

Order 1000 – Addressing LIPA Jurisdictional Issues in Public Policy Planning Process

**Joint IPTF/ESPWG
August 28, 2012**

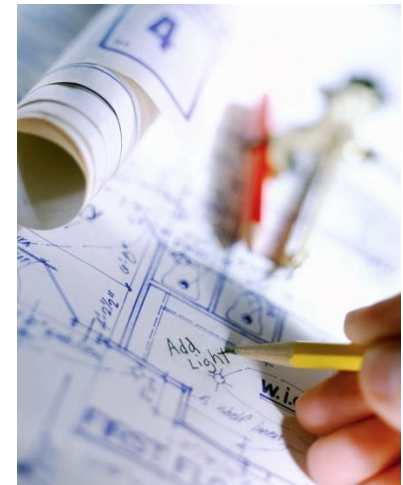
Purpose

- To allow public policy needs to be addressed in the regional transmission planning process.
- Allow the Long Island Power Authority and LIPA to participate fully in the Public Policy Planning Requirement Process
- Recognize the sphere of jurisdiction for the PSC and Long Island Power Authority
- Allow the DPS/PSC to coordinate with Authority to identify a regional transmission solution on LI if that solution meets a public policy need within the PSC sphere of jurisdiction (NYCA outside of LIPA footprint)



Jurisdiction

- DPS and LIPA share a common understanding of current jurisdiction for various functions.
- Current areas of separate jurisdiction include:
 - ▶ Determinations of rates, services, and practices.
 - ▶ Planning (determination of need for and selection of) transmission and operation.
 - ▶ Setting public policy with respect to requirements for Renewable Portfolio Standard (RPS) and Energy Efficiency Portfolio (EEPS).
- The PSC has permitting authority under Article VII to review “physical construction” and siting of a transmission line on LI (application for siting approval triggers this conclusive step in PPR process).



FERC's View on What Qualifies as a Public Policy that Drives Transmission

Issue

What qualifies as a public policy requirement that drives transmission?

In Order 1000-A, FERC granted the following clarification:

Order No. 1000 explained that “state or federal laws and regulations” means “enacted statutes (i.e., passed by the legislature and signed by the executive) and regulations promulgated by a relevant jurisdiction, whether within a state or at the federal level.” We grant APPA’s clarification that Public Policy Requirements established by state or federal laws or regulations includes duly enacted laws or regulations passed by a local governmental entity, such as a municipal or county government. This is the intent of the word “within” in Order No. 1000’s explanation that “state or federal laws or regulations,” meant “enacted statutes...and regulations promulgated by a relevant jurisdiction, whether within a state or at the federal level.” (Order 1000A – Paragraph 319)

FERC's View on Treatment of Non-Jurisdictional Entities

Issue

How should non-jurisdictional entities be treated?

In Order 1000 and Order 1000-A, FERC explained that the jurisdictional and statutory requirements were to be respected in the identification of “transmission needs.”

We clarify that, for [non-jurisdictional] entities such as Bonneville Power, which may be subject to their own organic statutes and regulations, nothing in Order No. 1000’s reforms regarding the consideration of transmission needs driven by Public Policy Requirements is intended to preempt those organic statutes or regulations. (Order No. 1000-A, P 216).

Further, FERC clarified that:

Additionally, in response to Long Island Power Authority, we anticipate that the process for identifying transmission needs driven by Public Policy Requirements can identify what parties are subject to the Public Policy Requirements and whether such parties have a need for a transmission solution to meet those requirements. (Order 1000A – Paragraph 334)

Proposal

- The roles currently envisioned for DPS/PSC must be divided among DPS/PSC and the Authority respecting current jurisdictions; with Authority's role specific to the LI Transmission System.
- Reciprocal provisions addressing planning interactions and projects must be drafted:
 - ▶ Off Island: PSC responsibility
 - ▶ On Island: Authority responsibility and consult with PSC
 - ▶ Needs Spanning both On and Off Island: Joint responsibility between Authority and PSC (each under their sphere of jurisdiction)
- Protections:
 - ▶ Authority **will not** have authority to identify transmission needs, beneficiaries etc... outside of the LI Transmission District (PSC responsibility)
 - ▶ Authority will consult with the PSC regarding its needs, criteria and beneficiaries decisions within the LI Transmission District
 - ▶ Authority process subject to State Administrative Procedures Act



■ Proposed Changes:

- ▶ Modify definition of Public Policy Requirement to include an Order of the Long Island Power Authority which is on the same subject matter as a PSC order
- ▶ Create tariff section that parallels PSC/DPS actions in PPR Process with respect to identification –within the LI Transmission District--of transmission needs, criteria for solutions and benefits, beneficiaries identification and approval of solutions by the Authority (consistent with its jurisdiction)
- ▶ Include separate rate recovery mechanism for projects undertaken by LIPA (consistent with provisions already in RS 10)

Example of Proposed Procedure

- **Identification of PPR**
 - ▶ If no PPR is identified, stop.
- **Determination of PPR Needs Driving Transmission**
 - ▶ Off Long Island: DPS/PSC reviews whether PPR drives need for transmission off or onto LI.
 - ▶ On Long Island: Authority reviews whether PPR drives need for transmission on or onto LI.
- **DPS/PSC and Authority as Applicable Identify Metrics for solutions and benefits within each sphere of jurisdiction.**
- **NYISO Evaluates and Reports on Transmission Solutions.**
- **NYISO Identifies Benefits According to Identified Metrics and Identified Projects**
- **Determination of Beneficiaries**
 - ▶ Off Long Island: DPS/PSC identifies beneficiaries of projects
 - ▶ On Long Island: Authority identifies beneficiaries of projects
 - ▶ For on-island projects or projects onto LI meeting off-island needs: Authority coordinates with DPS/PSC on identification of beneficiaries of projects.
 - ▶ For off-island projects or projects onto LI meeting LI needs: Authority coordinates with DPS/PSC on identification of beneficiaries of projects.
- **Project approval for eligibility for PPR cost allocation**
 - ▶ Off LI – DPS/PSC
 - ▶ On LI – Authority
 - ▶ Onto LI – DPS/PSC/Authority