STATE OF NEW YORK DEPARTMENT OF PUBLIC SERVICE

THREE EMPIRE STATE PLAZA, ALBANY, NY 12223-1350

Internet Address: http://www.dps.state.ny.us

PUBLIC SERVICE COMMISSION

WILLIAM M. FLYNN
Chairman
THOMAS J. DUNLEAVY
LEONARD A. WEISS
NEAL N. GALVIN

DAWN JABLONSKI RYMAN
General Counsel
JACLYN A. BRILLING
Secretary

June 1, 2004

Honorable Magalie R. Salas, Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Room 1-A209
Washington, D.C. 20426

Re: Docket No.TX04-3-000 - Long Island Power Authority, Long Island Lighting Company d/b/a LIPA, Cross-Sound Cable Company, LLC

Dear Secretary Salas:

For filing, please find the Notice of Intervention and Comments of the New York State Public Service Commission in the above-entitled proceeding. Should you have any questions, please feel free to contact me at (518) 473-8178.

Very truly yours,

David G. Drexler
Assistant Counsel

Attachment

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Long Island Power Authority Long Island Lighting Company d/b/a LIPA Cross-Sound Cable Company, LLC	))))	Docket No. TX04-3-000

NOTICE OF INTERVENTION AND COMMENTS OF THE PUBLIC SERVICE COMMISSION OF THE STATE OF NEW YORK

The New York State Public Service Commission (NYPSC) submits its Notice of Intervention and Comments pursuant to the Notice of Filing issued on May 21, 2004, and Rule 214 of the Federal Energy Regulatory Commission's (FERC or Commission) Rules of Practice and Procedure. Copies of all correspondence and pleadings should be addressed to:

Dawn Jablonski Ryman
General Counsel
Public Service Commission
of the State of New York
Three Empire State Plaza
Albany, New York 12223-1350

Howard Tarler, Chief
Bulk Transmission Systems
Office of Electricity
and the Environment
New York State Department
of Public Service
Three Empire State Plaza
Albany, New York 12223-1350

EXECUTIVE SUMMARY

The NYPSC supports the Application filed by the Long Island Power Authority (LIPA) and the Cross-Sound Cable Company, LLC for an order directing necessary actions for an effective interconnection and regular commercial operation of the Cross-Sound Cable (CSC) merchant transmission project (hereinafter "Application"). The Application meets the standards under

Sections 202 and 210 of the Federal Power Act (FPA), and accordingly the Commission should issue an order providing for operation of the CSC.

In particular, the Application demonstrates that an order would be in the public interest, promote competition, improve reliability, promote conservation of capital, optimize the efficiency of use of facilities and resources, and would not unduly burden or impair the provision of adequate service by any public utility. Moreover, adopting an order would further FERC's stated goals of encouraging merchant transmission projects,[1] and would eliminate a seam between New York and New England, which currently prevents the efficient and economic utilization of transmission and generation resources in the Northeast.

COMMENTS

I. The Application Meets The Standards For Granting An Order Under Sections 202(b) and 210 Of The Federal Power Act.

A. Federal Power Act Section 202(b)

The requisite findings needed to issue an order under FPA §202(b) are that: (1) it is in the public interest; (2) it will not unduly burden the public utility; (3) it does not require additional generation; and (4) it does not impair the public

[1] Cross-Sound Cable Co., LLC, 106 FERC 61,116 (2004).

utility's ability to render adequate service.[2] Where these findings have been made, the Commission is authorized to "prescribe the terms and conditions of the arrangement to be made between the persons affected by any such order."[3]

The Application demonstrates that an order is in the public interest. Operation of the CSC will improve reliability through the provision of reactive power and voltage support and by allowing for energy transfers between control regions.[4] Moreover, as the Commission previously found, the project "enhances competition and market integration by expanding

---

[2] Section 202(b) (16 U.S.C. §824a(b)) of the FPA provides that:

> [w]henever the Commission, upon application of…any person engaged in the transmission or sale of electric energy,…finds such action necessary or appropriate in the public interest it may by order direct a public utility (if the Commission finds that no undue burden will be placed upon such public utility thereby) to establish physical connection of its transmission facilities with the facilities of one or more other persons engaged in the transmission or sale of electric energy, to sell energy to or exchange energy with such persons: Provided, That the Commission shall have no authority to compel the enlargement of generating facilities for such purpose, nor to compel such public utility to sell or exchange energy when to do so would impair its ability to render adequate service to its customers.

[3] Id.

