

The Office of the General Counsel for Ocean Services, NOAA,
U.S. Department of Commerce,
1305 East-West Highway,
Silver Spring, MD 20910

Re: Islander East Appeal

Dear Sir:

Please enter into the record the attached letter, which is in response
to a September 30, 2003 submission from KeySpan.
Sincerely,

Jerry C. Shaw
188 Thimble Islands Road
Branford, CT 06405



Response to KeySpan on CZM1.pdf

Jerry C. Shaw
188 Thimble Islands Road
Branford, CT 06405
November 15, 2003

The Office of the General Counsel for Ocean Services
NOAA
U.S. Department of Commerce
1305 East-West Highway
Silver Spring, MD 20910

Re: Islander East Pipeline Appeal

Dear Sir:

In a September 30, 2003 submission to the NOAA record on the Islander East's appeal, Ronald G. Lukas, Vice President, Trading Services, KeySpan makes several highly overstated arguments to support KeySpan's contention that the Islander East application for consistency under Connecticut's CZMP should be approved.

Responses to these arguments follow.

1. **Argument** – “The KeySpan Companies currently serve approximately 1.8 million customers, most of whom are low load factor residential and small commercial customers who utilize natural gas for such life sustaining uses as heating and cooking and have no alternative fuel.” **Response** – In the KeySpan 2001 annual financial report, (Appendix A), KeySpan extols the virtues of high-profit margin residential markets, such as gas-fed barbecues, patio torches and pool heaters, while promoting other uses of natural gas, including Zamboni machines, a gas-powered Ferris wheel at Coney Island, and cooling a spectator tent at Belmont Race Track. This promotional practice belies the assertion that KeySpan customers only use gas for “life sustaining” uses.

KeySpan has regionally advertised free gas-fired boilers to current oil-fired boiler users, thus creating and locking in an expanding market, not just serving one. Once a homeowner has decided to convert, he/she must then bear the expense to convert back to oil if gas prices are too high. To promote the use of natural gas then suddenly say that there are potential shortages in supplying the new market is disingenuous. In Boston, (KeySpan Energy Delivery New England, KEDNE), Massachusetts Attorney General Reilly (Appendix B) challenged rate hike requests based on including promotional expenses such as oil-for-gas programs. In a legal brief submitted in recent [KEDNE rate hike hearings](#) before the Massachusetts Department of Telecommunications and Energy, he states on page 49: “The Department (DTE) should exclude \$11,547,000 of sales promotion expense from the cost of service because the company did not demonstrate that the free boiler and trade ally programs will benefit ratepayers.”

This example of an attempt to pass on promotional expenses to ratepayers also increases their costs by serving to increase demand in a deregulated market. These business practices serve KeySpan's shareholders and defy good conservation practices at the expense of the environment in the determination of a balance between need and environmental impacts.

2. **Argument:** "Currently eastern Long Island is solely dependent on a single gas pipeline that crosses under Long Island Sound....". **Response:** Eastern Long Island is served by a variety of transportation paths through KeySpan's extensive LDC infrastructure. In their New York Article X application, ANP Brookhaven Energy, ostensibly a future customer of Islander East, (see [Brookhaven Energy](#)), clearly identify (page 9-5) the transportation and supplier options available to their location in eastern Long Island (exit 62 along the Long Island Expressway). They are 1. Transco 58.8%; 2. TETCO (via Transco) 25.4%; 3. Iroquois 9.7%; 4. Tennessee (via Iroquois) 6.1%. In particular, note the expansion plans (Brookhaven Energy pages 9-2 and 9-9), and that KeySpan has completed most of the 20" natural gas lateral along the LIE (in addition to an existing 8" pipeline), and has scheduled completion out to Riverhead, L.I. In addition, the installation of a compressor station is an unexercised option to facilitate increased pressures to the eastern parts of Long Island. While Long Island may be 120 miles long, the intermediate connection to Transco at Long Beach is further extended to Garden City, which is in Nassau County, and thereby avoids the congestion of attempting to pass through NYC Facilities System. Brookhaven Energy's Article X application further expands on KeySpan's expansion plans, which include a 2.3-mile lateral in Garden City using an existing right-of-way. See Argument 6 below for details on the now-withdrawn Cross Bay Expansion Project

