

PSEG LONG ISLAND LLC
On Behalf of and as Agent for
THE LONG ISLAND LIGHTING COMPANY d/b/a LIPA

Newbridge Bypass Project

Appendix E
Local Law Analysis

LOCAL ORDINANCE ANALYSIS

1.0 Introduction

The applicant (“Applicant”) is PSEG Long Island LLC (“PSEG Long Island”) on behalf of and as agent for the Long Island Lighting Company d/b/a LIPA, a wholly-owned subsidiary of the Long Island Power Authority (“LIPA”). LIPA is a corporate municipal instrumentality of the state, a body corporate and politic and political subdivision of the state, exercising essential governmental and public powers. Public Authorities Law, § 1020-c(1). In addition, Public Authorities Law § 1020-p provides that:

[i]t is hereby found and declared that the operation of the authority is primarily for the benefit of the people of the state of New York, for the improvement of their health, welfare and prosperity, and is a public purpose, and the authority shall be regarded as performing an essential governmental function in carrying out the provisions of this title.

To carry out its essential governmental purposes, LIPA is required solely to “apply to the appropriate agencies and officials of the federal and state governments for such licenses, permits or approval of its plans or projects as it may deem necessary or advisable....” See Public Authorities Law § 1020-g(e).

Notwithstanding LIPA’s exemption from the jurisdiction of local municipalities, the Applicant submits the following analysis of Local Ordinances. The analysis is submitted for the sole purpose of allowing the Commission to evaluate under Article VII the Newbridge Bypass Project’s (“Project”) compliance with the substantive local requirements that would otherwise be applicable to a major utility transmission facility. Where code provisions cannot be complied with because they are unreasonably restrictive, the Applicant requests that the Commission refuse to apply them to the Project.

Nothing herein should be construed or interpreted as either LIPA or PSEG Long Island agreeing to subject itself to the jurisdiction of any county or local municipality; waive its exemption from such jurisdiction; or waive or forfeit any other right to which it is entitled under the law.

The Project is proposed to be sited in the following jurisdictions:

- County of Nassau
 - Town of Hempstead
 - Village of Garden City
- County of Suffolk
 - Town of Huntington

This exhibit identifies, for each of the jurisdictions listed above, the substantive local ordinances, laws, resolutions, regulations, standards and other requirements relevant to the Project activities (“Local Ordinances”). The Applicant will comply with the substantive requirements of these Local Ordinances, and the location of the Project and its construction and operation will be in accordance with all such Local Ordinances, except for those substantive requirements of Local Ordinances that the Applicant in this Exhibit 7 identifies as unreasonably restrictive in view of: (i) the existing technology; (ii) factors of costs or economics; or (iii) the needs of consumers. This Exhibit 7 contains justification statements in support of the Applicant’s request that the Public Service Commission (“Commission”) not apply those substantive Local Ordinances identified as unreasonably restrictive.

Due to the preemptive effect of Public Service Law (“PSL”) Section 130, all procedural requirements to obtain any approval, consent, permit, certificate or other condition for the construction or operation of the Project do not apply.

The Compliance Summary Table set forth on the following page(s) lists every substantive Local Ordinance relevant to the Project activities in the municipalities the Project is proposed to traverse as well as every substantive Local Ordinance that the Applicant requests that the Commission not apply.

Table 1 Compliance Summary Table		
Municipality	Subject of Ordinance	Applicant Will Comply or Requests PSC Relief
<i>County of Nassau</i>		
	Admin. Code Section 11-A-3.0 – Violations	Will Comply
	Admin. Code Section 12-4.1 - Sidewalks and curbs on state highways and county roads outside of incorporated villages and cities	Will Comply
	Admin. Code Section 12-4.3 – Deposits of material on county roads	Will Comply
	Admin. Code Section 12-13.0 – Construction, maintenance and control of bridges within the County	Will Comply
	Admin. Code Section 21-24.2 – Preventing the spread of invasive species in Nassau County; Prohibitions	Will Comply
	Admin. Code Section 21-24.6 – Disposal of prohibited invasive species	Will Comply
	Nassau County Ordinance No. 35-2017 – An ordinance to regulate County rights of way in relation to utilities	Will Comply
	Rules and Regulations Pertaining to Work on County Roads and Within County Right-of-Way	Will Comply
<i>Town of Hempstead</i>		
	Town Code Chapter 86 – Building Construction Administration; Appendix A 221 – Building Code Administration	Will Comply
	Town Code Chapter 128 – Garbage and Rubbish	
	Section 128-2 – Accumulation and dumping prohibited	Will Comply
	Section 128-6 – Precollection practices in collection districts	Will Comply
	Section 128-24 – Litter in public places	Will Comply
	Section 128-29 – Truck loads causing litter	Will Comply
	Section 128-31 – Litter in lakes and fountains	Will Comply
	Section 128-39 – Owner to maintain premises free of litter	Will Comply
	Town Code Chapter 138 – Smoke	
	Section 138-1 – Emission of dense smoke	Will Comply
	Section 138-2- Escape of soot, cinders, etc.	Will Comply

