16 And if the site is an unsuitable site,
17 for a variety of reasons, including as I mentioned,
18 access to transmission, access to gas supply, and
19 generally in a suitable location, that clearly these
20 projects wouldn't be able to be placed on line by
21 next summer.

22 So siting is one of the key factors in
23 determining the time.

24 MR. RAACKE: What other criteria did you

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1 use?

2 MR. BOLBROCK: Another key criteria was
3 the availability of the equipment. Did the developer
4 either have equipment, have a place in the queue to
5 have the equipment manufactured, or other access to
6 the equipment, and a judgment on whether we believed
7 they could actually deliver in the time frame that we
8 were working under.

9 MR. RAACKE: Did you use any consultants
10 in your selection process?

11 MR. BOLBROCK: We used consultants to
12 help us analyze proposals, and to help us determine
13 our particular strategy, yes.

14 MR. RAACKE: Can you identify the
15 consultants?

16 MR. BOLBROCK: By firm, largely Navigant
17 Consulting. It's one of LIPA's engineering
18 consultant firms.

19 MR. RAACKE: And one statement that was
20 made earlier by Mr. Potter that disturbed me was that
21 there were no written communications here. Would you
22 agree with that statement?

23 MR. BOLBROCK: Again, in order to
24 expedite the process, we had fundamentally

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1 face-to-face negotiations.

2 Oftentimes, the people around the table,
3 I think were bucking heads as we went from conference
4 room to conference room in those negotiations.

5 So we tried, in order to try to expedite
6 the process, we did things face-to-face, and we tried
7 to get all the decision-makers involved directly.

8 And we really didn't have the luxury of
9 time to, you know, draft a letter and been careful of
10 what we said, send it through the mails, or overnight
11 it, whatever the case, and wait for a response.

12 This was a very active and involved
13 process on the part of LIPA's staff and LIPA's
14 consultants.

15 MR. RAACKE: Mr. Potter mentioned that
16 these informal discussions, or whatever, you may call
17 them, were initiated or began somewhere around early
18 May. Would you agree with that?

19 MR. BOLBROCK: To the best of my
20 recollection, that's the time frame.

21 MR. RAACKE: Were any of these meetings
22 ever announced in meeting notices, public notices?

23 MR. BOLBROCK: No.

24 MR. RAACKE: Is it fair to say that

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1 there is no record of what process was used in
2 selecting the various proposals?

3 MR. BOLBROCK: A written record?

4 MR. RAACKE: A written record.

5 MR. BOLBROCK: That would be a fair
6 statement.

7 MR. RAACKE: That concludes my
8 questions.

9 JUDGE BRILLING: For all the panels or
10 just the LIPA panel?

11 MR. RAACKE: For the LIPA and the PP&L
12 Global panel.

13 JUDGE BRILLING: Do you have questions
14 of the other panels?

15 I just want to know yes or no, and if
16 so, how much time?

17 MR. RAACKE: Yes. I do have a few
18 questions to verify -- essentially verify the
19 statements that were made by these two parties. I
20 don't have to ask it in that level of detail. I can
21 just ask whether the panels could agree with the
22 statements that were made.

23 JUDGE BRILLING: The panels for KeySpan
24 and for CPN?

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1 MR. RAACKE: Correct.

2 JUDGE BRILLING: At this time, I would
3 like to ask that -- ask the KeySpan representative to
4 please enter the KeySpan testimony and exhibits into
5 the record.

6 Hold on a minute. I'm sorry. I forgot
7 to ask if you had any rebuttal or redirect.

8 MR. KASS: We don't, your Honor.

9 JUDGE BRILLING: Okay. Thank you.

10 Yes, Mr. D'Andrea.

11 MR. D'ANDREA: Brian McCabe, do you have
12 before you your pre-filed testimony consisting of
13 nine pages?

14 MR. McCABE: I do.

15 MR. D'ANDREA: Do you have any changes
16 to that testimony?

17 MR. McCABE: I do.

18 MR. D'ANDREA: Please state the first
19 change.

20 MR. McCABE: On page 2, at line 7, it
21 should be Dowling, and not Downing.

22 MR. D'ANDREA: Do you have a second
23 change?

24 MR. McCABE: Yes. On page 5, at line

1 22, please strike "the Port Jefferson site," and
2 insert "other sites."

3 MR. D'ANDREA: Do you have any further
4 changes?

5 MR. McCABE: No.

6 MR. D'ANDREA: If I were to ask you
7 these questions, would you respond as you have just
8 corrected them?

9 MR. McCABE: Yes, I would.

10 MR. D'ANDREA: That being stated, I
11 would like to move to have this testimony entered
12 into the record as if orally given.

13 JUDGE BRILLING: Any objections?

14 Okay. Hearing none --

15 MR. D'ANDREA: Your Honor, would you
16 like me to enter in the exhibits that were associated
17 with that?

18 JUDGE BRILLING: Yes, please.

19 MR. D'ANDREA: Exhibit A is the
20 three-page resume of Brian McCabe. I would like to
21 move to have that entered into the record.

22 JUDGE BRILLING: All right. Continue.

23 MR. D'ANDREA: Exhibit B, a copy of
24 KeySpan Glenwood's petition for a declaratory ruling.

1 JUDGE BRILLING: How many pages is that?

2 MR. D'ANDREA: Twenty-seven.

3 JUDGE BRILLING: Okay, continue.

4 MR. D'ANDREA: Exhibit C is the Verified
5 Petition of KeySpan Glenwood Energy Center for
6 approval under Section 68, enlightened regulatory
7 regime.

8 JUDGE BRILLING: And that document
9 consists of how many pages?

10 MR. D'ANDREA: Twenty-two.

11 JUDGE BRILLING: Thank you.

12 Okay. Continue.

13 MR. D'ANDREA: Exhibit D is a petition
14 for a declaratory ruling for Port Jefferson.

15 JUDGE BRILLING: Consisting of?

16 MR. D'ANDREA: Eighteen pages.

17 JUDGE BRILLING: Thank you.

18 MR. D'ANDREA: And finally, Exhibit E
19 the Verified Petition of KeySpan Port Jefferson
20 Energy Center for approval under Section 68 of the
21 Public Service Law, and requesting enlightened
22 regulatory regime.

23 JUDGE BRILLING: That is the Oyster Bay
24 petition?

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1 MR. D'ANDREA: Consisting of twenty-two
2 pages.

3 JUDGE BRILLING: Okay.

4 MR. D'ANDREA: That's all.

5 JUDGE BRILLING: Okay. Let's mark those
6 for identification as KeySpan's 1 through 5.

7 (Documents marked KeySpan's Exhibits 1
8 through 5 for identification.)

9 JUDGE BRILLING: Any objections?

10 Hearing none, they are entered.

11 (KeySpan's Exhibits 1 through 5 received
12 in evidence.)

13 JUDGE BRILLING: And the testimony shall
14 be read into the record as if read orally.

15 (Continued on following page.)

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**KEYSPAN-GLENWOOD ENERGY CENTER, LLC
KEYSPAN-PORT JEFFERSON ENERGY CENTER, LLC**

**PREFILED
DIRECT TESTIMONY
OF
BRIAN T. McCABE**

November 2001

McCABE

1 Q. Please state your name, title, affiliation and address.

2 A. My name is Brian T. McCabe, and I am the Director of Generation Development
3 at KeySpan Energy Development Corporation. My business address is 445
4 Broadhollow Road, Melville, New York.

5 Q. Mr. McCabe, what are the duties of your employment?

6 A. As Director, I am responsible for the development of the KeySpan-Glenwood
7 Energy Center ("Glenwood") and KeySpan-Port Jefferson Energy Center ("Port
8 Jefferson") projects (collectively the "Projects") and the proposed development of
9 other New York-based generation capacity. My duties as Director include
10 overseeing the activities of Project Managers as well as project discipline leaders,
11 comprised of an Engineering Manager, Environmental Licensing Manager,
12 Government and Public Relations Managers, and Project Counsel for each of the
13 projects being developed. My direct responsibilities include specification,
14 selection and/or negotiation concerning the procurement of equipment, equipment
15 service agreements, local gas and electric transmission interconnections, an owner
16 engineering services contract and power sales agreements with the Long Island
17 Power Authority ("LIPA").

18 Q. How are you qualified to perform your duties?

19 A. I have 18 years of experience providing engineering support, operations and
20 maintenance supervision, and management of various generating facilities. I have
21 held various positions of responsibility within the KeySpan Corporation family of
22 companies, including assignments in the Power Engineering Department, the
23 Electric Production Department at the Northport, Port Jefferson, Glenwood, Far

McCABE

1 Rockaway and Shoreham power stations as well as in the Internal Combustion
2 (Gas Turbine) Division. My assignments have included project engineering and
3 project management for multi-discipline capital improvements, supervision of
4 plant operations and maintenance personnel, and overall plant management.

5 I received a Bachelor of Engineering in Marine Engineering from SUNY
6 Maritime College in 1982, and a Masters of Business Administration from
7 ~~Downing~~ ^{Dowling} College in 1993.

8 Q. Does your curriculum vitae, which is attached as Exhibit A, fairly and accurately
9 represent your experience?

10 A. Yes.

11 Q. Mr. McCabe, please describe your role in the Glenwood and Port Jefferson
12 Projects.

13 A. I am directly responsible for development of the Projects. I am responsible for
14 overseeing the individuals charged with coordinating the various engineering,
15 environmental and other technical tasks associated with the Projects. In addition,
16 I contributed to and am familiar with the requests for declaratory rulings and
17 Section 68 petitions filed with the New York Public Service Commission
18 ("Commission") related to these Projects. Finally, I am responsible for the
19 management of the overall design, development and construction of the Projects.

20 Q. What is the purpose of your testimony?

21 A. My testimony will describe the Projects, the locations, how the Projects will be
22 operated and how the Projects will contribute to competition.

McCABE

1 Q. Please provide a brief description of the Glenwood project, its location and how it
2 will be operated.

3 A. The Glenwood project was described in detail as part of a Petition for a
4 Declaratory Ruling made to the Commission in Case 01-F-1127. In addition, the
5 Glenwood project was described in the Section 68 filing made to the Commission
6 in this case, Case 01-E-1718.

7 Q. Are the descriptions in those filings accurate?

8 A. Yes, as supplemented by this testimony, as well as the testimony filed by LIPA.
9 The noted Declaratory Ruling and Section 68 filings are attached as Exhibits B
10 and C.

11 Q. Please provide a brief description of the Port Jefferson project, its location and
12 how it will be operated.

13 A. The Port Jefferson project was described in detail as part of a Petition for a
14 Declaratory Ruling made to the Commission. In addition, the Port Jefferson
15 project was described in the Section 68 filing made to the Commission in this
16 case, Case 01-E-1716.

17 Q. Are the descriptions in those filings accurate?

18 A. Yes, as supplemented by this testimony, as well as the testimony filed by LIPA.
19 The noted Declaratory Ruling and Section 68 filings are attached as Exhibits D
20 and E.

21 Q. Are you familiar with the recent press releases and statements made by LIPA, the
22 Commission, and the New York Independent System Operator, as well as the
23 testimony filed by LIPA in this and other proceedings?

McCABE

1 A. Yes. These press releases, statements and testimony indicate that a need exists on
2 Long Island for additional generation by the Summer of 2002.

3 Q. Do you think that the Projects meet the need articulated by LIPA, the Commission
4 and the NYISO in those press releases, statements and testimony?

5 A. Yes. The Projects will be constructed on Long Island and operate in the
6 competitive electric markets. They will promote and contribute to competition.
7 Based on the need articulated by LIPA, the Commission and the NYISO, as
8 further outlined in testimony provided by Richard Bolbrock from LIPA in this and
9 related proceedings. These Projects will meet the specific needs of Long Island's
10 growing energy requirements.

11 Q. How else do the Projects support LIPA's need and the public necessity and
12 convenience?

13 A. As designed, the Projects are expected to enable significant reductions in air
14 emissions to occur through operational displacement of existing less efficient
15 generating facilities.
16 LIPA's need, as well as the public necessity and convenience, is further served by
17 the entry of this new generation of electric production technology into service that
18 has the potential to displace older, less efficient and less environmentally
19 advanced units. Moreover, with demand expected to outstrip generation capacity
20 in the near future, new generation capacity is in the public necessity and
21 convenience because it will help prevent disruption of electric service. In
22 addition, competition in the electric market will benefit consumers, especially

McCABE

1 when new supply is provided by highly efficient, clean burning generation
2 capacity.

3 Q. Will these Projects be completed in time to meet LIPA's and its customers'
4 energy needs in the Summer of 2002?

5 A. Yes, however, timely approvals are necessary to avoid schedule delays and
6 potential increased costs associated with compressed construction schedules.

7 Q. How will the Projects contribute to effective competition?

8 A. The Projects not only contribute to effective competition they contribute to a
9 specific need in the Long Island energy market and are required due to a public
10 necessity. For example, when completed, the Projects will sell 100% of the
11 capacity, energy and ancillary services, at wholesale, to LIPA in accordance with
12 a negotiated agreement. It is expected that LIPA will in turn bid this capacity,
13 energy and ancillary services into the competitive electric markets administered
14 by various independent system operators ("ISOs"). The rates charged by the
15 Projects, including the agreements with LIPA, will be approved by the Federal
16 Energy Regulatory Commission (FERC).

17 Q. Please describe how the proposals to construct these Projects originated.

18 A. In May 2001, LIPA issued a Request for Proposals ("RFP") to develop an oil-
19 fired peaking facility on a portion of the former Shoreham Nuclear Generating
20 Station. KEDC responded to the RFP in June 2001. In addition to its proposal for
21 constructing a facility on the Shoreham property as requested in the RFP, KEDC
22 provided LIPA with a proposal to develop ^{other sites} ~~the Port Jefferson site~~. Ever since June

McCABE

1 2001, KEDC has been negotiating with LIPA to develop the peaking facility at
2 the Port Jefferson site.

3 Q. How did the Glenwood project develop?

4 A. Once KEDC submitted its proposal to LIPA for the Shoreham site and Port
5 Jefferson alternate, KEDC explored with LIPA the possibility of developing
6 peaking facilities at other sites in cooperation with LIPA. LIPA indicated that it
7 was working with several other developers to try and develop sufficient capacity
8 to meet anticipated peak demands for the summer of 2002 and in the future.

9 Q. So the Glenwood project was an outgrowth of your continuing discussions with
10 LIPA to develop sufficient capacity to meet anticipated peak demands for the
11 Summer of 2002 and beyond?

12 A. Yes.

13 Q. Please describe the proposed agreements to sell LIPA 100% of the capacity,
14 energy, and ancillary services, at wholesale.

15 A. The specific terms and conditions of the Power Purchase Agreements ("PPAs")
16 are in final negotiations. In general, these agreements provide for LIPA's
17 purchase of 100% of the capacity, energy and ancillary services from the Projects
18 at a negotiated rate for a fixed period of time. LIPA will procure the necessary
19 fuel supply, which is intended to take advantage of LIPA's significant purchasing
20 capacity. LIPA will acquire title to the capacity and ancillary services via the
21 PPAs. LIPA will also have title to the electricity generated from the Projects. It
22 is expected that LIPA will bid the capacity, energy and ancillary services
23 associated with these Projects and the PPAs into the NYISO or other energy

McCABE

1 market. The facilities will be dispatched and priced according to the rules
2 governing the NYISO or other ISO and applicable FERC approved tariffs. The
3 availability of the output of these highly efficient units will contribute to the
4 development of the competitive marketplace because they will increase the
5 availability of a greater number of competitive services at lower prices than older
6 existing generating units on and off Long Island.

7 Q. Please describe how the Projects would be dispatched by the NYISO.

8 A. To the extent the facilities are bid into the NYISO market, the NYISO will
9 dispatch and schedule the plants for operation in the competitive wholesale
10 market. The NYISO schedules the output of a generating plant by dispatching
11 resources according to price, with the lowest priced resources being dispatched to
12 meet load in any hour, subject to transmission, plant operational limits and other
13 security constraints. By LIPA bidding the capacity, energy and ancillary services
14 into the NYISO competitive wholesale energy market, the NYISO will have
15 dispatch control over the facilities, which will contribute to the increased
16 competitiveness of the NYISO markets.

17 A generator that is competitively dispatched by the NYISO only operates when
18 the NYISO determines that the plants' power is needed to meet demand reliably
19 and that the prices that it has offered are less than or equal to those of other power
20 suppliers. When a plant operates, it receives the market-clearing price, which is
21 the price set by the bid of the final marginal producer dispatched by the NYISO to
22 meet load. In the situation where LIPA bids the energy into the market, it is LIPA
23 that receives the market-clearing price because LIPA is selling the energy.

