

**ECONOMIC DEVELOPMENT  
& ENERGY COMMITTEE  
OF THE  
SUFFOLK COUNTY LEGISLATURE**

**Minutes**

A meeting of the Economic Development and Energy committee of the Suffolk County Legislature was held at the William H. Rogers Legislature Building, 725 Veterans Memorial Highway, Smithtown, NY 11787 on Tuesday, **February 4, 2002** in the Rose Y. Caracappa Auditorium at 1:30 P.M.

**Members Present:**

Legislator Jon Cooper, Chairman  
Legislator Fred Towle, Vice Chairman  
Legislator Allan Binder, Member  
Legislator Vivian Fisher, Member  
Legislator George Guldi, Member

**Also in Attendance:**

Paul Sabatino, Counsel to the Legislature  
Legislator David Bishop, District #14  
Legislator Andrew Crecca, District #12  
Emi Endo, Newsday  
R. D. Teetz, KeySpan  
Erich Pearson, News 55  
Connie Conway, News 12  
Gerard McCreight, Aide to Legislator Cooper  
Johnathan Passaro, Local Student Shadowing Legislator Fisher  
Clarence Solnik, Long Island Business News  
Israel Rivera, Aide to Legislator Fisher  
Walter Hofer, LIPA  
Vincent Frigenta, KeySpan  
Barbara LoMoriello, Aide to Legislator Cooper  
Alice Amrhein, Economic Development  
Arlene Forward, League of Women Voters  
Frank Tassone, Aide to Legislator Crecca  
Judy Fischer, Omni Consulting  
Bill Davidson, LIPA  
Kevin Duffy, Budget Review Office  
David Manning, KeySpan  
Tom DeJesus, KeySpan  
Janet Goldz, Self  
Gordian Raacke, CAP  
Todd Johnson, County Executive's Office  
Nanette Essel, Aide to Legislator Fisher  
Eben Bronfman, Aide to Legislator Guldi  
B.J. McCartan, Aide to Presiding Officer Tonna  
Fred Pollert, Director, Budget Review Office  
All other interested parties.

**Minutes taken by:**

Eileen Schmidt, Legislative Secretary

**(\*The meeting was called to order at 2:00 P.M.\*)**

**CHAIRMAN COOPER:**

I'd like to welcome everyone to the February 4th meeting of the Economic Development and Energy Committee. Johnathan Passaro if you could lead us in the Pledge.

**SALUTATION**

There being no yellow speaker cards that have been filled out we could moved right to the public portion. If David Manning could please come to the front table.

**LEGISLATOR FISHER:**

As he comes up, Mr. Chairman, may I just mention Johnathan Passaro is shadowing me today and seeing what a day in the life of a Legislator is like. He's in fifth grade in Norwood Elementary School.

**CHAIRMAN COOPER:**

David if you could please state your name and title for the record?

**MR. MANNING:**

Thank you, Mr. Chairman. My name is David Manning, Senior Vice President of KeySpan Corporation. I have with me Mr. Bob Teetz who heads our environment department at KeySpan and Tom Dejesu who heads our government affairs department at KeySpan.

**CHAIRMAN COOPER:**

Please proceed.

**MR. MANNING:**

I want to thank this committee for their invitation; these are very important issues and we appreciate the opportunity to assist you in any way that we can in terms of addressing your questions. Certainly, my intention today, Mr. Chairman --

**LEGISLATOR FISHER:**

Could you pull the mike a little closer to you, David?

**MR. MANNING:**

I'm sorry. My intention would be -- that's better -- thanks. My intention would be to give brief opening comments and then really we're here to provide answers to your questions from KeySpan's perspective. That is my understanding of why we were invited so we haven't got a prepared presentation to distribute to the committee today; we're really here in a

responsive mode to answer any questions that you may have.

Essentially, as I understand it, what the committee is interested in today is the contractual option, which the Long Island Power Authority has to purchase the KeySpan generation plants on Long Island. The vast majority of the plants, which are situated on Long Island, it's a private power here, went to KeySpan at the time that LILCO was broken up and the Long Island Power Authority became the electric utility for Long Island and owns and operates the transmission and distribution system. And KeySpan provides the management and labor components of that work under contract to LIPA and the plants themselves went to KeySpan. And so KeySpan is a successor corporation to LILCO to that extent that we took over the power plants and at that time in the transaction LIPA acquired an option which gave them the -- an option to purchase all the generation owned by KeySpan on Long Island. That option to be exercised during a 12 month window which concludes on the 28th of May of this year.

The procedure essentially would seek KeySpan operating these plants and as long as they remain the property of KeySpan. So in addition to the actual title option another issue would be, who would operate these plants going forward in the event they became the property of LIPA. So the way the transaction would work legally and I'll give you our position as well, is that there is a contract here and KeySpan would clearly honor that contract, but under the contract LIPA would have an opportunity to exercise its option anytime up until May 28th and in doing so they must provide a vote of their board and of course obviously I'm sure LIPA has provided this information. But just for context, it is required that the LIPA board have a 2/3 vote in favor of doing so and the Public Authority's Control Board of New York State would have to approve of the exercise of the option and purchase and approve of the financing which would be necessary to accomplish that purchase. The contract, the option is worded at fair market value for those assets and the way that would be determined would be that LIPA and KeySpan would each appoint a professional. An investment banking firm, which would provide their opinion as to the value; then if there was no agreement as between those two parties they would elect to select between the two of them a third professional would be chosen. And that committee of three effectively, of course, the third would have the casting vote; that three would determine the actual fair market value of those plants.

There is one issue with respect to the Public Authority's Board because the authority which they have granted to LIPA so far I believe is worded at book value, but the contract the actual option contract is worded at fair market value which creates one of the issues. So in the event the option is exercised we would then go into a -- the process by which the fair market value for those plants was determined and LIPA would have from the time of exercise a binding commitment to purchase these plants at whatever price is ultimately determined.

KeySpan has continuously and will continue to put forward its' position that our first and foremost concern is what is in the best interest of the Long

Island consumer. If the exercise is in the interest of the consumer and it's fair to our employees and it's fair to our shareholders then obviously we are not taking issue with the option. The option is there, that's the contract. We do have an immense sense of pride in the way these plants have been operated, as you know, these are not new plants. Members here have plants in their home territory certainly. There are no really new plants on Long Island nor are there in the New York metropolitan area which, of course, is part and parcel because it's very difficult to sight new power plants in established areas such as Long Island. The plants, however, notwithstanding their age have operated at a 98 to 99% efficiency rate last summer even during the heat storm of the week of August the 6th. So they are among and I have Bob Teetz with me here who can give you further information about the environmental performance and the overall performance of these plants. These plants have performed at an unusually high rate relative to the industry. KeySpan is very proud of the fact that LIPA has received rewards for its restoration of its' T&D, transmission and distribution system. LIPA has been recognized by the Edison Electric Institute, which is the national trade association for the electric utility industry. This having top of the industry performance with respect to its above ground T&D system and these plants, as I indicated, have operated at 98 to 99% availability.

KeySpan recently acquired the Ravenswood Plant, which is located in New York City. When we took that plant over from Con Edison the plant had a 35% down time, meaning it was only available about 65% of the time because of maintenance and repairs. We have now brought that up to -- is it 94%?

**MR. TEETZ:**

About 94.

**MR. MANNING:**

Yeah. So we've now in the year and a half that we've owned that plant we have been able to bring that performance up to 94% which is still well short of the standard that we feel is necessary for Long Island. So our Long Island plants are running at 3 or 4% availability higher.

**MR. TEETZ:**

That's correct, about 97, 98%.

**MR. MANNING:**

So I guess our -- if we did have a pitch our pitch would be that we believe that the unique structure of the plants on Long Island and the superb support that we see from our union I think -- we think Local 1049 of the Electrical Workers Union is critical here cause they do have the expertise which -- and with our management we are very proud of the performance that we have been able to deliver. So that again is a -- perhaps be a separate issue regardless of the ownership of the plants. We do operate these plants for LIPA; the entire out put of these plants is available to LIPA under a power supply agreement which has another 13 years to run and then LIPA has an

option to renew at that time for a further 15 years. So this has been another tremendous opportunity and advantage that has offered to Long Island because when California was in such disarray and then when the Con Ed rates went up 47% during the month of July of 1999 there was not a murmur on Long Island. In fact, we were somewhat frustrated; I suspect LIPA were as well that that story was never written because the people on Long Island their rates did not move. Ultimately, some of the additional fuel cost, of course, was recovered by LIPA that, but because of this long term power supply agreement the Long Island consumers were protected from the tremendous swings in the market place that took place in many other states in the U.S. and New York City itself. So that's our structure that's where we are at the moment. Tom or Rob is there anything else I should add?

**MR. DEJESUS:**

It's about the -- total capacity of the option is about 4100 megawatts (inaudible).

**MR. MANNING:**

And that's made up by five large steam base load plants and -- is it about 19, I believe?

**MR. TEETZ:**

Actually it's more it's about 50 small combustion turbine engines.

**MR. MANNING:**

Yeah. We have different sizes, but if you include all the different generation sources that we have on the Island it's more like 50. And this is a unique situation because on Long Island because we don't have a heavy industrial component to this market place as you know we have a very sophisticated industrial base and we also have a large residential component. The load on Long Island that LIPA has to serve is remarkable. It can be as low as a 1,000 megawatts on a Sunday morning and it can be as high as 5,000 megawatts on a hot August afternoon. So that is part of what has defined this unique nature of these plants and as a result you have a few large base load units, but you do have a proliferation of smaller units that, of course, only run during -- for a few hours at a time. So that's just a very quick snapshot, but I'd be happy to answer your questions.

**CHAIRMAN COOPER:**

Thank you, David. I have a number of questions. You're probably aware that Bear Stearns the firm that LIPA hired to advise them on this matter concluded that the former LILCO plants have a market value a fair market value of approximately \$475 million. I'm a little concerned that the advice that LIPA may have received on this issue could have been less than unbiased since I learned in Long Island Business News that Bear Stearns stands to collect a \$2 million success fee if LIPA actually closes on the acquisition of these plants. A fee they would not collect if LIPA did not proceed with acquisition. Do you concur with this fair market value of \$475 million and if not do you have any estimate as to what the fair market value maybe?

**MR. MANNING:**

It's a very tough issue. We -- the 475 million approximately is the book value of those plants; that's what is shown on the books. We have not done an independent evaluation as yet corporately. I can give you a couple of examples; we, of course, believe that the plants are worth substantially more than book value and I think the reasons are actually fairly obvious for anyone who is tried to -- who has watched us try and build Spagnoli Road. Our view was that Spagnoli Road is probably the best most logical power answer in the country. It is adjacent to the gas line; it's adjacent to the power grid. It enters the grid right where it's needed. It's located right where it's needed electrically on the Island. It is -- we don't have a cogeneration host here, unfortunately, cause we don't have a large heavy industrial plant like a Dow Chemical plant which operates in Minnesota as a cogeneration facility, but we do have combined cycles. So as a result your heat rate instead of being 40% which is the simple cycle heat rate on these new generators that are being put in; these LM 6000. The heat rate on a plant like Spagnoli Road is 60-65% and as a result the Natural Resources Defense Council which has never done before -- done so before has come out and publicly supported this plant right after they supported our Ravenswood expansion which is actually a cogeneration unit. So you got superb technology, you have a light industrial area, you have -- we even scrapped the oil tank. There is no oil backup; it's a dedicated natural gas facility. We've done everything we can and yet we are still encountering opposition to building that plant and I think if you'd seen it, you know, opposite the sand mine and, it's actually, now we have that land for some years. We use for heavy equipment training so, you know, you go there and dig holes. We think that this plant with a landscape plan will be the best on the Island, no question. From an environmental prospective a noise prospective it's state of the art. We still can't get that done easily, I mean, we think we're going to get it done, but it's been a lift. It's very, very difficult to sight green field power plants anywhere in the United States.

