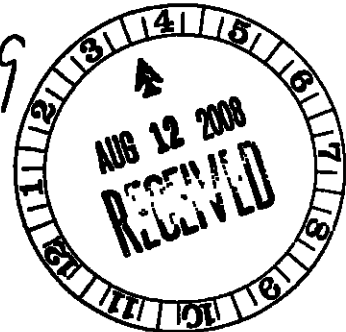


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AUG 12 2008

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Public Record

August 12, 2008

Ms. Anne K. Quinlan
Acting Secretary
Surface Transportation Board
395 E Street SW
Washington, DC 20423

Re: Finance Docket No. 35036 Suffolk & Southern Rail Road LLC -
Lease and Operator Exemption - Sills Road Realty, LLC

Dear Secretary Quinlan,

Enclosed please find an original and 11 copies of Petitioner's letter advising the Board of a development which is about to occur at the site of the proposed rail construction. Please stamp and return the 11th copy to the undersigned in the accompanying return envelope. A Certificate of Service also accompanies this letter.

An adjoining landowner, Caithness Long Island, LLC ("Caithness") is developing a natural gas fueled electric power generating station on a 96 acre parcel to the immediate south of Petitioner's property. See Caithness project information, annexed hereto as Exhibit A. The two properties are separated by the Long Island Rail Road tracks. See map annexed hereto as Exhibit B. The Town of Brookhaven Planning Board has approved Caithness' Site Plan. See Exhibit C.

On June 16, 2008, KeySpan Energy ("KeySpan") obtained a certificate of environmental compatibility and public need from the New York State Public Service Commission granting authority

to construct a gas transmission pipeline to serve the Caithness facility. See Exhibit D. The proposed gas line will transverse Sills property. See Exhibit E.

KeySpan approached Sills seeking permission to access Sills' property for the purpose of utilizing a 200' x 300' staging area and existing office trailer and electric generator for the temporary storage of materials and equipment and the prefabrication of piping and associated work and access to the Long Island Power Authority ("LIPA") transmission lines contiguous to the eastern property line of the Site. See proposed Site Access Agreement annexed hereto as Exhibit F.

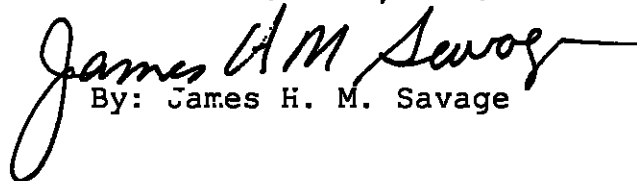
On August 8, 2008 Jim LaCarrubba, the Deputy Supervisor of the Town of Brookhaven, transmitted an E-mail indicating that the Town Law Department had reviewed and had no objection to the Site Access Agreement. See Exhibit G.

The Board's October 12, 2007 Decision imposes a cease and desist order prohibiting Petitioner and related entities from engaging in rail construction activities without Board approval. Petitioner continues to abide by that Decision, has filed a Petition for Clarification of the Board's October 12th Decision seeking authority to undertake certain pre-construction activities, and has filed for construction authority under Finance Docket No. 35141 (filing date: August 7, 2008).

KeySpan intends to begin construction activities on Sill's property on or about August 11, 2008. Petitioner requests the Board take notice of KeySpan's activities and issue Sills such guidance as the Board deems necessary, if any, to assure that the interests of all parties remain protected.

We thank the Board for its time and consideration.

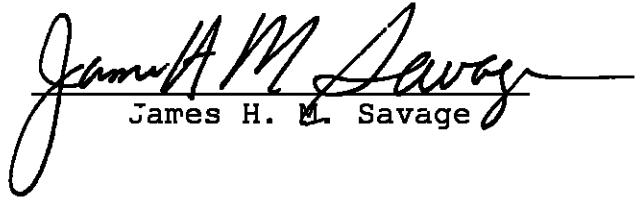
Respectfully submitted,
John D. Heffner, PLLC


By: James H. M. Savage

JHMS/mhd
Enc.

CERTIFICATE OF SERVICE

I certify that I have this day served copies of the accompanying documents upon all parties of record to this proceeding by first class mail.


James H. M. Savage

August 12, 2008

[Home](#)[Project info](#)[News/events](#)[Additional info](#)[Contact us](#)

CAITHNESS LONG ISLAND

E N E R G Y C E N T E R

FAQ

» Who is Caithness?

For over 25 years, Caithness Energy, LLC has been a pioneer in the development of clean, reliable energy. A New York-based independent power producer, Caithness currently has interests in 34 power projects, generating in excess of 3,000 megawatts (MW) across the country. Caithness is one of the nation's largest renewable energy producers, owning and operating geothermal, wind and solar plants in the western United States. The Caithness Long Island Energy Center is being developed by Caithness Long Island, LLC, a wholly-owned subsidiary of Caithness Energy, LLC. You can visit our Web site at www.caithnessenergy.com to learn more about us.

» Where will the Caithness Long Island Energy Center be built?

♦ **Location:** The Caithness Long Island Energy Center is being built on a fifteen acre site within a 96-acre parcel of land, centrally located in a large industrial area in the Town of Brookhaven. The site is located within the Brookhaven Empire Zone, an area specially designated by New York State and the Town of Brookhaven for industrial development.

♦ **Bordering land:** The Long Island Rail Road runs along the northern perimeter of the site. Light industrial facilities border the property on the west. Undeveloped, sub-divided industrial parcels make up the border on the south. On the eastern side of the property, a 300 foot-wide Long Island Power Authority "LIPA" transmission line right-of-way borders the site along with several undeveloped industrial parcels.

» Will the project be near any residential areas?

Our project site is surrounded by industrial and commercial facilities and undeveloped, industrially zoned land for a considerable distance in all directions. The nearest residential communities are about three-quarters of a mile away. In contrast, almost every other major power plant on Long Island has residential communities at its borders.

» What type of Power Plant will Caithness build?

♦ **Capacity:** The Caithness Long Island Energy Center will generate 350 MW of clean, low-cost power. It will provide enough electricity to supply approximately 10 percent of Long Island's growing annual demand for electricity.

