SENATE STANDING COMMITTEE ON INVESTIGATIONS AND GOVERNMENT OPERATIONS

SENATE STANDING COMMITTEE ON CORPORATIONS, AUTHORITIES AND COMMISSIONS

REPORT ON THE HEARING HELD

FEBRUARY 27, 2013

On the Future of the Long Island Power Authority

Senator
Carl L. Marcellino

Chair
Senate Investigations and Government Operations Committee

Senator
Michael Ranzenhofer

Chair
Senate Corporations, Authorities and Commissions Committee

● Contents ●

Witness List…… 1

Testimony Summary:

Regina Calcattera…….. 3

Gil Quiniones…… 6

David Daly…… 8

Neal Lewis……..…….. 9

Cynthia Kouril……. 11

Shelly Sackstein…….. 14

Donald Daley, Jr…….. 15

Tom Rumsey……..... 17

Rick Gonzales…… 18

Elizabeth Horan……. 19

Charles Bell…… 20

Comparison Chart of Replacement Models for LIPA…….. 21

Concerns……...…… 22

Speaker's Testimony…….. Attachment A

Submitted Testimony……. Attachment B

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SENATE STANDING COMMITTEE ON INVESTIGATIONS AND GOVERNMENT OPERATIONS
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Public Hearing on The Future of LIPA
Wednesday, February 27, 2013
11 AM
Hearing Room A
Legislative Office Building
Albany, New York 12247

WITNESS LIST

Gil Quiniones, President and Chief Executive Officer
New York Power Authority

Robert Lurie, Senior Vice President of Strategic Planning
New York Power Authority

Regina Calcaterra, Executive Director
The Moreland Commission on Utility Storm Preparation and Response

David Daly, Vice President – LIPA Transition
Public Service Enterprise Group

Neal Lewis, Board Member
Long Island Power Authority

Shelly Sackstein, Chairman & CEO
Action Long Island
Chairman, Suffolk County LIPA Oversight Committee
Former Board of Trustee, LIPA

Cynthia Kouril, Esq.
Former Counsel, Inspector General for New York City Department of Environmental Protection
Former Special Assistant, US Attorney General, Southern District of New York

Donald J. Daley Jr., Business Manager
International Brotherhood of Electrical Workers, Local 1049
Tom Rumsey, Vice President of External Affairs
Rick Gonzales, Chief Operating Officer
New York Independent System Operator
Charles Bell, Programs Director
Consumer Union
Elizabeth Horan, Volunteer
AARP – New York
Bill Ferris, State Legislative Representative
AARP – New York

Regina Calcaterra
Executive Director
The Moreland Commission on Utility Storm Preparation and Response

Ms. Calcaterra shared with the Committees the Moreland Commission's findings and recommendations from their interim report. The findings include:

- The ineffective manner in which LIPA addresses emergency planning, preparedness, and storm response in its service area
- The inherent defects in the current LIPA-National Grid structure that may be avoided in the future through an alternative organizational structure

Ms. Calcaterra testified that the interim report provides sufficient evidence that LIPA's outsourcing of most of the day-to-day management and operations of its system to National Grid does not work. The Commission recommended consideration of a unified structure that both owns the transmission and distribution assets and is entirely responsible for serving LIPA's current service area.

The Commission identified three options for consideration:

- The sale of LIPA's assets to a qualified Investor Owned Utlity (IOU) that would serve as the sole utility manager and operator to the existing LIPA service area
- Full public ownership and operation by LIPA of the transmission and distribution system

- Full public ownership and operation by the New York Power Authority of the LIPA electric system

The Commission has determined that the unique relationship between LIPA and National Grid leads to public confusion about the provision of customer and operational service related to the fact that operations are delegated to National Grid, while operational oversight and approval powers are vested LIPA.

Ms. Calcaterra shared with the committee the three options considered by the Commission:

- LIPA: Privatization
  - Majority of Commission members recommended
  - Identified potentially millions of dollars in synergy benefits
  - New utility would be subject to independent oversight of the Public Service Commission
  - Challenge: ensuring that the debt plus the rates charged by the new private utility would together be affordable for ratepayers
- Public Power: LIPA Ownership and Operation of the T&D System
  - Entails ending the contractor management and operation of the system and moving those responsibilities into LIPA
  - LIPA would become the direct employer of all the staff currently providing electrical service, and would be directly responsible and accountable for the quality of service
  - Challenges: the complete loss of confidence in LIPA, the limited ability to recruit qualified executives and the potential addition of over 2,000 employees to an already overburdened State employee benefit system
- Public Power: NYPA Ownership and Operation of the T&D System
  - Structure would be similar to the LIPA ownership and operation
    - Exception: New York Power Authority (NYPA) would assume ownership and operating responsibilities
  - Oversight of the entity would be done by NYPA's successful professional energy industry and financial management team
  - Challenges: NYPA has no expertise in retail utilities' operations or retail customer service and NYPA's management of a full public power effort could divert considerable management attention away from NYPA's historical mission

Ms. Calcaterra concluded her testimony by summing up the Moreland Commission's findings that fundamental changes are essential to the provision of safe and reliable electric service on Long Island.

Senator Ranzenhofer spoke about the interim recommendations from the Commission giving increased authority to the Public Service Commission. Senator Ranzenhofer asked Ms. Calcaterra about the activities of the Moreland Commission since it was created with a focus on LIPA and its problems. However, the Commission's interim recommendations spoke to expanding oversight to all utilities throughout the State even though these utilities did not

experience the problems that occurred on Long Island. Senator Ranzenhofer asked whether the Commission membership felt there was a need to increase regulatory oversight of other utilities that did not experience what occurred on Long Island during Superstorm Sandy nor the customer complaints. Senator Ranzenhofer mentioned it seemed like the recommendations were overkill to the situation that occurred only on Long Island.

Ms. Calcaterra responded that the Executive Order tasked the Moreland Commission with both narrow and very broad goals. In addition to looking at LIPA, the Executive Order required the Moreland Commission to look at all utilities around the State and examine their emergency plan and storm response based on recent storms. Those storms included not only Sandy but also Irene, Lee and the December 2008 snow storm. As the Commission prepared to begin their review, it was discovered that there is no way to penalize the utilities. Currently, the Public Service Commission is able to penalize only through court action which requires that the utility "knowingly" failed to provide service. As a result, the Public Service Commission is unable to penalize utilities. The Commission looked at other States, their benchmarks and standards that utilities must follow and found that the utilities in New York State are required to meet these guidelines in the other States in which they operate.

Senator Ranzenhofer asked Ms. Calcaterra whether the Commission saw a distinction between LIPA's actions in comparison to those of utilities across the State as its seems that the Commission's interim report recommendations took a broad brush without making a distinction. Ms. Calcaterra informed Senator Ranzenhofer that a distinction will be made in a final report. Further, she shared with Senator Ranzenhofer and members of the Committees that there was too short of a window regarding the other utilities in the interim report as their review was ongoing at the time. Senator Ranzenhofer asked whether the Commission's final report would be released prior to the budget deadline as some of the language is in Governor Cuomo's budget proposal and changes might be necessary. Ms. Calcaterra replied that the final report will not be complete prior to the April 1, 2013 deadline.

Gil Quiniones
President and Chief Executive Officer
New York Power Authority (NYPA)

Mr. Quiniones shared with the Committees that the Governor sought NYPA's assistance in reviewing LIPA's current legal and organizational structure and in providing him with options for restructuring LIPA.