Table 1 Compliance Summary Table		
Municipality	Subject of Ordinance	Applicant Will Comply or Requests PSC Relief
	Town Code Chapter 140 – Earth and Soil Removal	
	Section 140-3 – Pit and bank excavations	Will Comply
	Section 140-4 – No stripping or removal	Will Comply
	Town Code Chapter 144 – Unreasonable Noise	Request Partial PSC Refusal to Apply
	Town Code Chapter 160 – Precautions Against Oil Spills	
	Section 160-2 – Oil discharge prohibited	Will Comply
	Section 160-4 – Duty to notify	Will Comply
	Section 160-6 – Liability and corrective measures relating to spillage	Will Comply
	Town Code Chapter 161 – Illicit Discharges	
	Section 161-6 – Discharge prohibitions	Will Comply
	Section 161-8 – Prohibition against activities contaminating stormwater	Will Comply
	Section 161-13 – Notification of spills	Will Comply
	Town Code Chapter 164 – Public Wetlands Preservation	Will Comply
	Town Code Chapter 165 – Freshwater Wetlands	Will Comply
	Town Code Chapter 175 – Excavations in Streets	
	Section 175-5 – Street opening regulations and restrictions	Will Comply
	Section 175-6 – Maintenance of traffic and protection of the public	Will Comply
	Section 175-7 – Detail of construction	Will Comply
	Town Code Chapter 176 – Roll-Off Containers	Will Comply
	Town Code Chapter 177 – Materials: Deposit	Will Comply
	Town Code Chapter 181 – Sidewalks, Roads and Streets	
	Section 181-2 – Requirements of construction	Will Comply
	Section 181-4 - Trees	Will Comply
	Section 181-11 - Removal of snow, ice and obstructions	Will Comply
	Section 181-13 – Littering	Will Comply

Table 1 Compliance Summary Table		
Municipality	Subject of Ordinance	Applicant Will Comply or Requests PSC Relief
	Section 181-14 – Obstructing walks	Will Comply
	Town Code Chapter 182 – Streets; Construction of Curb Cuts and Driveway Entrances	Will Comply
	Town Code Chapter 184 – Tree Preservation	
	Section 184-2 and 184-5 - Removal of trees prohibited without permit; replacement required; Permissible trees in sidewalk area	Request Partial PSC Refusal to Apply
	Section 184-10 – Prohibited deposits on public property	Will Comply
	Town Code Chapter 190 – Vehicle Speed Limits	Will Comply
	Town Code Chapter 192 – Weight Restrictions: Commercial Vehicles	
	Section 192-1 – Gross weight restrictions upon commercial vehicles using certain Town highways	Will Comply
	Section 192-3 – Exception	Will Comply
	Town Code Chapter 202 – Parking	Will Comply
	Town of Hempstead Building Zone Ordinance (BZO)	
	BZO Section 310 – Public utility buildings	Will Comply
	BZO Section 20 – A Residence District; Special uses	Will Comply
	BZO Section 67 – B Residence District; Special uses	Will Comply
	BZO Section 183 – LPRD Special Uses	Will Comply
	BZO Section 187 – LPRD; Front Yards	Will Comply
	BZO - Section 189 – LPRD; Rear Yards	Will Comply
	BZO Section 220 – Y Industrial District; Permitted uses; prohibited uses	Will Comply
	BZO Section 222 – Y Industrial District; Front Yards	Will Comply
	BZO Section 223 – Y Industrial District; Rear Yards	Will Comply
	BZO Article XXIV – Signs	
	BZO Section 244 – Signs permitted in specific use districts	Will Comply
	BZO Section 246 – General provisions	Will Comply
	BZO Section 302 – Prohibited and restricted uses	Will Comply