♦ **Generating technology:** The plant will employ advanced "combined-cycle" technology. In a combined-cycle plant, exhaust heat is captured to create additional electricity resulting in a highly fuel-efficient system. In contrast, the older baseload power plants on Long Island use a steam cycle only and are much less efficient in their use of fuel.

♦ **Fuel:** The primary fuel will be clean, natural gas; oil will be used as a backup fuel during periods, such as on the coldest winter days when the demand for natural gas is at its peak. At that time we can switch to oil, allowing the natural gas supply to be used to heat hospitals, schools and other institutions.

» What role does LIPA have in this project?

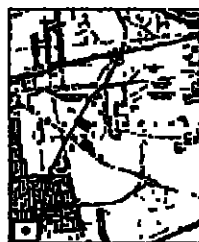
♦ **LIPA RFP:** In June of 2003, the LIPA issued a request for proposals ("RFP") for a 20-year supply of

PROJECT PRESENTATION



- » View Power Point Presentation
- » View PDF Presentation

SITE LOCATION MAP



» Click to see the enlarged image

power or interstate transmission capacity from new, privately-owned facilities. LIPA received fourteen responses including the one submitted by Caithness for this project. For nine months, LIPA conducted a comprehensive evaluation of the proposals, examining their economics, reliability, fuel use, community and environmental impact and other characteristics.

♦ **Selection of Caithness:** In June of 2004, LIPA's Board of Trustees selected Caithness for its attractive combination of price, fuel diversity and other economic advantages and Caithness has become a vital part of the power authority's long-term plan to meet Long Island's growing power needs. In December of 2005, LIPA approved a twenty-year agreement with Caithness to purchase low-cost, clean, reliable power produced by the plant

» **What are the environmental effects of such a plant?**

♦ **All Government E.P.A. Approvals:** After a thorough environmental review process, Caithness has received all required approvals from federal, state, county and town levels of government. It has received all environmental approvals from the U S Environmental Protection Agency and the N Y S Department of Environmental Conservation, which are among the strictest environmental regulations in the country. No environmental group has opposed Caithness

♦ **Environmentally sensitive areas:** The site is not within nor does it encroach on any environmentally sensitive or protected areas such as wetlands, protected rivers, parks, habitats for endangered or threatened species, or the recharge zone for the aquifer.

♦ **Air:** Modern power plants are, by far, much cleaner than the older oil and gas units which make up over 90 percent of the existing generating capacity on Long Island . In part, this is because they are more efficient than plants built decades ago and therefore burn one-third less fuel per unit of electricity generated than older facilities. In addition, the advanced gas turbine technology that is available today is much cleaner than the combustion technologies available decades ago. As a result, emissions of key air quality substances will be reduced by at least 90 percent per unit of electricity generated as compared to the existing older power plants on Long Island . Over time, as our plant and others like it substitute for the older units, there will be substantial regional air quality benefits.

♦ **Greenhouse gases:** Because the plant uses less fuel than older ones, it will produce one-third less greenhouse gases per unit of electricity generated.

♦ **Water consumption:** Another technologically advanced feature, and a first for Long Island, is that Caithness will be an air cooled plant. The cooling system for the steam turbine will be a "closed" cycle air-cooled condenser. While more expensive than the more commonly used evaporative cooling systems, air-cooled condensers consume 95 percent less water than plants in operation on Long Island today

♦ **Waste water:** Sanitary wastewater will be discharged to septic tanks. Process waste streams suitable for discharge to groundwater will be recharged on-site, waste streams not meeting groundwater discharge standards will be held and will be disposed of off-site at an approved facility. Through the issuance of approvals by the Suffolk County Department of Health Services, the project's plant systems will comply with the rigorous regulations designed to protect the aquifer from any unintended leaks or release of regulated substances into the ground

» **What benefits will the project provide to the Town of Brookhaven?**

♦ **Host Community Benefits Program:** A host community benefits program worth in excess of \$150 million will benefit the schools, communities and residents surrounding the proposed Caithness Long Island Energy Center in Yaphank. The initiative includes significant environmental and economic benefits for the communities of Bellport, Brookhaven, East Patchogue, Gordon Heights, Medford, North Bellport and Yaphank. Also benefiting will be the Longwood, Patchogue-Medford and South Country School Districts, Brookhaven Town, and other special taxing jurisdictions.

♦ **Tax revenues:** Over its lifetime, the Caithness Long Island Energy Center will contribute approximately \$139 million in local taxes to the Town and the local school district.

♦ **Town services:** The project will require little in the way of Town-provided services

♦ **Employment:** During the two-year construction period, there will be 200-300 construction workers at the project site. Between \$60 - \$70 million will be spent locally on wages and locally provided services. Once the plant is in operation, 20-25 long-term professional workers will be permanently employed at the site

♦ **Scholarships:** Caithness has pledged to contribute \$25,000 per year to a scholarship program for students selected by the Longwood, Patchogue-Medford and South Country School Districts. The scholarships were established to promote standards of excellence and provide diverse educational opportunities for local students interested in science, engineering or environment studies.

» **What is the approval process for the project?**

♦ **All Government Approvals:** Caithness has received all required approvals from federal, state, county and town levels of government to proceed with construction. It has received all environmental approvals from the U.S. Environmental Protection Agency and the N.Y.S. Department of Environmental Conservation.

♦ **Environmental review:** Power projects require various federal, state and local permits. In New York State, the State Environmental Quality Review Act (SEQRA) lays out the process under which these approvals are obtained. Through this comprehensive process, issues associated with the project are thoroughly reviewed by federal, state, county and town governmental agencies.