The Governor suggested that the options should address five key objectives to better serve the customers on Long Island and the Rockaways:

- Must provide rate stability
  - Short term
  - Long term
- Must improve the quality of service rate payers on Long Island have experienced
- Must provide property tax stability
- Any resulting utility must have the full confidence of Long Island residents that it is highly prepared for storms and other extreme event
- The new utility must have a well-formulated and resourced plan for responding to extreme weather events in a manner that restores service quickly and provides customers with the critical information they need

Mr. Quiniones conveyed to the Committees that the Governor wants a utility that will provide safe, reliable, affordable and an environmentally responsible electric supply on Long Island.

To achieve the objective set forth by the Governor, NYPA assembled a group of highly qualified financial legal advisors, led by the investment banking firm Lazard, Ltd. Additionally, Mr. Quiniones assigned an internal team of NYPA senior executives in strategic planning, finance, law and power resource planning to work with LIPA staff and the consulting team.

The team is performing an extensive analysis of the costs and benefits of various options for LIPA's transmission and distribution assets including:

- Continuing to have LIPA own assets and have a third party manage them;
- LIPA taking on the operations itself as a municipally owned and operated utility;
- Selling the assets to a private utility company

In addition, Lazard is:

- Analyzing the alternatives for dealing with the roughly $7 billion of debt on LIPA's books, over $3 billion of which is a legacy of LIPA's acquisition of LILCO and the debt that utility incurred in the construction of the now-dismantled Shoreham nuclear power plant

With Lazard's assistance, NYPA is assessing different options and models that would best meet or achieve the five stated goals of Governor Cuomo. Part of the initial study included analysis of privatization which appears to have the potential to meet the Governor's goals. Additional review is ongoing and needed to fully determine if privatization or any other model will meet these goals.

Mr. Quiniones concluded his testimony by emphasizing that this review and work is not yet done and the State has not made a final determination of which restructuring option will best serve LIPA customers.

David Daly
Vice President – LIPA Transition
Public Service Enterprise Group (PSEG)

Mr. Daly provided the Committees with background on PSEG. In total, PSEG has approximately $29 billion in assets and employs almost 10,000 men and women. PSEG owns 13,000 megawatts of generating capacity, and they are industry leaders in promoting and investing in energy efficiency and renewable energy.

In December 2011, PSEG Long Island was selected to manage LIPA's electric transmission and distribution system and provide customer services, for a 10 year period beginning on January 1, 2014. The Operations Services Agreement is structured in a way that aligns LIPA's and PSEG Long Island's interests.

PSEG Long Island has identified specific areas for improvement and are developing the plans and processes to address them. In consultation with LIPA and subject to its approval, PSEG Long Island will implement:

- Improvements in customer service and customer satisfaction
  - New call center and state-of-the-art customer-facing technologies
  - Enhanced customer and stakeholder communications using multiple channels of communications and all available media technologies
  - Best-in-class customer service quality assurance and quality control processes

- Proven storm restoration processes:
  - State-of-the-art outage management technology
  - Enhanced storm planning and a management structure that better consolidates and coordinates outage management and storm response
  - Logistical plans necessary to make the most efficient use of outside work crews and marshal the equipment and resources necessary for responding to a major storm
- Best industry practices in transmission and distribution electric system maintenance and operations
- Data-driven analytic tools, including lean six sigma and balance scorecard process, to optimize T&D asset management

Neal Lewis
Trustee
Long Island Power Authority (LIPA)

Neal Lewis testified before the Committees as an individual who is an appointed, volunteer member of the LIPA Board of Trustees. His testimony on the future of LIPA began with the suggestion that a ServCo model, unanimously approved by the LIPA Board of Trustees after an extensive study and analysis by the Board and the LIPA executive team with the assistance of the Brattle Group.

Mr. Lewis shared with the Committees how the ServCo model would improve the current structure that exists. The model is designed to be a dedicated and self-contained subsidiary that is comprised of employees, systems and resources that are dedicated to LIPA-related activities. It gives LIPA leverage in working with the contractor chosen to oversee day-to-day operations. The model also addresses several functional problems experienced under the current agreement, with National Grid in addition to issues related to storm restoration. In Mr. Lewis's opinion, the ServCo model presents the opportunity to get the best of both worlds of public power and privatization. The Brattle Group has estimated that all of the different savings experienced in the ServCo model could result in as much as 20% lower rates as compared to privatization.

An additional reason Mr. Lewis cited in support of the ServCo model includes the contractor not having an incentive to cut corners on the number of people working in the call centers as part of the budget, because their payments (or profit) will not go up by implementing such cuts – LIPA and its contractor will have their interests and incentives aligned.

In addition to supporting the ServCo model, Mr. Lewis suggested several other reforms to the committees including:

- Local government should have appointments to the LIPA Board of Trustees
  - County Executives
  - The largest towns on Long Island
  - Smaller towns, villages and the two cities have shared appointments that are rotated
- The annual hurricane drill LIPA holds should be held at the two County Offices of Emergency Management (OEM)
  - LIPA should be more clearly integrated into the functioning command structure of the OEMs
- Develop formalized Memorandums of Understanding (MOU) between LIPA and municipalities that anticipate a specific series of different contingencies, set out responsibilities and be enforceable
- Make LIPA reviewable by the New York State Public Service Commission (PSC)

In making his final comments to the Committees, Mr. Lewis shared his experiences as trustees and during Superstorm Sandy operations.

Cynthia Kouril, Esq.
Former Counsel
Inspector General for the New York City Department of Environmental Protection
Former Special Assistant
US Attorney General, Southern District of New York

Cynthia Kouril opened her testimony by sharing with the Committees that utilities have special problems when dealing with contract partners as those contractors believe they have a negotiation advantage because the utility fears an outage. Consequently, they do not fear cancellation of their contract as much as they should and often attempt to cut corners, or worse.

Ms. Kouril referred to Gov. Cuomo's statement in his State of the State message when he said, "New York's grid is aging — 59 percent of the state's generating capacity and 84 percent of transmission facilities were put into operation before 1980, and over 40 percent of the State's transmission lines will require replacement within the next 30 years, at an estimated cost of $25 billion. This need represents an opportunity to upgrade the transmission system to a distributed smart grid network."

Ms. Kouril spoke to the committees about "Smart Grid" and "Micro Grid" technology providing a number of points:

Smart Grid Technology

- A smart grid is an electric grid that uses information and communications technology to gather and act on information, such as information about the behaviors of suppliers and consumers, in an automated fashion to improve the efficiency, reliability, economics, and sustainability of the production and distribution of electricity. It can level peak demand by turning off power to non essential devices like washing machines and turning it back when demand eases.
- A self healing smart grid, if built with redundant overlap, is similar to a traffic circle with several entrances. If one route is blocked or broken, electricity can still enter through the other routes.
- Smart grid brown outs can prevent the sort of demand cascade blackout you sometimes get during heat waves.
- There are Federal matching funds that can mitigate some of the cost of implementing smart grid technology.

Micro Grid Technology

- Micro Grid is when you have small cluster of users around a small generation facility. Similar infrastructure demands are sometimes made on housing developments or large industrial facilities that are not capable of being serviced by existing water treatment plants. Sometimes, in order to secure a needed variance, the developer must agree to build a water treatment plant to service the new construction. You could do something similar, especially as solar and wind generation becomes more efficient.

Ms. Kouril believes the call to privatize LIPA without more detail makes no sense. LIPA was originally created as a mechanism for public financing of the Shoreham Debt and provided some history on the evolution of LIPA. As a result, the power supply agreement causes LIPA to pay rates at a cost plus basis and also to pay property taxes and other costs of operating these plants to the benefit of the private investors. The whole idea behind LIPA was for LIPA to be able to borrow money much more inexpensively because it could issue government bonds.

Ms. Kouril outlined the following problems with LIPA:

- The contracts were drawn in such a way as to give a subsidy to the investors in the power generators and did not provide enough detail in the performance standards for KeySpan.
- LIPA began its life as a funding mechanism to raise debt, not much thought was put into how LIPA would manage or oversee KeySpan.
- LIPA became a patronage mill largely staffed with people with no experience with running a utility, no experience with contract compliance and no experience with forensic audit.