Table 1 Compliance Summary Table		
Municipality	Subject of Ordinance	Applicant Will Comply or Requests PSC Relief
	BZO Section 305 – Site plans	Will Comply
	BZO Section 311 – Clear sight triangle	Will Comply
	BZO Section 313 – Location of parking spaces for premises zoned for business, light manufacturing or industrial uses	Will Comply
	BZO Article XXXVIII – Stormwater Management and Erosion and Sediment Control	Will Comply
	BZO Section 389 – Applicability	Will Comply
	BZO Section 393 - Maintenance and repair of stormwater facilities	Will Comply
<i>Village of Garden City</i>		
	Chapter 63-Brush, Grass and Weeds	Will Comply
	Chapter 68-Building Construction and Administration	Will Comply
	Chapter 96-Excavations and Obstructions	Will Comply
	Chapter 103-Fire Hydrants	Will Comply
	Chapter 105-Fire Lanes	Will Comply
	Chapter 107-Fire Prevention	Will Comply
	Chapter 111-Flood Damage Prevention	Will Comply
	Chapter 115-Garbage, Rubbish and Refuse	Will Comply
	Chapter 123-Health Nuisances	
	Section 123-1 Prohibited substances on vacant land	Will Comply
	Section 123-3 Mosquito-breeding places	Will Comply
	Chapter 152-Peace and Good Order	Requests PSC Partial Refusal to Apply
	Chapter 174-Smoke Control	
	Section 174-1 Emission of dense smoke restricted	Will Comply
	Section 174-4 Emissions of soot, ashes or other noxious materials	Will Comply
	Chapter 176-Storm Sewers	
	Section 176-5 Discharge prohibitions; exceptions	Will Comply

Table 1 Compliance Summary Table		
Municipality	Subject of Ordinance	Applicant Will Comply or Requests PSC Relief
	Section 176-12 Notification of spills	Will Comply
	Chapter 177-Stormwater Management and Erosion and Sediment Control	Will Comply
	Chapter 178-Streets and Sidewalks	
	Section 178-4 Refuse or litter prohibited	Will Comply
	Section 178-5 Obstructions or encumbrances prohibited	Will Comply
	Section 178-6 Removal of snow and ice from sidewalks	Will Comply
	Section 178-17 Duty of property owners	Will Comply
	Chapter 188-Trees	
	Section 188-6 Infestation Prohibited	Will Comply
	Section 188-7 Destruction and removal required	Will Comply
	Chapter 193-Vehicles and Traffic	
	Section 193-1 Maximum village-wide limit	Will Comply
	Section 193-37 Dimensions and weights of vehicles	Requests PSC Partial Refusal to Apply
	Section 193-38 Applicability of Federal Motor Carrier Safety Regulations	Will Comply
	Chapter 200-Zoning	
	Section 200-7 Uses	Will Comply
	Section 200-32 Performance standards	Requests PSC Partial Refusal to Apply
<i>County of Suffolk</i>		
	Chapter 433-Dumping and Littering	Will Comply
	Chapter 446-Environmental Protection	Will Comply
	Chapter 459-Fertilizer	Will Comply
	Chapter 618-Noise	Requests PSC Partial Refusal to Apply
	Chapter 639-Parking, Off-Street	Will Comply
	Chapter 713-Safe School Zones	Will Comply

Table 1 Compliance Summary Table		
Municipality	Subject of Ordinance	Applicant Will Comply or Requests PSC Relief
	Section 740-Sewers	Will Comply
	Chapter 759-Storm Sewers	Will Comply
	Chapter 763-Stormwater Management	Will Comply
	Chapter 765-Streets and Sidewalks	Will Comply
	Chapter 808-Utilities; Utility Workers	Will Comply
	Suffolk County Sanitary code	
	Article 5-General Sanitation	Will Comply
	Article 7-Water Pollution Control	Will Comply
	Article 12-Toxic and Hazardous Materials Storage and Handling Controls	Will Comply
	Article 18-Petroleum Bulk Storage	Will Comply
<i>Town of Huntington</i>		
	Chapter 87-Building Construction	Will Comply
	Chapter 111-Fire Prevention	Will Comply
	Chapter 117-Solid Waste Management: Collection, Recycling and Disposal	Will Comply
	Chapter 120-Harbors and Waterways	Will Comply
	Chapter 132-Landscaping	Will Comply
	Chapter 133-Littering and Dumping	Will Comply
	Chapter 141-Noise	Requests PSC Partial Refusal to Apply
	Chapter 143-Outdoor Lighting	Will Comply
	Chapter 156-Property Maintenance; Nuisances	Will Comply
	Chapter 164-Sewer Use Management	Will Comply
	Chapter 168-Floodplain Management	Will Comply
	Chapter 170-Stormwater Management	Will Comply
	Chapter 171-Streams, Watercourse and Wetlands	Will Comply
	Chapter 186-Tree Preservation and Protection	Will Comply

