Branford Blue Ribbon Committee

TOWN HALL
BRANFORD CONNECTICUT 06405

To: The Selectmen
Town Hall
Branford, CT 06405

Attention: Mr. John Opie

Re: Islander East Pipeline Company, LLC

The Blue Ribbon Committee was constituted by the First Selectman on September 16, 2001 to consider the impending application by Islander East Pipeline Company, LLC to the Connecticut Siting Council for a certificate of environmental compatibility and public need. The Committee's charge was to gather information about the proposed project and report to the Board of Selectman about the impact of the project on the town. The Committee was composed of an eclectic group of citizens brought together to examine this application from their various viewpoints: Chairman, Danny Shapiro (Inland Wetlands Commission Chairman), Joan Berdick (Branford Housing Council), Bill Horne (Conservation & Environment Commission), John Lust (Planning & Zoning Commission), Al Mignone (Economic Development Commission Chairman), Kyle Nelson (Shellfish Commission Chairman), and Lorraine Young (Board of Finance).

Members of the Blue Ribbon Committee have continued to analyze information submitted by Islander East to various regulatory agencies in its campaign to acquire permits to construct the pipeline. These agencies include the Federal Energy Regulatory Commission (FERC), Army Corps of Engineers (ACOE), Connecticut Department of Environmental Protection (CTDEP), and the US Department of Commerce/National Oceanic and Atmospheric Administration (NOAA). We are indebted to those who have donated their time and effort to understand the Islander East application, study the route of the proposed pipeline, and submit technical documents offering their professional opinions. Without their effort, the Islander East proposal could not have received the careful review that we have been able to conduct.

At the request of the First Selectman, the Committee has completed extensive research into the Islander East proposal, it's stated purpose and project alternatives.

Environmentally it is clear that the proposed Islander East pipeline carries an unacceptable environmental cost, particularly for the unique marine ecosystem of the Thimble Islands. Islander East has failed to conduct the engineering and environmental analyses that would be necessary to support their claims of consistency. They have also failed to provide contingency plans for dealing with the failure of critical aspects of their project, especially the horizontal directional drilling.

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The **purpose** of the project and alternatives to the project are critically important issues because by statute, the Army Corps of Engineers may issue permits only for the least environmentally damaging practicable alternative. Our research shows that Islander East and FERC have construed the purpose of the project in an unjustified and narrow manner in order to tailor it to the Islander East proposal and thereby to eliminate viable alternatives from consideration.

Several potential **alternatives** are available that would provide for an increased supply of natural gas to Long Island with a lower cost, environmental and otherwise. **Thus, there appears to be no unique feature of the Islander East pipeline project that would justify overriding the policy, environmental and design considerations that led the Connecticut Department of Environmental Protection to find that the project is inconsistent with the federally mandated and approved Coastal Zone Management Plan.**

Attached is an analysis of the purpose of the project and project alternatives. It clearly demonstrates this point.

John Benedict Lust Jr., Chairman
Branford Blue Ribbon Committee

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A Response to the Islander East Analysis of System Alternatives
that was filed with the US Army Core of Engineers on May 15, 2003

Project Purpose

As noted in the preamble of this report, the definition of the purpose of the project and the analysis of alternatives are key considerations in the issuing of permits. The project definition used by Islander East (and FERC) is narrow and self-serving.

In filings with FERC, Islander East has used an artificially narrow definition of the market that its project will serve by limiting its market to the companies that signed precedent agreements for receiving gas from the Islander East pipeline on November 1, 2003, excluding other natural gas users on Long Island that signed precedent agreements with Iroquois Gas Transmission System from consideration and acting as though eastern Long Island is a separate market that cannot be served by pipelines to western Long Island. Islander East has also implied that its project is the only one that can supply natural gas from the Sable Island fields in Nova Scotia. FERC has also based its decision to grant certificates to the more environmentally damaging Islander East project on that project's ability to enhance system reliability.

In a letter to Islander East dated May 21, 2003, ACOE notes that the purpose of the project stated in Islander East's application's for permits from ACOE is "to construct and operate a pipeline with the capacity to deliver up to 260,000 Dth/day of natural gas to energy markets in CT, New York City and Long Island, NY." In the same letter, ACOE comments that the project purpose used in the Draft and Final Environmental Impact Statements prepared by FERC (which includes "increase reliability of natural gas delivery services to Long Island by installing a separate natural gas pipeline across Long Island Sound" and "enhancing access to natural gas reserves near Sable Island through proposed interconnection with Maritimes & Northeast Pipeline Company") "appears to be too narrowly defined for a reasonable analysis of alternatives ... which would have less impact on the aquatic ecosystem."