[4] Application at p. 21.

capacity and trading opportunities between New England and New York markets."[5] Similarly, the NYPSC concluded that:

> [c]ontinuing opportunities for displacement of higher cost generation made possible by [the CSC] should result in a measurable improvement in the overall economic efficiency of power markets in the Northeast and should keep wholesale electric prices at lower levels than would otherwise be the case, ultimately resulting in benefits to the retail consumers in New York State. The [CSC] will increase the opportunities for transactions among buyers and sellers in the wholesale markets thereby enhancing competition in the electric industry in New York State. The [CSC] will also improve the reliability of the electric system serving Long island by creating opportunities for bulk power sales and transfers and increasing access to additional supplies in the event of a system emergency.[6]

Moreover, operation of the CSC is consistent with the Commission's policy objective to "encourage merchant transmission projects."[7] Most important is that the inability of the CSC to overcome parochial interests has created what amounts to a seam between New York and New England, thus creating an artificial barrier to trade that raises costs and limits customers' supply choices. The Commission has specifically noted the need to resolve seams and has taken an active role in

---

[5] TransEnergie U.S., Ltd., 91 FERC 61,230 (2000).

[6] Case 00-T-1831, Opinion and Order Granting Certificate of Environmental Compatibility and Public Need (June 27, 2001).

[7] Cross-Sound Cable Co., LLC, 106 FERC 61,116 (2004).

resolving them.[8] As such, the Commission should determine that operation of the CSC is in the public interest.[9]

It is also evident that there will be no undue burden or impairment of adequate service by any public utility, as demonstrated by the fact that the CSC was, until recently, in operation. During the period of operation, there were no claims made that the required interconnection caused an undue burden or impaired the service of United Illuminating Company or any other utility necessary to accommodate operation of the line. Furthermore, a FERC order in this proceeding will not create an undue burden or impair adequate service because it "will require nothing more than the performance of routine operations under existing tariffs and does not involve any extraordinary effort in the form of time, cost or resources."[10] Similarly, consistent with FPA §202(b), an order in this proceeding would not require

---

[8] See generally, RM01-12-000, Notice of White Paper (April 28, 2003) (noting "seams" issues in general); ISO New England et al.,106 FERC 61,280(2004)(directing the ISO-New England to submit a seams resolution agreement with the New York Independent System Operator, Inc. (NYISO); RT01-99-000, et al. (coordinating timelines and reports on the progress and plans for seams resolution between PJM, ISO-NE and NYISO) (June 18, 2002).

[9] See, Florida Mun. Power Agency, 65 FERC 61,125 (1993) (finding that the public interest standard was met where the "availability of transmission service (or increased flexibility to use transmission) will enhance competition…" and "will allow [the utility] to serve its customers more efficiently.")

[10] Application at p. 21.

the enlargement of any generating facilities. Thus, sufficient evidence exists for the Commission to make the required findings under FPA §202(b).

B. Federal Power Act Section 210

Before an order may be issued under FPA §210, the Commission must find that :

(1) it is in the public interest;

(2) it "would - (A) encourage overall conservation of energy or capital, (B) optimize the efficiency of use of facilities and resources, or (C) improve the reliability of any electric utility system…and

(3) [it] meets the requirements of Section [212]."[11]

The Application satisfies the requirements of FPA §210. For all the reasons above, operation of CSC will be in the public interest. In addition, the CSC will satisfy each of the three other required findings, although the Commission need only find that at least one of them is met. Firstly, the CSC will encourage the conservation of capital by obviating the need of

[11] Where FERC makes these findings, it may issue an order requiring "(A) the physical connection of…the transmission facilities of any electric utility, with the facilities of such applicant, (B) such actions as may be necessary to make effective any physical connection described in subparagraph (a)… [or] (C) such sale or exchange of electric energy or other coordination, as may be necessary to carry out the purposes of any order under subparagraph (A) or (B)." FPA §210 (16 U.S.C. §824i(c)).

LIPA to "use more expensive generation resources and/or pay a market premium for short-term power (if it is even available) in order to prevent the interruption of service to its customers during the summer peak periods."[12] Secondly, the operation of the CSC line will optimize the efficiency of the use of facilities and resources because it is the only existing transmission facility that can provide for the economic exchange of real-time energy flows between Long Island and Connecticut.[13] As the Commission found, the project "enhances competition and market integration by expanding capacity and trading opportunities between the New England and New York markets."[14] This benefits both regions by "creating a larger source of generation that can serve existing demand and ultimately allow for a more efficient use of resources."[15] Thirdly, the CSC will improve reliability by helping to maintain reactive power and voltage support, supplying operating reserves, and assisting in meeting peak loads.[16] The attached affidavit of Howard A. Tarler explains that even with the CSC in service, Long Island will

---

[12] Application at p. 30 (noting that replacing the power estimated to be imported over the CSC will result in approximately $30,000,000 in higher energy costs this year).