- In the early years things seemed to drift along by dint of routine, the same individuals who had been LILCO employees reported to the same work location and did the same work they had always done. Momentum and habit carried things for a few years. The people administering the contract for KeySpan lived here on Long Island and were as affected as anyone else by the performance standards.
- In 2007, KeySpan was acquired by National Grid, suddenly the decisions were being made in London. The decline of tree trimming and maintenance was certainly observable by me, anecdotally, almost at once.

After Hurricane Irene, LIPA hired Vantage Consulting to do a study of why things went so badly. Findings included:

- Failure in communications
- Not having accurate outage information due to the faulty old outage management system
- LIPA's storm hardening programs and activities, and tree trimming, were not up to industry standards

In October 2011, a strategic review by the Brattle Group concluded privatization may raise costs by $438 million a year because an investor-owned utility can't issue tax-exempt bonds. The same Brattle Group report examined four possibilities:

- Maintain the status quo – rejected as the overwhelming majority are unhappy with current system
- Privatization
- Full municipalization – determined that LIPA currently lacked the in-house experience and expertise to run the system directly
- Competitive outsourcing (which it dubbed "Serv-Co") – recommended because it would give LIPA the time to develop or hire in house experience and expertise paving the way to a future successful transition to a full municipal utility

In considering the Brattle Reports' findings, LIPA's Board of Trustees approved the ServCo model as an interim step towards municipalization. Ms. Kouril agrees with that decision.

During the remaining moments of her testimony, Mr. Kouril outlined several other recommendations for the Committees to consider. They include:

- LIPA needs an Inspector General
- LIPA needs a Compliance Unit
  - One unit to do the day to day compliance work with the new PSEG ServCo contract
  - Another devoted to storm outage and other emergency contracts
- LIPA needs to appoint a CEO

Ms. Kouril referred the Committees to additional recommendations that she has made in her extended testimony which can be found in Attachment A of this report.

Shelly Sackstein
Chairman and Chief Executive Officer
Action Long Island
Chairman
Suffolk County LIPA Oversight Committee
Former Board of Trustee
Long Island Power Authority (LIPA)

Mr. Sackstein believes that the focus needs to be on structure of LIPA. Currently, LIPA holds what is considered a "goldplated" T&D system, which Mr. Sackstein believes is the best in New York if not the country. He believes it would be a loss for the system to be sold as a result of privatization. The ratepayers have invested a lot of money into the system and selling the T&D would be at a loss.

Mr. Sackstein discussed a municipalization model that would include owning T&D and generating capacity and the gas system on Long Island all under one umbrella, LIPA. Since its creation, LIPA has never been run as a company, municipalization would allow that to occur. To this point, LIPA has been a wasted asset but that can change. Mr. Sackstein pointed out that municipalization is the only model that has not been tried out yet on Long Island.

Mr. Sackstein shared with the Committees major errors that are in the current restorations manual including out of date information from years ago and non-existent phone numbers. He asked, "Who is reading the manual?"

Donald J. Daley, Jr.
Business Manager
International Brotherhood of Electrical Workers, Local 1049

Donald Daley represents the members of IBEW Local Union 1049 as Business Manager of the Local. During Superstorm Sandy, IBEW Local 1049's 3,000 members, together with thousands of other emergency storm restoration responders, worked tirelessly during a very dangerous time getting their fellow Long Islander's power back on.

Mr. Daley conveyed a number of questions that need answering as the State considers what to do with LIPA. These questions include:

- What will happen when the utility is privatized such as the loss of FEMA funds, Federal tax advantages and the ability to finance the outstanding debt at low rates without impacting service?
- If the new model is no longer a single employer how will it compensate for lost synergy savings?
- How will storm restoration improve when you are losing over half of the current Long Island workforce?

Mr. Daley reported to the Committees that most Long Islanders are unaware that Governor Cuomo has already signed off on a plan that has half of the 3000 National Grid workers - who currently respond to Long Island disasters like Sandy - no longer available for emergency storm response. As a result, those workers will be sitting home during the next emergency because last year New York decided to split up the workforce that has been trained and qualified to perform storm restoration.

Finally, Mr. Daley conveyed to the Committees that whether it is privatization, full municipalization, or some combination of both, this issue needs to be scrutinized, and Long Island ratepayers are entitled to full and open hearings before the decision is made. The Devil is always in the details.

Tom Rumsey
Vice President of External Affairs
New York Independent System Operator

Tom Rumsey, Vice President for External Affairs along with Rick Gonzales, Senior Vice President and Chief Operating Officer for the New York Independent System Operator (NYISO) shared with the Committees background information on NYISO, their operations structure and the functions they carry out for New York State. Those functions are:

- Reliably operating New York's bulk electric system in accordance with all national, regional, and State reliability requirements
- Administer competitive wholesale electricity markets to satisfy New York's electrical demand
- Conduct extensive planning processes to determine power demands of the future and allow market solutions time to meet identified needs
- Participate as a technical, non-voting member of the New York State Energy Planning Board and have provided technical assistance to the Governor's Energy Highway Task Force

Testimony then delved into LIPA and what role NYISO plays with LIPA. LIPA is an owner of high voltage power lines. NYISO coordinates with LIPA's local power system control center on Long Island and although LIPA meets most of its power needs through contracted agreements with power plants on and off Long Island, it also buys and sells a portion of its electrical needs through NYISO's wholesale electricity markets. LIPA participates in NYISO's short term planning processes and NYISO's long-term transmission system planning for the needs of the state power grid over a ten-year horizon.

Rick Gonzales
Senior Vice President and Chief Operating Officer
New York Independent System Operator

Rick Gonzales continued NYISO's testimony by giving the Committees an overview of the state of the electrical grid. Recent reliability analysis indicates New York's power grid reliability is secure and with the planned additions of new resources, New York State has sufficient reserves to meet reliability requirements and existing supply is expected to meet the forecasted demand until 2019.

Mr. Gonzalez then focused his testimony on Long Island, sharing with the committees that Long Island has 6,268 megawatts of available resources to meet anticipated 2013 Long Island system peak demand of 5,515 megawatts. As a result of limited electrical ties to the rest of New York, New England and New Jersey, Long Island must have the majority of its supply physically located on the Island.

Mr. Gonzales' testimony then moved to the effects of Hurricane Sandy and the impact the storm had on transmission lines and facilities. Only 3 of 7 transmission facilities connecting Long Island to New York City, ISO New England and PJM Interconnection remained in service. Without these three circuits remaining in operations, connecting New York City and Long Island, LIPA's service territory would have electrically separated from the Eastern Interconnection completely. However, even due to the vast damage done, Mr. Gonzales shared with the Committees the wholesale market remained operational, allowing power to be available once restorations were complete.

Elizabeth Horan
Volunteer
AARP – New York

Elizabeth Horan, a lifelong resident of Long Island, described her experience with LIPA, during Superstorm Sandy. Though her home in Sound Beach was spared she was without electricity for 12 days. When temperatures dropped, Ms. Horan evacuated her home but returned everyday to check the power status as calls to LIPA received no response.

As a member of AARP, Ms. Horan shared their views on the Future of LIPA. They include:

- If privatization occurs, what is the clear benefit to ratepayers?
- New York State should look at other publicly-owned utilities to see how the rates and storm performance of publicly-owned and operated utilities that run their own operations compare with utilities that are investor-owned
- Create an independent consumer advocate office to represent residential utility service consumers in cases before state and federal utility regulatory commissions

Charles Bell
Programs Director
Consumers Union of U.S., Inc.