McCABE

1 Therefore, generators have an incentive to submit bids to the NYISO that are
2 based on their marginal costs (or the plant's operating costs that vary with output
3 of the plant). Additional supply, competing with existing generation provides
4 incentives to the market to reduce costs in order to be dispatched.

5 Q. How will the PPAs with LIPA add to competition in the markets?

6 A. As stated earlier, LIPA will have title to the capacity, energy, and ancillary
7 services from the Projects. LIPA will also have the ultimate decision as to how
8 these products will be offered into the energy markets. The mere potential
9 availability of the Projects in the market provides increased competition. The
10 Projects are a new more efficient source of energy. Thus, the Projects will offer a
11 lower cost to the market incenting others to improve their performance. In
12 addition, the Projects can reduce the cost of imported power. This occurs because
13 Long Island's marginal unit also impacts the price of power from other areas. To
14 the extent that lower cost on-Long Island generation is available, higher cost
15 imported power purchases may be reduced.

16 Q. Will the Projects be able to exercise any market power?

17 A. No. The Projects will sell 100% of their capacity, energy and ancillary services to
18 LIPA in accordance with FERC approved rates and PPAs. Accordingly, the
19 Projects will not be involved in any further sales, wholesale or otherwise, and will
20 not be able to impact the market nor raise the market price of power. The Projects
21 sales of capacity, energy and ancillary services will be governed by the FERC
22 approved market rate in the PPA. As stated earlier, LIPA will have control of the
23 bids associated with the capacity, energy and ancillary from these Projects.

Case 01-E-1716

Case 01-E-1718

McCABE

- 1 Q. Does this conclude your direct testimony at this time?
- 2 A. Yes.

1 Now, could I ask for representatives of
2 CPN Bethpage?

3 (Discussion held off record.)

4 JUDGE BRILLING: Okay, back on the
5 record.

6 MR. METCALFE: David Metcalfe, for CPN
7 Bethpage 3rd Turbine.

8 My witnesses are John Eff and John
9 Sasso.

10 Gentlemen, do you have before you a
11 twelve-page document entitled "Prefiled Direct
12 Testimony of John J. Eff, Jr., and John A. Sasso, on
13 behalf of CPN Bethpage 3rd Turbine"?

14 MR. EFF: I do.

15 MR. SASSO: Yes.

16 MR. METCALFE: Do you have any changes
17 to that document?

18 MR. SASSO: One typographical error on
19 page 11, line 13, strike the second "is."

20 MR. METCALFE: Any other changes?

21 MR. SASSO: No.

22 MR. METCALFE: With that correction, if
23 I asked you gentlemen the same questions right now,
24 would your testimony be the same as if written in

1 this document?

2 MR. EFF: Yes.

3 MR. SASSO: Yes.

4 MR. METCALFE: Do you adopt this as your
5 sworn testimony in this case?

6 MR. EFF: Yes.

7 MR. SASSO: Yes.

8 MR. METCALFE: Your Honor, I ask that
9 this testimony be copied into the record as though
10 read orally, with that one modification.

11 JUDGE BRILLING: Any objections?

12 Hearing none, the testimony will be
13 entered as if given orally.

14 (Continued on following page.)

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CPN Bethpage 3rd Turbine, Inc.

Case 01-E-1730

**Prefiled Direct Testimony of
John J. Eff, Jr. and John A. Sasso
on Behalf of
CPN Bethpage 3rd Turbine, Inc.**

Dated: November 28, 2001

Case 01-E-1730**Direct Testimony of
John J. Eff, Jr. and John A. Sasso****1 WITNESSES AND QUALIFICATIONS**

2 Q. Mr. Eff, please state your full name and business address.

3 A. My name is John J. Eff, Jr. My principal office is at the KIAC Partners ("KIAC")
4 Energy Center located at John F. Kennedy International Airport, Building 49,
5 Jamaica, New York 11430.

6 Q. By whom are you employed and in what capacity?

7 A. I am employed by Calpine Eastern Corporation, a wholly-owned subsidiary of
8 Calpine Corporation ("Calpine") and the parent of CPN Bethpage 3rd Turbine,
9 Inc. ("CPN Bethpage"), the applicant in this proceeding. My title is Asset
10 Manager – New York. My current responsibilities include management of
11 Calpine's New York operations, inclusive of financial and operational
12 performance, competitive management, and market opportunity assessment
13 and development.

14 Q. Please outline your educational and professional background.

15 A. I have more than 25 years experience in the independent power, and gas and
16 electric utility industries. Before joining Calpine in 1998, I was Manager of
17 Independent Power Management at Long Island Lighting Company ("LILCO").
18 At LILCO, I was responsible for the formulation and management of the
19 Independent Power Management organization and its policies. In that

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**Direct Testimony of
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1 capacity, I had responsibility for the negotiation of independent power sales,
2 fuel, and construction contracts, as well as the development, project
3 management and financial/operational management of all independent power
4 projects in LILCO's service territory. Prior to 1983, I had several other senior
5 level positions in LILCO's Customer Relations, Engineering, Operations,
6 Marketing and Planning organizations. These responsibilities involved
7 expansion of the gas and electric facilities and sales in a geographic area of
8 the Commercial/Industrial sector, equipment and service reliability
9 enhancements, performance monitoring and service improvements, and
10 Marketing/Customer end-use research and development demonstration
11 programs. I earned an MBA in Management at C.W. Post College, Greenvale,
12 New York and a Bachelor's degree, *cum laude*, in Electrical Engineering at
13 New York Institute of Technology, Old Westbury, New York. I am a member
14 of Delta Mu Delta, the National Business Honor Society at C.W. Post. I am
15 also a Senior Member and Certified Cogeneration Professional in the
16 Association of Energy Engineers and serve as a board member of the
17 Independent Power Producers of New York ("IPPNY").

18 Q. Mr. Sasso, please state your full name and business address.

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John J. Eff, Jr. and John A. Sasso**

1 A. My name is John A. Sasso. My principal office is at TBG Cogen Partners
2 ("TBG"), 939 South Broadway, Hicksville, New York 11801-5032.

3 Q. By whom are you employed and in what capacity?

4 A. I am employed by Calpine as the General Manager of its TBG and
5 Nissequogue Cogen Partners ("NCP") cogeneration facilities on Long Island.

6 Q. Please outline your educational and professional background.

7 A. I received my B.E. degree in mechanical engineering from the Cooper Union
8 School of Engineering and I am currently pursuing my MBA at Long Island
9 University, C.W. Post Campus, on a part time basis. Since October 1995 I
10 have been General Manager of the TBG plant. Prior to that time I served as
11 Manager of Engineering for Gas Energy Inc., then a wholly-owned subsidiary
12 of The Brooklyn Union Gas Company, where I was involved in the
13 development and operational support of various cogeneration facilities. I am
14 a former IPPNY board member and since 1995 I have served as the Chairman
15 of the Eastern Turbine User Conference which is devoted to improving the
16 reliability of the family of General Electric Company ("GE") aeroderivative gas
17 turbines used to generate power. I have been involved in the operation,
18 development and construction of generation facilities for over 10 years and

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1 have been involved in the energy business for over 20 years.

2 Q. What is the purpose of your testimony?

3 A. The purpose of our testimony is to describe the proposed project (the
4 "Bethpage Facility" or the "Plant") that is the subject of CPN Bethpage's
5 petition in this proceeding. We also will discuss the need for the Bethpage
6 Facility in the Long Island Power Authority's ("LIPA") service territory.

7 **SITE DESCRIPTION**

8 Q. Where will the Bethpage Facility be located?

9 A. The Bethpage Facility will be located on land to be owned by LIPA (the "Site")
10 on the present Northrop Grumman Corporation campus in Bethpage, Long
11 Island. The Site is adjacent to the site of an existing cogeneration facility
12 owned and operated by CPN Bethpage's affiliate, TBG.

13 Q. Why did CPN Bethpage select this Site for the Bethpage Facility?

14 A. CPN Bethpage selected the Site for a number of reasons. The location is
15 zoned for industrial use, the proximity to TBG will create economies for CPN
16 Bethpage and Calpine, and CPN Bethpage will use existing natural gas and
17 electric infrastructure already in use by TBG. These facilities include high
18 pressure gas transmission facilities and LIPA's 69kV electric transmission

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1 system. Also, the Site is located in an important LIPA load pocket in east
2 central Nassau County, and the installation of 44 MW will provide critical
3 system enhancements.

4 PROJECT DESCRIPTION

5 Q. Please describe the principal components of the Bethpage Facility?

6 A. The Bethpage Facility will consist of one GE model LM6000 natural gas fired
7 combustion turbine ("CT") generator and associated equipment.

8 Q. What additional equipment is required for the Bethpage Facility?

9 A. The Bethpage Facility will include, in addition to the CT:

- 10 a. A selective catalytic reduction ("SCR") system for reduction of NOx
- 11 emissions;
- 12 b. An exhaust stack;
- 13 c. A natural gas compressor (and enclosure);
- 14 d. An aqueous ammonia truck unloading area and storage tank;
- 15 f. Main and auxiliary transformers; and
- 16 g. One electrical building.

17 Q. Please describe the CT, the SCR system and the exhaust stack.

18 A. The CT generator has the potential to produce nominally 44 MW of electricity.

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1 The CT will be fueled only with natural gas. That gas will be delivered by
2 KeySpan Energy Delivery Long Island ("KeySpan"). To control NOx
3 emissions, the CT uses water injection and SCR. SCR involves the injection
4 of ammonia into the exhaust gas from the CT, which combines with the
5 exhaust gas to reduce emissions of NOx. In addition, the Plant will employ an
6 oxidation catalyst to control emissions of carbon monoxide ("CO"). The CT
7 requires a 100-foot exhaust stack which will be located on the west side of the
8 SCR unit. The 100-foot stack height has been established through modeling
9 of air emissions to ensure compliance with state and federal Ambient Air
10 Quality Standards, while minimizing visual impacts. Access platforms for air
11 testing/monitoring equipment will be provided. The stack is not at a height that
12 requires lighting pursuant to Federal Aviation Administration guidelines.

13 Q. Will the Bethpage Facility utilize any liquid fuel to generate electricity?

14 A. No. Natural gas will be the only fuel used in the Plant.

15 Q. What facilities will be used for delivery of natural gas to the Bethpage Facility?

16 A. Natural gas will be delivered to the Plant via the KeySpan high pressure
17 transmission line along Route 107 in Hicksville that currently delivers gas to
18 TBG.

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1 Q. Where will the electric output from the Bethpage Facility interconnect with
2 LIPA's transmission system?

3 A. The Bethpage Facility will interconnect to LIPA's electric system at LIPA's
4 Grumman 5E 69 kV substation located approximately 100 feet from the Site.
5 This interconnection will be an underground line designed and constructed by
6 LIPA and will run from the Plant's 69 kV disconnect switch to the Grumman
7 substation.

8 Q. How long will it take to construct the Bethpage Facility?

9 A. It will take approximately six months from the date of site mobilization.

10 Q. When does CPN Bethpage propose to bring the Bethpage Facility on-line?

11 A. CPN Bethpage envisions completion of the Bethpage Facility by the summer
12 of 2002.

13 **NEED**

14 Q. Why was the summer of 2002 in-service date chosen by CPN Bethpage?

15 A. CPN Bethpage chose the summer of 2002 in-service date to coincide with the
16 need for additional capacity identified by LIPA. We understand that the direct
17 testimony of LIPA's witness Bolbrock and the direct testimony of PPL Global,
18 LLC ("PPL") witnesses Potter, Kettler and Marron state that LIPA has

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1 determined that it needs a minimum of 400 MW of new capacity by the
2 summer of 2002. The capacity from the Bethpage Facility will satisfy
3 approximately 44 MW of this identified need.

4 Q. Why did CPN Bethpage select a GE LM6000 gas turbine for installation to
5 meet LIPA's projected need?

6 A. In light of the need to bring clean and fuel-efficient new generation on-line in
7 a swift manner to ameliorate the 2002 capacity shortage, CPN Bethpage
8 selected a GE LM6000 gas turbine because installation can be accomplished
9 within a short time frame. The GE LM6000 represents state-of-the-art electric
10 generation technology in terms of fuel-efficiency, minimal environmental
11 impacts and operational flexibility. In addition, Calpine has considerable
12 operating and maintenance experience with the LM6000 at, among other
13 locations, the KIAC and NCP plants. (The KIAC plant has two GE LM6000
14 CTs and NCP has one.)

15 Q. Why will the Bethpage Facility interconnect with the LIPA transmission system
16 at a voltage level of 69kV?

17 A. The Plant will interconnect at the 69 kV voltage level in order to install this
18 capacity as expeditiously as possible, as discussed in more detail in the PPL

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1 direct testimony.

2 **ENHANCING COMPETITION**

3 Q. How does CPN Bethpage propose to initially sell the output of the Bethpage
4 Facility?

5 A. During the first five years of operation of the Bethpage Facility, CPN Bethpage
6 intends that the Plant will operate under a power purchase agreement ("PPA")
7 with LIPA.

8 Q. Could you please describe the PPA?

9 A. The specific terms of the PPA are currently being negotiated. In general, the
10 agreement is expected to provide for LIPA's purchase of all of the capacity,
11 energy and ancillary services produced by the Bethpage Facility for the PPA's
12 term, expected to be five years. LIPA will procure the Plant's fuel, an
13 arrangement intended to take advantage of LIPA's significant purchasing
14 capacity. LIPA will control dispatch of the Plant in its discretion. LIPA will
15 choose at any time whether to use the Plant's output to serve the
16 requirements of LIPA's customers or to sell the Plant's output into the New
17 York Independent System Operator ("NYISO") administered markets. If LIPA
18 decides to bid the Plant's output into the NYISO markets, the output will be

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1 dispatched and priced according to the rules governing NYISO procedures
2 and applicable FERC-approved tariffs. The availability of the output of this
3 highly efficient unit will contribute to the development of the competitive
4 marketplace because it will increase the availability of a greater number of
5 competitive services at lower prices than the average prices now produced by
6 the mix of existing generating units on Long Island.

7 Q. How will CPN Bethpage sell the Plant's output after the term of the PPA?

8 A. After the termination of the LIPA PPA, CPN Bethpage intends to operate it as
9 a "merchant plant" that will be engaged solely in selling capacity, energy and
10 ancillary services at wholesale. PPL witnesses Potter, Kettler and Marron
11 discuss the functioning of the wholesale market for electricity in their direct
12 testimony.

13 Q. Who is CPN Bethpage?

14 A. CPN Bethpage is a Delaware corporation. It is a special purpose subsidiary
15 of Calpine, which is one of the nation's leading independent power producers.
16 Calpine Corporation has over 70 electric generation projects either in
17 commercial operation, under construction, or announced development in 29
18 U.S. states and Alberta, Canada. In total, these projects represent more than

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1 17,000 MW of electric generating capacity.

2 Q. What other generating facilities does Calpine currently own, operate and/or
3 control in New York State?

4 A. Calpine subsidiaries own, operate and/or control two existing generation
5 facilities in LIPA's territory: TBG, an approximately 57 MW cogeneration
6 facility located on a parcel of Grumman property adjacent to the Site, and
7 NCP, an approximately 44 MW cogeneration facility located in Stony Brook,
8 New York on the property of the State University of New York. Outside of
9 Long Island, Calpine controls KIAC, an approximately 107 MW cogeneration
10 facility located at John F. Kennedy International Airport in Queens, New York,
11 and indirectly owns an 11.67% limited partnership interest in the approximately
12 184 MW cogeneration facility in Lockport, New York.

13 Q. Is Calpine ^{is} developing any other projects in New York?

14 A. A Calpine subsidiary is developing an approximately 44 MW generation facility
15 at JFK Airport adjacent to the KIAC facility. Another subsidiary is developing
16 an approximately 540 MW generation facility in Wawayanda, near Middletown,
17 New York.

18 Q. Will Calpine be able to exercise market power?

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- 1 A. No. When the Bethpage Facility is placed in service, Calpine will own or
2 control only 145 MW of generating capacity located in LIPA's service territory.
3 With the addition of the total 407 MW to the existing 4,530 MW of capacity in
4 LIPA's territory, the total installed capacity on Long Island increases to 4,937
5 MW. As such, Calpine's 142 MW represents less than 2.9 percent of the total
6 capacity. Therefore, Calpine will have no opportunity to control market prices.
- 7 Q. Does this conclude your direct testimony at this time?
- 8 A. Yes.