As you can imagine two years ago everybody thought that nuclear was going to have a new revival because of it's -- the nuclear power technology and CO2 and climate change and bang along came September 11th and I don't think any community is going to be looking for a nuclear plant anytime soon. We have some huge air quality issues in the United States; this of course is the answer to that. So it's very difficult number one to sight new generation supply on the Island and as everybody in this room knows we're very tight. LIPA is very tight; it was tight last summer and it's not just Long Island. The entire northeast during the week of August 6th went on to voltage reduction. So that went from Washington, D.C. right up to the north Massachusetts. Now the firm contracts that LIPA had in Connecticut they even had power on the cable -- they had room on the cable, but those contracts defaulted; that power was not delivered and I was at the table when that took place. So you have the great need for additional power; you have the difficulty of sighting new power generation sources and then you also have the opportunity that these plants provide which is re-powering. Re-powering is not cheap, but these older units have got simple cycle steam units, but they

have a foot print. They're in a community, which we're very proud of the support that we get from the communities that we have, but we do that because our employees are great volunteers. We're a significant component of the tax base; we provide a tremendous amount of financial support to the community, to the non-profit community on Long Island and sometimes it gets a little lonely out there, frankly, on that score because we get several invitations a day to be helpful. We're right at the top of the heap with United Way, with Heart Share; with all of those events our employees are second to none in terms of the community contributions. So as a result of those efforts we are, I think, very well received in the communities, which we operate. So those plants located in those communities as licensed operating plants all of which have got adjacent land around them are tremendous opportunities for re-powering and as a result, of course, we think that that adds immeasurably to their value. So you have a load pocket you have a tremendous need for additional generation. You have expansion capability around those plants and you have a supportive community of citizens who are comfortable with those plants and they way they operate. So on that score we think these plants are very valuable.

Now as we've looked around for alternatives ourselves, not for evaluation purposes, but for investment purposes this is not a matter of public record, but there is a plant for sale in Massachusetts that we've looked at. It's about 1100 megawatts it's an older unit. It only runs about 20% of the time because it's not particularly efficient, but I was told anecdotally that to make the short list to be at the top three bidders to purchase that plant it would require to bid something north of \$400 million. So there is a plant in Massachusetts, which is similar in age to the plants on the Island, its 1100 megawatts and even to get in the game required \$400 million. That gives you some perceptiveness on the valuation of some of these plants. So we -- KeySpan has not performed an analysis nor published an actual evaluation. There's been lots of speculation in the media, but we think that the value of these plants is substantially above the book value.

**LEGISLATOR FISHER:**

Mr. Chairman, may I just jump in with a very short question? It's been my understanding that LIPA and KeySpan have been negotiating about this for a number of months maybe over a year. Why has there not been an evaluation done on the part of KeySpan to assess fair market value.

**MR. MANNING:**

It's a market that fluctuates continuously; it's a challenge and quite frankly we haven't invested the dollars because the process is there. They will select, I mean, at that point in time there will be a valuation. We know it's substantial, you know, to determine a value today and to spend the kind of money that requires to get that valuation named down today when this process could be taken place next September given Envon, given, you know, {Meriton} is a tremendous company very well regarded and {Meriton} now got some of their plants up for sale. So depending on the location and depending on the financial conditions in the market place it varies. So you wouldn't do that --

**LEGISLATOR FISHER:**

Because of market fluctuations then you've hesitated doing it --

**MR. MANNING:**

Sorry?

**LEGISLATOR FISHER:**

Because of market fluctuations you will hesitate doing it until May when the options up?

**MR. MANNING:**

Well, yeah, we would -- we don't know we of course don't know LIPA's intentions nor do we know their timing, but we would anticipate that the trigger could be as late as May 28th and at that time the process is clear. So we would certainly commence our serious, but again it's pretty much out of our hands. We have to select a company and they select a company and those two select a company, so we know that it is something significantly above book value. And of course we also know that that our power supply agreement is based on a cost of service rate on book value. So we, you know, we haven't found the need or the value in a full appraisal because it's difficult for us to imagine how you can beat the rates that we have today.

**LEGISLATOR FISHER:**

Thank you.

**CHAIRMAN COOPER:**

Before we leave this issue I'm just wondering we talked about five power plants on Long Island that LIPA would -- they need to purchase, if I'm correct, either all five or none.

**MR. MANNING:**

No. Not only would they purchase our five they would purchase 50. I was going to break it down between the five big steam units, then we also had some larger combustion turbine units, but as Bob has pointed out we actually have 50 units in total including some very small units.

**CHAIRMAN COOPER:**

But do they need all --

**MR. MANNING:**

So they would purchase the whole works.

**CHAIRMAN COOPER:**

All right. Why is it then if there appears to be such clear cut difference between book value and fair market, why then is LIPA continuing to referred to the 460 some odd million dollar figure if according to the calculations that you've mentioned it appears as though we really talking about a number of well in excess of a billion, billion and a half?

**MR. MANNING:**

Well, certainly, we have avoided negotiating any kind of a transaction in the public forum. We don't know that that's beneficial for anyone so we've not made any public comment with respect to price. We can say in response to your question that we think that the valuation is substantial; we also think it's substantially above the book value and we think that there is some very simple reasons why that is the case. So it's -- I have avoided that opportunity up until now and I shall continue to, Mr. Chairman.

**CHAIRMAN COOPER:**

Thank you. If the acquisition does take place and lets say that LIPA does guess wrong on this and they proceed with an acquisition when they perhaps we should not have, who is it ultimately that would foot the bill for that in the long term?

**MR. MANNING:**

Well, as I indicated the three components of the exercise under the contract with LIPA would have to have 2/3 of its' board approved and it would have to have from the Public Authority Control Board approval for the purchase or exercise and purchase and the financing which would be required to do that. And again I don't speak for LIPA, but I believe that that they had spoken openly about the opportunity for public financing as an opportunity, in fact, to lower cost. Certainly, if there is an opportunity for public financing we applaud LIPA's efforts with respect to fuel cells in Babylon. We applaud -- we have installed a micro-turbine at the Aquarius Aquarium in Riverhead, but KeySpan footed that bill that's a demonstration project: very expensive. We think that those kinds of innovative technologies, we got a wonderful solar program as you know. We think there is a role for public power and those sorts of innovative technologies and conservation measures, which are perhaps not economic today, would be our first choice.

There's also an opportunity to re-power these plants. Now, of course, we would be very open to any kind of a conversation which would allow us to replace the technology which is existing within some of these plants now and upgrade them because you would get obviously a tremendous lift. We're very close to an announcement which would involve just a perfect example of this, but even our Ravenswood expansion in New York City, we have been able by vesting on on scrubber technology. We have taken enough nitrous oxide and sulfur dioxide out of the stacks in the existing plant to make room for a 350-megawatt expansion of our production and we're building a 250-megawatt expansion at that location. So the net gain to Queens is room for a 100-megawatts that what we come down by investing in that technology. So there's a good example of it's not truly a re-powering opportunity because the existing plant continues, but working on a very small footprint and using the best scrubbing technology we've been able to really upgrade that plant. It requires 75,000 tons of cooling equipment to be lifted up on to the roof of the plant. I mean, it's very, very complex, but that's the kind of thing that we would see an opportunity to do going forward. There has certainly been some speculation that by using public debt, public financing you could lower the overall cost and certainly we've looked at that and based on the book

value there could be a very, very, by our calculations, a very slight rate reduction of probably up to 1%, but if the purchase price at market is above book that analysis has to be redone.

**CHAIRMAN COOPER:**

Rather than have LIPA spend what maybe very large sums to acquire these plants from KeySpan is there an opportunity for LIPA to partner with KeySpan in re-powering the older plants? One of the aging plants is in my district and I'd like to see nothing more than to see it made more energy efficient. If there is this opportunity how would that unfold exactly?

**MR. MANNING:**

Well, I think it's probably a conversation that KeySpan would be anxious to have. I think it's -- LIPA, of course, is the utility so we do not speak for the electric utility on Long Island nor do we set policy, electric policy, which of course is within the domain of LIPA, but we do care very deeply. We do have, as you know, thousands of employees that live and work maintaining that system very proudly and we obviously, and I should point out, we are investing pretty close to a billion dollars of our shareholder dollars over the next two or three years and -- now shareholder and debt of course, company debt cause we have two large plants and two small plants under approval or construction now plus if we get approval a very important gas supply pipeline. So we're investing very, very heavily in the Island now so we have a vested interest in what goes forward. So we think re-powering given the age of these plants is something to be pursued very aggressively and we have been part of meetings involving the environmental community and LIPA and ourselves prior to this conversation of the options. So, yes, those and that analysis is taking place at KeySpan and we're working collaboratively with LIPA to look at those opportunities.

**CHAIRMAN COOPER:**

David, how could this transaction potentially affect ratepayers in Suffolk County? Do you see electric rates going up as a result, remaining stable, do you believe that rates might come down?

**MR. MANNING:**

Well, it certainly would depend on the actual purchase price when concluded and again there's been a great deal of speculation in terms of value of those plants. I think I've given you the best information we have as to their potential value and we think it's quite significant. Given that the valuation on those plants while not clear is substantially above book. We think that raises a real challenge around any kind of a rate reduction. We are very anxious to work towards increase competition on the Island as I indicated earlier; we are very proud of our record on the gas side of helping the Public Service Commission drive the customer choice and deregulation and in competition. We have the highest number of marketers in our system in New York State; we're supportive of that, but I don't know whether that's going to get you a rate reduction until you have a surplus of power on the Island and that of course is the real issue. And so it still requires new projects, additional generation or re-powering to get there and it may take a period of time and

we're anxious to be part of that goal and work that notion. But it's now going to happen soon because until you have surplus power we just don't think that you can see that kind of a rate reduction and the power supply agreement as I indicated is based on a relatively low return in our industry on book value. So when you're working with that as a base and that agreement goes out 13 years with a 15-year renewal it's going to be pretty tough to lower those rates. Now we're working all the time, we're working with our union leadership; we're working our employees. We are fine tuning these plants; we're working with LIPA. We've introduced every kind of tweaking technology we can. Bob -- a lot of our attempts to lower cost is to get more efficiency out of the units themselves. Could you just take a minute on that?

**MR. TEETZ:**

Sure. We've been able to take some of our existing rapid start gas-turbines which are able to come on within ten minutes notice and be fully up to speed - - sorry -- we've been able to do some retrofitting with those units particularly ones out in Holtsville. Some in Glenwood Landing and also in our Island Park facility and increase the actual output of those units by 15-20% so that they're available at higher capacity on that hot summer day when you need them and at the same time reduce their emissions. We get 15-20% NOX reduction while we're getting a 15-20% power increase. So some of the technologies that are available now have really been able to get us through the last couple of summers because of these innovations. And as David said re-powering is really the next step and that's where we need to go whether it's in a partnership with LIPA or KeySpan on its' own that's something that's definitely in the future. That can provide up to a 50% increase in capacity in the same footprint and on the order of 90% reduction in total emissions. And so that's what's really promising for the Island.

**LEGISLATOR FISHER:**

The 79 megawatt units that are being put -- developed which are the peak demand units don't operate at that level of efficiency. Why are we resorting to putting so many of those up? I know that it's a quicker turnaround as far as permits and ability of sighting them and building them, but would it not behoove us to spend more of the money on retrofitting before we go ahead with all of those smaller peak demand units?