The determination by ACOE that the purpose of the project is simply the delivery of natural gas to markets in New York City and Long Island is appropriate, but including Connecticut in that definition is unjustified, since the areas of Connecticut through which the pipeline passes are already generously served by existing Algonquin and Southern Connecticut Gas Company infrastructure.

Long Island is a geographically limited area of relatively small size. The island is served by only two local distribution companies, both subsidiaries of KeySpan. By any definition of "market", customers in the same geographic area (Long Island) that purchase the same product (natural gas) that is delivered to the same local distribution system constitute a single market. If the systems of the two KeySpan local distribution companies are not sufficiently integrated to be able to effectively transport gas between western and eastern Long Island, additional infrastructure should be created on Long Island before any interstate system additions are considered.

Analysis of Alternatives

Interstate energy transmission projects require a special approach to the analysis of alternatives. Most projects considered by the ACOE and other regulatory agencies are site-specific, in that there is an owner or developer of a particular property who is seeking permission to carry out some activity on that property or at that location. The agency must determine if the project design accomplishes the purpose with the lowest acceptable impact on the environment or in best compliance with the relevant regulations, but the location is not a variable, although the agency may find that the project cannot be conducted on that property in an environmentally acceptable manner.

In the case of interstate transmission projects such as Islander East, the purpose of the project is to deliver energy or fuel from a source or sources in one geographic area (in this case the mainland northeastern US) to a market in another geographic area (in this case Long Island). The applicant does not have an ownership interest in many, or even most of the properties that will be affected by the construction and maintenance of the project. Therefore, it is appropriate and necessary to examine the broadest possible range of realistic alternative routes that could meet the project objectives while having the lowest possible environmental impact. Analysis of alternatives must focus on routes and construction methods, not on the existence of an active proposal by a competitor to build the alternative, as claimed by both Islander East and FERC. Islander East's repeated insistence to the contrary is irrelevant to this analysis.

Possible system alternatives

Several system alternatives to the Islander East pipeline have been identified by FERC and ACOE analysts:

The Tennessee Connecticut-Long Island Lateral System Alternative
The Iroquois Gas Transmission System (IGTS) Eastern Long Island (ELI) System Alternative
The Cross Bay Pipeline System Alternative
The New York Joint Facilities System Alternative

Tennessee Connecticut-Long Island Lateral System Alternative:

Little information about this alternative is available. There were rumors in 2001 about a Tennessee project that would run from the main Tennessee pipelines in central Massachusetts through Connecticut to Long Island Sound, but no application was filed. As summarized in the Final Environmental Impact Statement on Islander East, it would clearly be more environmentally damaging, to say nothing of hugely more expensive. It is thus not a viable alternative and probably not justified by the reportedly weak market on LI.

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The Iroquois ELI System Alternative

This alternative, like all the other alternatives discussed here, is a **route** alternative. It does not depend on an active proposal by another company to construct a pipeline along this route, or on Islander East's desire to avoid constructing its pipeline along this route.

The ELI System Alternative taps into the existing IGTS pipeline 2 miles offshore in Milford and runs for 17.1 miles across Long Island Sound to the same landfall as the Islander East proposal. It's onshore route on Long Island could then follow the route to Brookhaven, and to Calverton if necessary, that is currently planned for the Islander East pipeline.

The environmental impact of the ELI System Alternative would be substantially less than the Islander East project.

- The length of the offshore pipeline would be nearly 25% shorter than the Islander East pipeline.
- The nearshore construction area would be much smaller (dredging 1.4 acres for tie-in to the existing Iroquois pipeline, compared to more than 5.5 acres for the revised clamshell dredging of the HDD transition basin and trench to the point where the mechanical plow can be used.
- There will be no impact to tidal wetland areas or other coastal resources such as tidal flats.
- There would be no onshore impacts in Connecticut.

FERC has stated, without providing supporting data, that 7 miles of 36-inch-diameter pipeline loop would be required in Connecticut to provide the additional capacity in the existing IGTS pipeline. Iroquois stated in its response to the DEIS that the necessary increase in volume delivered can be accomplished by increasing compression. The current level of demand is being met with pressures about 40% below the IGTS pipeline's maximum allowable operating pressure (MAOP) of 1200 psig. IGTS has been granted certification by FERC for additional compression capacity at Brookfield. The existing Iroquois pipe is more robust than the older and smaller AGT pipelines that will be retested and put into service at higher than design pressures and velocities under the Islander proposal. Should looping be required, the 7 miles identified by FERC would cross 30 per cent fewer wetlands and streams than the Islander East pipeline (0.92 miles of wetland crossing vs 3.4 miles for Islander East). It would also completely avoid crossing special land use properties, while the Islander East project will cross six land trust properties (three Branford LT, two North Branford LT and one North Haven LT) and the Trolley Trail recreational trail near Juniper Point.