1 MR. METCALFE: The witnesses are
2 available for cross-examination.

3 JUDGE BRILLING: Did you mark this for
4 me with the change?

5 MR. METCALFE: I'm sorry, no, I didn't.

6 JUDGE BRILLING: Could you just do that,
7 please.

8 And there are no exhibits?

9 MR. METCALFE: That's correct.

10 JUDGE BRILLING: Ms. Ford, would you
11 please enter your testimony for the record.

12 MS. FORD: Yes. Now, I wanted to know,
13 do I enter just the latest testimony, or can I also
14 include the first letter to the Public Service
15 Commission? Could I enter both?

16 JUDGE BRILLING: You're talking about
17 your handwritten document?

18 MS. FORD: No. It's a typed letter
19 to -- it's response to the legal notice on October
20 22nd.

21 JUDGE BRILLING: No. I'm just talking
22 about your testimony that was dated 11/12/01.

23 MS. FORD: All right. I would just like
24 to add a statement to that.

1 JUDGE BRILLING: A statement to your
2 testimony?

3 MS. FORD: Yes.

4 JUDGE BRILLING: I believe right now we
5 are just entering testimony.

6 MS. FORD: We are not making
7 corrections?

8 JUDGE BRILLING: Well, corrections is
9 one thing.

10 MS. FORD: All right. Then I'm ready.

11 JUDGE BRILLING: Do you have corrections
12 to enter?

13 MS. FORD: No.

14 I handwrote something on there, but you
15 can cross it out. It's not a correction. It's an
16 addition.

17 JUDGE BRILLING: So, Ms. Ford, you have
18 just handed the stenographer a copy of a document
19 entitled "Brentwood Summit Forum PPL Gas Plant
20 Proposal for Brentwood"?

21 MS. FORD: Yes.

22 JUDGE BRILLING: And it's a letter
23 signed by you, and dated 11/12/01?

24 MS. FORD: Yes.

1 JUDGE BRILLING: And is this what you
2 are submitting as your testimony in this proceeding?

3 MS. FORD: Yes.

4 JUDGE BRILLING: And if you gave it
5 today orally, it would say the same thing as what is
6 on this document?

7 MS. FORD: Well, I would add one
8 sentence, your Honor.

9 JUDGE BRILLING: Why don't you read into
10 the record what the statement would sound like --
11 what the statement would read with the correction.

12 These are handwritten corrections.

13 MS. FORD: Okay. On the second page --
14 and I have extra copies if anybody needs one -- where
15 I say "as the largest community in Suffolk County," I
16 amended that from 60 to 80,000, because I'm not sure
17 of the exact figure.

18 Our combined efforts would add up to a
19 significant amount of energy savings, and I wanted to
20 add: This would reduce the transmission burden and
21 demonstrate the first step of energy policy.

22 JUDGE BRILLING: Okay. So, with the
23 correction or the addition that you just made, would
24 your testimony be the same as if given orally?



**BRENTWOOD / BAY SHORE
BREAST CANCER COALITION
POST OFFICE BOX 927 ...
BRENTWOOD, N.Y. 11717-0993**

11/12/01

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**BRENTWOOD SUMMIT FORUM
PPL GAS PLANT PROPOSAL FOR BRENTWOOD**

I'm Elsa Ford, speaking for the Brentwood / Bay Shore Breast Cancer Coalition, against this proposal.

Around Thanksgiving Day last year, the New York Power authority published a proposal for a G.E. single stage gas turbine, producing 44MW at Brentwood Pilgrim State Hospital grounds. The public hearing was held 12/14/00, comments to 12/22/00, although extended to January. People raised concerns about unstable soil, existing contamination, closeness to hospital, schools, day care centers, senior citizen housing, densely populated community, etc. This plant that was already purchased, followed its time line and was opened by June. It was able to avoid a full State Environmental Quality Review, using a minor Environmental Assessment and avoided local environmental laws, as it was under 80 MW.

This October 22nd, there was a legal notice that PPL Global LLC has filed a petition with the Public Service Commission to build a 79.9 MW facility next to the NYPA plant (but called Edgewood this time), and seeks an exemption under the 80 MW rule from full environmental review and for financing arrangements, based on need. The public had 10 days to voice opposition. The B.B.B.C.C. did so, challenging the need, expressing interest in energy alternatives and conservation, and requesting an opportunity for meaningful and timely input concerning the siting of this facility in our community. We pointed out that the 2 proposed turbines had a 47 MW capacity each, which would be 94 MW, above the exemption amount. Adding this to the new similar NYPA plant would add up to 141 MW total capacity at this site, for a combined environmental impact. This model is inefficient as compared to combined cycle or cogeneration plants, since 30% of the gas burned for fuel becomes energy and 70% becomes pollution. There has not yet been a public hearing, but I learned from L.I.P.A. that this new facility is not in the planning stage, but in the implementation stage, and will be ready in June. Its cost is \$50 million.

Out of respect for our community, this plant should be put on hold for a year. Meanwhile make use of a few million of energy efficiency money to establish a de-energy center in Brentwood at our Brentwood Recreation Center. Lets see what the people of Brentwood can do in that time of conservation and energy efficiency. Provide timers or upgrades for air conditioners, energy saving light bulbs, etc. Provide education in English and Spanish for energy

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conservation. Offer classes to small contractors and do-it-yourselfers to retrofit homes and businesses. Local jobs will increase to meet the small business expansions. For low-income people, electricity savings will improve their economic stability. Money from the LIPA Clean Energy Initiative Fund and other sources could be used to establish an organization to submit a plan for energy efficiency, coordinate efforts, oversee expenditures, and evaluate energy use before and after, factoring in expected use.

One of the largest undeveloped tracts of land in Western Suffolk, 460 acres a Pilgrim, is ready for development. Incentives for "Green Architecture" would make it a show place and in demand as an energy economic place to rent or buy. Brentwood has precedents for this kind of effort. At it's founding of Modern Times, each family started with a similar plot of land and people helped each other to build homes of stone. When I was PTA Environmental Chair and I spoke of source separation of garbage, they told me it was too much trouble. Then the Town proposed an incinerator at Edgewood. When I spoke to the Town of source separation of garbage instead, the Town doubted that people would do it. But the Town did develop a good program, and Brentwood resident's participation far exceeded expectations. It was a breakthrough success. The incinerator was not needed and not built.

As the largest community in Suffolk County, 80,000 people, our combined efforts could add up to a significant amount of energy savings. *60,000 -*
This would reduce the transmission burden, and demonstrate the 1st step of energy policy.
 If at the end of the year, we could save 79.9 MW, then we wouldn't need this facility. What was accomplished would be taken into consideration for future planning. We could take pride in benefiting from and modeling the advantages of energy responsibility through our own efforts and collaboration. We would show that Brentwood Unity works.

Elsa Ford

President, B.B.B.C.C.

1 MS. FORD: Yes, it would.

2 JUDGE BRILLING: Okay. Thank you very
3 much.

4 MS. FORD: You're welcome.

5 JUDGE BRILLING: Any objections?

6 Okay. Hearing none, Ms. Ford's
7 testimony will be entered into the record as if given
8 orally.

9 (Continued in following page.)

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1 JUDGE BRILLING: There were no exhibits.
2 Is that correct?

3 MS. FORD: Correct.

4 JUDGE BRILLING: Mr. Raacke?

5 You submitted testimony in various of
6 these dockets?

7 MR. RAACKE: Yes, your Honor. I would
8 like to ask that my testimony --

9 JUDGE BRILLING: You'd better do them
10 individually.

11 MR. RAACKE: I would like to ask that my
12 testimony in Case 01-E-1634, dated November 26th, and
13 consisting of nine pages, be admitted into the
14 record.

15 JUDGE BRILLING: Objections?

16 Hearing none, it will be given as if
17 entered orally.

18 Do you have any changes, additions or
19 corrections to that testimony?

20 MR. RAACKE: No, your Honor.

21 (Continued on following page.)

22

23

24

Case 01-E-1634 Petition of PPL Global/Shoreham, LLC for an Order that a Proposed 79.9 Megawatt Oil Fired Peaking Facility in the Town of Brookhaven, Suffolk County, will be Regulated under a Lightened Regulatory Regime; for a Certificate of Public Convenience and Necessity for the Proposed Facility; and for Financing Approval.

**Testimony
Of
Gordian Raacke
Executive Director
Citizens Advisory Panel**

Gordian Raacke
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Dated: November 26, 2001

Introduction

My name is Gordian Raacke. I am Executive Director of the Citizens Advisory Panel, 2316 Main Street, Bridgehampton, NY 11932. I am submitting this testimony on behalf of the Citizens Advisory Panel, an energy watchdog for Long Island.

The Citizens Advisory Panel is an established consumer advocacy organization for Long Island's electric customers and a party to this proceeding. While my testimony covers certain aspects of this proceeding, we reserve the right to address additional aspects and issues in subsequent stages of this proceeding and related cases.

I am also providing similar testimony in several other cases pertaining to other proposed turbine projects on Long Island.

Description of Application

On October 18, 2001, PPL Global, LLC ("Applicant") requested that the Commission grant a Certificate of Public Convenience and Necessity (CPCN) as per PSL Section 68 for two 44 MW LM-6000 turbines and electric generators to be installed on the site of the existing Shoreham generating facility. Additionally, the Applicant has petitioned the Commission for a Declaratory Ruling that the proposed project will be subject to only "Lightened Regulation" and for Financing Approval pursuant to PSL § 69.

The Applicant has also requested a Declaratory Ruling that the proposed Facility is exempt from review by the New York State Board on Electric Generation Siting and the Environment under Article X.

The Applicant had requested that a Certificate of Public Convenience and Necessity be issued on an expedited basis and without a full hearing. CAP objected to granting the CPCN on such a basis and on November 16, 2001, the Commission denied Applicant's motion, ordering a hearing for December 5.

The Applicant indicates intentions to begin construction of the Facility immediately and strives to begin operation by April 1st of 2002.

The Applicant's Petition indicates that the Applicant "initially expects to sell all of its output to LIPA under a Power Purchase Agreement (PPA)." (Petition at 3). An October 18, 2001 LIPA press release states that LIPA will be purchasing 100% of the Project's services. LIPA's RFP indicates that LIPA proposes a 15-year PPA.

Basis of Application

The Applicant argues that the proposed facility is in the public interest and needed to ensure reliable electric service during the Summer of 2002 and beyond.

"Immediate commencement of construction of the Facility is critical for meeting electric demand anticipated for the summer of 2002 in LIPA's service territory." (Petition at 7).

Lack of Showing of Need

Inherent in the Applicant's argument is the claim that electrical demand within the LIPA service territory will increase so drastically and rapidly that demand cannot be met without the Applicant's proposed project operating by the summer of 2002.

The Petition repeats on numerous occasions that the proposed Facility must be approved as soon as possible based on the urgent need for generating capacity on Long Island. The Applicant cites some figures from an Article VII proceeding for the Cross Sound Cable Company (Case 00-T-1831), projecting a Long Island Installed Reserve Requirement shortfall of up to 32 MW in 2002 and a range of greater shortfalls in future years.

However, despite these figures, the Applicant does not submit proof that the only cost-effective way to prevent such shortfall would be to construct the proposed Facility at Shoreham.

Failure to Consider Alternatives

The Applicant's Petition makes no mention of alternatives to the proposed project and it appears that no alternatives were evaluated. Obvious supply-side alternatives would include temporary siting of turbines or other generators (e.g. barge-mounted) to allow for construction of more efficient combined-cycle units or repowering of existing

facilities. There are a number of larger plants already proposed for Long Island. Several developers have filed Preliminary Scoping Statements, one project has already submitted its Article X Application. Additionally, a 330 MW cross-sound electric transmission cable has been commissioned by LIPA and is currently undergoing regulatory review. It is unclear at this time which of these projects will obtain the necessary regulatory approvals and when these projects would be operational. It appears certain that some of these projects will obtain the necessary approvals. The Applicant has not provided any analysis that shows under which scenario the Shoreham Project would be needed or obsolete.

Moreover, the Applicant's Petition completely ignores alternatives on the demand side. It is a well-known fact that demand-side management (DSM) programs can be used to reduce peak demand quickly and cost-effectively. LIPA's present Clean Energy Initiative (CEI) does not fully tap the available potential for energy efficiency savings and demand reductions. Several studies indicate that the achievable potential for DSM savings in the LIPA service territory is considerably greater than the levels that are currently captured by LIPA's CEI.

According to a LIPA study commissioned in 1991, Summer peak savings from cost-effective DSM programs are 441 MW within the decade.¹ A report compiled by CAP and the Pace Energy Project in 1998 estimated the cost-effective DSM potential at 465 MW within the same period. Programs designed to maximize peak shifting as well as energy savings could be expected to yield even higher reductions in Summer peak demand.

Competitive Bidding Process Not Examined

Recognizing that its analysis of need for the facility will not withstand scrutiny, the Applicant argues that *"[t]he Commission should consider the Facility's CPCN application in light of the fact that the Facility will serve peak electricity needs in LIPA's service*

¹ LIPA Conservation and Load Management Plan for Long Island, Tellus Institute, September 1991, page S-6

territory at LIPA's request pursuant to a PPA and the RFP." (Petition at 10, emphasis added).

The Applicant seems to argue here, similar to other Applicants, that it is not necessary to demonstrate a need for a facility as long as an applicant's project was chosen through a competitive bidding process.

While the Applicant is not citing a Commission decision from 1994, which granted a CPNC in the Wallkill Certificate Ruling, other applicants have argued before this Commission that "[a]n electric facility that will sell power is presumed to be necessary and in the public interest if its sales occur pursuant to a contract secured through a competitive bidding process." (See Case 01-E-1716: KeySpan Port Jefferson Petition at 11)².

As we pointed out in our testimony in Case 01-E-1716, the Commission's decision in the Wallkill Certificate Ruling was based, however, on a Commission-sanctioned process for the solicitation of proposals for new generating capacities. Furthermore, the Commission had reviewed and approved the utility's capacity requirements as well as its competitive procurement solicitation plan. In the Wallkill Certificate Ruling the Commission writes:

"The PSA [Power Supply Agreement] between Wallkill and Orange and Rockland has resulted from a process introduced in 1988 n2³ for the solicitation by electric utilities of proposals from third parties for the provision of new generating capacity. In 1989, we approved Orange and Rockland's competitive procurement solicitation plan to meet its projected increased capacity requirements. n3⁴ Several suppliers of new capacity responded to Orange and Rockland's solicitation and Wallkill was selected as the qualified bidder with the highest scoring project proposal."

² Applicant citing Wallkill Generating Co. LLP, No. 93-E-1073, Opinion 94-18.

³ n2 Case 29409, Plans for Meeting Future Electricity Needs in New York State, Opinion No. 88-15 (issued June 3, 1988); Opinion No. 88-15(A) (issued November 2, 1988).

⁴ n3 Case 88-E-241, Orange and Rockland Utilities, Inc., Opinion No. 89-7 (issued April 13, 1989).

In this case, the Commission has neither reviewed nor approved the bidding process that was used by LIPA in requesting and selecting the Applicant's proposal. Moreover, the Commission has not formally reviewed LIPA's capacity requirements and has not reviewed or approved LIPA's competitive procurement solicitation plan, if such a plan even exists.

In the Wallkill Certificate Ruling the Commission allowed the competitive bidding process to replace a need more conventional need analysis, pointing out that such a properly designed competitive bidding process can be assumed to result in the least-cost option for meeting additional load.

... "[W]e have determined that a facility can be presumed to be needed where the developer is a winning bidder in a competitive utility auction. This presumption is based on the premise that competition for the supply of incremental capacity will make available the best and cheapest power supply options." (Wallkill at 33).

Given that the Commission has not even reviewed the competitive bidding process that was used to select the Applicant's Project, it is impossible to determine that the Project is in fact the "*best and cheapest power supply option*" available to meet future capacity needs. It is not possible to make such a determination without the benefit of reviewing the bidding process. For example, the scoring method used to select the winning bidder for this Project would obviously have a decisive impact on which technology, site, contractual arrangement, etc. is chosen. Furthermore, it could be argued that LIPA's RFP should allow, for example, for the inclusion of DSM bids.

The Applicant argues that its Project is needed and in the public interest claiming that it was chosen pursuant to a LIPA RFP and a PPA that has not been supplied with the Petition. It is evident that the Applicant's Project has not been subjected to the test the Commission applied in the Wallkill Certificate Ruling. Neither the Applicant nor LIPA have submitted any information in this case that could be used to apply the Wallkill Certificate Ruling test.