Table 1 Compliance Summary Table		
Municipality	Subject of Ordinance	Applicant Will Comply or Requests PSC Relief
	Chapter 195-Waste Management	Will Comply
	Zoning	
	Zoning Map and District	Will Comply
	Section 198-14 R-40 Residence District	Will Comply
	Article VII-Off-Street parking	Will Comply
	Article IX-Height, Area and Bulk Regulations	Will Comply
	Article XI-Conditional Uses; Supplementary Regulations	Will Comply
	Article XIII-Performance Standards	Requests PSC Partial Refusal to Apply
	Article XIV-Signs and Advertising Devices	Will Comply
	Traffic Code	Will Comply

2.0 Requests for PSC Relief

2.1 Town of Hempstead

2.1.1 Town Code Sections 144-2, 144-3 and 144-5 – General and specific noise prohibitions and limitation

Section 144-2 prohibits the making of unreasonable noise or noise disturbance. The phrases “unreasonable noise” and “noise disturbance” are each defined as “any sound which either endangers or injures the safety or health of humans or animals or annoys or disturbs a reasonable person of normal sensitivity or endangers or damages property.” Section 144-3 prohibits certain activities including, among others: (i) the use of any vehicle in such a manner as to create a noise disturbance across a residential real property boundary, (ii) the discharge of the exhaust from any stationary internal-combustion engine or motor vehicle, except through a muffler which effectively prevents loud noises therefrom, (iii) construction activity other than between the hours of 7:00 a.m. and 6:00 p.m. on weekdays, (iv) creating sound on any street or public property adjacent to any school, institution of learning or court while the institution or court is in session, or adjacent to any hospital, which unreasonably interferes with the workings thereof, and (v) operating any mechanical powered saw, sander, drill, grinder, lawn or garden tool, snow blower or similar device, which creates an unreasonable noise across a real property boundary other than between the hours of 7:00 a.m. and 9:00 p.m.

Section 144-5 provides that “[n]o person shall operate ... any mechanism or device ... which shall create a noise within the Town of Hempstead exceeding the limiting noise spectra” for transient and steady noise given in the tables set forth below:

Table I

Limiting noise spectrum for transient noise.

Band Pressure Level Decibels re 0.0002 Microbars	Octave Band Center Frequency (cycles per second)
92	63
87	125
79	250
72	500
66	1,000
60	2,000
54	4,000
52	8,000

Table II

Limiting Noise Spectrum for Steady Noise

Band Pressure Level Decibels re 0.0002 Microbars	Octave Band Center Frequency (cycles per second)
72	63
67	125
59	250
52	500
46	1,000
40	2,000
34	4,000
32	8,000

During the daytime hours of 7:00 a.m. to 7:00 p.m., the limits in Table I above apply to transient noises lasting more than 12 seconds. From 7:00 p.m. to 7:00 a.m., the same limits apply to transient noises lasting more than six seconds.

The Applicant requests that the Commission refuse to apply the prohibitions in: Section 144-2 on producing sound which annoys or disturbs a reasonable person of normal sensitivity; Section 144-3 on “(i) the use of any vehicle in such a manner as to create a noise disturbance across a residential real property boundary ...; and Section 144-5 on operating “any mechanism or device ... which shall create a noise within the Town of Hempstead exceeding the limiting noise spectra” for transient and steady noise given in the above tables. This is because these prohibitions are unduly restrictive in view of the existing technology, cost and the needs of the Applicant’s consumers. A number of the processes and activities to be conducted in the course of the Project, including use of motorized equipment engaged in excavation, produce noise. The noise associated with the Project is limited to the construction phase of the Project, which is temporary and will take place primarily during daytime hours. Noise associated with the construction phase is estimated to range from 65 dBA to 83 dBA at distances of 100 to 200 feet from the construction activity. Estimated construction noise levels at distances of 100 feet or more do not exceed the Federal Transit Administration (“FTA”) daytime residential noise level guideline of 90 dBA. Estimated construction noise levels from trenchless construction at distances of 100 feet or more do not exceed the FTA nighttime residential noise level guideline of 80 dBA. At distances of 500 feet or more, construction noise levels are estimated to be 69 dBA or less. Indoor noise levels would be lower than outdoor noise levels by 15 dBA or more. Full compliance with these town noise prohibitions is technically impossible or impracticable. All of these impacts will be intermittent and will occur only for limited periods during Project construction, and they are unavoidable given the nature of such construction activities. This request cannot be obviated by