**MR. TEETZ:**

Well, the primary reason for building those smaller LM6000 units which again are peaking units is that they're almost off the shelf products and because we are facing a very tight summer this year based on what we know that happened last year it was deemed appropriate that we needed to get something in absolutely immediately to get us through the next summer or two and since --

**LEGISLATOR FISHER:**

How many of them are -- are there seven?

**MR. TEETZ:**

Well, KeySpan is building four separate units that'll be about 160 megawatts

total and then there are other developers building, I think it's a total of five or six additional similar units.

**MR. MANNING:**

That was a big issue, Legislator, in New York City as you know last year --

**LEGISLATOR FISHER:**

Yes.

**MR. MANNING:**

-- when a total of ten units were built in New York City itself plus one at Brentwood and I think the environmental community would've much preferred to have seen that next {traunch} of power go into combine cycle at a minimum --

**LEGISLATOR FISHER:**

Absolutely.

**MR. MANNING:**

-- or even cogeneration. We don't have the opportunity here, but if I can just describe to you what I attended a couple of years ago ribbon cutting which I was involved in. It was actually, in Portland, Oregon; it was right in the heart of the potato country of Idaho. It was right where Idaho meets up with Oregon. This is a combine cycle cogeneration application running pure natural gas --

**LEGISLATOR FISHER:**

Oh, you described that to me at one of our meetings, Dave, I remember.

**MR. MANNING:**

Sorry?

**LEGISLATOR FISHER:**

That combined cycle where the McDonald's --

**MR. MANNING:**

Yeah, combine cycle just if I could explain. The reason why combine cycle is so important is that on a simple cycle unit like one of these turbines is basically probably an aero conversion it's just like a jet engine off an airplane and the natural gas or whatever your fuel is comes in the front and it just spins that turbine and it runs a generator and all the heat, all the exhaust gases go right up into the air. And that gets about 40% of the energy value of your fuel depending on the quality of the unit, about 40% of the heat value in the fuel winds up as electricity and the balance of course is lost to the atmosphere. So then we have combine cycle; combine cycle takes that heat so you still have that same turbine that jet engine running here running a generator and then the heat gases go into a boiler. So all that gas goes through a boiler and it boils water so that the gas that goes up the stack is now lost almost all of its heat energy into this boiler, which then goes off and runs a second generator. So you have combine cycle, you have two

generators running; so you have one running off the turbine itself and the other running off the boiler which is getting its heat from the waste gas coming out the back end. So those numbers, as you said, Bob, would be 60-65% in an ideal --

**MR. TEETZ:**

Approximately 65% efficiency in a combine cycle operation.

**MR. MANNING:**

So my --

**LEGISLATOR FISHER:**

Hence the question, why go to simple cycle peaking units when we really should be looking at combine cycle units? I mean, that's -- you spoke precisely to my issue.

**MR. MANNING:**

The difficulty is in part -- oh, well, you're 79 megawatts is a magic number as you know --

**LEGISLATOR FISHER:**

I know.

**MR. MANNING:**

-- because the LM6000 under ideal conditions generates 44 megawatts. So if you put two of them side by side and only operate them at a total of 79 megawatts then the front-end effort as you well know is much easier.

**LEGISLATOR FISHER:**

Yes.

**MR. MANNING:**

But the other opportunity which the environmentalists love is cogeneration, so what you're able to do in New York City is the waste heat that comes off the plant then goes into the steam system for New York City, which is the largest steam loop system outside of Russia. My application out in Portland, Oregon was that the waste heat was in a McDonald's french fry plant and it runs, first the steam comes in and blows the skin off the potatoes and then it slices them and then it fast freezes them. It then cooks them and fast freezes so a million pounds a day of french fries were going out at the back end of that plant and the steam then loops back into the power plant. So that's an ideal situation; the environmentalists, of course, thought that a million pounds a day of french fries was pollution itself, but it was a great story from an engineering perspective.

**LEGISLATOR FISHER:**

But they use the oil for bio-diesel.

**MR. TEETZ:**

There is one other reason why you would want to have some of these

peaking units to meet system requirements and that is a combine-cycle unit while it is more efficient takes much longer to start-up. It can take several hours before the major facility, the major gas-turbine gets up to speed and then that heat recovery boiler begins to operate and boil the water to then produce steam for the steam-turbine. When you need it on a hot summers day, in other words, if a transmission line fails somewhere or if another plant goes down you have to have those peaking units that are capable of coming up within five to ten minutes. So it's more than just efficiency its systems needs that dictate what types of units are built.

**CHAIRMAN COOPER:**

As I mentioned the Northport Power Plant, KeySpan's Northport plant is in my district and it's right now I believe the largest taxpayer in my district. Are there any tax implications potential tax implications if LIPA were to proceed with the acquisition of the plants? I know that they're tax exempt entity; they're also making payments in lieu of taxes, but could you provide some elucidation on this point?

**MR. MANNING:**

Mr. Chairman, that's a very tough issue for us to comment. Obviously, we would have to leave LIPA to address that; there's no question we are the largest taxpayer in Northport and as I indicated we are not only are – and Port Jeff, as well –

**LEGISLATOR FISHER:**

Port Jeff.

**MR. MANNING:**

And we also in addition to that have an enthusiastic relationship with the community and we provide a lot of non-tax financial support for the areas as well. We're very proud of the contribution that we made to the Northport Theater; we've provided them a grant to help redo that theater. So I think it's larger than that; I think it's – we have a tremendous volunteer base in our company that we're very proud of. So while we are a very substantial taxpayer we also are able because of the size and scale of our operation to provide a great deal of community support and quite frankly, that's driven by one Bob {Catell}. Bob is a resident of Long Island and he has been for 40 years and he has no plans to move and he's a tremendous believer in the community. He devotes a great deal of his own personal time to not-for-profit pursuits and he drives the company that puts that foremost in terms of its response. So, yeah, I think those are – I think that's a very good question; I don't have an answer for you, unfortunately, other than to confirm that we are big supporters of the Long Island economy and the Long Island community and we intend to stay. As I indicated, we have a very substantial investment going on Long Island right now, but it's a – the tax load on property such as Northport is substantial.

**CHAIRMAN COOPER:**

David, the comment you made about the volunteers, your volunteer base

amongst your work force is another segue to this question. What would happen to KeySpan experienced work force if the acquisition were to take place?

**MR. MANNING:**

That I think is probably our greatest concern and I can say that unequivocally because that – if there's one thing Bob Catell loves more than the community is his work force. There is an arrangement where the members of – some members of the work force would be protected for a defined period; I believe its two years. Unfortunately, however, this – we're deeply concerned about the uncertainty that this would create. It wouldn't apply to all of our workers, but we also have some real efficiencies. Bob's team I would -- I can say because or at least I should say although I have to admit he, you know, they report to me so maybe that's unfair, but I think we're second to none in the nation. We have our own laboratory; we do contract work for other utilities throughout the United States and other countries. We have expertise in oil spill response and, of course, that environmental team is shared with our entire operation. It happens to be based on Long Island, but it also – it's supports the entire enterprise wide company and it's superb. And so there's a good example of an employee base which in the event were no longer in that business we would have to pare that down dramatically. It wouldn't be able to support the kind of expertise we have – we have over 53 people that do nothing but environment and so -- but the actually employees within our electric unit – we have some pretty sophisticated expertise, which would be in some demand. And the difficulty is that once there's some uncertainty in terms of one's future the resumes can go and we're deeply concerned about that and more importantly we have a lot of very, very proud KeySpan employees. The employees who like working for KeySpan and may not choose to work for others and that's an issue.

There has been also some suggestion that these plants could be resold in some way; that raises more uncertainty for employees. So, as I said, we have a tremendous relationship with Local 1049. Our employees are not inexpensive; we have real expertise. I think there could be a suggestion that one of the ways that you could reduce the cost of operation would be to use a different work force. A work force that is not – does not have that level of expertise and that raises great concern on our part. So we think it's critically important. This is, in fact, as you probably know and I know you know this that people of Long Island have a very low pain threshold when it comes to reliability of service. They demand this is a high cost living environment; they demand nothing but complete reliability. They don't want to understand our system; they – many of them don't understand the difference between KeySpan and LIPA and frankly, we've all kind of given up telling them. They don't want to worry about it; they just want to know that they never have to be concerned and that they will not over pay. That their bills will be fair and that they never have to think twice about energy service or reliability and that's the position you're in and that's the position that we are in. And we answer that we some very old plants, but with tremendous expertise and a constant renewal program and maintenance program and anticipated, you know, maintenance program and that's the expertise. And, in fact, LIPA had

issued a request for proposals to appoint or to select an operator of those plants in the event they decide to purchase those plants. We have responded and have made presentations to the LIPA board expressing our willingness and desire to continue to operate these plants regardless of the ownership. As I've indicated, in the event LIPA exercise this option and it's in the interest of the consumers of Long Island and it's fair to our employees and fair to our shareholders we will sell these plants; that's always been very clear. We are not taking issue with the contract -- the option agreement. We are, however, very concerned that that we believe that we are the best operator; we understand Long Island. We understand what windshield time is on the LIE. We understand what it takes to operate here.

I was going to bring some visuals, but I -- we elected not to take up too much of your time. We are building at Port Jeff. and we are building at Glenwood Landing and we're very proud of the fact that if you went by Glenwood Landing today you will see a power plant there. And I can show you a picture from last July and nothing had even been commenced. There were old buildings that had been -- so since July we have demolished plants, we have cleared the site, we've remediated from an environmental prospective. We cleaned up some environmental -- some minor toxins that were there and are almost completed our plant. It will be running on the first of June. And there are a number of sites on the Island that you could tour and you'll have a hard time seeing that kind of progress and I think that's because we know how to do business here. And we've been here long enough; we have enough relationships that we can get stuff done and if we're short of power this summer we have to move quickly. That's one of the reasons why this technology was chosen; was to get in under the ground and we're doing it. And you know there's another site that was supposed to be up June of 2001 and they're not, they're behind us and it's now 2002.

**CHAIRMAN COOPER:**

Thank you, David. I have one final question at this time; I saved an easy one for last. If you were hired away from KeySpan tomorrow and you're now the chairman of LIPA what advice would -- what would your decision be? Would you recommend that LIPA proceed with this acquisition?

**MR. MANNING:**

That's the softball?

**CHAIRMAN COOPER:**

Honest question, now.

**LEGISLATOR TOWLE:**

(inaudible) the rest of the committee disavows any knowledge --

**MR. MANNING:**

On the record, I am the first KeySpan hired. I was brought into this company because I have a lot of experience and background in other countries and other areas. I married in Long Island; I have a long family tradition here by marriage and I've been in the energy industry in some form since I was a

rough neck in the high Arctic when I was 20. So I like working for KeySpan and I like working for Bob Catell.

**CHAIRMAN COOPER:**

Should I let him get away with that? Thank you, David. Legislator Binder.

**LEGISLATOR BINDER:**

Thanks. Let me ask a few questions here and round out some of this. You said that a number of times that you want to make sure that the sale price is fair to consumers, what consumers? Consumers of gas, consumers -- your consumers. Consumers, generally of electric, but as you said you're not LIPA so those are not your consumers. They are, but only, you know, tangentially -

-

**MR. MANNING:**

Yeah. They're not our customers that's why I use the work consumers because they are LIPA's customers and we very proudly serve them under contract both the T&D system and of course by operating these plants. Many of LIPA's customers happen to be gas customers, but less than half. As you well know, oil heat still has a substantial part of the market on Long Island and while we have many gas heat customers ourselves the interest -- I am speaking of the probably, I don't know, Bob, 98, 99% of the people on Long Island that have electric service from LIPA -- I'm speaking of the community within which we are investing. So I am speaking of those consumers of electricity that we serve through the good offices of Long Island Power Authority.