The Commission should either require that the Applicant provide a complete need analysis or apply the same strict standards that were applied in the Walkill Certificate Ruling, including review and approval of the bidding process. At a minimum, the Commission should demand that LIPA and the Applicant provide the necessary information that would allow a determination as to whether the Project is in fact the "*best and cheapest power supply option*" before a CPCN is considered.

Lack of a Comprehensive Energy Plan

Based on an assumption that additional generating capacity would be needed by the Summer of 2002, LIPA, in May of 2001 issued its Request For Proposals to build, own and operate generating plants with a net generating capacity of less than 80 MW.

At the time, LIPA had neither compiled a comprehensive analysis of its resource needs nor formulated a comprehensive resource plan as to how such needs would be addressed in a cost-effective manner.

CAP along with numerous other organizations, has called for the establishment of an energy master plan for Long Island, before additional supply-side decisions are made that will affect LIPA's ratepayers. LIPA has now conceded that there is a need for a comprehensive electric energy plan for the service territory. The Authority has retained consultants to compile such a plan and is working with CAP and the Sustainable Energy Alliance of Long Island (SEA) to identify, assess and prioritize the need for demand and supply side additions to the LIPA system. LIPA, CAP and SEA are engaged in this planning process in an effort to ensure that Long Island's electric needs are met in the safest, most reliable, affordable, sustainable and environmentally sensitive manner.

LIPA has recognized the need to develop a comprehensive energy plan and has the statutory power to compile such a plan. As per the LIPA Act, the Authority is authorized by statute "*to develop, with public participation, a comprehensive least-cost plan which*

*shall consider practical and economical use of conservation, renewable resources, and cogeneration for providing service to its customers;*⁵

Without the benefit of such a comprehensive plan it is difficult, if not impossible, to determine whether the Project is LIPA's least-cost option to meeting future energy and capacity needs.

Negative Effect on Competition

Nowhere in its Petition does the Applicant claim that the proposed facility will contribute to effective competition in the electricity supply markets on Long Island or within New York State. Likewise, LIPA's press release announcing the Applicant's and other projects makes no mention of competition. The Petition contains no analysis of the effect of the proposed Project on the region's competitive wholesale or retail markets. The Petition and LIPA's press release and RFP indicate that the Project is expected to sell 100% of its capacity, energy and ancillary services exclusively to LIPA. Details of the power purchase agreement (PPA), currently under negotiation, have not been revealed. LIPA's RFP states that LIPA intends to enter into a 15-year PPA. ∴

It appears such an arrangement can be expected to restrict competition in both wholesale and retail markets. If the Applicant and LIPA were to refrain from signing long-term power supply agreements, other merchant plant developers may have an interest to enter the Long Island wholesale market in an effort to provide capacity, energy and ancillary services at more favorable conditions than the Applicant.

However, under the long-term power purchase agreement that LIPA intends to sign with the Applicant, LIPA may be required to make payments that would make it financially disadvantageous for many years to replace the Applicant's capacity, energy and ancillary services with a competitor's services, even if the competitor's prices were substantially lower than those of the Applicant.

⁵ NYS Public Authorities Law 1020-f (i)

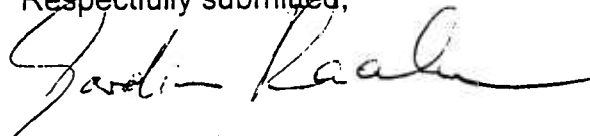
Similarly, the effect of the Project can be expected to be negative on competitive retail²³¹ markets. Since the Applicant's Project would be required to provide 100% of its energy and capacity to LIPA, no retail customer will be able to procure energy or capacity from the Project for the duration of the PPA.

Conclusion

Based on the foregoing we respectfully request that the Commission deny the Applicant's Petition for the granting of a Certificate of Public Convenience and Necessity at this time. The Commission should order the Applicant to submit the following information and allow for cross-examination of such information and testimony:

- 1) a) either a thorough analysis of need and an evaluation of alternatives, or
b) the Commission should require that LIPA submit its comprehensive energy plan and detailed information on its competitive bidding process for review and approval by the Commission;
- 2) detailed information regarding the anticipated power purchase agreement;
- 3) an analysis of the effect of the proposed Project on the region's competitive electric wholesale and retail markets;

Respectfully submitted,



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1 MR. RAACKE: May I proceed?

2 JUDGE BRILLING: Yes. Please.

3 MR. RAACKE: I would also like to ask
4 that my testimony in Case 01-E-1635, dated November
5 26th, and consisting of ten pages, be admitted into
6 the record of this case.

7 JUDGE BRILLING: Do you have any
8 changes, additions or corrections to that document?

9 MR. RAACKE: No, your Honor.

10 JUDGE BRILLING: Any objections?

11 Hearing none, it will be entered as if
12 given orally.

13 (Continued on following page.)

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Case 01-E-1635 Petition of PPL Global/Edgewood, LLC for an Order that a Proposed 79.9 Megawatt Natural Gas Fired Peaking Facility in the Town of Islip, Suffolk County, will be Regulated under a Lightened Regulatory Regime; for a Certificate of Public Convenience and Necessity for the Proposed Facility; and for Financing Approval.

**Testimony
Of
Gordian Raacke
Executive Director
Citizens Advisory Panel**

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Dated: November 26, 2001

Introduction

My name is Gordian Raacke. I am Executive Director of the Citizens Advisory Panel, 2316 Main Street, Bridgehampton, NY 11932. I am submitting this testimony on behalf of the Citizens Advisory Panel, an energy watchdog for Long Island.

The Citizens Advisory Panel is an established consumer advocacy organization for Long Island's electric customers and a party to this proceeding. While my testimony covers certain aspects of this proceeding, we reserve the right to address additional aspects and issues in subsequent stages of this proceeding and related cases.

I am also providing similar testimony in several other cases pertaining to other proposed turbine projects on Long Island.

Description of Application

On October 18, 2001, PPL Global, LLC ("Applicant") requested that the Commission grant a Certificate of Public Convenience and Necessity (CPCN) as per PSL Section 68 for two 44 MW LM-6000 turbines and electric generators to be installed on the site of the Pilgrim Psychiatric Hospital Complex in Brentwood, adjacent to an existing New York Power Authority 44 MW turbine facility completed this year. Additionally, the Applicant has petitioned the Commission for a Declaratory Ruling that the proposed Project will be subject to only "Lightened Regulation" and for Financing Approval pursuant to PSL § 69.

The Applicant has also requested a Declaratory Ruling that the proposed Facility is exempt from review by the New York State Board on Electric Generation Siting and the Environment under Article X.

The Applicant had requested that a Certificate of Public Convenience and Necessity be issued on an expedited basis and without a full hearing. CAP objected to granting the CPCN on such a basis and on November 16, 2001, the Commission denied Applicant's motion, ordering a hearing for December 5.

The Applicant indicates intentions to begin construction of the Facility immediately and strives to begin operation by April 1st of 2002.

The Applicant's Petition indicates that the Applicant "initially expects to sell all of its output to LIPA under a Power Purchase Agreement (PPA)." (Petition at 3). An October 18, 2001 LIPA press release states that LIPA will be purchasing 100% of the Project's services. While LIPA's Shoreham RFP indicates that LIPA proposes a 15-year PPA for the facility at Shoreham there is no indication for how many years the Applicant intends to enter into a PPA.

Basis of Application

The Applicant argues that the proposed facility is in the public interest and needed to ensure reliable electric service during the Summer of 2002 and beyond.

"Immediate commencement of construction of the Facility is critical for meeting electric demand anticipated for the summer of 2002 in LIPA's service territory." (Petition at 7).

Lack of Showing of Need

Inherent in the Applicant's argument is the claim that electrical demand within the LIPA service territory will increase so drastically and rapidly that demand cannot be met without the Applicant's proposed project operating by the summer of 2002.

The Petition repeats on numerous occasions that the proposed Facility must be approved as soon as possible based on the urgent need for generating capacity on Long Island. The Applicant cites some figures from an Article VII proceeding for the Cross Sound Cable Company (Case 00-T-1831), projecting a Long Island Installed Reserve Requirement shortfall of up to 32 MW in 2002 and a range of greater shortfalls in future years.

However, despite these figures, the Applicant does not submit proof that the only cost-effective way to prevent such shortfall would be to construct the proposed Facility at Brentwood.

Failure to Consider Alternatives

The Applicant's Petition makes no mention of alternatives to the proposed project and it appears that no alternatives were evaluated. Obvious supply-side alternatives would include temporary siting of turbines or other generators (e.g. barge-mounted) to allow for construction of more efficient combined-cycle units or repowering of existing facilities. There are a number of larger plants already proposed for Long Island. Several developers have filed Preliminary Scoping Statements, one project has already submitted its Article X Application. Additionally, a 330 MW cross-sound electric transmission cable has been commissioned by LIPA and is currently undergoing regulatory review. It is unclear at this time which of these projects will obtain the necessary regulatory approvals and when these projects would be operational. It appears certain that some of these projects will obtain the necessary approvals. The Applicant has not provided any analysis that shows under which scenario the Brentwood Project would be needed or obsolete.

Moreover, the Applicant's Petition completely ignores alternatives on the demand side. It is a well-known fact that demand-side management (DSM) programs can be used to reduce peak demand quickly and cost-effectively. LIPA's present Clean Energy Initiative (CEI) does not fully tap the available potential for energy efficiency savings and demand reductions. Several studies indicate that the achievable potential for DSM savings in the LIPA service territory is considerably greater than the levels that are currently captured by LIPA's CEI.

According to a LIPA study commissioned in 1991, Summer peak savings from cost-effective DSM programs are 441 MW within the decade.¹ A report compiled by CAP and the Pace Energy Project in 1998 estimated the cost-effective DSM potential at 465 MW within the same period. Programs designed to maximize peak shifting as well as energy savings could be expected to yield even higher reductions in Summer peak demand.

¹ LIPA Conservation and Load Management Plan for Long Island, Tellus Institute, September 1991, page S-6

Recognizing that its analysis of need for the facility will not withstand scrutiny, the Applicant argues that "[t]he Commission should consider the Facility's CPCN application in light of the fact that the Facility will serve peak electricity needs in LIPA's service territory **at LIPA's request pursuant to a PPA and the RFP.**" (Petition at 10, emphasis added).

However, while LIPA issued an RFP for the Shoreham location (see Case 01-E-1634) it appears that LIPA did not issue an RFP for this Project. The Petition simply states that "[L]IPA issued a Request for Proposals for the Shoreham Site in May 2001, and conducted discussions with numerous generating companies proposing to construct and operate new generating capacity on Long Island". (Petition at 9).² It thus appears that no competitive bidding process was conducted for this Project.

The Applicant seems to argue here, similar to other Applicants, that it is not necessary to demonstrate a need for a facility as long as an applicant's project was chosen through a competitive bidding process.

While the Applicant is not citing a Commission decision from 1994, which granted a CPNC in the Wallkill Certificate Ruling, other applicants have argued before this Commission that "[a]n electric facility that will sell power is presumed to be necessary and in the public interest if its sales occur pursuant to a contract secured through a competitive bidding process." (See Case 01-E-1716: KeySpan Port Jefferson Petition at 11)³.

As we pointed out in our testimony in Case 01-E-1716, the Commission's decision in the Wallkill Certificate Ruling was based, however, on a Commission-sanctioned

² The Petition also states "Upon information and belief, during this past summer, LIPA contacted several generation facility developers to determine their capability to construct and operate peaking facilities in various locations on Long Island, and conducted a siting study of various locations for such facilities. PPL Global was one of the electric generation facility developers contacted by LIPA. Following these activities, LIPA selected the site to help satisfy a growing need for generating capacity on Long Island and to serve Long Island's needs given its limited transmission import capability ('load pocket') and locations for fast-tracking a power plant." (Petition at 2.)

³ Applicant citing Wallkill Generating Co. LLP, No. 93-E-1073, Opinion 94-18.

process for the solicitation of proposals for new generating capacities. Furthermore, the Commission had reviewed and approved the utility's capacity requirements as well as its competitive procurement solicitation plan. In the Wallkill Certificate Ruling the Commission writes:

"The PSA [Power Supply Agreement] between Wallkill and Orange and Rockland has resulted from a process introduced in 1988 n2⁴ for the solicitation by electric utilities of proposals from third parties for the provision of new generating capacity. In 1989, we approved Orange and Rockland's competitive procurement solicitation plan to meet its projected increased capacity requirements. n3⁵ Several suppliers of new capacity responded to Orange and Rockland's solicitation and Wallkill was selected as the qualified bidder with the highest scoring project proposal."

In this case, the Commission has neither reviewed nor approved the bidding process that was used by LIPA in requesting and selecting the Applicant's proposal. In the case of this Project there may not even have been an RFP process. Moreover, the Commission has not formally reviewed LIPA's capacity requirements and has not reviewed or approved LIPA's competitive procurement solicitation plan, if such a plan even exists.

In the Wallkill Certificate Ruling the Commission allowed the competitive bidding process to replace a need more conventional need analysis, pointing out that such a properly designed competitive bidding process can be assumed to result in the least-cost option for meeting additional load.

... "[W]e have determined that a facility can be presumed to be needed where the developer is a winning bidder in a competitive utility auction. This presumption is based on the premise that competition for the supply of incremental capacity will make available the best and cheapest power supply options." (Wallkill at 33).

⁴n2 Case 29409, Plans for Meeting Future Electricity Needs in New York State, Opinion No. 88-15 (issued June 3, 1988); Opinion No. 88-15(A) (issued November 2, 1988).

⁵n3 Case 88-E-241, Orange and Rockland Utilities, Inc., Opinion No. 89-7 (issued April 13, 1989).

Given that the Commission has not even reviewed the competitive bidding process that was used to select the Applicant's Project, it is impossible to determine that the Project is in fact the "*best and cheapest power supply option*" available to meet future capacity needs. It is not possible to make such a determination without the benefit of reviewing the bidding process. For example, the scoring method used to select the winning bidder for this Project would obviously have a decisive impact on which technology, site, contractual arrangement, etc. is chosen. Furthermore, it could be argued that LIPA's RFP should allow, for example, for the inclusion of DSM bids.

The Applicant argues that its Project is needed and in the public interest claiming that it was chosen pursuant to a LIPA RFP and a PPA that has not been supplied with the Petition. It is evident that the Applicant's Project has not been subjected to the test the Commission applied in the Wallkill Certificate Ruling. Neither the Applicant nor LIPA have submitted any information in this case that could be used to apply the Wallkill Certificate Ruling test.

The Commission should either require that the Applicant provide a complete need analysis or apply the same strict standards that were applied in the Wallkill Certificate Ruling, including review and approval of the bidding process. At a minimum, the Commission should demand that LIPA and the Applicant provide the necessary information that would allow a determination as to whether the Project is in fact the "*best and cheapest power supply option*" before a CPCN is considered.

Lack of a Comprehensive Energy Plan

Based on an assumption that additional generating capacity would be needed by the Summer of 2002, LIPA, in May of 2001, issued its Request For Proposals to build, own and operate generating plants with a net generating capacity of less than 80 MW at the Shoreham site⁶. However, it appears that LIPA did not issue an RFP for additional capacity or for the Brentwood location.

⁶ See <http://www.lipower.org/shoreham_rfp.html>

At the time, LIPA had neither compiled a comprehensive analysis of its resource needs nor formulated a comprehensive resource plan as to how such needs would be addressed in a cost-effective manner.

CAP along with numerous other organizations, has called for the establishment of an energy master plan for Long Island, before additional supply-side decisions are made that will affect LIPA's ratepayers. LIPA has now conceded that there is a need for a comprehensive electric energy plan for the service territory. The Authority has retained consultants to compile such a plan and is working with CAP and the Sustainable Energy Alliance of Long Island (SEA) to identify, assess and prioritize the need for demand and supply side additions to the LIPA system. LIPA, CAP and SEA are engaged in this planning process in an effort to ensure that Long Island's electric needs are met in the safest, most reliable, affordable, sustainable and environmentally sensitive manner.

LIPA has recognized the need to develop a comprehensive energy plan and has the statutory power to compile such a plan. As per the LIPA Act, the Authority is authorized by statute *"to develop, with public participation, a comprehensive least-cost plan which shall consider practical and economical use of conservation, renewable resources, and cogeneration for providing service to its customers;"*⁷

Without the benefit of such a comprehensive plan it is difficult, if not impossible, to determine whether the Project is LIPA's least-cost option to meeting future energy and capacity needs.