3. **Argument:** "Due to the significant customer growth that has been experienced on eastern Long Island, the KeySpan companies face the very real possibility this winter that a service disruption by Iroquois could result in the curtailment of gas service to up to approximately 124,000 core Long Island gas customers. with significant and possibly disastrous effects. This contingency will be eliminated when Islander East is commissioned." **Response:** Dire warnings of catastrophic consequences are a tiring and transparent tactic designed to force hasty and imprudent decisions. The most disturbing fact is that if Iroquois is disrupted, it highly likely that so will Islander East, since by FERC's own analysis, there is substantially inadequate HubLine capacity necessary to fulfill Islander East's transmission capacity obligations. Please see Appendix C. Thus, Long Island shippers using Islander East will depend on the same suppliers they currently use through Transco, and Iroquois pipelines. Transco (Cross Bay) will continue to provide an alternative pipeline path to Iroquois.

There have been no engineering studies on the impact on reliability of Long Island's gas supplies by adding Islander East, nor have there been engineering simulation studies on the dynamic demands on natural gas transmission capacity by gas-fired power plants and customers using the KeySpan LDC. Both Iroquois and Islander East would be interconnected to the same Connecticut supply grid,

22 miles apart; and only “seat-of-the-pants” arguments by both Islander East and the New York Public Service Commission have been advanced to support their reliability arguments. Algonquin, which will feed Islander East at Cheshire, CT, along with Tennessee are connected to Iroquois at Brookfield and Shelton, CT.

Additionally, there have been no reliability-of-supply studies, even if HubLine capacity was adequate. Scotian Shelf gas field reserves have recently been downgraded (see [EIE report](#)), and will place in jeopardy the planned expansion of Maritimes II. Please see the report on [Encana](#). Even with expansion, natural gas demands in areas north of Connecticut, particularly the Boston area, could preclude ever achieving access to Scotian Shelf shippers touted by Islander East.

In addition, in a quote from a National Academy of Sciences study "*A direct way to address vulnerable transmission bottlenecks and make the grid more robust is to build additional transmission capacity, but there are indications that redundancy has a dark side (in addition to increased costs). The likelihood of hidden failures in any large-scale system increases as the number of components increases. Modeling techniques are only now emerging for the analysis of such hidden failures.*" (see, for example, Wang and Thorp, 2001). *Making the Nation Safer: The Role of Science and Technology in Countering Terrorism*. National Academy Press. p.302." This can be seen on their website [NAS](#).

Unfortunately, targets for coordinated terrorists attacks (exposed compressor and meter stations) abound in Connecticut, thus adding more will only make the interconnected system more vulnerable and difficult to protect.

4. **Argument:** “While the FEIS also concluded that there was a hypothetical alternative, which would have had somewhat fewer impacts. it did not recommend that alternative. To the contrary, it recognized that that there was no proposal to construct that alternative before the Commission. In addition the FEIS acknowledged that the results of the environmental review are only one factor to be taken into account in a determination of public convenience and necessity and that “the flexibility and reliability of the interstate pipeline grid, competition, market need, precedent agreements, or lease agreements” must also be considered.”” **Response:** The “hypothetical” alternative was submitted to FERC and received a preliminary determination on non-environmental issues under Docket CP02-52 on September 19, 2002. Unfortunately, KeySpan’s 20% ownership of Iroquois supplied the platform for significant KeySpan pressure on the other Iroquois owners to withdraw the ELI proposal. The Army Corps of Engineers has requested an analysis of a system alternative based on the ELI right-of-way, under the presumption that a Less Environmentally Damaging Practicable Alternative (LEDPA) exists under Clean Water Act 404 until proven otherwise by the applicant.

It is also clear that precedent agreements do not provide viable validation of an underlying need. FERC states that they do not “look behind” such agreements. In

a 1999 Platt's report (Appendix D), CNG states, "*CNG Transmission Corp., asked FERC to embark on a broad re-examination of its certificate policy. Using Independence as an example, CNG Transmission said FERC should not allow new project sponsors to add capacity when their only proof of a market is a contract with an affiliate. If FERC certifies Independence on the basis of its current contract, "it will set the bar for certification very low" and "would likely lead to overbuilding near-term excess capacity, and resulting stranded costs (as well as adverse private property and environmental implications), all justified by only an optimistic projection of near-term future market growth," CNG Transmission said.*"