**LEGISLATOR BINDER:**

So what you're saying, in effect, is that you have the same concerns LIPA has so in -- so then also, in effect, you're saying that your going to do an analysis that they're going to do. Because they have to do supposedly an analysis to say how are they going to affect Long Island electric consumers and you're going to do the same analysis. You only want to do it if, I mean, would you come up with a different analysis, is it possible? Would you let say LIPA says, we think this works for Long Island consumers and you have your economist and your structure goes through an analysis and how and whatever you pay people to do this and you say, wow, this is terrible. This is way too much money, what do you do about that? What do you do at the point where you say, you know, the market value is pretty clear on this and at the market value this is bad for the environment, as you said, where you do business and bad for these consumers, what do you do?

**MR. MANNING:**

There's nothing we can do. As I indicated there is a contract, there's an option; we are the recipients of LIPA's decision. We have no -- we have no role in that. I think my concern might be that where others might talk about ways to economize as I indicated. There's a stack component; there's very little you can do on fuel and as I indicated I think the fuel management agreement survives in any event, but in terms of the gas provision to these plants we're I think the fourth largest gas distributor in the U.S. We're the

largest corporate owners of the Iroquois Pipeline. We're trying to build a plant that, I should say, build a line which brings Nova Scotia gas to New York for the first time. When we got -- when we brought Nova Scotia gas into Boston the price went down 27 cents within a few months. When the Iroquois System was opened up and Bob Catell is the father of the Iroquois Gas Pipeline that dropped the price a dollar within a period of months. So on the fuel side there's very little you can do. We believe that you're getting a North American price and getting the best North American price now. About the only other variable is your -- is plant maintenance and your employee cost. And our employee cost is not low because we have the expertise of the people who run these plants. So our concern would be that if we looked at the economies of this we would choose not to lower our wage cost. We would tend -- we believe that the reliability is the paramount concern here. We think that particularly in this very, very tight market that given that the marginal difference in cost, Long Islanders want fully reliable power and LIPA wants from us fully reliable power. But in terms of the calculation, no, I'm afraid we would not have a role in that nor would we be able to advise LIPA in terms of how this would shake out.

**LEGISLATOR BINDER:**

Well, your comments -- your comments, I guess belie an interest in doing some kind of analysis. You say that we'd be concerned about it affects the consumers, will you be doing an analysis, and would you share that analysis with us because LIPA will be doing an analysis as well?

**MR. MANNING:**

LIPA, of course, is the state authority who have accountability to the consumers, so we would be anticipating that LIPA would be doing that kind of analysis and that's why we say, we would be recipients just as you would be of the outcome. We would not be running a competing analysis, that isn't our plan to do so because we are committed to sell these plants under this agreement and there's a formula there for that determination. So there really isn't any place for us to provide that impute.

**LEGISLATOR BINDER:**

So you don't have any idea at which -- at what price point this becomes a loser for the people of Long Island, in other words, is it 500 million, a billion, a billion and a half? You don't have a particularly price point at which this is not a good deal?

**MR. MANNING:**

No, we don't. I would assume that LIPA does. I mean, I think that's a fair question to Long Island Power Authority. We have not done our own competing analysis, but we're sure that they must be making that calculation now because certainly they've spoken openly about that coming into their equation. I think Mr. Kessel said in Newsday back during the week of August the 6th that he sure didn't want to go through another one of those east storms without KeySpan because we're the ones that are based here and know how it works. And we were honored by that and we received a letter that was very similar in tone from the Public Service Commission thanking us

for our efforts that week. And then there was a later quote where I believe he indicated that if this was to involve an increase in rates to the people of Long Island it probably wouldn't happen. But that's just for news reports.

**LEGISLATOR BINDER:**

So right -- let me ask you, in terms of the process, sounds like the process is they commit, they vote and they move down that road. It goes through this process both sides getting numbers of third side getting a number and then it goes. The question I have is, after we get the final number and whatever that number is, half a billion, billion, one and a half more, whatever. When that number is determined and it's in stone, does LIPA have the ability not to say, wait a minute, that's too high now that I'm looking at that that's not something we want to do?

**MR. MANNING:**

No, they do not.

**LEGISLATOR BINDER:**

Oh, okay. I just want to make sure I want to put that on the record.

**MR. MANNING:**

That's a good point. We have it confirmed by independent legal counsel that if LIPA exercises this option they have a commitment to purchase whatever the price outcome at that, you know, following that process. Because we have shareholders many of whom live on Long Island it would not be open for us to say, rates are going to go up, we best not do this. We do not have that option because they have a commitment to purchase at fair market value and if that fair market value provides a good return to our shareholders we have no choice, but nor do we anyway. I mean, we would be obligated --

**LEGISLATOR BINDER:**

Under contract --

**MR. MANNING:**

-- as would they and that's part of the difficulty of this -- of the structure of this agreement is that we -- we are in a responsive mode from the day that exercise takes place.

**LEGISLATOR BINDER:**

And in a sense so are they.

**MR. MANNING:**

Yes. Absolutely, they are --

**LEGISLATOR BINDER:**

Once they roll the dice, you know, when the dice leaves the hand they can't say, well, I didn't like it, it came up snake eyes. This is not good, I think we're going to go back and maybe we'll look at this again.

**MR. MANNING:**

No, I -- that's now how it works. You're absolutely right. Once they've made that decision they live with the outcome and --

**LEGISLATOR BINDER:**

No. We live with the outcome.

**MR. MANNING:**

Right.

**LEGISLATOR BINDER:**

Lets talk about the plants a little bit. How long will they be efficient? I mean, you're talking about the age of these plants, how long are we talking efficiency? How long -- what's the shelf life of these plants, you know, what's out there? You got a wide range and they're "old" and we keep hearing old and retrofitting. Without the retrofitting, well, we'll get to that question later; you know the repower and retrofitting.

**MR. MANNING:**

I had an interesting conversation off the record with the Long Island Rail Road at one point and since I depend on the railroad from time to time myself, they indicated, and I'm not going to repeat it here, what percentage of their rolling stock was technically beyond its useful life. And then if you go and look at the subway stations the subway system of New York City and start to ask them about the useful life of their rolling stock it's equally disturbing. Bob, could you address that?

**MR. TEETZ:**

I'll try. As you would with any capital asset that you own you would continuously try to maintain it in its peak condition as possible.

**LEGISLATOR BINDER:**

We try to do that with our cars too.

**MR. TEETZ:**

Absolutely.

**LEGISLATOR BINDER:**

But you know the radiator goes.

**MR. TEETZ:**

Sure. And KeySpan has done that on a regular basis and our plants operate at their original design efficiency or very, very close to it. Now you can't take an old plant and make it more efficient than it was originally designed to be; that would be re-powering. So barring re-powering the company continues to invest capital dollars every year to maintain the plants at their design efficiency. And does that mean they can run indefinitely, no, because you do have certain material fatigue limits that ultimately begin to kick in. We have some plants that are from the mid 50's vintage. They will continue to

operate, but at some point you have to do the economics and determine whether it's just not worth putting extra money into them or retiring them or re-powering them. But many of them are 60's and mid 70's vintage and they have many, many more years of active service as long as they are continued to be maintained.

**MR. MANNING:**

And the fuel choices is also relevant here cause one of our oldest plants has been running exclusively on natural gas and as a result it's units are in much better shape than other even though because of its age because natural gas is much easier on the workings and oil --

**MR. TEETZ:**

Yes, much more forgiving fuel on the equipment.

**LEGISLATOR BINDER:**

A plug for your gas?

**MR. MANNING:**

I wouldn't do that.

**LEGISLATOR BINDER:**

You'd never do that, no, that was a commercial announcement. If you were to graph it, obviously, your capital impute into these plants has to go up and up to maintain efficiency over time. Your recovery of that -- how do you recover an ever increasing, I mean, each -- as there are more things wrong it's like your car the same thing, car. You know, one year it's just a radiator the next year, you know, the brakes go, the transmission go, the muffler goes, you know, it's kind of an increasing thing over time.

**MR. MANNING:**

That investment, Bob, if I'm not incorrect that investment is done with our investment, but it's recovered back from the Long Island Power Authority which then passes on those cost to their customer base.

**LEGISLATOR BINDER:**

So -- okay. So --

**MR. MANNING:**

For the LIPA plants, those plants within the LIPA (inaudible).

**LEGISLATOR BINDER:**

That's what I figured I'm obviously going down the road of questioning. So now, generally, you have a pass supervision in your dealing with LIPA that as you're maintaining the plant and as you're keeping up efficiencies you're going to receive recovery for that and it will be passed on to us. Now if that's the case, why would I as a consumer if I'm going to pay anyway why would I want someone else to take over the plant, pay for it and I gotta pay for it anyway. I'm paying for -- either way it's got to be up kept, it has to be a continually increasing process of capital expenditure to keep them running at

efficiencies. The only difference is I just laid out a half billion, billion, billion and a half dollars; the only difference is I just paid you upfront for something that I got to pay for upkeep anyway. Now if it was on you and there's the difference, here they're old plants and the cost is on KeySpan. Hey, you know, here's the deal this is how much we pay you, sorry. You just got to keep it up and if it becomes less economical for you to bid, sorry, but that's your plant it's not ours. Well, then for us I can see why, you know, there's even a question of looking at what we might want to do with the plant, but here we pay you anyway.

**MR. MANNING:**

That's I think your point, as I would see it is, that the proceeds that we would receive from the sale of these plants would not be reinvested into the plants cause they would no longer be ours. So you're right, that would be lost money --

**LEGISLATOR BINDER:**

Exactly, and that's the point. What do we get for every dollar that we just paid for those plants, I know you get something. Shareholders have a small on their face I guess, especially, if it's big money. It goes to your bottom line in a lot of ways and maybe you can -- and where are you going to reinvest it. Of course, it's going to be natural gas and other systems and maybe new plants that you're building. So we're going to then as consumers of electricity, we're going to be investing in your new construction of new plants which we're going to buy electricity from you because we need it so badly cause, you know, we don't get enough so we're worried. So we're going to buy these new plants that we're going to create plus the old plants. Something is missing here because I heard such a strong argument from LIPA that we need to do this I'm missing the point economically. For someone who is in the energy business a long time I heard your pedigree and I know your pedigree --

**MR. MANNING:**

Well, and we obviously, would have to replace those assets somewhere; we intend to stay in this business as I indicated we have close to a billion dollars in projects on the road now and undoubtedly, if we were to sell the existing suite of plants we would have too -- we would be looking to replace that investment elsewhere.

**LEGISLATOR BINDER:**

How much is Spagnoli Road, if you were to get to build this, how much does it cost to build?

**MR. MANNING:**

We're still coming to final numbers on that, but it is substantial --

**LEGISLATOR BINDER:**

Generally, generally give me a big ballpark you think the cost to KeySpan to

build the think.

**MR. MANNING:**

To build that plant?

**LEGISLATOR BINDER:**

Give me a real general number don't give away trade secrets.

**MR. MANNING:**

It's quite frankly, the rates year we're finding are between a 1000 and \$1200 a megawatt – a kilowatt.

**LEGISLATOR BINDER:**

Give me generally, what that -- so I don't have to do --

**MR. MANNING:**

So that puts you in -- you're above 250 million, obviously, because at 250 million you'd be \$1000. So if you could do it for a \$1000 a kilowatt then you could build that plant for 250 million.