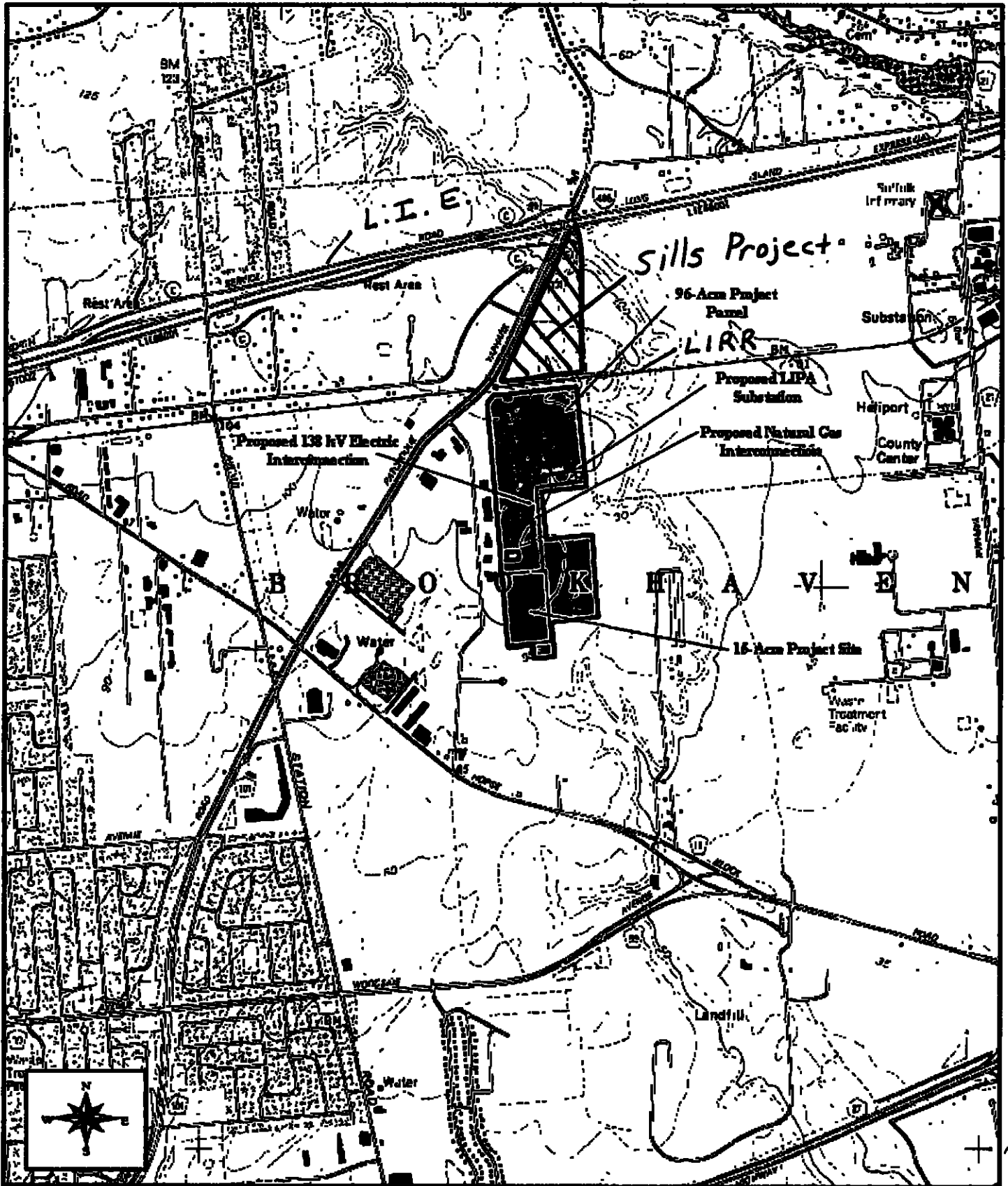
♦ **Environmental Impact Findings:** In June of 2005, LIPA, serving as lead agency under the SEQRA process, accepted the Final Environmental Impact statement for the project following public hearings and a public comment period. In December of 2005, the SEQRA findings statement was issued by the LIPA Board, concluding that the project would have minimal or no adverse environmental impacts. In December of 2005, the SEQRA findings statement was issued by the LIPA Board, concluding that the project would have "no adverse environmental impacts."

♦ **Public participation:** The procedures outlined in SEQRA provided for public participation through a number of forums at various stages of the approval process. A number of public meetings were held and citizen input was encouraged and included as part of the SEQRA determinations.

For more information contact Donald Miller at 516-536-6811.

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EXHIBIT B



— Proposed 138 kV Electric Interconnection
— Proposed Natural Gas Interconnection

Caithness Long Island, LLC
Caithness Long Island Energy Center
Town of Brookhaven, Suffolk County, NY



PRESS RELEASE

FOR IMMEDIATE RELEASE

Contact: Don Miller
(516) 536-6811
(516) 330-1647 (mobile)

BROOKHAVEN PLANNING BOARD APPROVES SITE PLAN FOR CAITHNESS LONG ISLAND ENERGY CENTER

NEW YORK, NY — September 26, 2006 — The Brookhaven Town Planning Board last night approved the site plan application submitted by Caithness Long Island, LLC for its proposed natural gas fired electric generating station in Yaphank. Caithness has received environmental approvals from federal, state, county and town governments for Long Island's first baseload power plant in over 30 years. With planning board approval, Caithness will now file for its building permits to enable construction of this project early next year.

"We are pleased to gain our second major approval in the Town of Brookhaven, and look forward to breaking ground for what will be New York State's cleanest and most efficient power plant," said Ross D. Ain, Senior Vice President, Caithness Long Island, LLC. On July 25, the Brookhaven Town Board approved a special use permit and related variances and waivers.

The Planning Board is responsible for reviewing and approving site plan requests. Further, its members review specific plans to ensure compliance with town land use goals, objectives, policies and priorities. Among the items reviewed are setbacks, vegetation and landscaping, and overall appearance. The Brookhaven Town Planning Board found that the Caithness Long Island Energy Center has met or exceeded the town's requirements in these key areas.

Caithness was selected through a competitive bid by the Long Island Power Authority for its attractive combination of price, fuel diversity and other economic advantages and has become part of LIPA's long-term plan to meet the growing need to power Long Island. The project will be located within a large, industrially zoned area in the Town of Brookhaven's Empire Development Zone, south of Exit 66 of the Long Island Expressway and will produce 350 megawatts of clean, economical and reliable electricity using state-of-the-art, combined-cycle generation technology. More information can be found at: www.caithnesslongisland.com.