5. **Argument:** "The geographic issues faced by KeySpan, given that Long Island is 120 miles long and that all of the other interstate pipeline interconnections to KeySpan are significantly west of the Islander East Pipeline". **Response:** Iroquois' ELI path provides an eastern Long Island feed. Also, see Argument 2 and 6, below on other alternatives.
6. **Argument:** "Deliveries in NYC and Long Beach are unable to be "pushed east" to meet the needs of Long Islander customers." **Response:** Again, this is a totally specious argument. The Article X Brookhaven Energy application states otherwise. Please see the response to Argument 2. In addition, the customer list for the now-withdrawn Cross Bay Expansion Project (see Appendix E), touted eastern Long Island customers using the newly installed lateral along the Long Island Expressway. Note that this same bi-directional route will be used in the displacement mode to transport natural gas from the proposed Islander East pipeline to Brooklyn (KEDNY), which is a customer through a precedent agreement for over 20% of the Islander East capacity, attesting to the extensive KeySpan LDC distribution system, either existing or in the planning stages.

Cross Bay Expansion Project was withdrawn (Appendix F) in December 2001, only 6 months after the submission of the Islander East application. The most notable reason for withdrawal, among others, was "...the market targeted by the Cross Bay project has not materialized...". Cross Bay would have caused minimal marine environmental damages, since there were no plans for a new steel pipeline installation.

7. **Argument:** "Only Islander East delivers needed new supplies and pressure to support Long Island." **Response:** On the issue of new supplies, on June 3, 2003, a report was issued by the Connecticut Task Force on Long Island Sound. After substantial analysis, it concludes, (p. 65), "The quantity of Atlantic Canada gas that will, in the future, be destined for markets in Connecticut and Long Island is unknown". See also, the response to Argument 3. On the issue of pressure, the maximum operating pressure of Iroquois' pipeline is substantially higher (> 1,200 psi), since it uses much thicker-walled pipe than Islander East (~800 psi).

Conclusion

In the absence of a comprehensive regional energy plan in a deregulated world, arguments proposed by KeySpan's Vice-President, Ronald G. Lukas, contending that its customers will be in "dire straits" if Islander East is not approved, are without factual basis. Additional arguments concerning the benefits of redundant cross-Long Island Sound pipelines are put forward without the benefit of engineering analysis, or an analysis of the uncertainty of Atlantic Canada reserve estimates. It is clear that an opportunity to increase the capacity of Cross Bay was abandoned because KeySpan decided there was more money to be made and it was more expedient to bring a pipeline across Long Island Sound than improve its own LDC infrastructure. And, too, because of the risk of opposition to a compressor station from Long Island residents, who have a long history of opposing power plants, or wind farms or most anything. Since intrastate LDC infrastructures are non-jurisdictional, FERC ignored this alternative. If, after competent analysis and planning (see the Long Island Sound Task Force report and the testimony of Chairman Joel Reinbold), a substantial need is identified for such a pipeline to feed eastern Long Island, a cooperative project involving Duke, Algonquin, KeySpan and Iroquois can substantially minimize environmental impacts by using a deep-water tap off of the existing Iroquois pipeline between Milford and Northport.

I recommend that the Department of Commerce uphold the consistency requirements under Connecticut's Coastal Zone Management Program and deny the appeal of Islander East.

Sincerely,

Jerry C Shaw

Attached Appendices:

Appendix A – KeySpan's 2001 financial report on High-Profit Margin Markets

Appendix B – Massachusetts Attorney General on KeySpan's rate hike request

Appendix C – FERC interrogatory and Islander East response on the inadequacy of HubLine to provide transmission gas capacity for Islander East.

Appendix D – A 1999 Platt's Report quoting CNG's objections to precedent agreements between pipeline proponents and their subsidiaries.

Appendix E – Cross Bay Expansion Project customer list. Many are in eastern Long Island

Appendix F – Cross Bay Expansion Project FERC application withdrawal, citing the lack of a materialized customer base.

Appendix A – KeySpan’s 2001 Financial Report on High-Profit Margin Markets



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In addition to heating, water heating, cooking and clothes drying, we aggressively promote gas grills, gas fireplaces, gas lights, pool heaters, and patio lighting. These uses add significantly to residential growth, providing almost twice the gross profit margin of traditional uses.

On the commercial and industrial side, we are targeting specific innovative applications of cooling and humidity control, infrared heating, and natural gas vehicles for fleets and taxis, buses and forklifts. Recent successes in this area have included natural gas heating and cooling units for a large entertainment tent at the Belmont Park racetrack, a Zamboni at a Long Island skating rink and the gas-powered Wonder Wheel attraction at Coney Island.