Charles Bell, Programs Director, for the Consumers Union of U.S., Inc. shared background about the organization with the Committees. Consumer Union is involved in public education and advocacy on home issues. Mr. Bell also serves on the Green Jobs Green New York Advisory Council to provide advice and recommendations to NYSERDA for the implementation of a program to retrofit 1 million homes in New York State. Consumers Union is concerned about proposals that could result in significant rate increases for residential ratepayers. Mr. Bell provided additional background statistics to show the committee that New York has some of the highest utility costs in the United States and its impact on Nassau and Suffolk Counties' residents.

Mr. Bell conveyed to the Committees that Consumer Union shares the same concerns that AARP has about LIPA's high debt load, its unusual operating structure, continuing high costs for ratepayers and businesses and its poor record in storm response and customer service. Both groups are also very concerned that high rates could go even higher as a result of potential restructuring or privatization. They believe there is insufficient information in the public record to justify privatization as no one has clearly explained how a change in ownership structure would affect the rates.

Consumers Union strongly supports the establishment of a robust public consumer advocate in New York State and provide the necessary financial support to operate effectively and a statewide utility watchdog be reinstated by the Legislature and Governor.

COMPARISON CHART OF REPLACEMENT MODELS FOR LIPA

	SERVCO	PRIVATIZATION	MUNICIPALIZATION	PUBLIC OWNERSHIP UNDER NYPA	BANKRUPTCY***
BONDING TAX FREE	Yes	No	Yes	Yes	Not Applicable
FEMA REIMBURSEMENTS	Yes	No	Yes	Yes	Not Applicable
SHAREHOLDERS PROFIT SHARE	No	Yes	No	No	Not Applicable
PROPERTY TAX CHALLENGES	No	Yes	?	?	Not Applicable
GOVERNANCE LOCAL OR STATE CONTROL	Local	No Public Input	Local	State	Not Applicable
MANAGEMENT COMPETENCE	PSEG is rewarded for improved service	Private Market drives improvements	Relies on existing LIPA managers and new LIPA hires	Relies on existing NYPA Managers No Experience T&D	Not Applicable
LIPA/DEBT	Existing debt paid for by ratepayers	LIPA sells assets to cover a portion of debt; Surcharge on bill to pay remaining debt	Existing debt paid for by ratepayers	Debt increase to purchase power plants	Sheds & Restructures Debt

*** Bankruptcy model does not address the future of electric delivery service

• Concerns •

OVERALL ISSUES

- **STORM RESPONSE**
  - Under the current National Grid contract, LIPA is in charge during a storm and the performance metrics are suspended during a storm
    - These issues are resolved under the new ServCo contract with PSEG
      - PSEG will be in charge of contacts with the public and municipalities, and coordinating response and restoration
  - It was suggested that memorandum of understandings (MOU's) be drawn up with local municipalities on tree clearing during a storm response
  - Concerns were raised that without National Grid's power plant staff, future storm responses will be under staffed by 1,400 workers

- **LIPA DEBT**
  - LIPA Transmission and Distribution upgrade bonds are valued at approximately $3.5 billion
    - It was suggested that these could be paid off by the sale of LIPA's assets
  - The Shoreham/LILCO debt is valued at approximately $3.5 billion
    - It was suggested that these could be paid off through a separate charge on rate payers bills
  - As of December, 2011, LIPA's most recent basic financial statements,
    - LIP A's total bond debt totaled $6.658 billion
    - with interest payments due of the life of the bonds of $4.319 billion
    - LIPA's combined bond and interest debt is $11.125 billion
  - An estimated $4 billion of the total $7 billion in debt can be retired early over the next few years without penalties
    - It was suggested that LIPA could securitize its existing debt saving millions in interest costs

- **BREAKING PSEG CONTRACT**
  - Concerns were raised about the cost of breaking the new contract with PSEG
    - This issue is resolved as the new PSEG contract does not contain a penalty on LIPA for ending the contract early

- **PROPERTY TAX STABILIZATION**
  - Concerns were discussed that any new entity or LIPA would challenge property tax assessments resulting in
    - a loss of millions of dollars in property taxes collected by municipalities
    - large gaps in municipal budgets

- **ANALYST BIAS**
  - Concerns were raised that consultants hired may have a financial gain from the selection of any particular course of action
    - This issue is mitigated by
      - The expertise of the New York Power Authority being added to the Lazard review
      - Lazard was not guaranteed any future work
    - It was suggested that all contractors be prohibited from gaining from their review of privatization

GOVERNANCE OF LIPA

  - Concerns were raised about the lack of local representation on the LIPA Board of Trustees
    - It was suggested that both County Executives and the largest towns have Board appointments, and a rotating appointment be created for the smaller towns and villages
  - It was suggested that LIPA create an Inspector General Office (IG)

- It was suggested that LIPA create a compliance unit to oversee the PSEG ServCo contract and reimbursements after storm outages
- It was suggested that LIPA needs its executive positions filled by persons with utility experience

- **OVERSIGHT OF LIPA**
  - It was suggested that LIPA be under the purview of the Public Service Commission (PSC)
    - It was suggested that the PSC could be reorganized with more oversight powers over utilities
  - It was suggested that the State have an office to represent residential utility service consumers
  - It was suggested that the State increase staffing at the Division of Consumer Protection in the Department of State to protect utility customers

OWNERSHIP MODELS

The following issues were shared at the Hearing regarding possible ownership model of LIPA

- **SERVCO MODEL WITH LIPA**
  - Positives
    - Operations Service Agreement
      - Financial incentives for improved customer satisfaction
      - Costs savings and efficiencies flow thru to LIPA customers
    - Incorporates current workforce into PSEG Long Island operations
    - Improved customer service & customer satisfaction
      - New call center and state-of-the-art customer-facing technologies
      - Enhanced customer and stakeholder communications using multiple channels of communications and all available media technologies
      - Best-in-class customer service Quality Assurance and Quality Control (QA/QC) processes
    - Proven storm restoration processes
      - State-of-the-art outage management technology
      - Enhanced storm planning and a management structure that better consolidates and coordinates outage management and storm response
        - New Outage Management system
      - Logistical plans necessary to make the most efficient use of outside work crews, and marshal the equipment and resources necessary for responding to a major storm
      - PSEG will take lead during storms, communicating with the public and municipalities, and updating outage map

- Best industry practices in transmission and distribution (T&D) electric system maintenance and operations
- Data-driven analytical tools, including lean six sigma and a balanced scorecard process, to optimize T&D asset management
    - New Enterprise Resource Planning
- LIPA can:
    - get low interest municipal bonding rates
    - receive FEMA storm reimbursements
    - operate without paying
        - income taxes
        - shareholders
    - get certain sales tax exemptions
    - benefit from PSEG management expertise
- The Battle Group estimated 20% lower rates under a ServCo contract than with privatization

- Negatives
    - Could cause communication problems between two entities
    - Concerns were raised that PSEG will not have enough staff to respond to storms

- **LIPA PRIVATIZATION**
    - Positives
        - Potentially millions of dollars in synergy benefits in the purchase of supplies and equipment and no consulting fees
        - It was suggested that the purchase contract require the private owner make an annual payment on the LILCO debt
        - It was suggested that if the LIPA debt was securitized, the saved interest payments could be used to harden the T&D system to increase the book value of LIPA assets, resulting in a higher price for LIPA when sold
    - Negatives
        - Lack of details and dollar value on securitization of LIPA bonds
        - Privatization costs
        - Greater challenges to local property tax assessments
        - Loss of tax-free borrowing
        - Additional costs, including investor equity, taxable debt, and tax on profits of several hundred million dollars
        - Loss of FEMA storm reimbursements