[more]

**BROOKHAVEN PLANNING BOARD APPROVES SITE PLAN FOR CAITHNESS
PLANT —page two.**

About Caithness Long Island, LLC

Caithness Long Island, LLC is a wholly owned subsidiary of Caithness Energy, LLC, a privately held, New York-based independent power producer. For over 25 years, Caithness has been a pioneer in the development of clean, reliable energy and currently has interests in 34 power projects, generating in excess of 3,000 megawatts across the United States. Caithness is one of the nation's leading renewable energy producers, owning and operating geothermal, solar and wind facilities in the western U.S. For more information, please visit: www.caithnessenergy.com.

#

EXHIBIT D

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held in the City of
Albany on June 16, 2008

COMMISSIONER PRESENT:

Garry A. Brown, Chairman

CASE 08-T-0246 - Application of KeySpan Gas East Corporation
d/b/a KeySpan Energy for a Certificate of
Environmental Compatibility and Public Need for
the Construction of and Operation of Gas System
Reinforcements and Lateral for Caithness
Generating Station Pursuant to Article VII of
the Public Service Law.

ORDER GRANTING CERTIFICATE OF ENVIRONMENTAL
COMPATIBILITY AND PUBLIC NEED

(Issued and Effective June 17, 2008)

INTRODUCTION

On March 7, 2008, KeySpan Gas East Corporation d/b/a KeySpan Energy (KeySpan or the Company) submitted an Application pursuant to §121-a(3) of the Public Service Law (PSL) to construct approximately 13,400 feet of 24-inch and 5,900 feet of 16-inch diameter coated steel fuel gas transmission pipeline. On March 21, 2008, a deficiency letter was sent to KeySpan from Staff of the New York State Department of Public Service (Staff) detailing shortcomings in the application. At that time KeySpan decided to amend its Application in this case. It removed from consideration the 24-inch diameter portion of the project so that its proposed route might be refined to answer concerns of the New York State (NYS) Department of Transportation. On April 18, 2008, KeySpan submitted an amended Application. Staff has reviewed the Application and determined that the application was filed or otherwise in compliance with the PSL and the Commission's regulations as of the April 18, 2008 amendment.

ENVIRONMENTAL REVIEW

Facility Description

The proposed pipeline is to be composed of 5,900 feet of 16-inch coated steel pipe. The pipeline will originate at an existing KeySpan gas main located within the boundaries of the southern service road of the east portion of the Long Island Expressway (LIE) just east of Sills Road or Exit 66. The project will then head due south along the western edge of an existing Long Island Power Authority (LIPA) electric transmission line corridor. The proposed line will cross under tracks of the Long Island Railroad (LIRR) before entering the confines of the 96-acre Caithness Generating Station. The Company plans to begin construction of the pipeline shortly after a Certificate of Environmental Compatibility and Public Need (Certificate) is granted.

Environmental Management and Construction

In accordance with PSL §121-a(1), KeySpan has certified that, in constructing fuel gas transmission lines less than ten miles long, it will follow the standards and practices set forth in the Department of Public Service's (DPS) Revised Interim Environmental Management and Construction Standards and Practices (EM&CS&P), effective February 28, 2006, and subsequently adopted.¹ KeySpan has identified general and site-specific measures and techniques to be employed in connection with this project. The measures and techniques contained in this document, when properly applied, will help ensure that

¹ Case 06-T-1383, Fortuna Energy Inc., and Case 70100 Environmental Management and Construction Standards and Practices Order Granting Certificate of Environmental Compatibility and Public Need and Improving Environmental Management and Construction Standards and Practices (issued December 7, 2006).

environmental impacts are minimized during construction, operation and maintenance of the facility. Also, in minimizing disruption and environmental impacts associated with construction, the Company should use its best efforts to coordinate pipeline construction with other known construction activities in the immediate vicinity of the project.

The proposed pipeline will traverse a mixture of land uses. Limited Access Highway, Utility Corridor, Industrial and scrub forestlands are the predominant land uses the project will cross. The pipeline will disturb about 2.5 acres of woodlands. The vegetation impacted is a mixture of Pine-Oak Forest. The project lies outside the Central Pine Barrens area. No streams, waterways, or State of Federally listed wetlands of any size will be crossed by the project.

KeySpan states that it will generally use a maximum right-of-way (ROW) width of 30 feet. This does not include any of the adjacent electric line ROW and access roads which may be used to facilitate construction (see the project Application map). Ten feet of the ROW will be temporary and 20 feet will be permanent. Additional workspace may be required to facilitate crossing operations in and around the LIRR. Efforts will be made by the Company to keep ROW disturbance to a minimum.

The Company has indicated the location of all property boundaries, fences and hedgerows that will be crossed by the pipeline on the project map included in its application. No private dwellings exist within 150 feet of the project route. Access to the proposed pipeline will impact one existing public road, the Caithness site and access roads, and ROWs owned by LIPA and Caithness respectively and each has granted permission to KeySpan for their use. The Company indicates that it will apply to the NYS Department of Transportation for a permit to work within the confines of the southern service road of the LIE

crossed by this proposed project. KeySpan explains that the roads will be crossed using an open cut, horizontal directional drill (HDD) or conventional bore method.

KeySpan advises that no existing or officially approved planned residential, commercial, industrial, institutional or recreational land uses will be crossed by the proposed pipeline, and is not aware of the existence of vulnerable ecosystem features or resources (including wetlands, springs, wells, unique old growth forest, or active sugar bushes). No trees from the State Registry of Big Trees were identified along the proposed route. The Company indicates that no designated visual resources (including scenic areas, roads, vistas, and overlooks) will be affected by this project. KeySpan states in its application that the proposed pipeline will cross two underground fiberoptic telecommunications lines. One fibreoptic line is buried adjacent to the existing KeySpan gas pipeline in the LIE service road. The second is buried approximately 1,200 feet south of the same service road.

While a Phase 1A study of the project area suggests that the project will not impact any structures of archeological or historical significance, KeySpan has agreed to conduct a Phase 1B study in previously undisturbed portions of the project ROW.

Local Law

The Company advises that it has contacted all applicable municipal, county and state entities that will have jurisdiction over portions of the project area, and there are no applicable laws that KeySpan finds unreasonably restrictive to this project.