The second part of the strategy focuses on attracting new customers, particularly customers who are within 100 feet of a gas main. These customers can provide significant load growth with minimal infrastructure investment, but potential also exists in areas where there are currently no gas mains installed.

KeySpan has a managed expansion strate-

myquotes. The program offers customers the chance to arrange for a heating conversion completely online, entering their residence specifications and getting installation costs for replacing or installing gas heating systems. The customer then has the ability to choose up to four licensed contractors in the area to bid on the installation. With a bid turnaround time of three business days, *myquotes* enables customers to make quick, informed conversion decisions in the comfort of their own homes. This award-winning program, the first of its kind in the nation, delivered more than 1,500 leads in its first year of operation.

New technologies have also increased operational efficiency and reduced labor costs. Advances in directional drilling and trenchless technology offer quicker, cheaper and smarter ways for installing mains and repaving roadways. Using these techniques has decreased our cost per foot for residential main growth on Long Island by 21 percent over the last four years, while our unit cost per service decreased by 37 percent.

We are also working to develop partner-



Appendix B – Massachusetts Attorney General on KeySpan’s Free Boiler Offer

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Reilly blasts KeySpan hike plan

Says boost would bring 40 percent jump in bills

By Peter J. Howe, Globe Staff, 8/30/2003

About 570,000 home and business customers of KeySpan's Boston Gas unit could face a 40 percent jump in monthly bills in November compared with a year earlier, Massachusetts Attorney General Thomas F. Reilly warned yesterday.

ADVERTISEMENTS soaring global prices for natural gas would drive most of that increase, which would raise monthly winter gas bills for an average homeowner to \$218.51 starting Nov. 1 from \$155.73 last November. Utilities can automatically pass on to consumers increases in wholesale gas prices as long as the companies reap no extra profit.

But Reilly said that the utility, based in Brooklyn, N.Y., is also proposing a host of "manipulative" moves to raise base rates by \$61 million and that state regulators should reject half to two-thirds of that requested increase for being improper and excessive. If regulators agree, the size of the monthly bill increase for typical consumers would amount to about \$57 instead of \$64, Reilly aides estimated.

Escalating his longstanding criticism that the Department of Telecommunications and Energy board is pro-utility, Reilly said because of the "absolutely terrible impact" on homeowners and businesses, the department needs to carefully scrutinize KeySpan's proposal.

"Either they change their attitude, or the DTE needs to change," Reilly said. "We can't go on like this. This commission is notoriously friendly, and this has been nationally recognized, to the utility companies."

KeySpan has said the main factor driving its request for the increase is the cost of repairs to its local gas distribution network, parts of which are 180 years old.

Reilly's office filed a 118-page opposition to the increase with the state energy agency.

KeySpan spokeswoman Carmen Fields said, "We are reviewing the attorney general's submission, and we will be responding in our own brief that's due Sept. 10 to the DTE. I'm not in a position to be able to comment intelligently on his assertions. I know that we will be responding to the DTE point by point, very formally." Boston Gas serves about 75 communities in Eastern Massachusetts, including most cities and towns along Route 128, as well as outlying communities such as Gloucester, Leominster, and parts of Worcester County.

Timothy Shevlin, the executive director of the Department of Telecommunications and Energy, said the agency had no reaction to Reilly's opposition, under a longstanding policy of not commenting on pending rate cases until after commissioners have voted.

Paul G. Afonso, a Republican who is a former general counsel for the agency and who was named by Governor Mitt Romney as agency chairman earlier this month, was on vacation and unavailable for comment yesterday.

KeySpan first asked for an increase in base rates in April, saying it would lead to a \$14.42 monthly increase for the average homeowner, separate from changes in the cost of gas.

"We made this decision carefully, after conducting a top-to-bottom review of all the cost-saving measures possible," said Nick Stavropoulos, president of KeySpan Energy Delivery New England, the formal name of the parent company of Boston Gas. KeySpan bought Boston Gas's parent company, Eastern Enterprises, for \$2.5 billion in 2000.

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Reilly, however, said after four months of reviewing the KeySpan filing, including 1,400 requests for follow-up information, it appears KeySpan "jammed" huge amounts of capital spending into the 2002 construction season.

"The company appears to have delayed plant improvements during" the late 1990s "and then accelerated capital improvements before the end of the test year to maximize [its] rate base," Assistant Attorney General Joseph Rogers wrote to the energy agency.