**LEGISLATOR BINDER:**

So, so basically if let's say you're right and substantially more than a half of a billion dollars, let's say it's a billion to a billion and a half we're basically giving you enough money to build four or five more plants. So we're going to build, we're going to buy the old ones, we're going to pay for the maintenance upkeep then we're going to buy the new ones and we're going to pay you for the electricity that you're producing cause you own them not us, but we paid you for them. Is that pretty, I mean, maybe it's basic, but it's pretty clear, isn't? Can't disagree with that, can you? Okay. Okay, that's why you're smiling. Well, we'll just leave your smile on the record. That's pretty much all my -- I have just one other thing. You had mentioned that we were protected from the swings --

**MR. MANNING:**

Yeah.

**LEGISLATOR BINDER:**

-- and others had to endure because of the efficiencies. I would actually posit that we were protected from the swings if you look at the rate structure in terms of how much people on Long Island that were charged for electricity by what amounts to a 5% extra surcharge that's in the rates that was there to cover an amount that would shorten the amount of time that the 30 year bonds would be paid off. And the 30 year bonds are being paid off in 15 years. On top of that there's a, literally, a 5% charge that amounting to in excess of \$150 million a year which when, I think when the load was higher than they figured probably -- was probably somewhere over 200 million. Fred probably knows; we did a lot of work on this back then and I mean, my number I assume Fred, is not too far -- it's probably over 200 million that

they were bringing in. So we had all this extra cash flowing -- floating around and so they really had the ability to cover the swing because they had cash. They were literally a wash and cash between that and the zero coupon bond cash that they had coming in cause they weren't paying anything. It's zero coupon means no cap, no principle and no interest payments, so they're filled with cash on a number of fronts so I would just posit a difference -- a different scenario and why we were protected from the swings.

**MR. MANNING:**

And obviously, I can't comment on LIPA's rates; we don't --

**LEGISLATOR BINDER:**

Oh, you wouldn't want to jump right in there I know that.

**MR. MANNING:**

But there is certainly the power supply agreement the PSA this very long term PSA with KeySpan keeps us out of the market place. All of the generation of those plants is -- goes to the Long Island Power Authority and so, of course, particularly during the summer of '99 and during that week in August of last year and who knows what we face this summer. You know we've had two unusually cool summers and when you have a breakdown, when there's a mechanical breakdown in a very, very tight market in the open market place it can be an adventure. And that's one of the ways that you're able to drive a very substantial cost of development of these plants. I mean, it's a very, very expensive place to build --

**LEGISLATOR BINDER:**

Well, keeping your efficiencies -- well, look I think there's no doubt that the people of Long Island have been well served by your keeping the efficiency of the plants at the levels you've been keeping them. Particularly with there age and keeping the capital upkeep and doing what you're doing because if not for that, as we just discussed about the pass through, we'd be paying for it in some fashion on top of whatever else we're paying. So that has been a benefit and to that I tip my hat to KeySpan. You guys are doing a great job and it's very well appreciated, but I am very concerned and just to sum up, I'm very concerned. I know I broke it down pretty simplistically, but I did on purpose and I asked a series of questions to get to that point that this whole thing makes to me to this point makes absolutely no sense. It sounds to me like we're going to buy old plants; we're going to have to find someone to run them whether it's you or someone else. Imagine this, we're going to buy them from you then we're going to pay you to run them cause you'll come in as a consultant so you'll run the plants. We're still going to have to pay for the maintenance upkeep then we're going to give you a certain amount money which is inefficient to us. So that money is now going to be in your pocket to build other plants which by the way, we need you to build so we can buy more energy from you so we can continue to pay you to buy more energy. Unless someone can disagree and I find it interesting you couldn't disagree with the scenario it's a very simplistic scenario, but it seems to me

to absolutely make no sense and until they can show me where it does, you know, I'd be -- I'm very opposed to the purchase.

**LEGISLATOR FISHER:**

Mr. Chair, is there anybody else on the list.

**CHAIRMAN COOPER:**

No. Do you want to speak?

**LEGISLATOR FISHER:**

Yes.

**CHAIRMAN COOPER:**

Legislator Fisher.

**LEGISLATOR FISHER:**

Okay. What is the inventory that would be purchased under this agreement? Which are the plants?

**MR. MANNING:**

Well, the generation on Long Island, actually, there's about 50 different generators and different sizes. So there are five very large steam units that are well familiar to you. And then beyond those units there are a bunch of what we call CT's, combustion turbine units which do not operate all the time, such as the base load units and there are relatively small units out in Southampton, for instances. And there are a series of small units beside the Barrett plant on the South Shore. So you have a large steam base unit; then you will very often peaking units which are small turbines --

**LEGISLATOR FISHER:**

What about the new peaking units, Dave?

**MR. MANNING:**

Well, the new units are not part of this option.

**LEGISLATOR FISHER:**

Okay.

**MR. MANNING:**

So those would not be part of the sale. So Spagnoli Road, Port Jefferson expansion, Glenwood Landing those would remain KeySpan plants after May 28<sup>th</sup>; they're not part of the option purchase.

**LEGISLATOR FISHER:**

Okay. That becomes my question; if we are looking at the Port Jefferson plant if the acquisition were to be completed then what would actually be acquired because the peaking unit is being constructed on the property there where the power plant is, so the acquisition would be only of the plant and its footprint?

**MR. MANNING:**

Yes. The option applies to the actual plants which are within the footprint of the plant itself. So, for instance, KeySpan has about 900 acres of land in Shoreham at the Shoreham area; the Shoreham plant that you're familiar with that's an obvious footprint. At Port Jeff. they would acquire the existing Port Jefferson plant not the lands around it, so KeySpan would continue to own the adjacent lands subject to a right of first refusal so if we were to then redevelop those or to sell those lands for some other purpose the Long Island Power Authority keeps the right of first refusal for how those lands are disposed of. So they would actually purchase the current Port Jeff. plant as you know it.

**LEGISLATOR FISHER:**

Yes.

**MR. MANNING:**

And the new unit, the new LM6000's the twin units which are sitting adjacent would remain a KeySpan plant and that power would go into the LIPA system.

**LEGISLATOR FISHER:**

Okay. And the rights of way going into the plants that would be shared? How would that work out?

**MR. MANNING:**

Well, Bob, do you know?

**MR. TEETZ:**

The rights of way are already owned by LIPA.

**LEGISLATOR FISHER:**

They're already LIPA, okay.

**MR. TEETZ:**

And that would continue.

**LEGISLATOR FISHER:**

All right. Second question, if the acquisition were to occur, you suggested as one of the options that KeySpan might be respond to the RFP and operate the plant. In that scenario would KeySpan be able to create a more secure environment for its workers if you were operating the plant? Would you have the -- would it be within your purview then to maintain the employees at the level at which they are operating now the level of expertise and the numbers?

**MR. MANNING:**

I believe so. It turns to some extent on the term, I believe under the RFP, I believe the initial term of operation is two years and there's a five year renewal after that two year performance. And I believe that it would be -- it's two plus five -- I believe that would -- it would certainly still create a level

of uncertainty clearly because I don't think that this entire transaction is well understood. And I think given the, how should I say this, the State ownership suggestions that the State could resell some of these plants to others; all of these create perhaps a higher level of uncertainty. So while an operating agreement, I think to manage these plants, would go a long way I do think that when there's a specter of public ownership and whatever that would mean with the possibility of resale and, of course, some of the operators many of the companies out there who may have an interest and we don't know who is interested, but those, you know, many operators are -- come from right to work states where they have a very different attitude towards unions; that is operators within the United States. We belong to the clean energy group; we lobby very hard for the highest environmental standards. Many have, in fact, taken a very different approach; many of the large utilities in the United States who own generation are not members because they have a lot of coal. They have a lot of coal use themselves. We have a very sensitive air shed here; the Ohio Valley Coal Plants, coal burning power plants. It takes 24 hours for the air to get from the Ohio Valley to get to Long Island and we have huge issues in Queens about air quality. A lot of its transportation, but a lot of it is power generation. Not in Queens because Queens is burning natural gas. You haven't been able to legally burn coal in this region since 1976, but a lot of the power from western New York and beyond is generated from coal. So there's a much higher NOX number, much higher CO2 number; I'm not -- much higher particulate number. And so those are all issues that create a level of uncertainty in terms of what sought of company might be involved, but I apologize. This is really purely speculative, but then that's what employees do when they face any kind of uncertainty --

**LEGISLATOR FISHER:**

Right. And we are talking about employment security and uncertainty in ones' place of employment and many of the things that you just mentioned, David, were certainly very clearly expressed when I was working on my CO2 bill over a year ago --

**MR. MANNING:**

Absolutely --

**LEGISLATOR FISHER:**

-- about our air quality and the affects of other plants in other parts of the country affecting our air-quality here --

**MR. MANNING:**

And as you know, Legislator, I spent 13 days at Kyoto myself throughout that entire negotiation and this is a very, very important issue, which we embrace, but we have the advantage of being a company that uses natural gas. We have resisted many opportunities and there have been many to purchase coal-burning plants and we have elected not to do so because we found that inconsistent with our business strategy.

**LEGISLATOR FISHER:**

Bob Teetz mentioned earlier that in retrofitting you realize greater power efficiency while lowering NOX and SOX and CO2. And that brings me to one of Legislator Binder's questions which is that when there is -- when there are capital improvements -- expenditures in improvements in retrofitting in repairs that is a capital expense, but we do realize some greater efficiency so we need to put all of those variables into the formula when we look at the final impact on consumers. Bob, is that --

**MR. TEETZ:**

True. We've spent on the order of 80 million to \$100 million over the last ten years to put in environmental controls and natural gas conversions to the fleet of units that we have. That has resulted in significant emission reduction both NOX, SOX and particulates to the point where we are --

**LEGISLATOR FISHER:**

And CO2.

**MR. TEETZ:**

And CO2 where we are well below the New York State average and the national average and significantly below the regulatory requirements that we have. David correctly pointed out that we have been working very cooperatively through the clean energy group with the EPA in trying to get the Midwest utilities to reduce their emissions so that they would be on a par with the low emissions that we have. Right now the consumers of Long Island are paying a premium for high priced clean fuel. The heavily polluting plants in the Midwest are paying very low rates because they use a very dirty fuel and it's very cheap. And so you have to ask yourself if the plants are sold and someone else is chosen to be an operator what is the environmental position of a future operator. Are they going to be like KeySpan green and concerned about their image from a branding standpoint or are they going to be lobbying in Washington every minute to oppose every new clean air regulation that comes along; that's a big factor.

**LEGISLATOR FISHER:**

Well and that was certainly a factor I know dealing directly with you and with LIPA when we introduced the C02 bill. We sat and we worked on it; we worked on the formula, we worked on ways in which we could effect greater efficiency and LIPA didn't respond in the same way.

**MR. TEETZ:**

I think we came up with a very credible bill, you know, thanks to your efforts and it's one that still allows operational flexibility.

**MR. MANNING:**

And it's being replicated in other places I might add.

**LEGISLATOR FISHER:**

Yes.

**MR. TEETZ:**

Now that the County is about to pass the same thing.

**LEGISLATOR FISHER:**

Yes. It's being replicated and there are other counties that have reached out to me for information on that. So it is being replicated because it was a workable, but it was due to KeySpan's help on that and I think you raise a very, very serious concern and that is who would be running the plants and how great would their expertise be? Would they have the engineers who would sit down and go -- sit with a local lawmaker and go through the physics of power generation, go through all of the details? And I think that's that's very, very crucial for those of us who are interested in looking at efficiency in plants and looking at the environmental impact. Thank you.