- **FULL PUBLIC OWNERSHIP UNDER LIPA - MUNICIPALIZATION**
    - Positives
        - Public power rates are lower than private companies
        - Profits put back into the system not to stockholders
        - Local control
        - Commitment to conservation, safety and the environment

        - Not-for-profit electricity attracts and maintains significant business and industrial development
        - Public power provides competition in what is a oligopolistic industry, keeping rates low and service better
        - Borrowing rates lower than for private companies
        - Eligible for FEMA reimbursements
    - Negatives
        - Costs of purchasing power plants
        - LIPA lacks in-house experience and expertise to run the system
        - No public confidence in LIPA
        - Limited ability to recruit qualified executives
        - Additional employees on State benefit system

- **FULL PUBLIC OWNERSHIP UNDER NYPA**
    - Positives
        - NYPA successful management team
    - Negatives
        - No experience with Transmission and Distribution systems
        - Diverts attention from NYPA mission

- **LIPA ENTERS BANKRUPTCY**
    - Positives
        - Removes Shoreham/LILCO debt from the backs of current rate payers
    - NYPA Negatives
        - Unintended risks for other authorities with their bond ratings

CONCLUSION

This hearing brought to light a large number of concerns that should be addressed before any decisions on the future of electricity delivery on Long Island can be considered. For all of the proposals discussed, there is a significant lack of specifics, and for many proposals the data available is speculative at best. It is imperative that any action taken must stabilize electric bills and protect rate payers. There was a consensus that the ability to issue tax-free bonds results in savings to Long Island residents and that the LIPA brand is tarnished, suggesting a reconfiguration. This hearing emphasized the lack of information that is available to the public. All parties should take actions to provide Long Islanders with a better understanding of the process and share information to aid in this complex decision.

• ATTACHMENT A •

SPEAKER'S TESTIMONY

DRAFT

TESTIMONY OF GIL C. QUINIONES
PRESIDENT AND CEO - N.Y. POWER AUTHORITY
SENATE INVESTIGATIONS AND GOVERNMENT OPERATIONS
AND
CORPORATIONS, AUTHORITIES AND COMMISSIONS
COMMITTEES
ALBANY, NY
FEBRUARY 27, 2013

Good morning, Mr. Co-Chairmen and members of the Committees. I am Gil Quiniones, the President and Chief Executive Officer of the New York Power Authority (NYPA), and I appreciate this opportunity to discuss options for ensuring that customers of the Long Island Power Authority (LIPA) receive high- quality electric service at affordable prices. With me here today is Robert Lurie, NYPA's Senior Vice President of Strategic Planning and the project executive for NYPA's ongoing analysis.

As New York's only statewide public power authority, the Governor sought NYPA's assistance in reviewing LIPA's current legal and organizational structure and in providing him with options for restructuring LIPA. It has become abundantly clear that LIPA's current structure has failed rate payers and must be overhauled. The Governor indicated that the suggested options should address five key objectives to better serve the customers on Long Island and in the Rockaways.

First, he stated that there must be rate stability, both in the short term and the

long term.

Second, any solution must improve the quality of service rate payers on Long Island have experienced do date the new option provide ratepayers with a level of service equivalent to that which the best utilities provide to their customers;

Third, any plan must provide for property tax stability;

Fourth, any resulting utility must have the full confidence of Long Island residents that it is highly prepared for storms and other extreme events;

And fifth, the utility must have a well-formulated and resourced plan for responding to extreme weather events in a manner that restores service quickly and provides customers with the critical information they need.

In short, the Governor wants a utility that will provide safe, reliable, affordable and environmentally responsible electric supply on Long Island. In order to evaluate the restructuring alternatives with the goal of achieving the Governor's objectives, NYPA assembled a group of highly qualified financial and legal advisers, led by the investment banking firm Lazard Ltd. In addition, I assigned an internal NYPA team of senior executives in strategic planning, finance, law and power resource planning to work with

LIPA staff and our consulting team.

Lazard, along with our internal team, is performing an extensive analysis of the costs and benefits of various options for LIPA's transmission and distribution assets including continuing to have LIPA own the assets and have a third party manage them, taking on the operations itself as a municipally owned and operated utility, and selling the assets to a private utility company. In addition, Lazard is analyzing the alternatives for dealing with the roughly $7 billion of debt on LIPA's books, over $3 billion of which is a legacy of LIPA's acquisition of LILCO and the debt that utility incurred in the construction of the now-dismantled Shoreham nuclear power plant. Their work and ours continues, and includes an analysis of the power supply contracts in LIPA's portfolio.

With Lazard's assistance we are assessing different options and models, that would best meet or achieve the five state goals of Governor Cuomo. Part of this initial study has included an analysis of privatization which appears to have the potential to meet the Governor's goals. Additional review is ongoing and needed to fully determine if privatization or any other model will meet these goals.

I would like to conclude by emphasizing that this review and work is not yet

done and the state has not made a final determination of which restructuring option will best serve LIPA customers. We are open to any plan that others may have that can be clearly demonstrated to meet those objectives. In the end what Governor Cuomo wants is what's best for Long Island ratepayers

We look forward to working with you and your colleagues in the vital process of bringing transparent, reliable and affordable utility service to the residents and businesses of Long Island and the Rockaways.

This concludes my prepared testimony. I will now take your questions.

STATE OF NEW YORK

Co-Chairs Robert Abrams Benjamin Lawsky *Commissioners* Peter Bradford Tony Collins John Dyson Rev. Floyd Flake Mark Green Joanie Mahoney Kathleen Rice Dan Tishman	**Moreland Commission** **Appointed by** **Governor Andrew M. Cuomo**	*Executive Director* Regina Calcaterra

SENATE INVESTIGATIONS AND GOVERNMENT OPERATIONS COMMITTEE
AND
CORPORATIONS, AUTHORITIES AND COMMISSIONS COMMITTEE

TESTIMONY OF REGINA M. CALCATERRA
EXECUTIVE DIRECTOR, NYS MORELAND COMMISSION
ON UTILITY STORM PREPAREDNESS AND RESPONSE
FEBRUARY 27, 2013

Good morning, Chairmen Marcellino and Ranzenhofer and members of the Committees. I am Regina Calcaterra, the Executive Director of the NYS Moreland Commission on Utility Storm Preparedness and Response. I appreciate this opportunity to discuss the Commission's investigation and findings concerning the Long Island Power Authority's (LIPA) response to Super Storm Sandy and the options of how best to structure LIPA going forward.

The Commission has conducted an investigation that solicited a broad spectrum of views and experiences associated with LIPA from the public, industry experts, business owners, and representatives from critical infrastructure entities, as well as from LIPA personnel, and local government officials.

The Commission focused first on, among other things, the serious shortcomings in LIPA's recovery from Sandy and whether its current structure contributed to those shortcomings. The Commission's findings and recommendations in this respect were presented in an Interim Report that addressed:

- The ineffective manner in which LIPA addresses emergency planning, preparedness, and storm response in its service area; and

- The inherent defects in the current LIPA-National Grid structure that may be avoided in the future through an alternative organizational structures.

The Interim Report provides sufficient evidence that LIPA's outsourcing of most of the day-to-day management and operations of its system to National Grid does not work. In short, the bifurcated LIPA-National Grid structure lends itself to mismanagement, a lack of appropriate investment in infrastructure, a lack of accountability to customers, and excessive rates. The Commission recommended consideration of a unified structure that both owns the transmission and distribution assets and is entirely responsible for serving LIPA's current service area. In this respect, the Commission identified three options for consideration:

- The sale of LIPA's assets to a qualified Investor Owned Utility (IOU) that would serve as the sole utility manager and operator to the existing LIPA service area.
- Full public ownership and operation by LIPA of the transmission and distribution system.
- Full public ownership and operation by the New York Power Authority of the LIPA electric system.