Negative Effect on Competition

Nowhere in its Petition does the Applicant claim that the proposed facility will contribute to effective competition in the electricity supply markets on Long Island or within New York State. Likewise, LIPA's press release announcing the Applicant's and other projects makes no mention of competition. The Petition contains no analysis of the effect of the proposed Project on the region's competitive wholesale or retail markets. The Petition and LIPA's press release and RFP indicate that the Project is expected to

⁷ NYS Public Authorities Law 1020-f (i)

sell 100% of its capacity, energy and ancillary services exclusively to LIPA. Details of the power purchase agreement (PPA), currently under negotiation, have not been revealed. LIPA's Shoreham RFP states that LIPA intends to enter into a 15-year PPA.

It appears such an arrangement can be expected to restrict competition in both wholesale and retail markets. If the Applicant and LIPA were to refrain from signing long-term power supply agreements, other merchant plant developers may have an interest to enter the Long Island wholesale market in an effort to provide capacity, energy and ancillary services at more favorable conditions than the Applicant.

However, under the long-term power purchase agreement that LIPA intends to sign with the Applicant, LIPA may be required to make payments that would make it financially disadvantageous for many years to replace the Applicant's capacity, energy and ancillary services with a competitor's services, even if the competitor's prices were substantially lower than those of the Applicant.

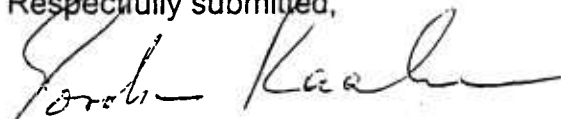
Similarly, the effect of the Project can be expected to be negative on competitive retail markets. Since the Applicant's Project would be required to provide 100% of its energy and capacity to LIPA, no retail customer will be able to procure energy or capacity from the Project for the duration of the PPA.

Conclusion

Based on the foregoing we respectfully request that the Commission deny the Applicant's Petition for the granting of a Certificate of Public Convenience and Necessity at this time. The Commission should order the Applicant to submit the following information and allow for cross-examination of such information and testimony:

- 1) a) either a thorough analysis of need and an evaluation of alternatives, or
b) the Commission should require that LIPA submit its comprehensive energy plan and detailed information on its competitive bidding process for review and approval by the Commission;
- 2) detailed information regarding the anticipated power purchase agreement;
- 3) an analysis of the effect of the proposed Project on the region's competitive electric wholesale and retail markets;

Respectfully submitted,



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1 MR. RAACKE: I also ask that my
2 testimony in Case 01-E-1716, dated November 26th,
3 consisting of nine pages, be admitted into the
4 record.

5 JUDGE BRILLING: Any changes, additions
6 or corrections to that document?

7 MR. RAACKE: No, your Honor.

8 JUDGE BRILLING: Objections?

9 Hearing none, that will be entered as if
10 given orally.

11 (Continued on following page.)

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Case 01-E-1716 Petition of KeySpan-Port Jefferson Energy Center LLC for an Order that a Proposed 79.9 Megawatt Natural Gas Fired Simple Cycle Peaking Facility in the Town of Brookhaven, Suffolk County, will be Regulated under a Lightened Regulatory Regime and for a Certificate of Public Convenience and Necessity for the Proposed Facility.

**Testimony
Of
Gordian Raacke
Executive Director
Citizens Advisory Panel**

Gordian Raacke
Executive Director
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Dated: November 26, 2001

Introduction

My name is Gordian Raacke. I am Executive Director of the Citizens Advisory Panel, 2316 Main Street, Bridgehampton, NY 11932. I am submitting this testimony on behalf of the Citizens Advisory Panel, an energy watchdog for Long Island.

The Citizens Advisory Panel is an established consumer advocacy organization for Long Island's electric customers and a party to this proceeding. While my testimony covers certain aspects of this proceeding, we reserve the right to address additional aspects and issues in subsequent stages of this proceeding and related cases.

I am also providing similar testimony in several other cases pertaining to other proposed turbine projects on Long Island.

Description of Application

On November 2, 2001, KeySpan-Port Jefferson Energy Center LLC ("Applicant") requested that the Commission grant a Certificate of Public Convenience and Necessity (CPCN) as per PSL Section 68 for two 44 MW LM-6000 turbines and electric generators to be installed at the existing Port Jefferson generating facility. Additionally, the Applicant has petitioned the Commission for a Declaratory Ruling that the proposed project will be subject to only "Lightened Regulation".

The Applicant has also requested a Declaratory Ruling that the proposed Facility is exempt from review by the New York State Board on Electric Generation Siting and the Environment under Article X.

The Applicant had requested that a Certificate of Public Convenience and Necessity be issued on an expedited basis and without a full hearing. CAP objected to granting the CPCN on such a basis and on November 21, 2001, the Commission denied Applicant's motion, ordering a hearing for December 5.

The Applicant indicates intentions to begin construction of the Facility on or about January 1, 2002 and operation in June of 2002.

The Applicant's Petition states that the Applicant plans to sell 100% of the project's capacity, energy and ancillary services to the Long Island Power Authority (LIPA) under a 25-year power purchase agreement currently under negotiation.

Basis of Application

The Applicant argues that the proposed facility is in the public interest and needed to ensure reliable electric service during the Summer of 2002 and beyond.

"[T]he ruling will directly benefit the State of New York and the communities on Long Island by facilitating Petitioner's efforts to provide needed capacity, energy and ancillary services to prevent shortfalls during periods of peak energy consumption during the Summer of 2002 and thereafter." (Petition at 1).

Lack of Showing of Need

Inherent in the Applicant's argument is the claim that electrical demand within the LIPA service territory will increase so drastically and rapidly that demand cannot be met without the Applicant's proposed project operating by the summer of 2002.

The Petition repeats on numerous occasions that the proposed Facility must be approved as soon as possible based on the urgent need for generating capacity on Long Island. Over and over again, the Applicant claims that *"[t]he Facility is sorely needed to provide much-needed generating capacity to the Long Island region of New York State."* (Petition at 2).

However, despite these claims, the Applicant has failed to submit or even cite a comprehensive analysis to back up such assertions. The only reference to an analysis of need is a LIPA press release dated October 18, 2001 and an attached letter from PSC Chairman Helmer to LIPA Chairman Kessel dated October 10, 2001.¹ The LIPA press release provides no analysis of how much additional capacity is needed, nor does it indicate when and where such capacity might be needed. It simply states that under

¹ Referenced and attached in the Applicant's Motion For Expedited Proceeding, footnote 1.

LIPA's Powering Long Island Program 407.6 MW will be added to the system in time for next Summer and that the Applicant's proposal is part of this effort.

The letter from Chairman Helmer states that *"[a]n analysis of the electric system conditions on Long Island on August 8-9, 2001 leads me to conclude that there is a serious and immediate need for an additional 400 – 500 MW of generating capacity to be constructed on Long Island by May 1, 2002."* The letter provides no further detailed analysis as a basis for this opinion other than stating that this conclusion was derived based on *"discussions with Department of Public Service staff experts."*

Failure to Consider Alternatives

The Applicant's Petition makes no mention of alternatives to the proposed project and it appears that no alternatives were evaluated. Obvious supply-side alternatives would include temporary siting of turbines or other generators (e.g. barge-mounted) to allow for construction of more efficient combined-cycle units or repowering of existing facilities. There are a number of larger plants already proposed for Long Island. Several developers have filed Preliminary Scoping Statements, one project has already submitted its Article X Application. Additionally, a 330 MW cross-sound electric transmission cable has been commissioned by LIPA and is currently undergoing regulatory review. It is unclear at this time which of these projects will obtain the necessary regulatory approvals and when these projects would be operational. It appears certain that some of these projects will obtain the necessary approvals. The Applicant has not provided any analysis that shows under which scenario the Port Jefferson Project would be needed or obsolete.

Moreover, the Applicant's Petition completely ignores alternatives on the demand side. It is a well-known fact that demand-side management (DSM) programs can be used to reduce peak demand quickly and cost-effectively. LIPA's present Clean Energy Initiative (CEI) does not fully tap the available potential for energy efficiency savings and demand reductions. Several studies indicate that the achievable potential for DSM savings in the LIPA service territory is considerably greater than the levels that are currently captured by LIPA's CEI.

According to a LIPA study commissioned in 1991, Summer peak savings from cost-effective DSM programs are 441 MW within the decade.² A report compiled by CAP and the Pace Energy Project in 1998 estimated the cost-effective DSM potential at 465 MW within the same period. Programs designed to maximize peak shifting as well as energy savings could be expected to yield even higher reductions in Summer peak demand.

Competitive Bidding Process Not Examined

Recognizing that its analysis of need for the facility will not withstand even superficial scrutiny, the Applicant contends that it is not necessary to demonstrate any need for a facility as long as an applicant's project was chosen through a competitive bidding process.

Citing a Commission decision from 1994, which granted a CPNC in the Wallkill Certificate Ruling, the Applicant argues that "*[a]n electric facility that will sell power is presumed to be necessary and in the public interest if its sales occur pursuant to a contract secured through a competitive bidding process.*" (Petition at 11)³

However, while LIPA issued an RFP for the Shoreham location (see Case 01-E-1634) it appears that LIPA did not issue an RFP for this Project. The Petition is mute on this point but in another case (Case 01-E-1634 – PPL/Edgewood) the petition by PPL Global/Edgewood states that "*[L]IPA issued a Request for Proposals for the Shoreham Site in May 2001, and conducted discussions with numerous generating companies proposing to construct and operate new generating capacity on Long Island*". (Case 01-E-1634 Petition at 9). It thus appears that no competitive bidding process was conducted for this Project.

The Commission's decision in the Wallkill Certificate Ruling was based, however, on a Commission-sanctioned process for the solicitation of proposals for new generating capacities. Furthermore, the Commission had reviewed and approved the utility's

² LIPA Conservation and Load Management Plan for Long Island, Tellus Institute, September 1991, page S-6

³ Applicant citing Wallkill Generating Co. LLP, No. 93-E-1073, Opinion 94-18.

capacity requirements as well as its competitive procurement solicitation plan. In the Wallkill Certificate Ruling the Commission writes:

"The PSA [Power Supply Agreement] between Wallkill and Orange and Rockland has resulted from a process introduced in 1988 n2⁴ for the solicitation by electric utilities of proposals from third parties for the provision of new generating capacity. In 1989, we approved Orange and Rockland's competitive procurement solicitation plan to meet its projected increased capacity requirements. n3⁵ Several suppliers of new capacity responded to Orange and Rockland's solicitation and Wallkill was selected as the qualified bidder with the highest scoring project proposal."

In this case, the Commission has neither reviewed nor approved the bidding process that was used by LIPA in requesting and selecting the Applicant's proposal. In fact, it is not even certain that a competitive bidding process was used in this case. Moreover, the Commission has not formally reviewed LIPA's capacity requirements and has not reviewed or approved LIPA's competitive procurement solicitation plan, if such a plan even exists.

In the Wallkill Certificate Ruling the Commission allowed the competitive bidding process to replace a need more conventional need analysis, pointing out that such a properly designed competitive bidding process can be assumed to result in the least-cost option for meeting additional load.

..."[W]e have determined that a facility can be presumed to be needed where the developer is a winning bidder in a competitive utility auction. This presumption is based on the premise that competition for the supply of incremental capacity will make available the best and cheapest power supply options." (at 33).

⁴n2 Case 29409, Plans for Meeting Future Electricity Needs in New York State, Opinion No. 88-15 (issued June 3, 1988); Opinion No. 88-15(A) (issued November 2, 1988).

⁵n3 Case 88-E-241, Orange and Rockland Utilities, Inc., Opinion No. 89-7 (issued April 13, 1989).

Given that the Commission has not even reviewed the competitive bidding process that was used to select the Applicant's Project, it is impossible to determine that the Project is in fact the "*best and cheapest power supply option*" available to meet future capacity needs. It is not possible to make such a determination without the benefit of reviewing the bidding process. For example, the scoring method used to select the winning bidder for this Project would obviously have a decisive impact on which technology, site, contractual arrangement, etc. is chosen. Furthermore, it could be argued that LIPA's RFP should allow, for example, for the inclusion of DSM bids.

The Applicant argues that its Project is needed and in the public interest claiming that it has passed the same test as in the Walkill Certificate Ruling. However, it is evident that the Applicant's Project has not been subjected to this test. Neither the Applicant nor LIPA have submitted any information in this case that could be used to substantiate the claim that the Walkill Certificate Ruling applies.

The Commission should either require that the Applicant provide a complete need analysis or apply the same strict standards that were applied in the Walkill Certificate Ruling, including review and approval of the bidding process. At a minimum, the Commission should demand that LIPA and the Applicant provide the necessary information that would allow a determination as to whether the Project is in fact the "*best and cheapest power supply option*" before a CPCN is considered.

Lack of a Comprehensive Energy Plan

Based on an assumption that additional generating capacity would be needed by the Summer of 2002, LIPA, in May of 2001 issued its Request For Proposals to build, own and operate generating plants with a net generating capacity of less than 80 MW at the Shoreham site⁶. However, it appears that LIPA did not issue an RFP for additional capacity or for the Port Jefferson location.

⁶ See <http://www.lipower.org/shoreham_rfp.html>

At the time, LIPA had neither compiled a comprehensive analysis of its resource needs nor formulated a comprehensive resource plan as to how such needs would be addressed in a cost-effective manner.

CAP along with numerous other organizations, has called for the establishment of an energy master plan for Long Island, before additional supply-side decisions are made that will affect LIPA's ratepayers. LIPA has now conceded that there is a need for a comprehensive electric energy plan for the service territory. The Authority has retained consultants to compile such a plan and is working with CAP and the Sustainable Energy Alliance of Long Island (SEA) to identify, assess and prioritize the need for demand and supply side additions to the LIPA system. LIPA, CAP and SEA are engaged in this planning process in an effort to ensure that Long Island's electric needs are met in the safest, most reliable, affordable, sustainable and environmentally sensitive manner.

LIPA has recognized the need to develop a comprehensive energy plan and has the statutory power to compile such a plan. As per the LIPA Act, the Authority is authorized by statute *"to develop, with public participation, a comprehensive least-cost plan which shall consider practical and economical use of conservation, renewable resources, and cogeneration for providing service to its customers;"*⁷

Without the benefit of such a comprehensive plan it is difficult, if not impossible, to determine whether the Project is LIPA's least-cost option to meeting future energy and capacity needs.

Negative Effect on Competition

In its Petition, the Applicant makes no claim that the proposed facility will contribute to effective competition in the electricity supply markets on Long Island or within New York State. Likewise, LIPA's press release announcing the projects make no mention of competition. The Petition contains no analysis of the effect of the proposed Project on the region's competitive wholesale or retail markets. In fact, the Applicant readily admits that for 25 years, the Project is expected to sell 100% of its capacity, energy and

⁷ NYS Public Authorities Law 1020-f (i)

ancillary services exclusively to LIPA. Details of the power purchase agreement, currently under negotiation, have not been revealed.

It appears such an arrangement can be expected to restrict competition in both wholesale and retail markets. If the Applicant and LIPA were to refrain from signing long-term power supply agreements, other merchant plant developers may have an interest to enter the Long Island wholesale market in an effort to provide capacity, energy and ancillary services at more favorable conditions than the Applicant.

However, under the long-term power purchase agreement that LIPA intends to sign with the Applicant, LIPA may be required to make payments that would make it financially disadvantageous for 25 years to replace the Applicant's capacity, energy and ancillary services with a competitor's services, even if the competitor's prices were substantially lower than those of the Applicant.

Similarly, the effect of the Project can be expected to be negative on competitive retail markets. Since the Applicant's Project would be required to provide 100% of its energy and capacity to LIPA, no retail customer will be able to procure energy or capacity from the Project for 25 years.

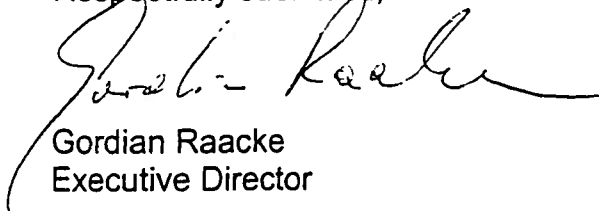
Conclusion

Based on the foregoing we respectfully request that the Commission deny the Applicant's Petition for the granting of a Certificate of Public Convenience and Necessity at this time. The Commission should order the Applicant to submit the following information and allow for cross-examination of such information and testimony:

- 1) a) either a thorough analysis of need and an evaluation of alternatives, or
b) the Commission should require that LIPA submit its comprehensive energy plan and detailed information on its competitive bidding process for review and approval by the Commission;
- 2) detailed information regarding the anticipated power purchase agreement;

- 3) an analysis of the effect of the proposed Project on the region's competitive electric wholesale and retail markets;

Respectfully submitted,



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1 MR. RAACKE: I also ask that my
2 testimony in Case 01-E-1718, dated November 26th, and
3 consisting of eleven pages, be submitted into the
4 record.