**LEGISLATOR GULDI:**

Thank you. Just a couple of points of clarification; the book value of the plants so lets backup, lets go this way first. You have 50 approximately plants; you have 19 pieces of real estate that those plants are located on, I'm I correct?

**MR. MANNING:**

Yeah, I think so.

**MR. TEETZ:**

Approximately.

**LEGISLATOR GULDI:**

Okay. The option, however, is not on the 19 pieces of real estate.

**MR. MANNING:**

No.

**LEGISLATOR GULDI:**

It's on the hardware.

**MR. MANNING:**

Yes. And the footprint on which it sits.

**LEGISLATOR GULDI:**

The footprint of the plants from the 40's the 50's the 60's and the 70's. Now what parcels did you take? I mean, at Shoreham this is the first time that I'm hearing that aspect of the option. The massive number of hearings that we had here when the LIPA plan was discussed before its inception. The option I heard about was on the 19 pieces of real estate. Now I'm hearing a different analysis of the option and I'm surprised frankly to hear that for example at the Shoreham site where the plant occupies, what three, four, five acres that you took the 900?

**MR. MANNING:**

Yeah. They own the footprint of Shoreham now.

**LEGISLATOR GULDI:**

Pardon. They already own the footprint of the power plant.

**MR. TEETZ:**

Defunct power plant.

**LEGISLATOR GULDI:**

Right.

**MR. MANNING:**

As part of the decommission they wound up with ownership of the actual plant site.

**LEGISLATOR GULDI:**

But as you -- as I always thought that the opportunity of having 19 zoned pieces of real estate that are pre-existing power plant sites was the inherit value in this whole transaction because of the age of plants, etc, etc, etc.

**MR. MANNING:**

For the way that is now worded of course is a right of first refusals, so --

**LEGISLATOR GULDI:**

Right of first refusal as to what?

**MR. MANNING:**

Well, they can purchase that if we elect to sell that adjacent property --

**LEGISLATOR GULDI:**

-- to anyone --

**MR. MANNING:**

-- to anyone we have to offer to them first so they have an opportunity to control the adjacent lands, but no --

**LEGISLATOR GULDI:**

-- not, not to the extent that you have the right, as the owner of that adjacent land zoned industrial pre-existing power plant site, to construct on the operate competing power plants at that sites.

**MR. MANNING:**

Well, quite frankly, for us to do anything on those properties it's very much like an option because at fair market value which is what they have on the actual plants because if we went to them with our own interest to build a new plant adjacent they would have the right to acquire that land from us and we would therefore --

**LEGISLATOR GULDI:**

-- so under the option if you decided to build that land they'd have a option right on it?

**MR. MANNING:**

They have a right of first refusal so --

**LEGISLATOR GULDI:**

-- for use or sale?

**MR. MANNING:**

Yeah. We -- that's a very good point.

**LEGISLATOR GULDI:**

Which is a significant point.

**MR. MANNING:**

I would -- yeah -- I would have to check that, whether it's an opportunity for us. Well, of course, you're right. If we were to build an Merchant Plant I hadn't thought this through, of course, because clearly you would not contemplate building a new plant without discussing with LIPA cause you got interconnection. You have to get interconnect to their system; you may or may not elect to sell some of your base load power to them or they may be interested in some of that power so it would be inconceivable to me that KeySpan would ever build a new plant without doing it in some agreement with the Long Island Power Authority which of course controls the power on the Island. But technically I'm not sure; it may be that you could use some of that adjacent land for a Merchant Plant, I don't know the answer to that question. That's a very good question and I would have to check that.

**LEGISLATOR GULDI:**

Okay. Could you get back to me when you can answer that question in whatever manner that's convenient to you? The 4100, no I'll wait.

**MR. MANNING:**

I'm sorry, Bob was just pointing out that in addition to the actual physical footprint they do get some adjacent land which is necessary for the operation which is a laid out for parts and stuff, but it's not -- it's not a --

**LEGISLATOR GULDI:**

Yeah, that's not material difference from the area -- issue we were discussing. You said that I think in your presentation the current generating capacity on Long Island is approximately 4100 meg --

**MR. MANNING:**

Yeah.

**LEGISLATOR GULDI:**

Of that 4100 meg on Long Island KeySpan today owns, how much?

**MR. MANNING:**

Well, we own 4100 megawatts --

**LEGISLATOR GULDI:**

You own 4100 --

**MR. MANNING:**

The actual peak load is in the 4700, 4800 range cause they're other plants on Long Island off on generation.

**LEGISLATOR GULDI:**

The other plants being the NYPA --

**MR. MANNING:**

All right, so the 4100 is --

**LEGISLATOR GULDI:**

-- is your share of the 4700 capable on Long Island.

**MR. MANNING:**

Yeah.

**LEGISLATOR GULDI:**

You called the Long Island market a load pocket at one point in your remarks.

**MR. MANNING:**

Yes.

**LEGISLATOR GULDI:**

What do you envision or speculate that the 10 -- say 10 year say 20 year growth for load on Long Island will be?

**MR. MANNING:**

Well, certainly, you know, LIPA has done those projections and I think that raises the question of conservation. It raises the issue of distributor generation; it raises the issue of high efficiency combine heat and power units inside the fence projects that sought of thing. So I don't have those numbers today as to both projections of total growth and how that load growth will be met.

**LEGISLATOR GULDI:**

Do you think that it'll be a total growth market for that kind of time line or do you think that technological changes like distributed generation and efficiencies will make it a constricting or shrinking market?

**MR. TEETZ:**

George, I can tell you that, you know, in the mid 80's when Shoreham was being decommissioned the growth for power on Long Island was absolutely flat as a pancake and then the go-go 90's came and it started to move and even now forecasting it 1½ to 2% we were low. LIPA was low, so currently,

you know, --

**LEGISLATOR GULDI:**

Currently it's a growth market I'm talking a long term.

**MR. TEETZ:**

Currently, there is a growth market --

**LEGISLATOR GULDI:**

Long term, you're not giving me a guess.

**MR. TEETZ:**

And it's very hard to guess on this.

**MR. MANNING:**

And the famous quote from '99 was that there were 475,000 air-conditioning units installed on Long Island during the summer of '99. So not only is it growth, but it's the way people are using power now and also that followed shortly after the 20% rate reduction which LIPA was able to achieve. So there was not a lot -- not as much thought to conservation perhaps, but that's certainly drove --

**MR. DEJESUS**

Elasticity -- power became a little cheaper and people started to use a lot more of it.

**MR. MANNING:**

But I think LIPA's numbers are 1½ to 3% growth per year --

**LEGISLATOR GULDI:**

-- a year to year basis long term. The -- as a practical matter though with one vendor holding 4100 out of 4700 in capacity you wouldn't call that exactly competitive market place now, would you?

**MR. MANNING:**

Well, we have a long-term contract that goes out up to 30 years.

**LEGISLATOR GULDI:**

Yeah. We're going to go there next.

**MR. MANNING:**

Yeah. Okay.

**LEGISLATOR GULDI:**

The long-term contract though -- no, actually lets go back first. The basis -- the book value of the plants and the real estate, obviously, on KeySpan's book is a carryover basis from the LILCO book value of those plants { prebug} LILCO merger, is it not?

**MR. DEJESUS:**

It might have been at the time in the merger, George.

**MR. MANNING:**

Yeah. It's a product of the merger.

**LEGISLATOR GULDI:**

It's a product of the merger and it was essentially a carryover basis; you didn't adjust it for the merger opportunity cost though you could have as an accounting measure at the time.

**MR. DEJESUS:**

I think we did.

**LEGISLATOR GULDI:**

So basically, it's the value you picked to keep on your books. Now the plants, I mean, obviously, the arms length sale of the plants subject to a 30 year power agreement where your obligations to generate the power from the plants your -- basically, your -- for the useful life 30 year of any industrial application is your rate of return analysis is constricted by the long term user agreements you have.

**MR. MANNING:**

It is, however, in this situation the power supply agreement terminates on purchase of -- or on the execution or the exercise of the option.

**LEGISLATOR GULDI:**

On the exercise of the option not on the closing.

**MR. MANNING:**

I'm slowing here because I have to check that either on, I believe, it terminates probably on the purchase that the --

**LEGISLATOR GULDI:**

-- on the purchase not on the exercise.

**MR. MANNING:**

-- PSA terminates on the purchase of the plants --

**LEGISLATOR GULDI:**

-- otherwise you will be able to when they exercise the option you'll be able to shut off the plants and put Long Island out of business including LIPA and yourselves.

**MR. MANNING:**

It also arguably as I've indicated I think these plants have great value because of the opportunity for repowering and, but furthermore if the PSA is no longer-- no long exist then the value of those plants of course goes significantly as well.

**LEGISLATOR GULDI:**

Yes, but if the option isn't exercised the value of the plants is subject to the power supply agreement.

**MR. MANNING:**

Yes.

**LEGISLATOR GULDI:**

So if they don't buy them their value in the market place if you, KeySpan, were to sell them to a third party on the non exercise of the LIPA option or subject to the LIPA option their market value would be subject to the PSA.

**MR. MANNING:**

Yes. Yes, if we sold they -- the PSA survives any sale by us. You're absolutely -- other than to LIPA itself.

**LEGISLATOR GULDI:**

Okay. So the book value was a number that was picked and has some historical source from LILCO, but it's totally unrelated to the market value of the units. The PSA is going to have a driving force on the market value of the units, but in any event if LIPA were to purchase the plants under their option agreement and KeySpan will -- going to look for investment opportunities in its industry, would KeySpan be interested in building competitive power supply operations on Long Island to compete with the LIPA plants?

**MR. MANNING:**

Well, we certainly are the Spagnoli Road Plant which we are building now --

**LEGISLATOR GULDI:**

-- you're doing anyway --

**MR. MANNING:**

Sorry.

**LEGISLATOR GULDI:**

You're doing that anyway.

**MR. MANNING:**

Well, yes, we have a number of plants, Ravenswood, Spagnoli Road. I don't know we'd have to look at market conditions; I don't know how much, you know, the difficulty you have with these older plants if you're in the open market place is if you make a commitment to sell power and then you have a breakdown acquiring that power in the open market on a hot Friday afternoon could be very costly.

**LEGISLATOR GULDI:**

Yes, ask California they have some experience with it.

**MR. MANNING:**

Exactly, so as a result, you know, I don't know how much appetite many corporations have for Merchant Power. I mean, you certainly -- we are in the Merchant Power business and Spagnoli Road will be 50% of the output is in the Merchant market now, but it would depend on conditions. We've talked a lot about the LM6000's; the LM6000's were installed very quickly in New York City to avert fluctuations in the market place and power shortages, but as a result they changed quite dramatically and {Sieth} Energy and {Meriton} and others have put their power construction plans on hold. So we're still proceeding with our Ravenswood plant, but others have shelved their current plans to construct because of the very high cost construction environment.

**LEGISLATOR GULDI:**

Isn't the opportunity to build adjacent to the existing plants substantially more economically appealing than the retrofit of the existing -- interior of the existing plants or if you will the demolishing and replacement of the existing plants?

**MR. MANNING:**

That's an interesting question; it varies by application. I don't know that we have analysis on a plant by plant basis.

**MR. TEETZ:**

It does depend on the individual plant, but the beauty of repowering where you increase the capacity of an existing facility and reduce its emissions is that you can in many cases continue to use certain pieces of equipment that have not significantly deteriorated and lower your overall total capital cost.

**LEGISLATOR GULDI:**

Yes. But the beauty of building adjacent is that you can use your old plant to meet your peaking demand operations and take -- and achieve the greater efficiencies in the new state of the art plant built adjacently to it.