For the purposes of this testimony, I am going to highlight a significant flaw associated with the Management Services Agreement between LIPA and National Grid, which is set to expire on December 31, 2013.

National Grid (NG) has three main functions under the MSA: (1) operation and maintenance of the T&D system; (2) repair of the T&D system; and (3) provision of customer service. NG is responsible for providing all staffing necessary to adequately perform these three functions. To that end, NG employs approximately 2,000 employees on Long Island.

As owner of the T&D system, LIPA retains various core, non-operative functions, including: (1) the setting of rates; (2) the determination of energy efficiency and conservation policy; (3) the formulation of a budget and raising of finances for capital improvements; and (4) legal compliance. While NG assumed responsibility for "day-to-day operations," LIPA specifically retained the ultimate authority and control over the operations of the T&D system, including the right "to direct the Manager" in connection with the Manager's obligations under the MSA. In the event of an emergency, LIPA even retains the right to "take possession of and use any or all" of NG's staff and resources and directly manage them.

The Commission has determined that the unique relationship between LIPA and NG leads to public confusion about the provision of customer and operational service related to the fact that operations are delegated to NG, while operational oversight and approval powers are vested in LIPA. The relationship has been particularly ineffective in the context of storm response. As an example of the problem: the MSA between LIPA and NG specifies that, during a storm event NG "shall be relieved of its obligation to comply with a Performance Metric, and such non-compliance shall not constitute an Event of Default, to the extent and for any period during which the operation of the T&D system is affected [by the event]." In other words, NG has no performance metrics to follow in the context of a storm event.

Thus, LIPA, with its strong brand identity and exclusive financial responsibility, has only two choices in the context of a storm: accept zero control over NG's performance (due to lack of a penalizing metric); or take 100% control through its contract emergency powers. Obviously, neither of these are optimum choices. Indeed, based on the testimony taken during the investigation, as well as the review of relevant documentation, the Commission concluded that

the lack of appropriate contract controls and the bifurcated structure between LIPA and NG were largely responsible for the ineffective storm response.

Without getting into much detail, the Commission also found that these same problems cause much of the ineffective day-to-day operations of the LIPA-NG structure.

RESTRUCTURING LONG ISLAND'S ELECTRIC UTILITY SERVICE

The Commission considered three options, as possible longer-term remedies for the current inadequacy of the LIPA structure as I mentioned earlier; LIPA privatization, full public ownership under LIPA, or full public ownership under NYPA.

LIPA: PRIVATIZATION

A majority of Commission members recommended privatization. The Commission identified potentially millions of dollars in synergy benefits that could be achieved in a privatization to offset privatization costs, including efficiencies in the areas of operating and maintenance costs, power supply, fuels management, and contractor fees. Importantly, under this option, the new utility would be subject to independent oversight of the PSC, ensuring that any future rate requests are fully justified and adequate plans are in place for storm response and other contingencies. The challenge would be to ensure that the debt plus the rates charged by the new private utility would together be affordable for ratepayers.

PUBLIC POWER: LIPA OWNERSHIP AND OPERATION OF THE T&D SYSTEM

Another alternative that the Commission considered is full ownership and operation by LIPA of the T&D system. This would entail ending the contractor management and operation of the system, and moving those responsibilities into LIPA. LIPA would become the direct employer of all of the employees currently providing electric service, and would be directly responsible and accountable for the quality of service. While cognizant of the many possible benefits of public power, the Commission is also aware that it may cause potential problems, particularly given the complete loss of confidence in LIPA, the limited ability to recruit qualified executives, and the potential addition of over 2,000 employees to an already overburdened State employee benefit system.

PUBLIC POWER: NYPA OWNERSHIP AND OPERATION OF THE T&D SYSTEM

This structure would be similar to the LIPA ownership and operation, except that NYPA would assume ownership and operating responsibilities. Electrical system revenues and expenses from Long Island and the Rockaway Peninsula would be kept completely separate from existing NYPA funds. A potential advantage of the NYPA model versus the LIPA public power model discussed above is that oversight of the entity would be done by NYPA's successful professional energy industry and financial management team. Some potential problems with this model include that NYPA has no expertise in retail utilities' operations or retail customer service and NYPA's management of a full LIPA public power effort could divert considerable management attention away from NYPA's historical mission.

CONCLUSION

To sum up the Commission's findings: Fundamental changes are essential to the provision of safe and reliable electric service on Long Island.

TESTIMONY OF

DAVID DALY

VICE PRESIDENT-LIPA TRANSITION

PUBLIC SERVICE ENTERPRISE GROUP

PUBLIC HEARING ON

REBUILDING AFTER SANDY

THE COMMITTEE ON INVESTIGATIONS AND GOVERNMENT OPERATIONS

THE COMMITTEE ON CORPORATIONS, AUTHORITIES, AND COMMISSIONS

NEW YORK STATE SENATE

FEBRUARY 27, 2013

Good Morning. My name is David Daly, Vice President – LIPA Transition for PSEG Long Island LLC, a Public Service Enterprise Group Incorporated (PSEG) company. I want to thank Chairs Marcellino and Ranzenhofer, and Committee members for the opportunity to appear before you this morning. I am the lead executive responsible for managing PSEG Long Island's Transition and Operations Services Agreements with the Long Island Power Authority (LIPA). As you may be aware, PSEG Long Island is scheduled to assume management of LIPA's electric transmission and distribution system on January 1, 2014. In the time allotted, I'd like to provide some background on my company our core competencies, and how we plan to deliver high levels of service and improve customer satisfaction for Long Island's 1.1 million electric consumers.

PSEG is one of the nation's largest energy companies and we're also a neighbor. We own Public Service Electric and Gas Company (PSE&G), New Jersey's oldest and largest electric and gas utility company. PSE&G serves 2.2 million electric customers and 1.8 million gas customers in a 2,600 square mile service territory similar to Long Island. We joined New York's business community in 1999 when our electric generation business, PSEG Power, acquired the Albany Steam Station, an aging 450-megawatt electric generating plant located just south of Albany in Bethlehem, NY, and transformed the facility into the state-of-art Bethlehem Energy Center. In the process, we doubled the site's electric generating capacity

while making dramatic reductions in air and water environmental impacts. We'd be happy to have you visit this facility here in the Capital District.

In total, PSEG has approximately $29 billion in assets and we employ almost 10,000 men and women. About two-thirds of our employees are represented by unions and we are proud of our strong relationships with the unions representing our employees. We own about 13,000 megawatts of generating capacity and we're industry leaders in promoting and investing in energy efficiency and renewable energy.

What may be of particular importance to Long Island residents is that our work has gained considerable recognition by national, independent organizations for electric system reliability, storm response, and customer satisfaction. We've been cited as America's most reliable electric utility five out of the last eight years and the most reliable in the Mid-Atlantic region for 11 consecutive years. The Edison Electric Institute, the industry's national trade association, cited PSE&G for outstanding work restoring service after Hurricane Irene and Super Storm Sandy, and JD Power Associates recently ranked PSE&G second in the eastern U.S. region for residential customer satisfaction. It is this track record and the experience and expertise associated with it that we intend to bring to Long Island.

Most of PSEG's assets and investments are focused in the Northeast and Mid-Atlantic. We consider New York part of our core market for business growth and investment and we viewed the opportunity to compete for the LIPA Operations Services Agreement in this context.

As you may know, LIPA selected PSEG Long island in December, 2011 after a two-year, competitive procurement process, to manage its electric transmission and distribution system and provide customer services, for a 10-year period beginning on Jan. 1, 2014. Both the Operations Services Agreement and the Transition Services Agreement have been approved by the New York State Attorney General and the State Comptroller. We've been working diligently on the transition for more than a year.