5 JUDGE BRILLING: Any changes, additions
6 or revisions?

7 MR. RAACKE: No, your Honor.

8 JUDGE BRILLING: Objections?

9 MR. RAACKE: And I also ask that my
10 testimony in Case 01-E --

11 JUDGE BRILLING: Excuse me. Let's enter
12 into the record Mr. Raacke's testimony in 1718 as if
13 given orally.

14 (Continued on following page.)

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Case 01-E-1718 Petition of KeySpan-Port Glenwood Energy Center LLC for an Order that a Proposed 79.9 Megawatt Natural Gas Fired Simple Cycle Peaking Facility in the Town of Oyster Bay, Nassau County, will be Regulated under a Lightened Regulatory Regime and for a Certificate of Public Convenience and Necessity for the Proposed Facility.

**Testimony
Of
Gordian Raacke
Executive Director
Citizens Advisory Panel**

Gordian Raacke
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Dated: November 26, 2001

My name is Gordian Raacke. I am Executive Director of the Citizens Advisory Panel, 2316 Main Street, Bridgehampton, NY 11932. I am submitting this testimony on behalf of the Citizens Advisory Panel, an energy watchdog for Long Island.

The Citizens Advisory Panel is an established consumer advocacy organization for Long Island's electric customers and a party to this proceeding. While my testimony covers certain aspects of this proceeding, we reserve the right to address additional aspects and issues in subsequent stages of this proceeding and related cases.

I am also providing similar testimony in several other cases pertaining to other proposed turbine projects on Long Island.

Description of Application

On November 2, 2001, KeySpan-Glenwood Energy Center LLC ("Applicant") requested that the Commission grant a Certificate of Public Convenience and Necessity (CPCN) as per PSL Section 68 for two 44 MW LM-6000 turbines and electric generators to be installed at the existing Glenwood generating facility. Additionally, the Applicant has petitioned the Commission for a Declaratory Ruling that the proposed project will be subject to only "Lightened Regulation".

The Applicant has also requested a Declaratory Ruling that the proposed Facility is exempt from review by the New York State Board on Electric Generation Siting and the Environment under Article X.

The Applicant had requested that a Certificate of Public Convenience and Necessity be issued on an expedited basis and without a full hearing. CAP objected to granting the CPCN on such a basis and on November 21, 2001, the Commission denied Applicant's motion, ordering a hearing for December 5.

The Applicant indicates intentions to begin construction of the Facility on or about January 1, 2002 and operation in June of 2002.

The Applicant's Petition states that the Applicant plans to sell 100% of the project's capacity, energy and ancillary services to the Long Island Power Authority (LIPA) under a 25-year power purchase agreement currently under negotiation. 257

Basis of Application

The Applicant argues that the proposed facility is in the public interest and needed to ensure reliable electric service during the Summer of 2002 and beyond.

"[T]he ruling will directly benefit the State of New York and the communities on Long Island by facilitating Petitioner's efforts to provide needed capacity, energy and ancillary services to prevent shortfalls during periods of peak energy consumption during the Summer of 2002 and thereafter." (Petition at 1).

Lack of Showing of Need

Inherent in the Applicant's argument is the claim that electrical demand within the LIPA service territory will increase so drastically and rapidly that demand cannot be met without the Applicant's proposed project operating by the summer of 2002.

The Petition repeats on numerous occasions that the proposed Facility must be approved as soon as possible based on the urgent need for generating capacity on Long Island. Over and over again, the Applicant claims that *"[t]he Facility is sorely needed to provide much-needed generating capacity to the Long Island region of New York State."* (Petition at 2).

However, despite these claims, the Applicant has failed to submit or even cite a comprehensive analysis to back up such assertions. The only reference to an analysis of need is a LIPA press release dated October 18, 2001 and an attached letter from PSC Chairman Helmer to LIPA Chairman Kessel dated October 10, 2001.¹ The LIPA press release provides no analysis of how much additional capacity is needed, nor does it indicate when and where such capacity might be needed. It simply states that under

¹ Referenced and attached in the Applicant's Motion For Expedited Proceeding, footnote 1.

LIPA's Powering Long Island Program 407.6 MW will be added to the system in time for next Summer and that the Applicant's proposal is part of this effort.

The letter from Chairman Helmer states that *"[a]n analysis of the electric system conditions on Long Island on August 8-9, 2001 leads me to conclude that there is a serious and immediate need for an additional 400 – 500 MW of generating capacity to be constructed on Long Island by May 1, 2002."* The letter provides no further detailed analysis as a basis for this opinion other than stating that this conclusion was derived based on *"discussions with Department of Public Service staff experts."*

Failure to Consider Alternatives

The Applicant's Petition makes no mention of alternatives to the proposed project and it appears that no alternatives were evaluated. Obvious supply-side alternatives would include temporary siting of turbines or other generators (e.g. barge-mounted) to allow for construction of more efficient combined-cycle units or repowering of existing facilities. There are a number of larger plants already proposed for Long Island. Several developers have filed Preliminary Scoping Statements, one project has already submitted its Article X Application. Additionally, a 330 MW cross-sound electric transmission cable has been commissioned by LIPA and is currently undergoing regulatory review. It is unclear at this time which of these projects will obtain the necessary regulatory approvals and when these projects would be operational. It appears certain that some of these projects will obtain the necessary approvals. The Applicant has not provided any analysis that shows under which scenario the Glenwood Project would be needed or obsolete.

Moreover, the Applicant's Petition completely ignores alternatives on the demand side. It is a well-known fact that demand-side management (DSM) programs can be used to reduce peak demand quickly and cost-effectively. LIPA's present Clean Energy Initiative (CEI) does not fully tap the available potential for energy efficiency savings and demand reductions. Several studies indicate that the achievable potential for DSM savings in the LIPA service territory is considerably greater than the levels that are currently captured by LIPA's CEI.

According to a LIPA study commissioned in 1991, Summer peak savings from cost-effective DSM programs are 441 MW within the decade.² A report compiled by CAP and the Pace Energy Project in 1998 estimated the cost-effective DSM potential at 465 MW within the same period. Programs designed to maximize peak shifting as well as energy savings could be expected to yield even higher reductions in Summer peak demand.

Competitive Bidding Process Not Examined

Recognizing that its analysis of need for the facility will not withstand even superficial scrutiny, the Applicant contends that it is not necessary to demonstrate any need for a facility as long as an applicant's project was chosen through a competitive bidding process.

Citing a Commission decision from 1994, which granted a CPNC in the Wallkill Certificate Ruling, the Applicant argues that "[a]n electric facility that will sell power is presumed to be necessary and in the public interest if its sales occur pursuant to a contract secured through a competitive bidding process." (Petition at 11)³

The Commission's decision in the Wallkill Certificate Ruling was based, however, on a Commission-sanctioned process for the solicitation of proposals for new generating capacities. Furthermore, the Commission had reviewed and approved the utility's capacity requirements as well as its competitive procurement solicitation plan. In the Wallkill Certificate Ruling the Commission writes:

"The PSA [Power Supply Agreement] between Wallkill and Orange and Rockland has resulted from a process introduced in 1988 n2⁴ for the solicitation by electric utilities of proposals from third parties for the provision of new generating capacity. In 1989, we approved Orange and Rockland's competitive procurement solicitation plan to meet its

² LIPA Conservation and Load Management Plan for Long Island, Tellus Institute, September 1991, page S-6

³ Applicant citing Wallkill Generating Co. LLP, No. 93-E-1073, Opinion 94-18.

⁴ n2 Case 29409, Plans for Meeting Future Electricity Needs in New York State, Opinion No. 88-15 (issued June 3, 1988); Opinion No. 88-15(A) (issued November 2, 1988).

projected increased capacity requirements. n3⁵ Several suppliers of new capacity 260 responded to Orange and Rockland's solicitation and Wallkill was selected as the qualified bidder with the highest scoring project proposal."

In this case, the Commission has neither reviewed nor approved the bidding process that was used by LIPA in requesting and selecting the Applicant's proposal. Moreover, the Commission has not formally reviewed LIPA's capacity requirements and has not reviewed or approved LIPA's competitive procurement solicitation plan, if such a plan even exists.

In the Wallkill Certificate Ruling the Commission allowed the competitive bidding process to replace a need more conventional need analysis, pointing out that such a properly designed competitive bidding process can be assumed to result in the least-cost option for meeting additional load.

..."[W]e have determined that a facility can be presumed to be needed where the developer is a winning bidder in a competitive utility auction. This presumption is based on the premise that competition for the supply of incremental capacity will make available the best and cheapest power supply options." (at 33).

Given that the Commission has not even reviewed the competitive bidding process that was used to select the Applicant's Project, it is impossible to determine that the Project is in fact the "best and cheapest power supply option" available to meet future capacity needs. It is not possible to make such a determination without the benefit of reviewing the bidding process. For example, the scoring method used to select the winning bidder for this Project would obviously have a decisive impact on which technology, site, contractual arrangement, etc. is chosen. Furthermore, it could be argued that LIPA's RFP should allow, for example, for the inclusion of DSM bids.

⁵ n3 Case 88-E-241, Orange and Rockland Utilities, Inc., Opinion No. 89-7 (issued April 13, 1989).

The Applicant argues that its Project is needed and in the public interest claiming that it has passed the same test as in the Wallkill Certificate Ruling. However, it is evident that the Applicant's Project has not been subjected to this test. Neither the Applicant nor LIPA have submitted any information in this case that could be used to substantiate the claim that the Wallkill Certificate Ruling applies.

The Commission should either require that the Applicant provide a complete need analysis or apply the same strict standards that were applied in the Wallkill Certificate Ruling, including review and approval of the bidding process. At a minimum, the Commission should demand that LIPA and the Applicant provide the necessary information that would allow a determination as to whether the Project is in fact the "*best and cheapest power supply option*" before a CPCN is considered.

Lack of a Comprehensive Energy Plan

Based on an assumption that additional generating capacity would be needed by the Summer of 2002, LIPA, in May of 2001 issued its Request For Proposals to build, own and operate generating plants with a net generating capacity of less than 80 MW.

At the time, LIPA had neither compiled a comprehensive analysis of its resource needs nor formulated a comprehensive resource plan as to how such needs would be addressed in a cost-effective manner.

CAP along with numerous other organizations, has called for the establishment of an energy master plan for Long Island, before additional supply-side decisions are made that will affect LIPA's ratepayers. LIPA has now conceded that there is a need for a comprehensive electric energy plan for the service territory. The Authority has retained consultants to compile such a plan and is working with CAP and the Sustainable Energy Alliance of Long Island (SEA) to identify, assess and prioritize the need for demand and supply side additions to the LIPA system. LIPA, CAP and SEA are engaged in this planning process in an effort to ensure that Long Island's electric needs are met in the safest, most reliable, affordable, sustainable and environmentally sensitive manner.

LIPA has recognized the need to develop a comprehensive energy plan and has the 264 statutory power to compile such a plan. As per the LIPA Act, the Authority is authorized by statute *"to develop, with public participation, a comprehensive least-cost plan which shall consider practical and economical use of conservation, renewable resources, and cogeneration for providing service to its customers;"*⁶

Without the benefit of such a comprehensive plan it is difficult, if not impossible, to determine whether the Project is LIPA's least-cost option to meeting future energy and capacity needs.

Negative Effect on Competition

In its Petition, the Applicant makes no claim that the proposed facility will contribute to effective competition in the electricity supply markets on Long Island or within New York State. Likewise, LIPA's press release announcing the projects make no mention of competition. The Petition contains no analysis of the effect of the proposed Project on the region's competitive wholesale or retail markets. In fact, the Applicant readily admits that for 25 years, the Project is expected to sell 100% of its capacity, energy and ancillary services exclusively to LIPA. Details of the power purchase agreement, currently under negotiation, have not been revealed.

It appears such an arrangement can be expected to restrict competition in both wholesale and retail markets. If the Applicant and LIPA were to refrain from signing long-term power supply agreements, other merchant plant developers may have an interest to enter the Long Island wholesale market in an effort to provide capacity, energy and ancillary services at more favorable conditions than the Applicant.

However, under the long-term power purchase agreement that LIPA intends to sign with the Applicant, LIPA may be required to make payments that would make it financially disadvantageous for 25 years to replace the Applicant's capacity, energy and ancillary services with a competitor's services, even if the competitor's prices were substantially lower than those of the Applicant.

⁶ NYS Public Authorities Law 1020-f (i)

Similarly, the effect of the Project can be expected to be negative on competitive retail markets. Since the Applicant's Project would be required to provide 100% of its energy and capacity to LIPA, no retail customer will be able to procure energy or capacity from the Project for 25 years. 265

Conclusion

Based on the foregoing we respectfully request that the Commission deny the Applicant's Petition for the granting of a Certificate of Public Convenience and Necessity at this time. The Commission should order the Applicant to submit the following information and allow for cross-examination of such information and testimony:

- 1) a) either a thorough analysis of need and an evaluation of alternatives, or
b) the Commission should require that LIPA submit its comprehensive energy plan and detailed information on its competitive bidding process for review and approval by the Commission;
- 2) detailed information regarding the anticipated power purchase agreement;
- 3) an analysis of the effect of the proposed Project on the region's competitive electric wholesale and retail markets;

Respectfully submitted,



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1 JUDGE BRILLING: Proceed.

2 MR. RAACKE: I also would like to ask
3 that my testimony in Case 01-E-1730, dated November
4 26, 2001, consisting of eight pages, be admitted into
5 the record.

6 JUDGE BRILLING: Are there are any
7 changes, additions or revisions to that?

8 MR. RAACKE: No, your Honor.

9 JUDGE BRILLING: Objections?

10 Hearing none, please enter into the
11 record Mr. Raacke's testimony in 1730 as if given
12 orally.

13 (Continued on following page.)

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State of New York
Public Service Commission

Case 01-E-1730 Petition of CPN Bethpage 3rd Turbine Inc for an Order that a Proposed 44 Megawatt Natural Gas Fired Simple Cycle Peaking Facility in the Town of Oyster Bay, Nassau County, will be Regulated under a Lightened Regulatory Regime and for a Certificate of Public Convenience and Necessity for the Proposed Facility.

**Testimony
Of
Gordian Raacke
Executive Director
Citizens Advisory Panel**

Gordian Raacke
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Dated: November 26, 2001

Introduction

My name is Gordian Raacke. I am Executive Director of the Citizens Advisory Panel, 2316 Main Street, Bridgehampton, NY 11932. I am submitting this testimony on behalf of the Citizens Advisory Panel, an energy watchdog for Long Island.

The Citizens Advisory Panel is an established consumer advocacy organization for Long Island's electric customers and a party to this proceeding. While my testimony covers certain aspects of this proceeding, we reserve the right to address additional aspects and issues in subsequent stages of this proceeding and related cases.

I am also providing similar testimony in several other cases pertaining to other proposed turbine projects on Long Island.

Description of Application

On November 6, 2001, CPN Bethpage 3rd Turbine, Inc. ("Applicant") requested that the Commission grant a Certificate of Public Convenience and Necessity (CPCN) as per PSL Section 68 for one 44 MW LM-6000 turbine and electric generator to be installed at the existing Bethpage Northrop/Grumman co-generating facility. Additionally, the Applicant has petitioned the Commission for a Declaratory Ruling that the proposed project will be subject to only "Lightened Regulation".

The Applicant had requested that a Certificate of Public Convenience and Necessity be issued on an expedited basis and without a full hearing. CAP objected to granting the CPCN on such a basis and on November 21, 2001, the Commission denied Applicant's motion, ordering a hearing for December 5.

The Applicant indicates intentions to begin construction of the Facility on or about January 1, 2002 and operation in June of 2002.

The Applicant's Petition states that the Applicant plans on "[s]elling all of the generator's electric capacity, energy and ancillary services only in the competitive wholesale generation markets, including to the Long Island Power Authority (LIPA)." (Petition at 2).

However, a LIPA press release about this and other planned projects indicates that LIPA will purchase 100% of the projects' output. It is unclear whether the Applicant intends to enter into long-term Power Purchase Agreements for capacity, energy and ancillary services to the Long Island Power Authority (LIPA).