design changes to the Project because noise is unavoidable given the nature of such construction activities. The Applicant will implement noise mitigation measures during the course of the Project. These measures demonstrate that this request is the minimum necessary, and the adverse impacts of granting the request are mitigated to the maximum extent practicable.

The Applicant requests that the Commission refuse to apply the prohibitions in: Section 144-3 on “(iii) construction activity other than between the hours of 7:00 a.m. and 6:00 p.m. on weekdays”; and “(v) operating any mechanical powered saw, ... drill, ... or similar device, which creates an unreasonable noise across a real property boundary other than between the hours of 7:00 a.m. and 9:00 p.m.” This is because these prohibitions are unduly restrictive in view of the existing technology, cost and the needs of the Applicant’s consumers. While the bulk of the construction activities on the Project will occur during daytime hours, the Applicant anticipates that a number of small portions of Project work will need to be conducted during overnight hours in the Town of Hempstead to support two types of Project activities.

One type of Project activity that will need to be conducted during overnight hours is continuous operation at each splicing location during the period that splicing is performed there. Underground transmission cables come on reels of limited lengths due to the constraints imposed by their size and weight. To connect each cable length to the lengths on either end of it along the Project route, a splicing crew will join these lengths of cable. Splicing must be performed inside a controlled environment and in a continuous operation until completed. The cable splicing process will take approximately one week. To maintain the controlled environment inside the vault during that time, the installation contractor will park a specialized splice trailer directly over a manhole at the splicing location. The trailer has equipment to maintain the necessary air cleanliness and temperature in the vault throughout the splicing process. A generator and similar equipment in the trailer produce noise continuously during splicing operations to facilitate the trailer’s operations. The existing technology to meet high quality splicing standards requires that, once the cable splicing process in a splice vault commences, it must continue uninterrupted to completion and the specialized trailer must operate continuously to regulate atmospheric conditions inside the vault. This necessitates 24-hour operation for the full duration of the splicing process. Failure to perform each splice in the above manner may diminish the reliability of the

transmission line during its operational life. The Applicant will endeavor to keep the duration of continuous operation of each splice vault and its associated trailer to the minimum necessary consistent with high quality splicing standards.

The second type of Project activity that may occur during overnight hours is the installation of cable within manholes along Town roadways at locations where the Applicant in consultation with officials of the town and of the villages that the Project traverses determine that such work should be performed at night in order to create lesser impacts than work conducted during the day, even taking into account the lower overall ambient noise levels and persons' heightened sensitivity to noise at night. Certain locations along the Project route are roads in commercial corridors with sufficiently high daytime vehicular traffic volumes that these Project activities would create considerable impacts if conducted during the day. This is particularly true in areas where the Project will require the use of detours or alternating one way traffic. Such detours are much less impactful to vehicle traffic if performed at night rather than daytime. Similarly, Project activities near daytime-operating facilities such as businesses and schools will have less impact if conducted at night. The Applicant will consult with local government officials with the goal of reaching agreement with them on locations where nighttime Project work is less impactful than daytime work, and requests that the Commission refuse to apply the above-cited laws as necessary to allow nighttime work at such locations.

*2.1.2 Town Code Section 184-2 – Removal of trees prohibited without permit;
replacement required and Section 184-5 – Permissible trees in sidewalk area*

This Local Ordinance provides that if a tree on unpaved land between the curbline of the public highway and the abutting property line is removed, it must be replaced by a tree species with a trunk diameter not less than two inches and a root system that “normally will not cause damage to sidewalks, curbs or utility installations.”