Reilly said his office is attempting to calculate how much spending was inflated, adding that KeySpan financial data give no indication that the merger of Boston Gas with KeySpan has lowered operating expenses, which the company had called a key rationale for the merger.

Factors in the rate increase request that Reilly called unacceptable include:

- \$23.6 million in charges related to a no-bid contract converting Boston Gas customers to a KeySpan billing system. "It's a total fiasco, but it's their fiasco," not something ratepayers should have to pay for, Reilly said.
- \$11.5 million for free furnaces and hot-water heaters that KeySpan gave new customers, which Reilly said yielded no clear benefit for other Boston Gas ratepayers.
- \$8.7 million in costs at two other KeySpan Massachusetts operating units, Colonial Gas and Essex Gas, that Reilly contends the company tried to dump on Boston Gas customers.
- \$7.2 million in increased pension costs linked to stock-market declines in the company's pension fund. Reilly accused KeySpan of trying to keep the benefits of a rising stock market in good years while forcing consumers to cover its losses in down years.

Peter J. Howe can be reached at howe@globe.com.

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Appendix C – FERC Interrogatory and Islander East Response on the inadequacy of HubLine to provide transmission gas capacity for Islander East.

DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP

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Tel (202) 785-9700 • Fax (202) 887-0689

Writer's Direct Dial: (202) 775-4782
E-Mail Address: WebbB@dsmo.com

September 24, 2001

Mr. David P. Boergers, Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, D.C. 20426

Re: Islander East Pipeline Company, L.L.C.
Docket No. CP01-384-000 et al.
OEP/DPC/CG-1; § 375.308(x)(3)
Response to FERC 9/7/01 Data Request

ORIGINAL
01 SEP 24 PM 4: 01
FEDERAL ENERGY
REGULATORY COMMISSION
OFFICE OF THE SECRETARY

Dear Mr. Boergers:

Islander East hereby submits for filing a response to the Commission's data request issued September 7, 2001 in the captioned docket ("September 7 Request").

Pursuant to 18 CFR § 385.2010, Islander East is contemporaneously serving copies of this response to persons whose names appear on the official service list for this proceeding. The attached information was prepared under my direction. If you have any questions regarding this filing, please call me at (202) 775-4782.

Respectfully submitted,

Beth L. Webb

Beth L. Webb

cc: All Parties

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AS
DOCKETED

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Islander East Pipeline Company, L.L.C.
Docket Nos. CP01-384-000, et al.
OEP/DPC/CG-1; § 375.308(x)(3)
Response to 9/7/2001 Data Request

Q.1) Report the number of parcels and acres in the categories in the table below for the right-of-way including work spaces, access roads and warehouse/contractor yards required for your proposed pipeline. If you believe that no condemnation is required, provide justification for that belief.

Response 1:

| | NUMBER OF PARCELS | ACRES |
|-----------------------|--------------------|--|
| Easement Obtained | 0 | 0 |
| Easement Expected | 256 | 314.8 (Does not include Long Island Sound water crossing) |
| Condemnation Required | See response below | See response below |

At this stage in the certificate process Islander East is continuing the consultative process with potentially affected parties which may result in the adoption of route alternatives and/or deviations; thus the easement negotiation process is still in the planning phase.

Islander East will engage in good faith discussions and work diligently with affected landowners with the expectation that a mutual agreement can be reached and the necessary property interests can be acquired without the use of eminent domain. Further, Islander East does not and will not utilize eminent domain as a negotiation tactic. Islander East would exercise eminent domain rights only as a means of last resort after all good faith efforts have failed. Islander East has made these commitments in its Landowner Information Brochure included in Appendix 5B to Resource Report 5.

Despite all reasonable efforts to reach mutual agreement with affected landowners, it is possible that eminent domain authority may be necessary in certain instances to acquire easements, including property that may be (i) in probate, (ii) held by multiple landowners that are unable to reach agreement among themselves, (iii) held by a non-responsive out-of-state landowner, (iv) owned by a landowner whose identity is unknown, or (v) encumbered with defective title records. In such instances, Islander East is committed to making sure that affected landowners are fairly compensated.

Q.2) The application at page 12 states that Islander East's facilities will increase access to Sable Island gas supplies via the Maritimes/HubLine expansion. However, the available capacity on Algonquin Gas Transmission Company's (Algonquin) HubLine facilities is substantially

Islander East Pipeline Company, L.L.C.
Docket Nos. CP01-384-000, et al.
OEP/DPC/CG-1; § 375.308(x)(3)
Response to 9/7/2001 Data Request

less than the capacity of Islander East's facilities. The application also states on page 23 that it is each shipper's responsibility to obtain capacity on Algonquin's system.