Basis of Application

The Applicant argues that the proposed facility is in the public interest and needed to ensure reliable electric service during the Summer of 2002 and beyond.

Lack of Showing of Need

Inherent in the Applicant's argument is the claim that electrical demand within the LIPA service territory will increase so drastically and rapidly that demand cannot be met without the Applicant's proposed project operating by the summer of 2002.

The Petition repeats on numerous occasions that the proposed Facility must be approved as soon as possible based on the urgent need for generating capacity on Long Island. Repeatedly, the Applicant claims that the Facility is needed to provide generating capacity to the Long Island region of New York State.

However, despite these claims, the Applicant has failed to submit or even cite a comprehensive analysis to back up such assertions.

Failure to Consider Alternatives

The Applicant's Petition makes no mention of alternatives to the proposed project and it appears that no alternatives were evaluated. Obvious supply-side alternatives would include temporary siting of turbines or other generators (e.g. barge-mounted) to allow for construction of more efficient combined-cycle units or repowering of existing facilities. There are a number of larger plants already proposed for Long Island. Several developers have filed Preliminary Scoping Statements, one project has already submitted its Article X Application. Additionally, a 330 MW cross-sound electric transmission cable has been commissioned by LIPA and is currently undergoing regulatory review. It is unclear at this time which of these projects will obtain the

necessary regulatory approvals and when these projects would be operational. It appears certain that some of these projects will obtain the necessary approvals. The Applicant has not provided any analysis that shows under which scenario the Bethpage Project would be needed or obsolete.

Moreover, the Applicant's Petition completely ignores alternatives on the demand side. It is a well-known fact that demand-side management (DSM) programs can be used to reduce peak demand quickly and cost-effectively. LIPA's present Clean Energy Initiative (CEI) does not fully tap the available potential for energy efficiency savings and demand reductions. Several studies indicate that the achievable potential for DSM savings in the LIPA service territory is considerably greater than the levels that are currently captured by LIPA's CEI.

According to a LIPA study commissioned in 1991, Summer peak savings from cost-effective DSM programs are 441 MW within the decade.¹ A report compiled by CAP and the Pace Energy Project in 1998 estimated the cost-effective DSM potential at 465 MW within the same period. Programs designed to maximize peak shifting as well as energy savings could be expected to yield even higher reductions in Summer peak demand.

Competitive Bidding Process Not Examined

Recognizing that its analysis of need for the facility will not withstand even superficial scrutiny, the Applicant contends that it is not necessary to demonstrate any need for a facility as long as an applicant's project has an "[i]ntention to participate in the competitive wholesale generation markets", (Petition at 7). Other applicants in similar proceedings have argued that such need analysis is not needed if an applicant's project was chosen through a competitive bidding process. CPN stretches this interpretation to a point where all that is required to demonstrate that a facility is in the public interest would be a vague expression of intent to participate in a competitive marketplace.

¹ LIPA Conservation and Load Management Plan for Long Island, Tellus Institute, September 1991, page S-6

The cited Commission decision from 1994, which granted a CPNC in the Wallkill Certificate Ruling, stated that "[a]n electric facility that will sell power is presumed to be necessary and in the public interest if its sales occur pursuant to a contract secured through a competitive bidding process."²

The Commission's decision in the Wallkill Certificate Ruling was based, however, on a Commission-sanctioned process for the solicitation of proposals for new generating capacities. Furthermore, the Commission had reviewed and approved the utility's capacity requirements as well as its competitive procurement solicitation plan. In the Wallkill Certificate Ruling the Commission writes:

"The PSA [Power Supply Agreement] between Wallkill and Orange and Rockland has resulted from a process introduced in 1988 n2³ for the solicitation by electric utilities of proposals from third parties for the provision of new generating capacity. In 1989, we approved Orange and Rockland's competitive procurement solicitation plan to meet its projected increased capacity requirements. n3⁴ Several suppliers of new capacity responded to Orange and Rockland's solicitation and Wallkill was selected as the qualified bidder with the highest scoring project proposal."

In this case, the Commission has neither reviewed nor approved the bidding process that was used by LIPA in requesting and selecting the Applicant's proposal. Moreover, the Commission has not formally reviewed LIPA's capacity requirements and has not reviewed or approved LIPA's competitive procurement solicitation plan, if such a plan even exists.

In the Wallkill Certificate Ruling the Commission allowed the competitive bidding process to replace a need more conventional need analysis, pointing out that such a properly designed competitive bidding process can be assumed to result in the least-cost option for meeting additional load.

² Applicant citing Wallkill Generating Co. LLP, No. 93-E-1073, Opinion 94-18.

³ n2 Case 29409, Plans for Meeting Future Electricity Needs in New York State, Opinion No. 88-15 (issued June 3, 1988); Opinion No. 88-15(A) (issued November 2, 1988).

⁴ n3 Case 88-E-241, Orange and Rockland Utilities, Inc., Opinion No. 89-7 (issued April 13, 1989).

..."[W]e have determined that a facility can be presumed to be needed where the developer is a winning bidder in a competitive utility auction. This presumption is based on the premise that competition for the supply of incremental capacity will make available the best and cheapest power supply options." (Wallkill at 33).

The Commission here clearly refers to a situation where the developer has been selected as the winning bidder in a competitive bidding process or auction, and not to the mere intent by the developer to participate in the wholesale market at some point in the future.

Given that the Commission has not even reviewed the competitive bidding process that was used to select the Applicant's Project, it is impossible to determine that the Project is in fact the "*best and cheapest power supply option*" available to meet future capacity needs. It is not possible to make such a determination without the benefit of reviewing the bidding process. For example, the scoring method used to select the winning bidder for this Project would obviously have a decisive impact on which technology, site, contractual arrangement, etc. is chosen. Furthermore, it could be argued that LIPA's RFP should allow, for example, for the inclusion of DSM bids.

The Applicant argues that its Project is needed and in the public interest claiming that it has passed the same test as in the Wallkill Certificate Ruling. However, it is evident that the Applicant's Project has not been subjected to this test. Neither the Applicant nor LIPA have submitted any information in this case that could be used to substantiate the claim that the Wallkill Certificate Ruling applies.

The Commission should either require that the Applicant provide a complete need analysis or apply the same strict standards that were applied in the Wallkill Certificate Ruling, including review and approval of the bidding process. At a minimum, the Commission should demand that LIPA and the Applicant provide the necessary information that would allow a determination as to whether the Project is in fact the "*best and cheapest power supply option*" before a CPCN is considered.

Lack of a Comprehensive Energy Plan

Based on an assumption that additional generating capacity would be needed by the Summer of 2002, LIPA, in May of 2001 issued its Request For Proposals to build, own and operate generating plants with a net generating capacity of less than 80 MW.

At the time, LIPA had neither compiled a comprehensive analysis of its resource needs nor formulated a comprehensive resource plan as to how such needs would be addressed in a cost-effective manner.

CAP along with numerous other organizations, has called for the establishment of an energy master plan for Long Island, before additional supply-side decisions are made that will affect LIPA's ratepayers. LIPA has now conceded that there is a need for a comprehensive electric energy plan for the service territory. The Authority has retained consultants to compile such a plan and is working with CAP and the Sustainable Energy Alliance of Long Island (SEA) to identify, assess and prioritize the need for demand and supply side additions to the LIPA system. LIPA, CAP and SEA are engaged in this planning process in an effort to ensure that Long Island's electric needs are met in the safest, most reliable, affordable, sustainable and environmentally sensitive manner.

LIPA has recognized the need to develop a comprehensive energy plan and has the statutory power to compile such a plan. As per the LIPA Act, the Authority is authorized by statute *"to develop, with public participation, a comprehensive least-cost plan which shall consider practical and economical use of conservation, renewable resources, and cogeneration for providing service to its customers;"*⁵

Without the benefit of such a comprehensive plan it is difficult, if not impossible, to determine whether the Project is LIPA's least-cost option to meeting future energy and capacity needs.

⁵ NYS Public Authorities Law 1020-f (i)

Effect on Competition

In its Petition, the Applicant makes no claim that the proposed facility will contribute to effective competition in the electricity supply markets on Long Island or within New York State. Likewise, LIPA's press release announcing the projects make no mention of competition. The Petition contains no analysis of the effect of the proposed Project on the region's competitive wholesale or retail markets. It is unclear from the Petition whether the Project is expected to sell 100% of its capacity, energy and ancillary services exclusively to LIPA or into the open wholesale market. The Applicant should clarify its Petition on this point.

If the Applicant were to enter into long-term power purchase agreements with LIPA, it would appear that such an arrangement could be expected to restrict competition in both wholesale and retail markets. If the Applicant and LIPA were to refrain from signing long-term power supply agreements, other merchant plant developers may have an interest to enter the Long Island wholesale market in an effort to provide capacity, energy and ancillary services at more favorable conditions than the Applicant.

Under a long-term power purchase agreement with LIPA, the Authority may be required to make payments that would make it financially disadvantageous for many years to replace the Applicant's capacity, energy and ancillary services with a competitor's services, even if the competitor's prices were substantially lower than those of the Applicant.

Similarly, the effect of the Project can be expected to be negative on competitive retail markets. Since the Applicant's Project aims to provide 100% of its energy and capacity to the wholesale market (or LIPA), no retail customer will be able to procure energy or capacity from the Project.

Conclusion

Based on the foregoing we respectfully request that the Commission deny the Applicant's Petition for the granting of a Certificate of Public Convenience and Necessity

1 JUDGE BRILLING: Is all the testimony in
2 the record now?

3 I believe so. Okay.

4 Questions.

5 I presume the KeySpan and Bethpage
6 panels --

7 Questions?

8 MR. RAACKE: Yes, your Honor.

9 JUDGE BRILLING: I believe Ms. Ford said
10 she had questions, as well.

11 MS. FORD: I just wondered, there were
12 two petitions from the legal notice regarding
13 declaratory ruling on Article X, and I thought that
14 that might impact on the proceedings today, and I
15 wanted to know if there was any decision made on the
16 petition for Article X.

17 JUDGE BRILLING: That's a question to
18 me, I presume?

19 MS. FORD: Yes.

20 JUDGE BRILLING: Not to my knowledge.

21 MS. FORD: Can we still have comment to
22 it?

23 JUDGE BRILLING: That case has not been
24 assigned to me, and I'm really not aware of the track

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1 that that's on at the moment. I'm sorry.

2 You should direct a comment like that to
3 Secretary Deixler.

4 MS. FORD: Thank you.

5 MR. GANSBERG: Your Honor, the comment
6 period expired several weeks ago on the declaratory
7 ruling.

8 MR. RAACKE: Shall I proceed, your
9 Honor?

10 JUDGE BRILLING: Yes, please.

11 MR. RAACKE: Let me start with a
12 question for Mr. McCabe.

13 On page 5 of your testimony, on line 1,
14 you refer to the proposed projects as highly
15 efficient. Could you elaborate on that statement.

16 MR. McCABE: Highly efficient compared
17 to the existing generating fleet on Long Island.

18 MR. RAACKE: Is it fair to say, then,
19 that there are other technologies, other generating
20 technologies, that are more efficient than the
21 proposed project?

22 MR. McCABE: I don't know that.

23 MR. RAACKE: Would you accept, subject
24 to check, that a combined cycle unit would yield a

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1 lower heat rate, and therefore, a higher efficiency?

2 MR. McCABE: I would.

3 MR. RAACKE: Would you agree that there
4 are other generating technologies available other
5 than combined cycle units that can generate
6 electricity more efficiently?

7 MR. McCABE: Subject to verification,
8 there might be.

9 JUDGE BRILLING: I'm having a hard time
10 hearing you. I'm sorry.

11 MR. McCABE: There might be.

12 JUDGE BRILLING: Thank you.

13 MR. RAACKE: I do have one other
14 specific question, and then I want to revert to a few
15 questions asked earlier and summarize that.

16 So bear with me, your Honor.

17 Again, a question to Mr. McCabe.

18 Did KeySpan receive a variance from the
19 Town of Oyster Bay to build the facility in an area
20 not zoned for power plants?

21 MR. McCABE: No.

22 MR. RAACKE: Are you privy to any
23 information as to whether LIPA received such a
24 variance?

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1 MR. McCABE: No.

2 MR. RAACKE: Are you aware of the fact
3 that the facility would be located in an area that is
4 not zoned for power plants?

5 MR. McCABE: My responsibilities don't
6 include the legal requirements of land use. So I'm
7 not capable of answering that question.

8 MR. RAACKE: Your Honor, with your
9 permission, maybe the LIPA witness could answer that
10 question.

11 MR. KASS: Your Honor, if I may speak to
12 this issue, which is not relevant at all to this
13 proceeding, the first thing I would note is that it
14 has nothing to do with either a need or a competitive
15 effect on the marketplace, but LIPA is a state
16 agency, as I'm sure you know, and as such, it has a
17 statutory ability, a constitutional ability, under
18 New York law, to carry out its public functions
19 without the requirement for local approvals.

20 MR. RAACKE: Well, let me move on to the
21 subject of the questions that I asked earlier of the
22 other panels, and in an effort to save time here,
23 maybe I could just ask the following few questions.

24 JUDGE BRILLING: And before you do,

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1 everyone was here when these questions were asked
2 earlier. Okay. So you know the line of questions
3 that he asked.

4 If you need a specific reference, you
5 may ask it, but I think everyone is generally aware
6 of the line of questions from before.

7 MR. RAACKE: Thank you, your Honor.

8 The first question I was going to ask of
9 both the Bethpage and KeySpan panel was, were you
10 present during today's cross-examination, starting at
11 10:30 this morning, at all times, and were you able
12 to hear the answers from the PPL Global panel, as
13 well as the LIPA panel?

14 MR. SASSO: Yes.

15 MR. EFF: Yes.

16 MR. RAACKE: Do you disagree with any of
17 the oral statements made by any of the
18 representatives from either of these two panels?

19 MR. SASSO: No.

20 MR. EFF: No. Generally, we went
21 through a similar process at CPN Bethpage that PPL
22 Global went through.

23 I generally agree we went through a
24 similar process at CPN Bethpage, and that PPL went

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1 through that they articulated earlier.

2 MR. SASSO: I'm in general agreement
3 with respect to the general nature and public need.

4 MR. RAACKE: I was asking questions
5 regarding the competitive bidding process, or the
6 selection process.

7 Are you in general agreement with the
8 oral statements made here earlier by the
9 representatives from LIPA and PPL Global?

10 MR. McCABE: Yes.

11 MR. RAACKE: You mentioned in your
12 testimony on page 6, also on line 9 -- I'm asking
13 this of Mr. McCabe -- on page 6, on line 9, you
14 answer affirmative to a question that states, "So the
15 Glenwood project was an outgrowth of your continuing
16 discussions with LIPA to develop sufficient capacity
17 to meet anticipated peak demands for the summer of
18 2002 and beyond?"

19 Do you agree with that characterization?

20 MR. McCABE: Yes.

21 MR. RAACKE: Can you give me an
22 affirmation or a date as to when these discussions
23 began?

24 Mr. McCabe?

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1 MR. McCABE: Without my calendar, no, I
2 can't, but it was in the time frame that PPL, CPN and
3 others were discussing these with LIPA.

4 We responded to the RFP in the time
5 frame that LIPA required, and the discussions flowed
6 following the RFP.

7 MR. RAACKE: When you say the RFP --

8 MR. McCABE: The Shoreham RFP.

9 MR. RAACKE: The RFP for Shoreham.

10 MR. McCABE: Yes.

11 MR. RAACKE: The proposals on the other
12 projects were not covered in the Shoreham RFP,
13 correct?

14 MR. McCABE: Which other proposals?

15 MR. RAACKE: You submitted a proposal on
16 the Port Jefferson facility?

17 MR. McCABE: When KeySpan submitted its
18 proposal for the Shoreham project, we proposed one
19 specific alternative, and indicated that we were
20 willing to consider other sites that LIPA might be
21 interested in.

22 MR. RAACKE: Does it also pertain to the
23 Glenwood project?

24 MR. McCABE: That is how both Glenwood

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1 and Port Jefferson came to fruition.

2 MR. RAACKE: I have no further
3 questions, your Honor.

4 JUDGE BRILLING: Of any panel?

5 MR. RAACKE: Of any panel.

6 JUDGE BRILLING: Are there any other
7 questions by anyone else?

8 Any other housekeeping matters to
9 discuss?

10 MR. RAACKE: Your Honor, I would like to
11 ask for an opportunity to submit additional comment
12 in this proceeding.

13 From the answer that I have gotten here
14 today, I realize that there are a number of issues
15 that were not addressed in the original application,
16 and were not addressed sufficiently in the testimony.
17 Among them are the selection process for these
18 proposals, cost considerations.