[13] Application at p. 31.

[14] TransEnergie U.S., Ltd., 91 FERC 61,230 (2000).

[15] Application at p. 31.

[16] Application at pp. 32-33.

have barely enough installed capacity to meet the NYISO's minimum local reliability requirement for available capacity on Long Island.[17]

Although LIPA indicates that they may look to temporary generation solutions, due to the loss of over 300 MWs of supply that would have otherwise been available via CSC, that solution will not adequately and reliably substitute for the operation of the CSC.[18] This is because unlike the CSC, which could be ready to operate almost immediately if authorized by FERC, "temporary generation could not be ready in time for the likely high load periods in June and July."[19] Further, even after the temporary generators are no longer used, the CSC could provide "increased reliability and efficiency to both Long Island and Connecticut."[20]

The requirements of FPA §212 would also be met.[21] As the Application indicates, all necessary compensation and operating arrangements are already in place, thus obviating the need to

---

[17] Exhibit A, Tarler Affidavit at ¶7 ("Tarler Affidavit").

[18] Id.

[19] Id.

[20] Id.

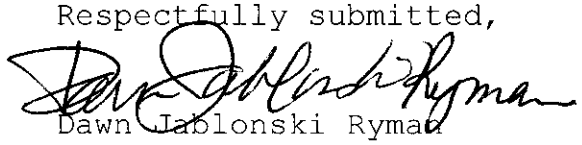
[21] FPA §212 (16 U.S.C. §824k) requires that prior to issuing an order, the Commission issue a proposed order for the affected parties to agree upon if possible. Where no agreement is reached, FERC shall prescribe the terms and conditions in a final order.

issue a proposed order in this proceeding.[22] No other provisions of FPA §212 are applicable to the Application's request for interconnection.[23] Accordingly, a Commission order authorizing operation of the CSC would comply with the requirements of FPA §§ 210 and 212.

CONCLUSION

The Application meets the requirements of FPA §§ 202(b) and 210, and thus the Commission should issue an order directing operation of the CSC. Such action will increase reliability, promote competition, and further the Commission's policy objectives. Given the significant time and resources put into the CSC, the Commission should not allow parochial interests to thwart its policies and jeopardize the significant benefits associated with the project.

Respectfully submitted,



Dawn Jablonski Ryman
General Counsel

By: David G. Drexler
Assistant Counsel
Public Service Commission
of the State of New York
3 Empire State Plaza
Albany, NY 12223-1305
(518) 473-8178

Dated: June 1, 2003
Albany, New York

[22] Application at p. 34.

[23] Application at p. 35.

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Long Island Power Authority Long Island Lighting Company d/b/a LIPA Cross-Sound Cable Company, LLC	))))	Docket No. TX04-3-000

EXHIBIT A

AFFIDAVIT OF
HOWARD A. TARLER

HOWARD A. TARLER, being duly sworn, deposes and says:

1. My name is Howard A. Tarler, and I am the Chief of the Bulk Transmission Systems Section at the New York State Department of Public Service. My responsibilities include regulatory oversight of the planning, design, licensing, and operation of the highest voltage transmission lines in New York State and the availability of adequate generation to reliably serve that transmission system and meet the needs of New York electric customers. As part of those duties, I regularly participate in the activities of the New York Independent System Operator (NYISO) and attend meetings with representatives of the market sectors including transmission owners, generation owners, and others. I serve as the representative of the Eastern United States' state utility regulatory commissions on the Operating Committee of the North American Electric Reliability Council

(NERC), and as the representative of the New York Department of Public Service to the Northeast Power Coordinating Council (NPCC).

2. I am a registered Professional Engineer in the State of New York and have worked for the Department of Public Service for 31 years. Before coming to the Department, I worked in electric planning at two large electric utilities and was an Associate Professor of Electrical Engineering at the New Jersey Institute of Technology. I have a graduate degree in Electric Power Engineering from Rensselaer Polytechnic Institute in New York.

3. In this affidavit I will address the issue of the need for operation of the Cross-Sound Cable (CSC) to ensure reliability of electric power supply on Long Island and in Connecticut during the peak months of electric usage this summer. There is a need for the CSC to prevent possible load shedding or blackouts on Long Island during hot summer weather or emergencies created by electrical or mechanical failure of electric transmission, generation, or related equipment.