Party Comments

No comments were received in relation to this project.

DPS Staff Analysis

DPS Staff met with the Company officials at the project site to review the project route and examine existing conditions. Staff observed no environmental or physical impediments to preclude the applicant's proposed route. Staff of the Office of Electric, Gas and Water was consulted and they expressed no concerns with the linear co-occupation of the electric line ROW by the proposed gas facility. The pipeline will be buried to a minimum depth of 42-inches, unless solid rock is encountered in the pipeline trench; in that case, the Company will meet the depth conditions in 16 NYCRR Part 255.

Based on Staff's consultation, with the NYS Department of Environmental Conservation (DEC), Staff believes that the project will not cross any NYS protected streams (Stream Classification of C(t) or above) or NYS Freshwater Wetlands or their regulated adjacent areas.

Based on information supplied by DEC officials, Staff believes the Company will need to obtain a General Permit for Stormwater Discharges from Construction Activities (GP 02-01), if this project will result in disturbance of five acres or more of soil. To obtain coverage under the General Permit, all conditions of the permit must be met, including the preparation and implementation of an appropriate Stormwater Pollution Prevention Plan (SWPPP) and the filing of a Notice of Intention (NOI) with DEC.

Staff believes based on DEC statements, that the project location is not located within an archeological sensitive area. DEC explained to Staff that it has reviewed the available information in the New York Heritage Program database on known occurrences of rare or state listed animals and plants

or significant natural communities and other significant habitat and that no occurrences were found. DEC stated that its database does not include federally listed or proposed endangered or threatened species and suggested that the Company contact the U.S. Department of the Interior's Fish and Wildlife Service for this information.

Staff consulted the NYS Department of Agriculture and Markets (Ag&Mkts) and believe based on its statement, that the proposed pipeline will not impact any agricultural resources of any kind.

Discussion

If any additional workspace is needed, the Company must follow the change process as outlined in Ordering Clause 1(b) below. A letter of "no impact" from the NYS Office of Parks, Recreation & Historic Preservation (OPRHP) to the Company must be sent to DPS Staff before construction may commence. Should any archaeological resources be uncovered during construction, the Company will be required to stop work and contact OPRHP and DPS Staff. Before construction begins, a copy of KeySpan's NOI to DEC must be sent to Staff. The Company must contact the U.S. Department of the Interior's Fish and Wildlife Service for this information.

PROJECT NEED

The construction of this project is necessary to provide a primary source of natural gas to the soon to be completed Caithness Generating Station. The lateral will deliver up to 60,000 decatherms of gas per day to the power plant. Without this project, there will be no gas available to for testing or operation of the generating station prior to its November 2008 planned operational start.

GAS SAFETY REVIEW

The pipeline will be designed, constructed, tested, operated and maintained in accordance with the provisions of 16 NYCRR Part 255 which are applicable to steel fuel gas transmission lines. The pipeline will be owned and operated by KeySpan. KeySpan is a member of the one-call notification system in the areas where the line is located and must comply with the requirements of 16 NYCRR Part 753 regarding the protection of underground facilities. The facility will be designed and installed with a minimum depth of cover of 42 inches. The facility will be hydrostatically tested for a period of 12 consecutive hours upon completion of construction at a pressure no less than 150% of the maximum allowable operating pressure. The design of the facility conforms to the requirements in Part 255, and, thus, will minimize the hazard to persons or property along the area traversed by the pipeline.

CONCLUSION

Pursuant to PSL §121-a(3) the Commission finds and determines that:

- a) the line is needed, as discussed above, to supply the Caithness Generating Station;
- b) the nature of the probable environmental impacts, as described above, are largely temporary in nature due to construction and will be mitigated by the requirements of an Environmental Management and Construction Plan;
- c) the line will not pose an undue hazard to persons or property located along the area traversed by the proposed pipeline;
- d) the location of the facility, as proposed, conforms to applicable state and local laws and regulations as discussed above; and
- e) the facility will serve the public interest, convenience and necessity for reasons given herein.

The Commission orders:

1. KeySpan Energy Inc. (the Company) is granted a Certificate of Environmental Compatibility and Public Need, pursuant to Public Service Law §121-a(3), to construct the fuel gas transmission line as described in its Application submitted on March 7, 2008 and supplemented April 18, 2008, and in this Order, subject to the following conditions:

- (a) the Company shall apply the measures and techniques for environmental management and construction of this project indicated in its Application and reflected herein;
- (b) the Company shall report to Department of Public Service (DPS) Staff (Staff) any proposed changes to the approved project, including proposed changes to the approved measures and techniques to be applied to the environmental management and construction of this project; Staff shall refer to the Director of the Office of Energy Efficacy and the Environment (OEEE), for approval, those proposed changes that will not cause substantial change in environmental impact or a change in the location of any portion of the certified site or right-of-way (ROW) of the project and shall refer all other proposed changes to the Commission; the Company shall not execute any proposed change until it receives oral or written notification from the Director of OEEE or the Commission;
- (c) the Company shall file as-built drawings with Staff, should the pipeline deviate from the centerline of the proposed ROW; any change in the location of the proposed ROW shall be reported as set forth in the preceding condition;

- (d) the Company shall provide construction contractors with complete copies of the Certificate, the Environmental Management and Construction Standards and Practices (EM&CS&P), updated construction drawings and any site-specific plans;
- (e) the Company shall designate a full-time supervisor with stop-work authority over all aspects of this project; the supervisor shall be on site during all phases of construction and restoration; the full-time supervisor and the environmental and construction monitors shall be equipped with sufficient documentation, transportation, and communication equipment to monitor effectively contractor compliance with the provisions of this Order, applicable sections of the Public Service Law and the EM&CS&P; the name and qualifications of the environmental monitor shall be submitted to Staff at least one week prior to the start of construction;
- (f) the Company shall notify all construction contractors that the Commission may seek to recover penalties for violations of the Certificate, not only from the Company but also from its construction contractors, and that construction contractors may also be liable for other fines, penalties and environmental damage;
- (g) the Company shall notify Staff of the proposed commencement date at least ten days prior to the start of construction;
- (h) before pipeline construction may commence, both edges of the ROW shall be staked and flagged and