19 JUDGE BRILLING: Cost considerations?

20 MR. RAACKE: Cost considerations.

21 JUDGE BRILLING: Specifically with
22 respect to what?

23 MR. RAACKE: With respect to a selection
24 of the facilities.

1 I have seen very little discussion in
2 the testimony, and in the application. We haven't
3 been able to elicit answers on the question of
4 whether these facilities can be considered least cost
5 facilities for LIPA.

6 There are numerous questions surrounding
7 the issue of LIPA's plan and the need determination
8 here.

9 There are questions remaining on whether
10 the applicants will indeed commit to an enforceable
11 limit of 79.9 megawatt, and a monitoring of that.

12 I would like to see the applicant
13 submitting testimony or a proposal, a brief on that
14 topic.

15 There is also the issue, I think that
16 came to light today, that apparently these plants are
17 not merely peaking facilities, were not meant to be
18 merely peaking facilities, which was not made public
19 earlier.

20 So there are a number of issues, I think
21 that need to be addressed in comments by us and
22 others.

23 MR. KASS: Your Honor, if I may, none of
24 those issues are properly in this hearing, nor should

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1 they be permitted to be introduced after today.

2 The scope of the hearing is clear. The
3 Commissioner's ruling is clear.

4 Issues of need and the project's ability
5 to contribute toward effective competition are the
6 subject before you.

7 All the other issues that have just been
8 referred to could be the subject of any other
9 missive, or press release or petition to the
10 Commissioner or any other Commissioner that the
11 gentleman would like to pursue. They are not
12 relevant to this hearing.

13 Indeed, I think that I would have to
14 take exception with his most recent attempt to
15 mischaracterize the testimony with respect to alleged
16 new information about the use of these units.

17 The units will operate as described in
18 the response to questions, provided it's clear that
19 their purpose has been to deal with peak summer
20 needs.

21 That is the primary purpose of these
22 units, and the fact that they may operate at other
23 times is not the same as the gentleman has tried to
24 suggest, by any means.

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1 I would respectfully request, your
2 Honor, that the hearing be closed today, at this
3 moment, and that Ms. Ford have an opportunity to
4 submit within twenty-four hours the additional letter
5 that she wanted to submit.

6 We will provide within that same period
7 any further information that we can get about this
8 flier, this piece of paper.

9 And I respectfully submit that there is
10 no need for any memoranda of law or other submissions
11 in this proceeding.

12 MR. GANSBERG: Your Honor, PPL Global
13 supports the statement just made by LIPA's counsel.

14 As far as the selection process is
15 concerned, we believe the facts relating to LIPA's
16 selection process are clear, and that there are no
17 open issues with respect to that.

18 As far as Mr. Raacke's statement that
19 LIPA has to prove to the Commission that these units
20 represent the least cost capacity additions to the
21 system, there is no such requirement that these units
22 be evaluated on that basis. They will be dispatched
23 and contribute to competition based on the bids
24 submitted by LIPA to the New York ISO.

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1 There is no open question on whether PPL
2 Global or the other applicants will commit to a 79.9
3 megawatt restriction as far as operating the units.

4 PPL Global and others have agreed to be
5 legally bound to that standard, and have agreed that
6 we would be subject to whatever appropriate
7 monitoring requirements the Commission may impose.

8 That completes my statement.

9 JUDGE BRILLING: Thank you.

10 Mr. Gerrard?

11 Mr. D'Andrea.

12 MR. D'ANDREA: We think the record
13 should be closed.

14 There has been sufficient testimony
15 presented for determination, need, competition, and
16 the other issues are pending elsewhere or not
17 relevant to this proceeding.

18 We generally concur to have the
19 proceedings closed.

20 MR. McCABE: I completely concur with
21 Mr. Kass, Mr. Gansberg and Mr. D'Andrea with respect
22 to all matters that they discussed, and there is
23 nothing to be added.

24 JUDGE BRILLING: I have a question.

1 I heard Mr. Gansberg, and only
2 Mr. Gansberg, agree on behalf of his clients, to
3 accept a limitation, if one were imposed, by the
4 Commission on 79.9 megawatt and even a monitoring
5 condition.

6 And I ask the question, do the other
7 proponents agree to be so bound? And I would like a
8 statement on the record now.

9 MR. McCABE: Your Honor, if I might go
10 first to CPN Bethpage, it is not a relevant matter
11 with respect to a single-turbine project, and
12 possibly 44 megawatts.

13 JUDGE BRILLING: So, you would agree,
14 then?

15 You would agree to be at a capacity of
16 under 80 megawatts?

17 MR. McCABE: That's correct.

18 KeySpan would agree to a certificate or
19 permanent condition that would limit the output of
20 the units to 79.9 megawatts.

21 JUDGE BRILLING: In both of those
22 facilities?

23 MR. McCABE: In both of those
24 facilities.

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1 JUDGE BRILLING: Thank you.

2 MR. RAACKE: Your Honor, if I may
3 mention to you, on this issue alone, you mentioned
4 the monitoring of such output limitations.

5 JUDGE BRILLING: I'm sorry, I didn't
6 hear your question.

7 MR. RAACKE: You mentioned not only an
8 agreement to limit the output, but also the issue of
9 monitoring such limitation.

10 JUDGE BRILLING: Should the Commission
11 determine to do so, I asked them would they agree to
12 comply with such conditions, and they agreed on the
13 record to do so.

14 I don't know what those conditions might
15 be, but I believe this addresses your concern, and
16 the concern raised by Ms. Ford.

17 MR. RAACKE: Your Honor, I still believe
18 that there were numerous issues, and especially
19 documents mentioned today that were not available,
20 and were not made part of the record today, and I
21 would ask that the parties supply those documents
22 into the record, and that we and others get a chance
23 to evaluate those documents, since those documents
24 are the basis for many of the claims that the

1 applicants and LIPA make for the need and convenience
2 for these facilities.

3 This includes the various components of
4 the resource plan that LIPA's witness referred to.

5 It includes the computer modeling
6 regarding the displacement of these facilities and
7 others output.

8 It includes more material that would
9 illuminate the selection process here, which could
10 show us that these plants are, in fact, needed and
11 the most cost effective and the most appropriate
12 solution to Long Island's energy crunch in 2002.

13 JUDGE BRILLING: I'm hearing you are
14 concerns boil down to what specific written documents
15 did LIPA use as a basis to determine, not only that a
16 facility was needed in Shoreham, which focused on the
17 first RFP, but any other additional sites.

18 And I think I heard the witnesses say
19 that that was sort of an iterative process, based
20 upon some written documents that were made publicly
21 available -- I think I heard you say that.

22 And also that were derived in the
23 context of negotiations, face-to-face negotiations,
24 with several developers, many of which are

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1 represented here today.

2 What I'm going to ask is, can LIPA
3 provide citations to some of these publicly-available
4 documents some of these statements of policy, some of
5 these -- because I believe I heard you say that many
6 of these were made public over time.

7 MR. KASS: Well, let me just do these
8 one at a time.

9 The negotiations were with several
10 people. There were discussions with many.

11 JUDGE BRILLING: Can we focus on the
12 publicly-available documents? Because if we can cite
13 them, I can take notice of them, and we will have
14 them in the record, so to speak.

15 MR. KASS: We have with respect to the
16 site criteria, and the like, we have in the record
17 the environmental assessment, which does refer to
18 those criteria.

19 JUDGE BRILLING: Okay.

20 MR. KASS: And also includes some of the
21 other modeling information that was asked about in
22 the course of Mr. Raacke's questioning.

23 With respect to the other items you are
24 asking about, other than the material that was

1 already submitted, that is attached as an exhibit to
2 the testimony of Mr. Boverg, I would have to say,
3 your Honor, that because I believe that subject is
4 not properly part of this hearing, we have not gone
5 through all of our records over a period of years to
6 pull out the relevant documents that might satisfy
7 Mr. Raacke, or would respond more precisely to what
8 you have just asked for.

9 We think, insofar as the need is
10 concerned, we think the relevance documents are here,
11 and the same is true with respect to the competitive
12 effect on the marketplace.

13 The site selection, and above all, the
14 developer's selection process, was an iterative, and
15 I'm not sure that we would be in a position to go and
16 pick and choose very quickly the relevant documents
17 that might refer to that process at some point.

18 There certainly have been board
19 meetings, most recently several weeks ago, where
20 LIPA's board acted to issue a negative declaration on
21 the basis of the environmental assessment, and to
22 authorize the Chairman man to complete the power
23 purchase agreements with each of these applicants,
24 and to acquire the sites in question.

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1 But other than that material which is
2 public, I am reluctant to go back and try and pull
3 out bits and pieces of information that might
4 document various benchmarks along the way in
5 discussing and thinking about there was an example of
6 RFP issued several years ago about the overall
7 long-term plank and needs assessment. That is not
8 what was specifically relied upon.

9 I'm sure it was part of the background
10 thinking of the agency. But that's the kind of
11 document I can get for you.

12 Maybe you would find that helpful to put
13 into the record. But other than that public
14 document, I'm not sure that there are other written
15 materials that would be readily available.

16 MR. RAACKE: Your Honor, I'm simply
17 asking, considering the fact that we had no discovery
18 in this case, we discovered today certain facts that
19 were not known before, certainly not known to me
20 before.

21 We were asked by the Commission to
22 submit testimony in this case, without the benefit of
23 having those facts before us. We still don't have
24 some of the facts and related documents pertaining to

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1 some very important questions before us.

2 That's why I'm asking that we and other
3 parties be allowed to review those facts and
4 documents, and submit additional comments or briefs.

5 MR. KASS: With all respect, nothing new
6 has been revealed here. There hasn't been a formal
7 RFP process, which is well-known to Mr. Raacke and
8 others. The testimony made that clear.

9 The planning RFP that I referred to has
10 been in Mr. Raacke's possession for some years.

11 There is nothing that is new, and there
12 is no suggestion, and there should be no suggestion,
13 that there are any surprises being unveiled here to
14 any member, least of all, Mr. Raacke.

15 JUDGE BRILLING: I think he has
16 addressed everything.

17 Do you have anything further?

18 On the basis of what has been submitted,
19 and what we took notice of, and the testimony, the
20 oral testimony and cross-examination today, I think
21 I'm going to certify this directly to the Commission.

22 I'm not going to issue a recommended
23 decision. I'm going to certify it directly to them
24 for their consideration, and I am sure that if there

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1 are any elements they need further elaboration on, or
2 clarification of, that they will seek that
3 clarification in further notice to all parties.

4 So at this time, I really haven't heard
5 anything that compels me to keep the record open.

6 MR. KASS: Thank you, your Honor.

7 JUDGE BRILLING: As I have said, as
8 citizens, you're welcome to submit anything you want
9 to the Commission, address it to Secretary Deixler.

10 Ms. Ford, earlier you asked to submit a
11 letter. I'll ask you to do that within the next
12 forty-eight hours, or by the close of business on
13 Friday.

14 MS. FORD: Yes.

15 JUDGE BRILLING: I would ask the company
16 to submit their verifications of information that
17 they were asked to submit.

18 If you could do that by tomorrow, I
19 would appreciate that.

20 Anything further?

21 Okay. There being none, I thank you for
22 your cooperation today.

23 This hearing is adjourned.

24 (Time noted: 2:25 o'clock p.m.)

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Document entitled
"Stephen T. Marron
Economic and Management
Consulting Group"

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STATE OF NEW YORK
DEPARTMENT OF PUBLIC SERVICE

INTEROFFICE MEMORANDUM

December 11, 2001

TO: THE COMMISSION

FROM: JACLYN A. BRILLING, Administrative Law Judge

SUBJECT: CASE 01-E-1634 - Petition of PPL Global, LLC for an Order that a Proposed 79.9 Megawatt Oil Fired Peaking Facility in the Town of Brookhaven, Suffolk County, will be Regulated under a Lightened Regulatory Regime; for a Certificate of Public Convenience and necessity for the Proposed Facility; and for financing Approval.

CASE 01-E-1635 - Petition of PPL Global, LLC for an Order that a Proposed 79.9 Megawatt Oil Fired Peaking Facility in the Town of Islip, Suffolk County, will be Regulated under a Lightened Regulatory Regime; for a Certificate of Public Convenience and Necessity for the Proposed Facility; and for Financing Approval.

CASE 01-E-1716 - Petition of KeySpan-Port Jefferson Energy Center, LLC for an Order that a Proposed 79.9 Megawatt Natural Gas Fired simple Cycle Peaking Facility in the Town of Brookhaven, Suffolk County, will be Regulated under a Lightened Regulatory Regime and for a Certificate of Public Convenience and Necessity for the Proposed Facility.

CASE 01-E-1718 - Petition of KeySpan-Glenwood Energy Center, LLC for an Order that a Proposed 79.9 Megawatt Natural Gas Fired Simple Cycle Peaking Facility in the Town of Oyster Bay, Nassau County, will be Regulated under a Lightened Regulatory Regime and for a Certificate of Public Convenience and Necessity for the Proposed Facility.

CASE 01-E-1730 - Petition of CPN Bethpage 3rd Turbine, Inc. for an Order that a Proposed 44 Megawatt Natural Gas Fired Simply Cycle Peaking facility in the Town of Oyster Bay, Nassau County, will be Regulated under a Lightened Regulatory Regime and for a certificate of Public Convenience and necessity for the Proposed Facility.

On October 18 and November 5, 2001, the Commission received the five captioned petitions for certificates of public

CASES 01-E-1634, 1635, 1716, 1718 and 1730

convenience and necessity to construct generating facilities of under 80 megawatts.¹ The petitioners also sought expedited treatment and declaratory ruling.

The Commission issued orders denying the motions for expedited proceedings on November 16 and 21. The Commission determined to provide a hearing for the parties in these cases.

Pursuant to hearing notices issued November 16, 2001 and November 21, 2001, testimony was received from six parties.² A Consolidated hearing was held on December 5, 2001 in the Commission's New York City offices. The record consists of 295 pages of transcript and 10 exhibits. The record is certified to the Commission.

¹ PPL Global proposes to construct gas and 1 oil fired facility both of 79.9 MW; Keyspan proposes to build 2 additional gas fired facilities of 79.9 MW; and CPN Bethpage proposes to build a 44 MW oil-fired plant.

² PPL Global, LIPA, Keyspan, BBBCC, CAP, CPN Bethpage.

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DEPARTMENT OF PUBLIC SERVICE

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CASE 01-E-1716 - Petition of KeySpan-Port Jefferson Energy Center, LLC for an Order that a Proposed 79.9 Megawatt Natural Gas Fired simple Cycle Peaking Facility in the Town of Brookhaven, Suffolk County, will be Regulated under a Lightened Regulatory Regime and for a Certificate of Public Convenience and Necessity for the Proposed Facility.

CASE 01-E-1718 - Petition of KeySpan-Glenwood Energy Center, LLC for an Order that a Proposed 79.9 Megawatt Natural Gas Fired Simple Cycle Peaking Facility in the Town of Oyster Bay, Nassau County, will be Regulated under a Lightened Regulatory Regime and for a Certificate of Public Convenience and Necessity for the Proposed Facility.

CASE 01-E-1730 - Petition of CPN Bethpage 3rd Turbine, Inc. for an Order that a Proposed 44 Megawatt Natural Gas Fired Simply Cycle Peaking facility in the Town of Oyster Bay, Nassau County, will be Regulated under a Lightened Regulatory Regime and for a certificate of Public Convenience and necessity for the Proposed Facility.

On October 18 and November 5, 2001, the Commission received the five captioned petitions for certificates of public

CASES 01-E-1634, 1635, 1716, 1718 and 1730

convenience and necessity to construct generating facilities of under 80 megawatts.¹ The petitioners also sought expedited treatment and declaratory ruling.

The Commission issued orders denying the motions for expedited proceedings on November 16 and 21. The Commission determined to provide a hearing for the parties in these cases.

Pursuant to hearing notices issued November 16, 2001 and November 21, 2001, testimony was received from six parties.² A Consolidated hearing was held on December 5, 2001 in the Commission's New York City offices. The record consists of 295 pages of transcript and 10 exhibits. The record is certified to the Commission.

¹ PPL Global proposes to construct gas and 1 oil fired facility both of 79.9 MW; Keyspan proposes to build 2 additional gas fired facilities of 79.9 MW; and CPN Bethpage proposes to build a 44 MW oil-fired plant.

² PPL Global, LIPA, Keyspan, BBCC, CAP, CPN Bethpage.