The Applicant requests that the Commission refuse to apply Section 184-2 because it is unreasonably restrictive in view of the existing technology, cost factors and the needs of consumers. This law conflict with the Applicant's Right-of-Way (ROW) and Grounds Maintenance Procedures. For reasons of efficiency, safety and reliability, these procedures reflect uniform

right-of-way clearing and vegetation management practices for construction, operation and maintenance of high-voltage electric transmission lines. The needs of the Applicant's consumers are best met by enabling the Applicant to perform Project construction, operation and maintenance of the electric transmission line and its right-of-way efficiently, safely and reliably. The Applicant submits that these factors outweigh the impact on this municipality that would result from the Commission's refusal to apply these local laws.

2.2 Village of Garden City

2.2.1 Chapter 152 – Peace and Good Order

Section 152-9 prohibits the operation of equipment or tool that emits sound or noise in the “construction, demolition, maintenance or repair of any building” before 8:00 a.m. and/or after 8:00 p.m. on weekdays and before 9:00 a.m. and after 8:00 p.m. on Saturday and Sundays.

The Applicant requests that the Commission refuse to apply the prohibitions in Section 152-9 because these prohibitions are unduly restrictive in view of the existing technology, cost and the needs of the Applicant's consumers. The justification for this request is the same as set forth above in Section 2.1.1 for overnight work.

2.2.2 Section 193-37 – Dimensions and weights of vehicles

This Section limits the width, height and length of vehicles operating on Village roads. Section 193-37(B) sets a maximum width of 96 inches plus safety devices. Section 193-37(C)(1) sets a maximum height of 13½ feet. Section 193-37(D) sets a maximum length of any single vehicle, inclusive of load and bumpers, of 40 feet, and 48 feet for semitrailers.

The Applicant requests that the Commission refuse to apply the above-described width and height prohibitions in Sections 193-37(B) and 193-37(C)(1) because these prohibitions are unduly restrictive in view of the existing technology, cost and the needs of the Applicant's consumers. Full compliance with these prohibitions is technically impossible or impracticable. The Project's transmission cable will be carried on cable reels, which typically measure 12 to 14 feet in height and eight feet in width. The reels are transported to the Project site on carts which are towed

behind truck cabs; when loaded with a reel, the typical reel cart measures approximately 16 feet wide and 15 feet high. A number of reel carts will need to be transported through the Village to their locations of use on the Project. Due to the size of the reel carts, an engineering review will be performed to determine the appropriate travel route for each reel cart to its intended location of use for the Project. Traffic control and safety measures will be employed to control safe and successful traffic flow in connection with the Applicant's transport of reel carts. Any impacts associated with transport of the reel carts will be intermittent and will occur only for limited periods during Project construction, and they are unavoidable given the nature of this Project's construction activities. These measures demonstrate that this request is the minimum necessary, and the adverse impacts of granting the request are mitigated to the maximum extent practicable. This request cannot be obviated by design changes to the Project because the cable reels and their carts are required for construction of the Project.

2.2.3 Section 200-32 – Performance standards

This Section includes certain prohibitions and performance standards that apply to all zoning districts. It provides that no use shall be permitted in any zoning district if its operation “would normally cause or result in:

- A. Dissemination of dust, smoke, gas, fumes or other atmospheric pollutant beyond the boundaries of the parcel of land on which the building in which such use is conducted is situation.
- B. Dissemination of any noise, vibration, radiation or odor beyond the boundaries of the parcel of land on which such use is located.
- C. Glare or flashing of lights in any manner that will cause hazard or annoyance to the public generally or to the occupants of neighboring property.
- D. Hazard of fire or explosions.
- E. Hauling of materials, goods or products to or from the site of such in a volume or manner materially incongruous with the normal traffic on streets in the neighborhood.
- F. Danger or hazard to the health, safety or comfort of the community or unreasonable disturbance or annoyance to the occupants of neighboring property.”