The Cross Bay Pipeline System Alternative

This alternative, a joint project proposed by Transco (the current owner of the Cross Bay pipeline), Duke and KeySpan (the two parent companies of Islander East), would increase the capacity of the existing Cross Bay pipeline by 125,000 Dth/day by increasing compression. The Cross Bay pipeline runs from New Jersey across outer New York Harbor to Long Beach, Long Island on the southwest shore of Nassau County As noted by FERC in its November 8, 2001 order issuing certificates for the project, the upgrade

would require minimal construction of facilities and would have little environmental impact. On December 7, 2001 the applicants stated that they would not go forward with the project because of a lack of demand. The project could be reactivated. In conjunction with the New York Joint Facilities System Alternative discussed below, the additional 125,000 Dth/day of gas delivery would provide a substantial portion of the natural gas that Islander East proposes to deliver.

New York Joint Facilities System Alternative

Two existing interstate pipelines terminate on Long Island: the Transco Cross Bay (at Long Beach) and the IGTS pipeline (at South Commack). Delivery of gas to eastern Long Island can be accomplished by increasing the capacity of these existing pipelines from the mainland, as discussed above, and enhancing the east-west transportation capacity on Long Island. KeySpan could enhance its ability to receive gas from the IGTS pipeline by establishing a connection at the IGTS station at South Commack, where it now dead ends, in addition to its connection in Northport.

Long Island has several east-west transportation corridors including three expressways and one or two rail corridors. Also, the topography and geology of Long Island is much more conducive to construction projects such as this. There is no bedrock to be blasted, because LI is a glacial terminal moraine. (Note that IE has been willing to drill the river crossings on LI, but not those in CT, suggesting that they anticipate easier drilling there.) The availability of these existing pipelines and corridors supports the conclusions of ACOE and the Connecticut DEP that delivering gas to eastern LI is essentially not water-dependent.

KeySpan is currently enhancing its transmission capacity within Long Island. Industry reports indicate that an interconnection between IGTS and the KeySpan system at South Commack, New York, will be established to provide gas to the Brookhaven Energy LP 580 MW electric generating plant that was approved by the NY State Board on Electric Generation Siting and the Environment (NY Siting Board) on August 14, 2002. Furthermore, testimony submitted by Brookhaven to the New York Siting Board stated that Brookhaven will receive sufficient natural gas for this plant via a previously planned extension of KeySpan's Long Island Expressway 20" lateral to Riverhead at Long Island's eastern end, and that only one additional limited modification to the existing KeySpan local distribution system and no additional pipelines would be required to meet Brookhaven's needs (see page 9-2 of Brookhaven's submission to NYS regulatory agencies, attached below). "The only upgrade that is not already in Keyspan Energy's construction plan is a 2.3-mile-long upgrade along Commercial Street in Garden City, Nassau County, adding a 24" pipeline adjacent to an existing 20" pipeline." Garden City, the location of the upgrade identified in the Brookhaven Energy filing, is well west of the termination of the Iroquois pipeline in Commack, NY, but almost due north of the termination of the Transco Cross Bay pipeline in Long Beach, NY, about equidistant from the north and south shores of Long Island at that point. Thus, this upgrade is likely to be related to the transport of gas from the Transco pipeline and not from the Iroquois pipeline.

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The Islander East Pipeline

Islander East proposes to construct a compressor in Cheshire, CT, that will feed natural gas through two existing lateral pipelines (one significantly older and not designed for the high pressures and velocities that the Islander East pipeline will require) to the metering station in North Haven, CT. From there it proposes to construct a new 24 inch pipeline through North Haven, East Haven, North Branford, and Branford to Long Island Sound at the Tilcon shipping facility at Juniper Point. At that point, it proposes to enter Long Island Sound by horizontal directional drilling to a point approximately 3,500 feet into Long Island Sound and proceed from that point across Long Island Sound to Wading River, NY. Installation of the pipeline from the HDD exit to MP 12, more than a mile away, will be accomplished by conventional clamshell dredging. From MP 12, installation will be by plowing.