- a) What is the source of gas supply for each shipper in the Islander East project?
- b) What is the path of the gas supply from the supply source to Islander East's facilities for each shipper?
 - i) Provide the transportation charges, identifying the pipeline and the applicable rate schedule to move the gas from the supply source to Islander East.
 - ii) For transportation on the Algonquin system, provide the specific transportation route from receipt on Algonquin's system to delivery on the C-1 pipeline. Provide the rate and rate schedule that will be charged to transport the gas on Algonquin to the delivery point on the C-1 pipeline. Indicate if Islander East's shippers will receive a discount for such service.
- c) Provide the details of any arrangements that the Islander East's shippers have made for upstream transportation (e.g., precedent agreements, service agreements, etc.).
- d) How will Islander East shippers utilize Algonquin's HubLine facilities to access Sable Island gas supplies if they cannot acquire adequate capacity through available capacity, released capacity, or capacity related to expiring contracts?

Response 2:

As stated in the application, Islander East's shippers are responsible for making all gas supply and transportation arrangements upstream of the proposed Islander East system. There are a variety of supply and transportation options available to the Islander East shippers. On Algonquin, Islander East shippers may utilize their existing contracted capacity, if any, with secondary delivery points, new firm capacity, released capacity and/or interruptible capacity, or purchase gas at the top of the C-System on a bundled basis. Transportation paths are available beyond the Algonquin system as a result of its existing interconnections with the systems of Tennessee, Iroquois and Texas Eastern and others, including its future interconnection with Maritimes and Northeast via the HubLine project. Through Algonquin and these interconnecting systems, domestic United States supplies, imported Distrigas supplies and Western and Eastern Canadian supplies are all accessible.

Islander East Pipeline Company, L.L.C.
Docket Nos. CP01-384-000, et al.
OEP/DPC/CG-1; § 375.308(x)(3)
Response to 9/7/2001 Data Request

Q.3) Page 13 of the application states, "Direct deliveries to the east end of the island will help to minimize the upgrades needed to the KeySpan facilities on Long Island."

- a) Do KeySpan Energy Delivery Long Island and KeySpan Energy Delivery New York (collectively, KeySpan) have adequate takeaway capacity?
- b) If not, when do they plan to upgrade their facilities to accommodate deliveries from Islander East?
- c) What facilities does KeySpan need to install to accommodate Islander East deliveries (other than the interconnection facilities mentioned in Section 1.8.3 of Resource Report 1 of the Environmental Report)?

Response 3a:

KeySpan has advised Islander East that it has sufficient take-away capacity to take the volumes contracted for into the KeySpan system at the start-up of the Islander East pipeline.

Response 3b:

Not applicable.

Response 3c:

KeySpan has advised Islander East that no other facilities other than the interconnect facilities are needed for KeySpan to take gas supplied from the Islander East Pipeline Project.

Q.4) Table 1 on page 21 of the application shows that the maximum daily quantity (MDQ) to be transported on Islander East at the beginning of the second year of service will exceed the capacity of Islander East as currently designed and the MDQ will continue to increase for the first five years of service. Islander East states that it will expand via compression and minor pipeline looping to meet its customers' requirements.

- a) Explain the approach Islander East will take with regard to Commission filings for new facilities to expand its system to meet a new MDQ every year of its first five years of existence.

Appendix D – A 1999 Platt’s Report quoting CNG’s objections to precedent agreements between pipeline proponents and their subsidiaries.

Friday, February 05, 1999

..... **The following is an excerpt.....**

A FERC application for the Cross Bay Pipeline, a Williams endeavor being pursued with Duke Energy Corp. and KeySpan Energy to deliver up to 700,000 Dt/day to the New York City area starting in 2001, should be filed in the first quarter, according to the Williams spokeswoman. Cross Bay could add capacity in phases by taking gas from other pipelines, including Independence Pipeline Co. and Duke Energy's Spectrum project, according to the companies. An open season last year produced subscriptions in excess of the designed capacity and sponsors are pursuing precedent agreements with customers, the spokeswoman noted. Planned interconnections, according to Cross Bay, are with Texas Eastern in zone M-3 and Transco in zone 6.