Importantly, the Operations Services Agreement is structured in a way that aligns LIPA's and PSEG Long Island's interests. We will receive a flat fee for providing the management services, with a potential to earn financial incentives keyed to achieving significant improvements in customer satisfaction and other performance metrics. For example, there are incentives in the contract – and our plan is to achieve – a first-quartile customer satisfaction ranking within five years. Also, any cost savings and efficiencies that

are achieved in the process will flow through to Long Island customers. In short, our success will be closely linked to our ability to improve the customer experience.

PSEG has created PSEG Long Island as a separate subsidiary dedicated to managing its Long Island responsibilities. This subsidiary, its management team, and the assets required to manage operations will be located on Long Island, an arrangement that will increase transparency and focus attention on the needs of Long Island's electric customers. It is also our intention to incorporate the current workforce into our Long Island operations. Our management team will live on Long Island and will be visible and available. PSEG and its family of companies have a long history of involvement with the community and community service and this will be a core value of our Long Island business.

As noted, we bring to this task an established record of performance, reliability, and customer satisfaction. We've been hard at work in the transition and we think we understand the challenges. We've identified specific areas for improvement and we are developing the plans and processes to address them. We will be ready to make a difference on Day One. In consultation with LIPA and subject to its approval, we'll implement:

- Improvements in Customer Service and Customer Satisfaction:
    - New call center and state-of-the-art customer-facing technologies
    - Enhanced customer and stakeholder communications using multiple channels of communications and all available media technologies
    - Best-in-class customer service Quality Assurance and Quality Control (QA/QC) processes
- Proven storm restoration processes:
    - State-of-the-art outage management technology
    - Enhanced storm planning and a management structure that better consolidates and coordinates outage management and storm response
    - Logistical plans necessary to make the most efficient use of outside work crews and marshal the equipment and resources necessary for responding to a major storm

- Best industry practices in transmission and distribution (T&D) electric system maintenance and operations

- Data-driven analytical tools, including lean six sigma and a balanced scorecard process, to optimize T&D asset management

In the area of customer operations, we're implementing over 80 recommendations to improve service and customer satisfaction. LIPA has approved our recommendation to replace the existing call center Interactive Voice and Response (IVR) system and we've mapped plans for replacing the current Customer Information System (CIS) and for implementing a new Enterprise Resource Planning (ERP) system.

We've also proposed a new Outage Management System (OMS) that will more quickly and accurately assess and locate system damage, direct work crews, and provide critical information on status of repairs.

Our experience in New Jersey during Super Storm Sandy provides some guidance on how technology, processes, and planning come together to benefit customers:

Sandy knocked out electric service to almost 2 million of our utility's 2.2 million electric customers. About a third of our system's major switching stations and 40% of our substations were affected, many by significant flooding. And about 33% of our transmission circuits were damaged.

About 1,000 out-of-state workers arrived in New Jersey in advance of the storm and that number grew to more than 4,500 during the restoration effort. We were able to make sure that all of these workers were housed, fed, and their vehicles had fuel. These workers knew where they were going, had work orders in hand, and were able to get on the road with little wasted time. All of our workers had the material and supplies they needed. We never ran out of poles, transformers, wire, or fuel.

We restored electric service to more than one million customers in three days. Over the two-week period that included the Nor'easter that hit on the heels of Sandy, PSE&G restored power to more than 2.1 million customers. This is more than in any storm in the history of any electric utility in the nation. We accomplished these service restorations at a cost of approximately $295 million.

And all through this process we worked diligently to provide as much and as accurate information as possible to customers, public officials, the news media, and other stakeholders. In particular:

- In advance of the storm, pre-emptive calls were made to more than 700 municipal officials to provide points of contact for use during restoration
- Daily conference calls were held that linked our electric operations divisions, regional public affairs managers, and municipal officials to provide updates on restoration planning and progress
- Ralph LaRossa, PSE&G's president and chief operating officer, and other senior executives, held face-to-face meetings with more than 100 state legislative leaders and mayors
- Two conference calls a day were conducted with New Jersey Governor Chris Christie
- Company executives held daily news media conference calls
- Newspaper, radio, internet ads, and email blasts were used to communicate storm preparation, damage assessments, outage updates, and restoration progress
- Social media played a key role in customer communications

It is this kind of effort –planning, logistics, up-to-date technology, proven processes and procedures, analytics, and communications – bound together by a relentless focus on the customer that PSEG Long Island is bringing to the task of managing Long Island's electric system. We think we know what needs to be done and we look forward to the opportunity to serve the people of Long Island.

Thank you and I'd be happy to respond to your questions.

New York State Senate
Committee on Investigations and Government Operations
FEBRUARY 27, 2013

Testimony of
Neal Lewis, Esq.
Executive Director of the Sustainability Institute at Molloy College
&
LIPA Trustee

Honorable Chairman Marcellino and other senators here today, I would like to thank you for the opportunity to address this committee on the very important topic of the future of the Long Island Power Authority.

I have so much that I would like to say on this topic, that I decided to take all of my written comments that might be regarded as background or addressing lesser issues, and put them at the end of my testimony, assuming that they can be part of the record although I will not get to them during my oral testimony. With that said, I will start with the main question that this committee is considering, namely: what should be the future of LIPA?

Before I begin, let me state that I of course do not speak here today as an official representative or officer of the Long Island Power Authority, but instead, I speak as an individual who is an appointed, volunteer member of the LIPA board of trustees.

ServCo

My suggestion for the future of LIPA starts with the structure that was unanimously approved by the LIPA Board of Trustees after extensive study and analysis by the Board and the LIPA executive team with the assistance of the Brattle Group (Report, October 2011). This model is a much-improved version of the current hybrid model. I find it very frustrating that many people insist on saying that the proposed ServCo business model is no different than the current structure that

LIPA operates under. Unfortunately, the media coverage of this issue failed to explain how ServCo would improve on the current structure. It was easier for people to just present the debate as primarily a choice between two extremes: either all private, or all public. When neither extreme was picked, the narrative presented to the public was that the board essentially voted to do nothing, basically maintaining the current model. The media has done a disservice to Long Island because the option that offers what I regard as the best solution for the future, is the option that is the least well known, and it has not been presented in a manner to facilitate a fair debate.

I hope that today we can start to change the debate and allow this option to get fair consideration.

I want to be absolutely clear that I am not here today to say that the old structure of LIPA should be maintained going forward. I absolutely respect and support all those who call for reform of LIPA, I simply believe that the ServCo model is the best reformed model that could be implemented along with other reforms I will suggest today.

As described by the *Brattle Group*, ServCo is designed to be a dedicated and self-contained subsidiary that is comprised of employees, systems, and resources that are dedicated to LIPA-related activities. ServCo is transportable, which gives LIPA leverage in working with the contractor chosen to oversee day-to-day operations, as LIPA will have the option to move the subsidiary in its entirety to another entity, or another service provider. The ServCo model addresses several functional problems experienced under the current MSA, in addition to issues related to storm restoration.

In my opinion, ServCo presents the opportunity to get the best of both worlds of public power and privatization. With ServCo Long Island will retain public power, with a publicly appointed board that controls policy, adopts budgets and sets out to achieve high standards of investment in the system to promote high reliability. The Board will not be driven to increase profits by selling more electricity, and instead can focus on the most cost-effective option of promoting energy efficiency. LIPA has, over the last decade, established itself

as a leader in New York State and nationally in promoting efficiency and renewables. Under ServCo, this can continue. Local control over the significant investments (over $120 million annually) in clean energy will be retained by LIPA. The board will also not be tempted to cut service or system improvements in order to increase profits, or to make system investments in order to qualify for rate increases.

With public power and the ServCo business model, LIPA will continue to qualify for low interest municipal bonding rates, and for FEMA reimbursement for major storms. Also, as a not-for-profit, LIPA does not pay income taxes and can qualify for certain sales tax exemptions. And finally, no payments will be made to shareholders.