The Thimble Islands are situated within the nearshore waters of the Town of Branford at the point where Islander East proposes to enter Long Island Sound. The Thimble Islands consist of a total of 141 islands and exposed rock outcroppings creating a total of 15 miles of coastline within 6.2 linear miles. The work corridor extends through the center of the Thimble Islands complex.

The hummocky topography of the Thimble Islands complex, formed of bedrock, is found nowhere else in Long Island Sound. The geological uniqueness of this island and rocky outcrop complex is only rivaled by the natural diversity it provides. The Thimble Islands typically emerge from relatively shallow waters, approximately 30 feet deep. In addition to this significant area of shallow water-land interface where biological diversity is the richest and most productive, the Thimble Islands area contains unique subtidal conditions that include submerged rock reefs and a diversity of benthic habitats that range from soft mud to compacted sand and gravel. Each of these supports a complex biological community of organisms, each of which are in their own way critical to the overall health and rich diversity of the surrounding marine ecosystem. This area is generally recognized as important colonial waterbird nesting habitat, a waterfowl wintering area, and one of only four primary seal haul-out areas in the State. This productive region currently supports 3 full-time commercial lobstermen and 14 licensed shellfishermen as well as numerous recreational fishermen. Historically, the area supported as many as 5 commercial lobstermen with 15 other part-time lobstermen also fishing the area at one time or another. A 1991 U.S. Fish and Wildlife Service report, Northeast Coastal Areas Study: Significant Coastal Habitats of Southern New England and Portions of Long Island, New York, identifies the Thimble Islands as a significant coastal habitat that is particularly deserving of protection for fish and wildlife habitat and the preservation of natural diversity.

Islander East's analysis of its preferred route is minimal and inadequate. Sediment samples were taken only every mile, accounting for only a small fraction of the area to be disturbed. Near-shore sediment dispersion modeling used unrealistically moderate weather conditions, failing to account for possible worst-case conditions. (A similar failure in planning resulted in marine construction well outside permit windows in the

Hubline project across Boston Harbor, with as yet unknown consequences for lobsters and other important marine organisms.) The significant possible negative consequences of sediment re-suspension on the biological communities of the Thimble Islands area were discussed in testimony submitted by Dr. Carmela Cuomo at the November 5, 2003, hearing conducted by National Oceanic and Atmospheric Administration staff.

As noted above, Islander East has defined the purpose of its project in a way that is tailored to fit the project that it wants to do, leaving little room for identifying less environmentally damaging alternatives that can meet the narrowly defined purposes. The purposes stated by Islander East are:

1. Delivering 260,000 Dth/day of natural gas to eastern Long Island
2. Increasing the security, reliability and flexibility of the existing regional gas delivery system by providing a second separate pipeline across Long Island Sound
3. Meeting the November 2003 in-service date required by Islander East's customers.

FERC acknowledged that the ELI System Alternative was less environmentally damaging than the Islander East plan, but has supported and adopted Islander East's purposes in its justification for granting certificates for a project that is more environmentally damaging than other available alternatives. However, FERC's assertion of Islander East's superiority in meeting these criteria were based on erroneous information and faulty reasoning.

<u>FERC's Illusory Non-environmental Reasons for Favoring the Islander East Project</u>

FERC acknowledged that the ELI System Alternative was less environmentally damaging than the Islander East plan, but chose to grant Islander East the necessary certificates for what it considered the over-riding needs for:

1. Diversifying supply sources.
2. System reliability.
3. Market competition.

The evidence cited by FERC to support the importance of meeting these criteria were based on an unrealistic and inaccurate evaluation of the facts.

1. Islander East is not uniquely capable of providing diversity of supply to the Long Island market by transporting gas from Sable Island in Nova Scotia.

The natural gas pipeline system is highly interconnected in Connecticut. All three interstate pipeline companies (Iroquois, Duke/Algonquin, El Paso/Tennessee) interconnect with one another within an area of about 15 mile radius (Iroquois/Algonquin in Brookfield, Algonquin/Tennessee in Wallingford and Iroquois/Tennessee in Shelton). Compressor plants and looping allow the transfer of gas between systems, so any of the three pipeline companies can transport gas that originates in Nova Scotia to customers downstream of the interconnection points.

Conversely, the gas delivered by Islander and its sister company Algonquin to locations within Connecticut or, hypothetically, on Long Island is a mixture of gas from different geographically distant sources, not solely gas from Nova Scotia. Algonquin transports gas that originates all over North America, and there is no mechanism that keeps gas from different points of origin separated within the Algonquin system.