- any wetland boundaries within, and in close proximity to, the pipeline ROW shall be staked and flagged;
- (i) the Company shall confine clearing and subsequent mechanical treatment of vegetation to the minimum extent necessary for construction, operation and maintenance of the certified facility, during clearing operations, all brush and trees shall be felled into the ROW to minimize damage to trees and structures on adjacent land;
 - (j) the Company shall exercise all necessary and reasonable precautions to minimize sedimentation and soil erosion in work areas and on the ROW; further, the Company shall take prompt and effective action to control sedimentation and erosion, in the event it does occur;
 - (k) in areas of the ROW subject to soil erosion (including stream approaches), the Company shall install temporary erosion control devices as soon as practicable, but in no event later than the end of the work day;
 - (l) if any additional workspace is needed, the Company must follow the change process as outlined in Ordering Clause 1(b);
 - (m) the Company shall seed and mulch the ROW no more than five days after final grading;
 - (n) no open burning is permitted;
 - (o) the certified work is subject to inspection by authorized representatives of DPS;
 - (p) the maximum pressure of the pipeline shall not exceed 1,440 pounds per square inch gauge; the Company shall design, construct, test, operate

and maintain the pipeline in accordance with the provisions of 16 NYCRR Part 255 applicable to steel transmission lines; the Company shall be a member of the one-call notification system in the area where the line is located and comply with the requirements for excavators and operators for the protection of underground facilities set forth in 16 NYCRR Part 753; at least 30 days before construction commences, the Company shall submit an Appendix 7-D to Gas Safety Staff in Albany; also, the Company shall notify Dig Safely New York of the addition of this pipeline to its system prior to the pipeline in-service date;

- (q) the Company shall amend its Operation and Maintenance and Emergency Procedures, as required by 16 NYCRR §§ 255.603(b) and 255.615 to reflect the addition of this pipeline and all interconnected pipelines to its system; in addition, the Company shall amend its program for operator qualification, as required by 16 NYCRR §255.604, to include covered tasks and qualifications of personnel related to operations and maintenance of this pipeline and all interconnected pipelines;
- (r) the Company shall comply with the Integrity Management Requirements as found in 16 NYCRR Part 255;
- (s) the Company shall make available to Safety Staff the mill certification corresponding to the steel pipeline being used;
- (t) if the dual layer FBE pipe is unavailable, the Company may use coated steel pipe that meets or

- exceed the coating requirements specified in 16 NYCRR §255.461; in addition, the Company shall amend Appendix 7-D reflecting the coating change and shall send it to Gas Safety Staff;
- (u) before construction may commence, the Company shall provide to Staff a copy of a letter of "No Impact" from the Office of Parks, Recreation and Historic Preservation (OPRHP); in the event culturally significant resources are found on or near the pipeline ROW, the Company shall immediately contact OPRHP and follow any recommendations it makes; disputes shall be referred to the Commission;
 - (v) the Company shall notify Staff prior to construction in the affected area that each necessary local, state and federal permit required in connection with this project has been obtained and shall provide a copy of each permit to Staff; in addition, a copy of all other plans and documents discussed in the body of this Order shall be provided to Staff before construction commences;
 - (w) at least ten days prior to the start of construction, the Company shall hold a pre-construction meeting. An agenda, location and attendee list shall be agreed upon between Staff and the Company. The Company shall supply draft minutes from this meeting to all attendees; the attendees may offer corrections or comments and the Company shall issue the finalized meeting minutes to all attendees; if, for any reason, the pipeline contractor cannot finish the

construction of this project and a new pipeline contractor is needed, then another pre-construction meeting with the same format as outlined above in this Ordering Clause shall be held;

- (x) ten days prior to pipeline installation across any stream or drainage on this project, the Company shall meet with Staff and the contractor to determine the type of crossing method, erosion control measures and materials used to install the stream crossing; field meeting notes shall be taken by the Company of issues discussed at this meeting and a copy of these notes shall be distributed to the attendees;
- (y) before construction may commence, the Company shall contact the U.S. Department of the Interior's Fish and Wildlife Service to obtain information concerning federally listed or proposed endangered or threatened species along the pipeline route;
- (z) before construction begins, the Company must provide a copy of its stormwater discharge Notice of Intention filed with the New York State Department of Environmental Conservation to Staff;
- (aa) at least ten days before any blasting operations begin on this project, a meeting will be held with Staff, the Company and the Company's contractor to discuss the blasting procedures to be used, along with other pertinent information;
- (bb) the Company shall consult with each local department or agency having jurisdiction over