Elsewhere on the new project front, Millennium Pipeline Co. L.P., Independence and Transco's MarketLink have been squabbling with FERC over the nature of precedent agreements. All three projects, along with an ANR Pipeline Co. plan to feed Independence, are aimed at serving Northeast markets. FERC Office of Pipeline Regulation Director Kevin Madden has told the sponsors that termination clauses in some agreements make those contracts nonbinding in terms of demonstrating market support for their projects; the pipelines maintain that they have shown adequate backing.

An existing pipeline caught in the middle of the expansion hoopla, CNG Transmission Corp., asked FERC to embark on a broad re-examination of its certificate policy. Using Independence as an example, CNG Transmission said FERC should not allow new project sponsors to add capacity when their only proof of a market is a contract with an affiliate. If FERC certifies Independence on the basis of its current contract, "it will set the bar for certification very low" and "would likely lead to overbuilding near-term excess capacity, and resulting stranded costs (as well as adverse private property and environmental implications), all justified by only an optimistic projection of near-term future market growth," CNG Transmission said.

Referring to the numerous pipelines targeting the Northeast, CNG Transmission said "the market cannot possibly support all of these projects."

Appendix E – Cross Bay Expansion Project customer list. Many are in eastern Long Island.

ANNOUNCED POWER PLANTS NEAR CROSS BAY

| Announced | Name | City | State | Company | Capacity (MW) | ISD |
|---------------------------|------------------------|--------------------|-------|-------------------------|------------------|------|
| Manhattan | | | | | | |
| NYPSC, RDI, NYISO | East River Repowering | New York | NY | Con Ed | 360 | 2002 |
| RDI | Waterside | New York | NY | Con Ed | 198 | 2002 |
| Manhattan Total: | | | | | 558 | |
| Long Island | | | | | | |
| NYISO | AES Smithtown | Long Island | NY | AES Long Island LLC | 510 | 2002 |
| NYPSC, RDI, EPSA, NYISO | Astoria | Astoria | NY | Astoria Energy | 1,000 | |
| NYISO | Astoria Repowering | Astoria | NY | Orion Power | 499 | |
| NYISO | Barrett | Island Park | NY | KeySpan | 79 | |
| RDI | Brookhaven | Brookhaven | NY | Brookhaven Energy | 540 | 2003 |
| NYISO | Brookhaven | Brookhaven | NY | PP&L Global, Inc. | 300 | |
| NYISO | Brookhaven | Brookhaven | NY | American National Pwr. | 580 | |
| NYISO | Brookhaven Energy Exp | Brookhaven | NY | PP&L Global, Inc. | 300 | |
| NYPSC, RDI, NYISO | Sunset Energy Fleet | Brooklyn | NY | SEF | 520 | 2001 |
| NYISO | Freeport Energy | Long Island | NY | PP&L Global, Inc. | 100 | |
| NYISO | Gotham Power Coop. | Brooklyn | NY | 1st Rochdale Cooper.Gr. | 79 | |
| NYISO | Holbrook Energy | Holbrook | NY | PP&L Global, Inc. | 300 | |
| NYISO | Kitchen | Riverhead | NY | Caithness Energy LLC | 750 | |
| RDI | Melville | Melville | NY | KeySpan | 79 | 2002 |
| NYPSC, RDI, NYISO | Poletti | New York (Astoria) | NY | NYPA | 500 | 2002 |
| NYISO | PPL Kings Park-Pilgrim | Kings Park | NY | PP&L Global, Inc. | 300 | |
| NYISO | PPL Kings Park Expans. | Kings Park | NY | PP&L Global, Inc. | 300 | |
| NYPSC, RDI, NYISO | Ravenswood | Ravenswood | NY | KeySpan | 250 | 2002 |
| RDI | Rio De Este Barge Pwr. | New York City | NY | Rio De Este Barge Pwr. | 51 | |
| NYISO | Riverhead | Riverhead | NY | KeySpan | 79 | |
| NYISO | Ruland Road | Long Island | NY | PP&L Global, Inc. | 300 | |
| NYISO | SEFCO- Kent Ave. | Queens | NY | SEFCO/NYC Energy | 80 | |
| NYISO | Spagnoli Road | Long Island | NY | KeySpan | 80 | |
| NYISO | Spagnoli Road | Long Island | NY | KeySpan | 250 | |
| Long Island Total: | | | | | 7,826 | |
| NY Total | | | | | 8,384 | |

Appendix F – Cross Bay Expansion Project FERC application withdrawal, citing the lack of a materialized customer base.