In addition, a recently completed study of the ability to meet future gas demands from electricity generation in New York State, prepared for the New York State Energy Research and Development Authority and New York ISO by Charles River Associates, indicated that little Sable Island Gas actually reaches New York. The benefit of Sable Island gas to New York is that it meets the demand in New England and thereby displaces demand that had been previously filled by gas from sources to the south and west of the region. This displaced gas is thus available to meet demand in New York (Long Island), and will reach the New York market through pipelines that follow more direct routes than the Islander East pipeline.

Finally, it is not clear how long, and in what quantities Nova Scotia gas will actually be available for shipment to Long Island through Islander East or any other pipeline, given that estimates of reserves of those supplies have been significantly downgraded in recent months.

2. The Islander East pipeline does not uniquely enhance the reliability of the system transporting natural gas to Long Island.

The system interconnections that make it possible for all three companies to transport Nova Scotia gas also make it unnecessary to construct the Islander East Pipeline in order to protect the ability to transport gas to Long Island. Controls at each of the interconnections and in-line isolation valves (required for safety purposes every six to ten miles according to Islander East) allow the isolation of a nonfunctioning section or component and the rerouting of gas around that part of the system. Damage to any of the three companies' pipelines that occurred between any pair of the interconnection points could be circumvented by routing the gas through the other two companies lines. (Interconnections outside of Connecticut provide options for by-passing damage to the north, east and west of the Connecticut interconnections.)

In addition, there is more redundancy in the IGTS pipeline that would feed the ELI System Alternative than in the proposed Islander East system. According to IGTS engineers, IGTS rarely has all compression stations on line at the same time. The loss of any one or two of their stations would not compromise supply to the downstream system. In contrast, the loss of Islander East's Cheshire compression station could result in the loss of at least 45% of Islander East's capacity.

The Islander East pipeline is also more vulnerable to pipeline failure. The antiquated and undersized nature of the Cheshire/North Haven lateral pipelines reduces the reliability of the Islander East system and its ability to deliver the promised quantities of

gas. Delivery of gas from the Algonquin main line to the beginning of the Islander East pipeline in North Haven relies on the integrity of more than 13 miles of paired 10" and 16" pipelines, one of which was installed prior to 1970 and not originally designed to withstand the increased operating pressures of the proposed Islander East system. Also, this older part of the Islander East system will be required to accommodate gas velocities that are almost twice the velocities in the proposed 24" pipe, due to the nearly 80% increase in pipe cross-section area downstream from the North Haven meter station (25 sq in + 64 sq in = 89 sq in into the meter station; 144 sq in + 16 sq in = 160 sq in out of North Haven, not counting gas delivered to the Southern Connecticut Gas Co local distribution network at North Haven). This component of the system is thus more likely to fail than the Iroquois pipeline, which is newer and engineered to withstand significantly higher pressures (1200 psig MAOP vs 900 psig, as stated on page 17 of Islander East's application to FERC filed June 15; 2001 or 814 psig as stated on page 5 of Islander East's application to the Siting Council in December, 2001). (The projected pressure once the Island East pipeline reaches Long Island is closer to 370 pounds per square inch.)

Even if the Iroquois system were to experience a significant loss of compression capacity or needed to isolate a section of the pipeline, the pressure of the remaining system downstream of the problem would fall to a point where gas could transfer from the lower pressure Algonquin or Tennessee system without transfer compressors. (Note that the installation of transfer compressors at the interconnections, as Iroquois proposed in its ELI application for the Brookfield interconnection, would allow routine two-way transfer of gas between all the individual pipelines, thereby increasing the flexibility of the total system when all components are operating properly. This is the kind of system improvements that should be made, not the creation of new pipelines with the attendant environmental consequences.)

FERC argued in its Order on Rehearing and Issuing Certificates (100 FERC ¶ 61,276, paragraphs 100, 101) that "rerouting capacity from other pipelines" [in the event of failure of the existing Iroquois pipeline] "would be dependent on interconnecting pipelines and the feasibility of being able to get that capacity for use on Iroquois' system" and that "getting the rerouted capacity to Long Island would also depend on Iroquois' shippers to contract for that capacity and to find other sources to replace the gas that was lost." This argument applies equally to any component of the gas transportation system and if it were true, it would mean that the Islander is equally incapable of replacing shipping capacity lost in a hypothetical failure within the Iroquois system. Replacing lost capacity on the hypothetically damaged Iroquois pipeline by delivery via the Islander pipeline will also require rerouting capacity on the same pipeline systems (Algonquin, Tennessee) regardless of the route that a new cross-Long Island Sound pipeline will take. FERC failed to explain why the capacity would be available for delivery to the Algonquin compressor in Cheshire but would not be available for delivery to system interconnections at Shelton, CT or Brookfield, CT. FERC also failed to demonstrate why the pipeline with the lower operating capacity is the superior choice for providing back-up capacity in the event of damage to the system. (Islander's maximum operating pressure of 900 psig is only 75% of Iroquois' maximum operating pressure of 1200 psig.)