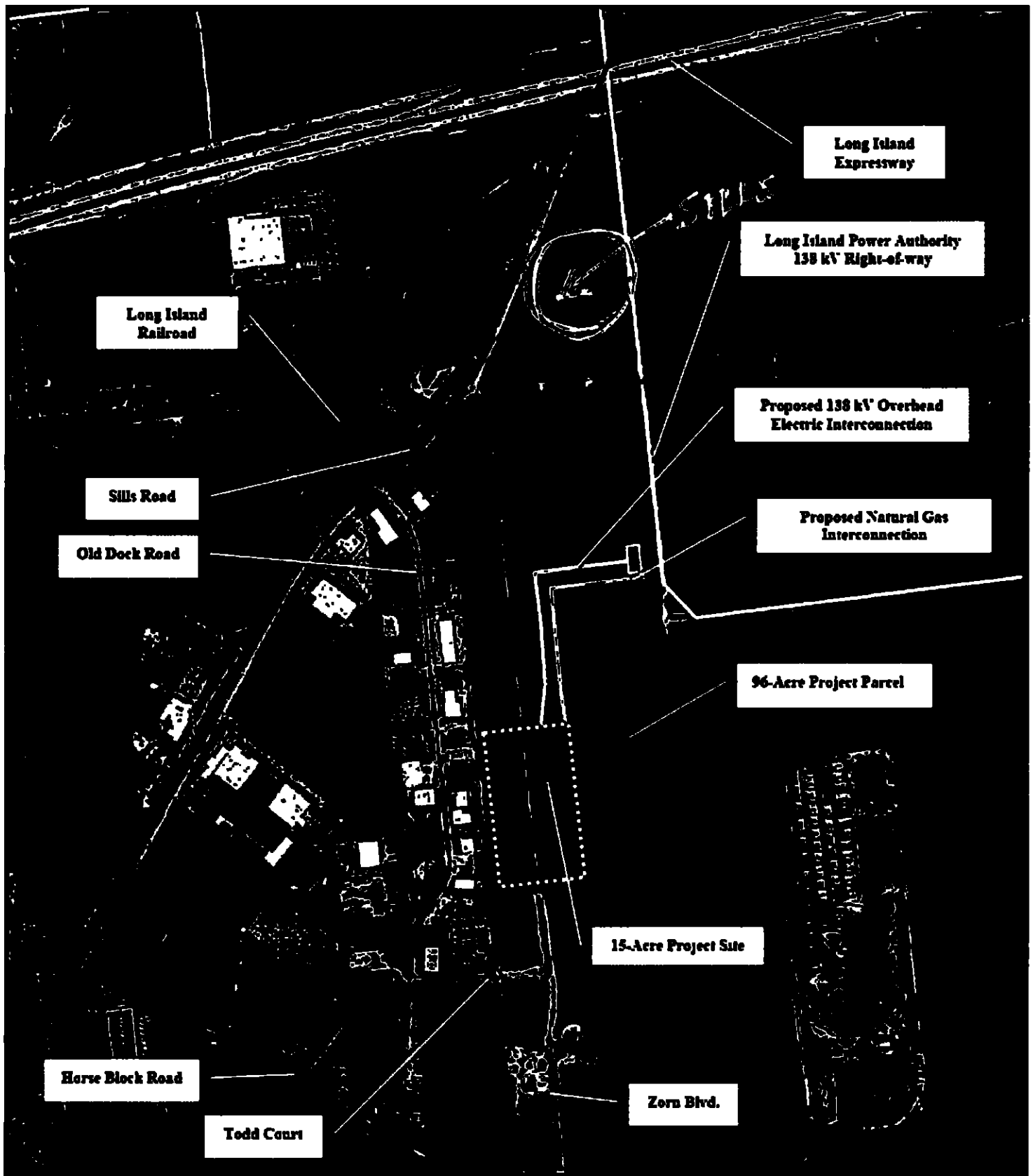
public roads that will be crossed or paralleled by the pipeline or used for direct access to the ROW; at least 15 days before the Company begins construction within the ROW limits of such roads or takes direct access from them, it shall notify each such department or agency of the approximate date work will begin, the crossing locations or uses, depth of facility crossings, details and specifications for repaving (if any), and related considerations;

- (cc) should circumstances warrant before construction commences, the Company may seek to change the pipe diameter from six inches to four by following the change process as outlined in Ordering Clause 1(b) above;
- (dd) within ten days after the ROW is completely restored, the Company shall so notify Staff in writing; also, within ten days after the pipeline is in service, the Company shall so notify Staff in writing;
- (ee) within one year after the in-service date of the project, the pipeline ROW shall be fully restored;
- (ff) the Company shall promptly notify Staff in writing should it decide not to complete construction of all or any portion of this project; it shall serve a copy of such notice upon all parties; and
- (gg) if construction of the project hereby certified is not commenced within eight months, this Certificate may be vacated without further notice.

2. This proceeding is continued, but shall close ten days after the ROW has been completely restored, unless the Secretary of the Commission finds good cause to continue the proceeding further.

(SIGNED)

Commissioner



- 96-Acre Project Parcel
- Gas Transmission Line (20-inch service)
- Gas Transmission Line (8-inch service)
- Overhead Electric Transmission Line (138kV)



Caithness Long Island, LLC
 Caithness Long Island Energy Center
 Town of Brookhaven, Suffolk County, NY

[PROPOSED] SITE ACCESS LICENSE AGREEMENT

This Site Access License Agreement (the "Agreement"), made this ____ day of August, 2008, by and between **Sills Road Realty, LLC ("Licensor")** a New York limited liability company, with principal offices at 485 Underhill Boulevard, Suite 103, Syosset, New York 11791 and **KeySpan Gas East Corporation ("Licensee")**, a New York corporation, duly organized under the laws of the State of New York, with principal offices at 175 East Old Country Road, Hicksville, New York 11801, Licensor and/or Licensee are referred to herein individually as "Party" and collectively as the "Parties."

APPROVED ACTIVITIES: Licensee may access property owned by Licensor comprising of approximately 28 acres, located in Yaphank, Town of Brookhaven, County of Suffolk, on the eastern intersection of the South Service Road of the Long Island Expressway and Sills Road through the gated entrance on Sills Road ("the Site"), more particularly described in Exhibit "A", for the purpose of utilizing a 200' x 300' staging area and existing office trailer and electric generator for the temporary storage of materials and equipment and the prefabrication of piping and associated work and access to the LIPA transmission lines contiguous to the eastern property line of the Site (the "Approved Activities").

In consideration of the mutual promises and agreements herein contained, the Parties agree as follows:

A. GENERAL

1. **Limited Scope.** This Agreement does not provide Site access other than to Licensee, its agents, employees, invitees and/or contractors/subcontractors specifically authorized by Licensor to engage in the Approved Activities.
2. **Access by Licensor Representatives.** Licensor may at all times have access to the Site for its own purposes, including the purpose of reviewing the Approved Activities hereunder and inspecting, maintaining and repairing its facilities located on such Site.

B. TERMS OF ACCESS

The Approved Activities and this Agreement are granted from the date first written above, through and including November 21, 2008 (the "Term"), and are subject to renewal upon the express written consent of Licensor

C. MAINTENANCE

1. Licensee will be responsible for maintaining the Site in clean, orderly condition, good repair and in a secured condition.
2. Licensee, its agents, employees, invitees and/or contractors/subcontractors shall not erect, place, maintain on, over or under the surface of the Site any permanent buildings or structures of any kind, unless expressly agreed to in writing by Licensor.

D. RESTORATION

Upon cessation of the Approved Activities, or upon expiration of this Agreement, whichever occurs first, Licensee, at its sole cost and expense, shall repair any damage Licensee may have caused to the Site and restore the Site to substantially the same condition as it existed before Licensee entered the Site.