**MR. TEETZ:**

Again, it depends on the overall dynamics of the whole system and whether there's sufficient excess capacity and what advantages you might get on a case by case basis.

**LEGISLATOR GULDI:**

Well, let me ask this, you're a utility power -- you're board base utility power company. You sell, you're in the natural gas business; you're in the power generation business. You're in the power gen -- the power distribution and sale business; you're in the gas supply business. What do you call a company that's only in the transmission and distribution business?

**MR. MANNING:**

Pipe and wire company.

**LEGISLATOR GULDI:**

A pipe and water company?

**MR. MANNING:**

Pipe and wire company.

**LEGISLATOR GULDI:**

Pipe and wire company.

**MR. MANNING:**

As the industry has evolved, Legislator Guldi, you're right, there are issues, which are arising, and they're very tough issues. There's issues of interconnect, who bears the cost of that? There are issues of market control; you have got to create if you want a competitive market place you have to create conditions where others will invest and that means that they to be able to received regulatory approval. They have to be able to do it in a cost effective way and in a situation like ours the alternative to that, of course, is a power purchase agreement which shaves the peaks, which eliminates the high peak power experiences of the rest of the country during periods of shortage. But I would agree if you have a fully competitive market place then the advantages of the power purchase agreement are mitigated, but you have to have a fully competitive market place and a surplus of power because you can achieve that.

**LEGISLATOR GULDI:**

Yeah.

**MR. MANNING:**

Which is difficult to do on an island.

**LEGISLATOR GULDI:**

On Long Island we have neither a surplus of power or competitive market place. In terms of industry standards for construction a couple of years ago I was looking at this I was informed that as an average as a gross ballpark average that you could capitalize, construct, operate and maintain power generation facilities at a cost basis of approximately three and half cents a KW at that time. Is there still such an industry average for cost of construction capitalization operation and if so what is it? I see people shaking their heads, no.

**MR. MANNING:**

No. And as I indicated this is a very high cost environment; we've actually I think I can address the plant that we're building in the City. We had a great deal of difficulty attracting bidders just to construct.

**MR. TEETZ:**

That's absolutely right. Many of them just didn't want any part of building anything in the New York metropolitan area.

**MR. MANNING:**

I believe we solicited 15 companies that are engaged in the full time business

of building power plants; we had one response and I think that was Enron and they were high enough that --

**LEGISLATOR GULDI:**

I hear they're looking for work.

**MR. MANNING:**

This was a couple of years ago.

**LEGISLATOR BINDER:**

For LIPA to purchase the plants and save money other than the old standard public debt versus private debt which it seems to me there's definitely a cut off point at which that's not going to make a difference. I don't know what their price point is, but guess -- my guess is that if there is someone in the middle deciding that it's not 400 million and it's not two billion then it's somewhere in the middle, the price point is going to probably mitigate to a large extent, if not totally, the savings on the public debt. The only way for LIPA then to justify this is in lower costs for the production of the energy otherwise why do it. I mean, after I went through the analysis before, okay, why do it? There's no reason, so they must say that we can produce this cheaper. The only way they can do that is if they replace the personnel that would seem to me because that's the biggest cost. So is there any thought as to what's going to happen with the personnel 1049; are they concerned, are they discussing this with you or is or has there been a discussion about this?

**MR. MANNING:**

I think we certainly are communicating with them and I think there is concern among our workforce and I think among the union leadership. I think since it's been declared to me I think they're more apprehensive about a reselling scenario. I think they are concerned regardless, but I think they're very concerned about any kind of uncertainty of a possible resale of some of these units. But I'm just going to ask, Bob to speak very quickly in terms of the cost components that go into the cost of power.

**MR. TEETZ:**

I think you hit on a very salient point, if you put aside for a moment the acquisition and the potential for tax refinancing for the capital you look strictly at the operating costs. 68% of the operating cost is for fuel, so it really doesn't matter who the operator is, the fuel cost is the fuel cost whether its gas or fuel oil; 68% is fuel. 15% is taxes, real estate taxes. So now you're up to close to 85% of the cost is pretty much fixed regardless of who operates the plant. What you have left then is a return on capital which is a small percent, it's about 4% and then you have O&M which is the daily operating cost half of which is labor cost, direct labor. The remainder is materials, consumables, things of that nature and then there are some insurance and other things which --

**LEGISLATOR BINDER:**

Those are pretty fixed too, even materials and things are pretty fixed. You're

going to need --

**MR. TEETZ:**

You're looking at maybe 5% of the total operating cost is related to labor. Now clearly they're not going to be able to eliminate it completely, so there's 5% that can't be eliminated. I mean, if they could make a dent by bring in some sought of cheap labor, non-unionized labor which I don't think they would do, but they have a very little opportunity to save on the total operating cost. So I think your point is well taken.

**CHAIRMAN COOPER:**

We are going to move to the agenda, but just to sought of sum up all the testimony. Basically, the potential for the way I see it the potential for benefit to ratepayers is minimal if that and the potential risk really is great depending on what the ultimate acquisition price might be for the power plants. I think that there's a consensus that based on the information that's available to us this makes no sense and it's just frustrating. We'll wait to hear what Richie has to say, but it's frustrating that there really is no way assuming that LIPA wants to proceed with this acquisition for whatever reason and I can only guess what those reasons may be. There's nothing that can be done to stop that or am I wrong?

**MR. MANNING:**

Really, it's not within KeySpan's role here to speculate on LIPA's decision. We appreciate very much this opportunity to respond to questions and we will continue to make ourselves available. I'm going to have to pass on that question, Mr. Chairman, and I would not speculate on the thought processes that way. We -- I think we've had a great opportunity here to help define our function with this group, which I think is very important cause the relationship with LIPA and KeySpan is very complex. I think it's working very well for the people of Long Island; I think we learned that particularly during a storm or during a period of very high heat and I think we're very proud of that. We're very proud of the relationship and the job that LIPA has done in the way we've been able contribute and that's pretty much where we stand and I think we've made our position clear and I think we've had an unusual opportunity to do so and I thank you for that.

**CHAIRMAN COOPER:**

David, thank you very much.

**LEGISLATOR GULDI:**

Before you go gentlemen, I just want you to know that, I don't know if it's because of your testimony here, but the stocks down 61 cents this afternoon.

**CHAIRMAN COOPER:**

Thank you again. Okay, we can now move to the agenda.

**Tabled Resolutions**

**1023-02 (Non P) Repealing Energy Conservation Tax (Caracciolo)**

**LEGISLATOR GULDI:**

Motion the approve.

**LEGISLATOR TOWLE:**

Second.

**LEGISLATOR FISHER:**

Motion to table.

**LEGISLATOR BINDER:**

Second.

**CHAIRMAN COOPER:**

All those in favor? Opposed?

**LEGISLATOR GULDI:**

Opposed.

**CHAIRMAN COOPER:**

I'm in favor of resolution is tabled. **(Vote: 4-1-0-0 Opposed: Guldi)**

Moving on to

**1050-02 (P) Authorizing Retrofitting of Traffic Lights with LED Fixtures (Cooper) I make a motion to table.**

**LEGISLATOR FISHER:**

Second.

**CHAIRMAN COOPER:**

All those in favor? Opposed? Resolution is tabled. **(Vote: 5-0-0-0)**

**Sense 4-02 (Non P) Memorializing Resolution Requesting State of New York to Authorize Lottery for Suffolk County (Cooper) I make a motion to table.**

**LEGISLATOR FISHER:**

Second.

**CHAIRMAN COOPER:**

All those in favor? Opposed? Resolution is tabled. **(Vote: 5-0-0-0)**

**Procedural Motion 2-02 (P) Extending Retention of Citizens Advisory Panel for LIPA Oversight for 2002 (Cooper) I make a motion to approve.**

**LEGISLATOR FISHER:**

Second.

**LEGISLATOR GULDI:**

This is the revised copy that's been distributed?

**CHAIRMAN COOPER:**

Yes.

**LEGISLATOR TOWLE:**

Explanation.

**MR. SABATINO:**

In the most recent version that was just distributed this would delegate the authority to this committee, which is the Energy and Economic Development Committee to authorize outside technical consultants up to an amount not to exceed \$100,000 to assist in the oversight of LIPA functions.

**LEGISLATOR TOWLE:**

Thank you, Mr. Chairman. Just to follow-up, Paul. Does that require us to hire individual groups or just provide \$100,000 -- just a little more specific on that area?

**MR. SABATINO:**

What it does is it provides the generic authority to this committee. This committee would have to act by at least a majority vote of its entire membership in order to authorize the expenditure of any of that \$100,000.

**LEGISLATOR TOWLE:**

And the \$100,000 is coming from where now?

**MR. SABATINO:**

This \$100,000 is coming from the Legislature's fees for services 456 account. This would be \$100,000 separate and apart from --

**LEGISLATOR TOWLE:**

The money that we have approved for CAP --

**MR. SABATINO:**

-- \$100,000 which is addressed in the next resolution 1097.

**LEGISLATOR TOWLE:**

Legislator Cooper, just a question of yourself I guess since you made the motion. What are your overall long-term plans or intentions if we're providing a pool of \$100,000?

**CHAIRMAN COOPER:**

My concern is that we be able to hire consultants that will be able to provide independent expert advice to us on energy issues. The separate resolution that would create a LIPA oversight division under BRO may take weeks if not months to put into place and we're entering a very critical period as we've

heard today. A number of significant energy related issues are coming before us and I don't believe that we can afford to go without having access to energy experts for a period of several months.

**LEGISLATOR TOWLE:**

Is there someone specific you are planning on inviting that's going to cost us to have them here or I mean, obviously, we're looking to create a position in the Budget Office to provide us with that expertise or advice on LIPA staffs, I guess, background now. No one specializes in energy issues; it's kind of an overall broad view of things. Obviously, the next resolution is going to create an internal position where someone would have that direct knowledge, I guess, what Legislator Crecca was thinking. This I'm just kind of -- we're providing \$100,000 kind of blanketly as opposed to a plan on how we plan to spend it.

**CHAIRMAN COOPER:**

Right. Well, number one, it's up to \$100,000, number two, any consultants hired would be hired only with the support of the majority of this committee. Gordian Raccke is certainly one consultant that I would propose hiring. I trust his expertise, he's had a long relationship with this committee, but there are maybe other experts as well that we could access.

**LEGISLATOR TOWLE:**

Just a question of Counsel and I'm sorry. Since Legislator Cooper mentioned one name, Gordian Raacke, for example, what is the status with the CAP funding now when it was -- situation with their contract a (inaudible)?

**MR. SABATINO:**

The CAP fund contract expired December 31st. of last year, so right now we have no oversight function being carried out either internally or externally.

**LEGISLATOR BINDER:**

Mr. Chairman.

**CHAIRMAN COOPER:**

Legislator Binder.

**LEGISLATOR BINDER:**

From your comments as the author of the Procedural Motion this sounds like a short term stop gap to fill the -- specifically to fill the time in between that time with which we pass the resolution, hire someone, get them up to speed and have them up and going and working here. Between now and then lets say that's two months, four months, five months, whatever the time period is; is it the intention to hire someone for that period only that period and end that {consultancy} at the time when this committee might feel that we have our internal function up and running and working very well. Is that --

**CHAIRMAN COOPER:**

That decision really is to be made by this committee. If it turns out that we feel as a committee that it would be worthwhile to have additional expert advice over and above that provided by the LIPA oversight division then we'd have the resource available to us up to an expenditure of \$100,000. If we decide as a committee that that's not necessary and that we are getting sufficient advice from whoever we may hire to work for the County under the auspices of BRO then we could vote no to continue that relationship with the outside consultants whoever they may be.