FERC incorrectly asserted that the gas contracted for by the shippers using the Iroquois system would be "lost" in the event of a failure within the Iroquois system. In fact, the gas would still be in the pipeline system and available for delivery to the desired point of receipt by any of several routes in the highly interconnected system. Alternatively, the gas in the Iroquois system could be used to fill non-Long Island demand for in the Algonquin and Tennessee systems, freeing gas in those systems for delivery to Long Island customers.

Thus, there is no intrinsic reliability benefit provided by the Islander pipeline relative to other alternative means of transporting natural gas to Long Island, including one that takes off from the existing Iroquois system, such as the ELI System Alternative.

Finally, redundancy is not a certain means for increasing the reliability or complex interconnected systems. A recent National Research Council study states: "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." *Making the Nation Safer: The Role of Science and Technology in Countering Terrorism. National Academy Press. p.302.*

3. Islander East overstated the need for gas on Long Island in terms of both quantity and timing.

There is much evidence that the need for gas on Long Island is not as is not nearly as great as Islander/Duke/KeySpan claimed in its application to FERC in June of 2001. In their comments to FERC and ACOE, the Environmental Protection Agency and the Department of the Interior have called for the market demand to be reevaluated. Moreover, the process used by FERC to establish market demand is flawed in ways that allows applicants to manipulate the apparent demand to support the construction of new facilities. FERC bases its decisions about the need for additional pipeline infrastructure on precedent agreements between the applicant and potential customers to deliver specific amounts of gas by a certain date. However, these agreements contain escape clauses for both parties that render them essentially non-binding, so the purchasers have no reason to base their agreements on real projected needs. In addition, FERC has allowed the normal customer solicitation process to be corrupted by including precedent agreements by companies that are subsidiaries of a company that has a substantial owner interest in the pipeline. As discussed below, both these factors appear to have tainted the precedent agreements submitted by Islander East in support of its application.

Four companies signed precedent agreements with Islander East. Of those, the AES Endeavor power plant in Calverton (60,000 Dth/day) will not be built in the near future, if at all. (AES has announced that due to financial constraints, it is starting no new projects, and the NY regulatory agency that licenses new power plants has not even seen a public announcement for the project, let alone an application.)

Two of the precedent agreements, for a total of 110,000 Dth/day, were with the KeySpan local distribution companies, which together provide service to all of Long Island. Since KeySpan is a partner in the Islander East project, the inclusion of its precedent agreements in the determination of market need is not reliable. Evidence for the unreliability of KeySpan's precedent agreements is provided by the fact that, on December 7, 2001, Cross Bay Pipeline Company, L.L.C., a partnership of Duke Energy, KeySpan and Transco, declined its certificate to add an additional 125,000 Dth/day capacity to an existing pipeline (FERC document # 2228517), in part because "the market targeted by the Cross Bay project has not materialized" (quoted from the letter from Cross Bay to FERC stating that the project would not be built).

The fourth party to enter into a precedent agreement with Islander East, Brookhaven Energy LP, testified in its application to New York state regulators that it can procure sufficient natural gas with only a limited modification to the existing KeySpan local distribution system and no additional pipelines, as discussed above in the description of the New York Joint Facilities System Alternative.

Conclusion

The proposed Islander East pipeline carries an unacceptable environmental cost, particularly for the unique marine ecosystem of the Thimble Islands. Islander East has failed to conduct the engineering and environmental analyses that would be necessary to support their claims. They have also failed to provide contingency plans for dealing with the failure of critical aspects of their project, especially the horizontal directional drilling.

Several potential alternatives are available that would provide for an increased supply of natural gas to Long Island with a lower cost, environmental and otherwise. Thus, there appears to be no unique feature of the Islander East pipeline project that would justify overriding the policy, environmental and design considerations that led the Connecticut Department of Environmental Protection to find that the project is inconsistent with the federally mandated and approved Coastal Zone Management Plan.