ORIGINAL

FILED
OFFICE OF THE SECRETARY

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FEDERAL ENERGY
REGULATORY COMMISSION

December 7, 2001

Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, DC 20426

Attention: David P. Boergers, Secretary

Re: Cross Bay Pipeline Company, L.L.C.
and Transcontinental Gas Pipe Line Corporation
Docket Nos. CP00-412-000, CP00-413-000, CP00-414-000

Ladies and Gentlemen:

On November 8, 2001, the Federal Energy Regulatory Commission (the "Commission") issued an order ("November 8 Order") granting the application of Cross Bay Pipeline Company, L.L.C. ("Cross Bay") and Transcontinental Gas Pipe Line Corporation ("Transco"), and issuing certificates of public convenience and necessity and authorizing the requested abandonments, all subject to several conditions, in order to operate the proposed Cross Bay Pipeline.

Cross Bay and Transco recognize and appreciate the time and effort expended by the Commission and its Staff in processing the Cross Bay application and issuing the November 8 Order. Although the November 8 Order approved Cross Bay's and Transco's Application it contains significant tariff and rate provisions that will carry long-term economic uncertainty for one member of Cross Bay, Transco in particular. Additionally, the market targeted by the Cross Bay project has not materialized in the time frame anticipated, resulting in additional economic risk for all the members. The members are unable to accept the risks identified herein and, as a result, Cross Bay and Transco hereby formally notify the Commission that they will not proceed with the Cross Bay Project and therefore will not accept the Commission's November 8 Order. Since the Project will not go forward at this time, the certificates are not required. Accordingly, the November 8 Order granting the certificates is rendered moot. There-

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fore, Cross Bay is submitting the attached Motion requesting that the Commission vacate the November 8 Order.

Respectfully submitted,

CROSS BAY PIPELINE COMPANY, L.L.C.

By 
Gisela B. Cherches
Its Attorney

TRANSCONTINENTAL GAS PIPE LINE CORPORATION

By 
Virginia C. Levenback
Its Attorney

cc: Official Service List

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D. C.

FILED
SECRETARY

DEC - 7 PM 1:27

FEDERAL ENERGY
REGULATORY COMMISSION

Cross Bay Pipeline Company, L.L.C.)
)
Transcontinental Gas Pipe Line)
Corporation)

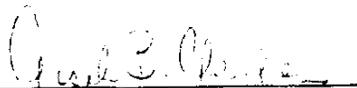
Docket Nos. CP00-412-000
CP00-413-000
CP00-414-000

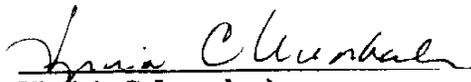
MOTION OF
CROSS BAY PIPELINE COMPANY, L.L.C.
AND
TRANSCONTINENTAL GAS PIPE LINE CORPORATION
TO VACATE ORDER GRANTING CERTIFICATES

Pursuant to Rule 212 of the Rules of Practice and Procedure of the federal Energy Regulatory Commission ("Commission"), 18 C.F.R. § 385.212, Cross Bay Pipeline Company, L.L.C. ("Cross Bay") and Transcontinental Gas Pipe Line Corporation ("Transco") hereby request that the Commission vacate its order issued in the referenced dockets on November 8, 2001¹ which granted Cross Bay and Transco certificates of public convenience and necessity for the proposed Cross Bay Project. Inasmuch as Cross Bay and Transco have notified the Commission by letter filed in this proceeding concurrently herewith that Cross Bay will not construct the Project, the certificate is no longer required. Accordingly, the order granting the certificates has been rendered moot.

Wherefore, Cross Bay and Transco submit that the Commission should vacate the order as herein requested.

Respectfully submitted,


Gisela B. Cherches
Attorney for
Cross Bay Pipeline Company, L.L.C.


Virginia C. Levenback
Attorney for
Transcontinental Gas Pipe Line
Corporation

Dated: December 7, 2001

¹ Cross Bay Pipeline Company, L.L.C. and Transcontinental Gas Pipe Line Corporation, 97 FERC ¶ 61,165 (2001).

CERTIFICATE OF SERVICE

I hereby certify that I have this day served, in accordance with the provisions of Rule 2010 of the Commission's Rules of Practice and Procedure, the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Houston, Texas this 7th day of December, 2001.



Gisela B. Cherches
Attorney for Cross Bay Pipeline
Company, L.L.C.