The Applicant requests that the Commission refuse to apply the above-described performance standards set forth in Sections 200-32 (A), (B) and (E) because these prohibitions are unduly restrictive in view of the existing technology, cost and the needs of the Applicant's consumers. It would be infeasible to completely contain dust, fumes, noise and vibration to the Project work site during Project construction. Although the Applicant will implement mitigation measures during Project construction to limit, to the extent practicable, emissions of dust and fumes, as well as the dissemination of noise and vibration, construction of the Project will involve the use of heavy construction machinery that will produce noise, vibration, dust and fumes at the lot line when that equipment is operating and when that equipment is entering and leaving the Project work site. Mitigation measures will be implemented to the extent practicable to ensure that no unreasonable dust, fumes, noise or vibration occurs at the property line of adjacent lots not owned or controlled by the Applicant. Additionally, the Applicant requests that the Commission refuse to apply Section 200-32(E) because construction of the Project will require the transportation of oversized electrical equipment/structures along Village roads that could be considered "materially incongruous with the normal traffic" conditions. However, the Application will implement a traffic control plan to mitigate potential impact to nearby roads and will consult with Village officials to coordinate the delivery of any oversized equipment. These measures demonstrate that this request is the minimum necessary, and the adverse impacts of granting the request are mitigated to the maximum extent practicable. This request cannot be obviated by design changes to the Project because the cable reels and their carts are required for construction of the Project.

2.3 County of Suffolk

2.3.1.1 Chapter 618 – Noise

This Local Ordinance regulates noise within the County. Section 618-3 prohibits the creation of "noise disturbance" on any County highway or within the limits of the right-of-way of such highway. The term "noise disturbance" includes any sound that endangers the health or safety of any person, disturbs a reasonable person of normal sensitivities and/or endangers personal or real property. Section 618-4 provides the following sound pressure limits in the following receiving properties: (i) residential receiving properties: 65 dBA between the hours of 7:00 a.m. and 10:00 p.m., and 50 dBA between the hours of 10:00 p.m. and 7:00 a.m.; (ii) commercial properties all

times: 65 dBA; and (iii) industrial properties all times: 70 dBA. Section 618-5(B)(3) provides that construction activity performed between 7:00 a.m. and 6:00 p.m. is exempt from the requirements of Section 618-3 except if performed on weekends or holidays, and also provides that such general noise disturbance prohibition does not apply to emergency work, work performed in accordance with the limits set forth in Section 618-4, or when such work is performed for a municipal entity. Noise created by a stationary emergency signaling device owned or operated by a public utility is also exempt from the requirements set forth in Section 618-3.

The Applicant requests that the Commission refuse to apply the prohibition set forth in Sections 618-3 and 618-4 with respect to the performance of construction work during nighttime hours that could be deemed to create a “noise disturbance” or exceed the prescribed sound pressure limits set forth in Section 618-4 outside of the construction activity exemption period of 7:00 a.m. to 6:00 p.m. that is included in Section 618-5(B)(3). This is because this prohibition is unduly restrictive in view of the existing technology, cost and the needs of the Applicant’s consumers. The justification for this request is the same as set forth above in Section 2.1.1 for overnight work.

2.4 Town of Huntington

2.4.1 Chapter 141 – Noise

This Local Ordinance regulates noise within the Town. Section 141-3 prohibits the production of any noise disturbance within the Town. Section 141-4(B) prohibits the sounding of a horn from any vehicle except as a danger warning. Section 141-4(E) prohibits the discharge of exhaust from any internal combustion engine without a muffler. Section 141-4(G) prohibits between the hours of 10:00 p.m. and 7:00 a.m. the operation of any pile driver, pneumatic hammer, derrick, electric hoist or other appliance, the use of which is creates a noise disturbance.

The Applicant requests that the Commission refuse to apply the prohibition set forth in Section 141-4(E) with respect to the performance of construction work during nighttime hours that could be deemed to create a “noise disturbance” because this prohibition is unduly restrictive in view of the existing technology, cost and the needs of the Applicant’s consumers. The justification for this request is the same as set forth above in Section 2.1.1 for overnight work.

2.4.2 *Article XIII – Performance Standards*

Section 198-86 subjects public utility substations to performance standards set forth in this Article. Section 198-88 includes performance standards related to flammable and explosive materials, electrical disturbance, smoke emissions, air pollution, and liquid or solid waste discharges. Section 198-89 includes standards for vibration, noise, odors, and glare. Section 198-89(B) includes maximum sound pressure decibel limits during nighttime hours based on the frequency band of the noise, ranging from 28 to 69 decibels.

The Applicant requests that the Commission refuse to apply the noise limits set forth in Section 198-89(B) with respect to the performance of construction work during nighttime hours because this restriction is unduly restrictive in view of the existing technology, cost and the needs of the Applicant's consumers. The justification for this request is the same as set forth above in Section 2.1.1.