E. HOLD HARMLESS

To the fullest extent permitted by law, Licensee shall indemnify and hold harmless Licensor, from and against claims, damages, losses and expenses arising out of or resulting from performance of Licensee's work on the Site, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death or to injury to or destruction of tangible property including loss of use resulting therefrom but only to the extent caused in whole or in part by the negligent acts, omissions or willful misconduct of Licensee, anyone directly or indirectly employed by Licensee or anyone for whose acts Licensee may be liable

F. INSURANCE REQUIREMENTS

Prior to the commencement of the Approved Activities, a Certificate of Insurance from Licensee shall be furnished to Licensor. Licensor must be added to and insured under (i) a commercial general liability policy of not less than one million (\$1,000,000.00) dollars, (ii) an umbrella policy covering protection in an amount not less than two million (\$2,000,000.00) dollars combined single limit coverage for injury, death, and property damage arising out of any one occurrence, (iii) an automobile liability policy covering all owned, hired and non-owned vehicles with a combined single limit of not less than one million (\$1,000,000.00) dollars and (iv) Worker's Compensation and Employer's Liability as required by law. Licensee shall name Sills Road Realty, LLC as additional insured. Insurance as specified herein must be maintained at all times throughout the Term of this Agreement. Licensee retains the right to self insure its coverages and in such event, Licensee may provide self-funded coverage and certificates or other evidence of such self-insurance in lieu of insurance certificates issued by insurance companies

G. GOVERNING LAW

This Agreement shall be governed by the laws of the State of New York except for conflict of law issues.

H. ENTIRE AGREEMENT

This Agreement constitutes the entire agreement and understanding between the Parties for the Approved Activities, and no amendments, additions, or modifications hereto shall be valid unless in writing and signed by all the Parties hereto.

I. BINDING EFFECT

This Agreement shall inure to the benefit of and shall be binding upon the Parties and their respective successors and assigns.

J. RISK OF LOSS

Licensee shall bear the entire risk of loss or damage to its personal property and structures, or the personal property of Licensees' agents, employees, invitees and/or contractors/subcontractors on the Site arising out of its use of the Site.

K. ASSIGNABILITY AND ADDITIONAL PARTIES

This Agreement and the rights and obligations associated herewith may be assigned or sublet by Licensee to an affiliate without prior written consent of Licensors.

L. SEVERABILITY

If any provision of the Agreement shall be declared to be unenforceable, the remaining provisions hereof shall remain in full force and effect.

M. COUNTERPARTS

This Agreement may be executed in several counterparts, each of which shall be an original and which shall constitute the same instrument.

N. WAIVER

No delay or omission by either Party in the exercise of any right under this Agreement shall impair any such right or shall be taken, construed or considered as a waiver or relinquishment thereof, but any such right may be exercised from time to time and as often as may be deemed expedient. If any agreement or covenant herein shall be breached by either Party and thereafter waived by the other Party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

O. ARTICLE HEADINGS

The article headings and other titles used in this Agreement are for convenience only and shall not affect the construction of any terms of this Agreement.

P. LICENSE FEE

Licensee shall pay to Licensor, upon execution of this Agreement, a non- refundable license fee in the amount of \$ 16,000

Q. NOTICE

Licensee shall give notice to the Town of Brookhaven of its intent to utilize the Site for the purposes stated herein and provide to Licensor written acknowledgement thereof from the Town.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their duly authorized representatives on the date first written above.

Sills Road Realty, LLC

KeySpan Gas East Corporation

By: _____

Name:

Title:

By: _____

Name:

Title:

ODMA\PCDOCS\DOCS\253261\1

EXHIBIT "A"
[Description of site]

EXHIBIT G

From: Gerard Drumm <gdrumm-sills@optonline.net>

To: 'Jim Savage' <jsavagelaw@aim.com>

Subject: FW [Fwd [Fwd Site Access Agreement(Sills Rd , Yaphank)]]

Date: Tue, 12 Aug 2008 12 29 pm

Gerard T. Drumm
Sills Road Realty, LLC
Suite 103
495 Underhill Boulevard
Syosset, New York 11791
Telephone: 516-364-4433
Fax: 516-677-1911
Mobile: 516-503-5940
EMail: gdrumm-sills@optonline.net

-----Original Message-----

From: Jim LaCarrubba [<mailto:jlacarrubba@3300KHAVEN.ORG>]
Sent: Friday, August 08, 2008 4:00 PM
To: Lori Baldassare, Vincent Frigeria III
Cc: Joseph S Giordano; Thomas M Buckleman; mcoher@lpower.org;
gdrumm-sills@optonline.net
Subject: Re: Fwd: [Fwd: Site Access Agreement(Sills Rd., Yaphank)]

Vinny,

Pleased be advised that the Law Department has reviewed the attached site access agreement, and the Town has no objections.

If there anything else you need, please do not hesitate to contact me.

Thank you.

Jim

Jim LaCarrubba
Deputy Supervisor
Town of Brookhaven
1 Independence Hill
Farmingville, New York 11738
Phone : 451-9100
Fax : 451-6677

>>> Vincent Frigeria III <vincent.frigeria@us.ngrid.com> 8/6/2008 3:59 PM
>>>
Lori/Jim,

Please review attached agreement (and particularly section F) and provide the Town of Brookhaven's concurrence with this Site Access License Agreement. Thank you

Vinny

----- Original Message -----

Subject: [Fwd: Site Access Agreement(Sills Rd., Yaphank)]
Date: Tue, 05 Aug 2008 13:41:03 -0400
From: Joseph S. Giordano <joseph.giordano@us.ngrid.com>
Organization: National Grid
To: Vincent Frigeria III <vfrigeria@keyspanenergy.com>

Vinny,

Please forward the attached agreement to the Town pursuant to Section
P of the agreement. Thank you.

Joe

**** For your information: KeySpar is now National Grid ****

This e-mail and any files transmitted with it, are confidential to National
Grid and are intended solely for the use of the individual or entity to whom
they are addressed. If you have received this e-mail in error, please reply
to this message and let the sender know