4. Reliable electric service requires a system of generators, transmission, distribution, and related equipment. Because the thousands of components in such a system, despite proper maintenance, can and do experience failures from time to time, and because the electric demands of customers increase

dramatically as temperature and humidity increase, the system must be designed and operated to handle reasonably foreseeable uncertainties. Reliability standards dictate how to reliably design and operate the electric systems.

5. Reliability standards require that supplies of electricity be sufficient to provide a "loss of load expectation" of less than once in ten years. This standard is used to determine the minimum amount of generation that must be available in all regions, not just in Connecticut and Long Island. Using those standards, the NYISO, the New York State Reliability Council and the New York State transmission owners annually study the transmission systems to determine the amount of generation required to reliably serve customers.

6. In order to reliably serve customers on Long Island, the Long Island Power Authority (LIPA) has been taking steps to increase both the amount of generation on Long Island, and the transmission connections to the electric systems external to Long Island. The CSC was added as part of that plan and LIPA continues to pursue additional generation and transmission to meet future electric demand. While LIPA is the primary load-serving entity on Long Island, the New York Power Authority as well as several municipal utilities separately provide electric service to customers on Long Island and similarly benefit from the CSC operations.

7. The studies performed by the NYISO for summer 2004 showed that with the CSC, Long Island would have barely enough installed capacity to meet the minimum reliability requirement set by the NYISO. Without the CSC, the minimum generation required on Long Island is increased. While LIPA has indicated that an additional 88 megawatts (MW) of temporary generators will be placed in service on Long Island to improve supply adequacy and reliability, even with the CSC in service, this temporary generation does not adequately and reliably substitute for the CSC connection. Since we are already well into the summer capability period which began May 1, any additional temporary generation could not be ready in time for the likely high load periods in June and July. However the CSC could be ready to operate almost immediately if authorized by FERC. Further, the CSC could be available even after the temporary generators are returned to the leasing agent, providing increased reliability and efficiency to both Long Island and Connecticut.

8. Load projections are usually done for "normal" weather and there is a 50-50 chance that the normal load projection could be exceeded. While temperatures and loads a little higher than "normal" are not likely to cause a problem if adequate supply is available, the unavailability of the CSC would reduce potential supply by over 300 MW, an amount three times greater

than the annual load growth on Long Island. The NYISO has also considered the possibility of what it calls "extreme" weather and projects an extreme electricity demand of 5500 MW for Long Island. Under those circumstances there could be an increase of about 450 MW over the projected normal load. Such a weather event is certainly possible and the ability of LIPA and the other Long Island suppliers to meet such customer demands would depend in large part on the availability of the CSC, the lack of significant forced outages (equipment failures), and the response of customers to calls for energy conservation and load reduction.

9. The events on August 14, 2003 showed that multiple coincident line outages can and do happen and that remote events can affect us. The strength of the transmission system is important in preventing blackouts and the CSC provides not only emergency transmission capability, but also the ability to stabilize the voltages in both Long Island and Connecticut through the production and absorption of reactive power. Voltage support was identified by the International Report on the blackout as being a critical function, the absence of which can contribute to the cause of a blackout. We also saw on August 14 and 15th the importance of transmission connections between New York and its neighbors for rapidly restoring power after a blackout. If Long Island or Southern New England were

to experience a blackout in the future, the immediate availability of the CSC could significantly shorten the time it would take to restore the electric system.

10. The events on August 14, 2003 also showed us that the cascading blackout occurred within just a couple of minutes. The benefits of the CSC can best be accomplished if it remains in service instead of waiting until after a blackout occurs before returning it to service.

AFFIDAVIT OF
HOWARD A. TARLER

Howard A. Tarler, having been duly sworn, deposes and says that he is the witness in the foregoing affidavit and its contents are true, correct, accurate, and complete, to the best of his knowledge, information, and belief.

Howard A. Tarler

Subscribed and sworn to before me
on this 27th day of May, 2004

NOTARY PUBLIC
David Drexler
Registered in Albany County, New York
#02DR6041385
Expires 5/8/06

CERTIFICATE OF SERVICE

I, Jacquelynn R. Nash, do hereby certify that I will serve on June 1, 2004 the foregoing Notice of Intervention and Comments of the Public Service Commission of the State of New York by depositing a copy thereof, first class postage prepaid, in the United States mail, properly addressed to each of the parties of record, indicated on the official service list compiled by the Secretary in this proceeding.

Date: June 1, 2004
Albany, New York

Jacquelynn R. Nash