**LEGISLATOR BINDER:**

Let me get an idea of what exactly -- let's not talk about them in the interim time. Let's talk about specifically that time from which our person is actually doing their function and giving us the advice. What would we be looking for to continue having another oversight? I'm kind of -- I'm having a hard time understanding I guess because I -- if we're going to create and spend \$200,000 of the peoples money to create an oversight division here with sufficient expertise that we think will make a difference to us in terms of our impute our information flow, the things we need, why is it that we're thinking that there might be something even above and beyond that that we would need from some kind of outside source that another 100,000 or up to \$100,000? I guess I'm kind of confused; I understand the stopgap that made a lot of sense to me, but I'm having a hard time about the overlay.

**CHAIRMAN COOPER:**

Well, there's a general consensus that this is needed as an interim measure. Whether this is something that we would deem beneficial long term, I can't say. Again, I don't know who we would be able to hire and when we would be able to hire someone for the LIPA oversight division. It may well turn out that we're able to get the expertise in that new office where outside consultants will no long be required. But I want to be able to preserve that option so that we can hire these independent consultants either by short term or longer term if we deem it necessary.

**LEGISLATOR BINDER:**

My concern, I guess, is that if we're going to vote for \$200,000 expenditure I would hope we have the confidence in whatever we're going to do in terms of resolution 1097 that we're going to create enough expertise that we're getting what we want for \$200,000 if that's not enough then we should know that. On the other hand it would seem to me that if we're not confident of that happening then we better talk about it now because then we shouldn't be passing 1097 if we really don't think it'll happen. If we do think it'll happen it would seem to me that the procedural motion should have a provision in it not only as a \$100,000 cap, but you might want to put a provision in it to say that we in a sense have to affirmatively revisit. See we put ourselves in a bad position; if we have someone we've hired, we have them working we're paying them. Then we have a new person we hired we finally get on board, however, long and you're correct it could take some time. We get someone on that we're comfortable with; we think will give us the information we need and their now doing their work and we're getting what we need. I think it would be very hard for this committee to turnaround

to someone else when there's money available because we voted the money to cut them off and say you're no longer needed, please leave, and I don't know that'll happen. I think it should be incumbent upon the committee in a sense in the reverse to say at that point, yes, we want to continue your services. In other words, we'd have to vote affirmatively from the point that we've hired someone under 1097 to continue the services. We did in a sense have the reverse happening under this legislation; we would hire someone and then we would have to actually come in and cut someone off. The vote would be the say, no, stop, we're stopping the money and you're cut off and I think that's --

**CHAIRMAN COOPER:**

We're really not hiring -- we're not required to hire any one person. We're free to hire any consultants that we wish to hire. It may well be Gordian Raacke; it could be one of any other number of people. I personally would have no problem in not voting to hire -- to continue to hire consultant if it does indeed turnout that the people in the LIPA oversight office are doing the job, but it may also turn out that they would welcome additional expert advice.

**LEGISLATOR BINDER:**

That's the point. No, the point is that what is the vote. With no vote the person or persons under the 100,000 under the procedural motion continue to work without a motion, without a specific vote to cut them off they can continue to work. Some would have to actually come in and say, stop. If there are provision in here that says their work ends when the other work begins it would take an action of this committee to then continue them. And like you said here I would have no problem with continuing them if it's needed, but that's not how this is set up. In other words, voting to continue; I would rather have a mechanism in here that would provide for us to have to vote to continue in the event that we decide we need them. Otherwise it's should be on automatic that the service of whoever this is ends at the time the other begins. I think it's only reasonable in terms of spending the peoples' money if we're spending \$200,000 that we're not -- someone doesn't have an open amount of time that their service should literally end whoever it is, end at the time that the other service begins.

**MR. SABATINO:**

If I could just interject, I think those things are to debate there's a misunderstanding.

**LEGISLATOR BINDER:**

Actually, it was more of question than answer, but not a debate, but go ahead.

**SPEAKER:**

(inaudible)

**LEGISLATOR BINDER:**

Well, there were questions. No. There's a problem.

**SPEAKER:**

(inaudible)

**MR. SABATINO:**

I'm just trying to be helpful. All the resolution will do is set up a mechanism to get access to the \$100,000, but they'll be no automatic approval of anybody by virtue of this action. It will take a separate independent affirmative action by majority and that vote will then set the terms and conditions. So for example, if it's decided by the committee and it's judgement that you need \$10,000 for four weeks it'll be a motion to approve \$10,000 with X, Y or Z for two weeks that's going to be controlled that aspect. This resolution in and of itself doesn't commit the \$100,000 and doesn't commit to a time period. It'll be those individual votes that will do that.

**LEGISLATOR BINDER:**

Right. While I understand that there would be a separate vote to determine how the money's spent, specifically, under what time period the problem is that if we're allowing access to the money there should be there can be and I would think in this there can be some proscription on how that money spent even in here and not make it so open ended. The reason being this is this opens the bank. This is the key and it opens and it doesn't mean we're reaching in and grabbing the money yet cause that's another resolution. But even in opening that there should be, I would hope there would be, some comfort level on the committee that that -- we know that especially since we're about to vote on another resolution to spend 200,000, that one actually spends it; that one actually creates something to spend, \$200,000. If we're going to do that next there should at least be some comfort level in the committee that this ends the access to the 100,000 ends at the time the other begins unless we affirmatively reopen that door. But it shouldn't be so open ended, particularly, if we're going to spend -- we're about to spend \$200,000 on something I hope we're confident, if we're going to spend the money, that will help us make decisions on energy policy.

**CHAIRMAN COOPER:**

We'll only be spending additional monies after the oversight division is created if the majority of the committee --

**LEGISLATOR BINDER:**

No, because, because we're probably going to have another vote to spend the money on something, someone before we ever have this other person hired under 1097 and so I don't know that I want to wait for another vote with and to wait to see if that vote or that resolution has in it provisions that cut it off when the other person starts. I would rather put those provisions now if we're all agreeing that that's what we're going to do anyway in the next vote, in other words, when we actually vote to hire X, Y or Z and we're going to say that this person is only hired as long as this other person -- until this other person comes aboard. We can do that right now before we open the gate we should actually put we can put that restraint in there and then if we want to

continue this person after the other person then it should take our affirmative vote to continue them on.

**CHAIRMAN COOPER:**

Okay. Thank you, Legislator Binder. I make a motion to approve Procedural Motion number 2-02.

**LEGISLATOR GULDI:**

Second.

**LEGISLATOR BINDER:**

On the motion, sir. Is it my understanding that there's not an interest in making sure that there's a restriction on how long or how much we're going to -- how we're going to spend this money, that there's not going to be a restriction on stopping this flow of money at the time someone else is hired under this 1097? Is that -- there's not going to be a change?

**CHAIRMAN COOPER:**

Correct. I trust my colleagues on this committee to be able to render that decision. All those in favor? Opposed?

**LEGISLATOR BINDER:**

Opposed.

**CHAIRMAN COOPER:**

Procedural Motion 2-02 is approved. **(Vote: 4-1-0-0 Opposed: Binder)**  
Next,

**Introductory Resolutions**

**1097-02 (P) Amending the Adopted 2002 Operating Budget to Create a Budget Review Office (BRO) LIPA Oversight Division (Crecca)** Is there a motion?

**LEGISLATOR GULDI:**

Motion to discharge without recommendation. Maybe we'll avoid the debate.

**LEGISLATOR FISHER:**

Second to discharge without recommendation.

**CHAIRMAN COOPER:**

(inaudible)

**SPEAKER:**

(inaudible)

**LEGISLATOR GULDI:**

I'll withdraw the motion.

**LEGISLATOR FISHER:**

You're not going to debate (inaudible)

**LEGISLATOR GULDI:**

Providing Legislator Binder is (inaudible)

**LEGISLATOR FISHER:**

Okay.

**CHAIRMAN COOPER:**

Motion by myself, second by --

**LEGISLATOR GULDI:**

Second.

**CHAIRMAN COOPER:**

All those in favor? Opposed?

**LEGISLATOR CRECCA:**

(inaudible)

**CHAIRMAN COOPER:**

Thank you, Andrew.

**Sense Resolutions**

**Sense 7-02 (P) Memorializing Resolution Requesting State of New York to Enact Public Referendum for Fair and Equitable Method of Selection of Board of Trustees of the Long Island Power Authority (Towle)**

**LEGISLATOR TOWLE:**

Motion.

**LEGISLATOR GULDI:**

Second and Co-sponsor.

**CHAIRMAN COOPER:**

I'm sorry, was there a motion?

**LEGISLATOR TOWLE:**

Yeah, motion and second.

**CHAIRMAN COOPER:**

All those in favor? Opposed? Sense 7-02 is approved. **(Vote: 5-0)**

**Procedural Motions**

**Motion No. 4-02 (P) - Authorizing Retention of Law Firm to enforce LIPA Settlement Agreement against LIPA Overcharge of Suffolk**

**Ratepayers (Bishop)**

**LEGISLATOR GULDI:**

I'll try again. Motion to discharge without recommendation. I think we need to consider it before the full Legislature and we'll need an Exec. Session to do so.

**LEGISLATOR BINDER:**

How much money is involved here?

**MR. SABATINO:**

85,000.

**LEGISLATOR BINDER:**

And how much would be left after the 200,000 and the 100,000 and the 85,000. How are we set for money? I just want where the --

**MR. SABATINO:**

I'm sorry, 95,000, I'm sorry, 95,000, I apologize, 95,000.

**LEGISLATOR BINDER:**

So that's 300 -- 400,000 we spent today how much is in the 426? Maybe, Fred?

**MR. POLLERT:**

\$800,000.

**LEGISLATOR BINDER:**

It's 800 total so we've got another 400 left.

**LEGISLATOR TOWLE:**

Just one other question on my end over here, Mr. Chairman?

**CHAIRMAN COOPER:**

Go ahead.

**LEGISLATOR TOWLE:**

Paul, the resolution authorizes the approval of the funding, it doesn't require -  
- it doesn't select the law firm point.

**MR. SABATINO:**

This sets up the process; this would require the interview of at least by this committee of at least four law firms. Just like we did on the MTBE litigation; just like we did a few years ago on the {Mandamus} action for the tax certiorari. It would be that same procedure then this committee wouldn't make the final decision. This committee would interview at least four firms and then make a recommendation to the full Legislature and if there was a desire to go forward with that illegal strategy then up to an amount of \$95,000 could be contracted out for that work.

**LEGISLATOR TOWLE:**

Okay.

**LEGISLATOR GULDI:**

Motion to discharge without recommendation.

**LEGISLATOR TOWLE:**

Second.

**CHAIRMAN COOPER:**

Make a motion to approve.

**LEGISLATOR BISHOP:**

(inaudible)

**CHAIRMAN COOPER:**

Legislator Bishop would you --

**LEGISLATOR TOWLE:**

We don't want you here to answer questions. We don't want you here to answer questions.

**LEGISLATOR GULDI:**

You want to move this to the floor and we'll do it Tuesday?

**LEGISLATOR FISHER:**

Okay. Just move it to the floor.

**CHAIRMAN COOPER:**

Okay. We have a motion to discharge without recommendation and a second. All those in favor? Opposed? Motion number 4 is discharged without recommendation. **(Vote: 5-0)** There being no further business before this committee the meeting is adjourned. Thank you.

**(Having no further business the Economic Development and Energy Committee was adjourned at 4:00 p.m.)**

**{ } denotes spelled phonetically.**