Of course, it has been well reported that the Brattle Group estimated that all of these different savings could result in as much a 20% lower rates under ServCo as compared to privatization.

ServCo also captures the best benefits of a private utility without the downside of selling the system off to a private company. With ServCo, LIPA will benefit from the talent, expertise and experience of the managers of a major private utility who will be providing a service under contract for a specific time period (10 years).

From my perspective, the privatization option is by far the worst of the three. During the lengthy analysis that the trustees engaged in before reaching a unanimous decision in favor of ServCo, the key factor that helped persuade me was the issue of risk of change.

First, there are many aspects of the operations of the LIPA system that are currently entwined with the National Grid gas business. It would be easier to consider full municipalization (or privatization) sometime after we break free of the current entangled business model. The talents and expertise of the PSEG managers are tremendous assets to LIPA to assist with this critically complicated transition.

The second and more vital factor to consider is that LIPA is in desperate need to upgrade its computer systems. If you consider all

the upgrades that will be necessary in the coming years, the costs could be in the several hundreds of millions of dollars. There are municipalities around the country that have set out to purchase major computer systems and encountered many expensive difficulties. There are no guarantees that we will not experience similar problems with our computer upgrades, but having the expertise and experience of the PSEG and Lockheed Martin managers to oversee those complicated upgrades substantially reduces those risks.

It should be pointed out, that today you will hear from the head of the Suffolk County LIPA Oversight Committee. He has been someone who over the years was very critical of previous contracts that may have been adopted without competitive bids. However, during all the time I have been on the board, all of the contracts considered by the Board went through a thorough, competitive process. In the case of the contract with PSEG, the team that reviewed their bid scored them very highly. Their performance record of high customer satisfaction is impressive.

In my opinion, the LIPA Board of Trustees has done an excellent job of adopting a much improved business model and choosing a highly qualified company to carry out operations under the new system.

I would like to point out that the Moreland Commission, in their Interim Report, did not consider the ServCo model as one of the three possibilities when evaluating options for the future of LIPA.

The Bifurcation Problem

Although I disagree strongly with the conclusions of the Moreland Commission Interim Report, I did write in the margin of the report "good point" in the section where they discussed how the bifurcated nature of the LIPA and National Grid hybrid model is *"simply unworkable in the context of a storm event."* (Page 17.) In my opinion, there is no problem with LIPA being the lead brand under day-to-day, or what are called "blue sky" conditions. The point that I agree with however, is that during an emergency presented by a major storm, LIPA should remove any potential bifurcation problem by simply

directing the contractor to communicate directly with the public and thereby removing any potential communications bottlenecks.

During the lengthy process of developing and evaluating the ServCo model, the board of trustees discussed the idea that the new contractor would be responsible for communicating with the public, holding press conferences, sending out press releases, emails, social media updates, and maintaining the outage map during major storms. That is why I was surprised when I read on page 26 of the Moreland Commission Interim Report that under the contract with PSEG, *"the bulk of the owner-manager relationship remains the same."*

At the last meeting of the LIPA Board of Trustees, I referred to this conclusion in the Moreland Commission Interim Report. I explained how it was inconsistent with what I understood as the plans for how the new structure would work starting January 2013, and I asked that our general counsel research the issue and provide the board with an explanation at a future meeting. She told the Board she would look into it. Since that meeting, I have come to learn that although the Moreland Commission may have reviewed the contract with PSEG, they did not review the Contract Administrative Manual.

The reason for this is that the transition is ongoing and the Contract Administrative Manual has not yet been drafted by the parties or adopted by the board. Our general counsel intends for the details on the arrangement of how communications will be handled during a major storm to be the type of thing that does not belong in the contract, but will instead be addressed in the Contract Administrative Manual.

Since that meeting, Long Island was hit with a blizzard. During the blizzard, the contractor – National Grid, took the lead on communicating with the public. The structure followed during the blizzard seemed to be a good test of how to solve the bifurcation problem during a major storm in the future, and the test went very well.

Misaligned of Interests

There are other important reasons that the ServCo model is the best future structure for delivering electricity to the people of Long Island. These other reasons may have nothing to do with storm response issues, but could still prove very import to Long Islanders and could go a long way to addressing the low customer satisfaction ratings that plagues LIPA. Under the current MSA, LIPA and its contractor have interests and incentives that are misaligned.

For example, when the LIPA board approved what would prove to be a very popular program called the Small Business Direct Install (LIPA pays 70% of the cost of efficiency lighting in small businesses in areas with load pockets where LIPA will need to make expensive upgrades to the grid if demand is not reduced) it took a very long time (approximately 2 years) to get the program running because of difficulties in working out an agreement on certain factors with its contractor under the MSA. This, despite the fact that a third party company called Lime Energy won the bid to carry out the program.

Another, even more vital example, involves the LIPA call center that is run by the contractor. LIPA would like people to have a good experience when they make a call, but the contract can return more profit to its shareholders if the call center completes more calls more quickly with fewer people being paid.

In my opinion, a significant factor in LIPA's low customer satisfaction ratings is due to bad ratepayer experiences when more than a million calls are made to the call center every year. Under the ServCo model, the contractor will not have an incentive to cut corners on the number of people working in the call center as part of the budget for the subsidiary, because their payments (or profit) will not go up by implementing such cuts. The quality of the call experience will be more important than speed.

Under ServCo, LIPA and its contractor will have their interests and incentives in alignment.

The Case for Dismantling LIPA Has Not Been Demonstrated

I believe that it was a monumental task and a herculean accomplishment to restore power after Superstore Sandy, and that there is no fact-based assessment that demonstrates that the time it took to achieve restoration was in anyway a failure. **The Moreland Commission Interim Report does not contain any analysis of the facts, comparison to other storms or other utilities, or any metrics whatsoever to demonstrate that LIPA's rate of outage restoration after Sandy was a failure that warrants privatization.** Understanding that every storm is different and that even the same storm can have vastly different impacts in different communities makes it a challenge to conduct comparisons of storm restoration rates. The media often relies upon the simple comparison of the number of homes and businesses that were without power (as reported on utility websites) and how long it took to restore power, but I would like to suggest that the better comparison for major storms is to compare the number of repairs that needed to be made.

For example, with Hurricane Gloria in 1985, it took approximately 11 days to restore power by completing approximately 9,000 repairs. Superstorm Sandy required approximately 40,000 repairs, and 99.5% of outages were restored in 14 days. If LILCO were still running things, and restored power after Sandy at the rate they did after Gloria, then it could have taken about 45 days to achieve power restoration. Irene required 19,000 repairs and took 9 days to restore. If Sandy restoration was achieved at the pace that Irene was achieved, it would have taken about 19 days to restore power. In neither Gloria nor Irene, were there storm surge or a second storm (snowstorm) in the middle of the restoration efforts, both of these factors made Superstorm Sandy significantly more difficult. Based upon the tremendous number of repairs required for Superstorm Sandy– perhaps the most impactful storm to hit Long Island in modern history, and the flooding and additional snow storm, I stand by my assessment that the rate of restoration was a tremendous accomplishment and certainly not a failure that demonstrates a need to tear down the LIPA structure in favor of privatization.

The other major complaint was that LIPA failed to communicate effectively during the storm restoration efforts. On this point, I certainly agree that a much better job needs to be done in the future, but my research informs me that there is not a single utility in the Country that could have provided people with accurate ETRs (estimated time of restoration) with a storm that caused anything approaching the level of damage that Sandy caused. I understand that other utilities in New York and New Jersey were also criticized for poor communications after Sandy; this problem was not unique to LIPA. We live in a time of instant communication and the public therefore has an expectation that information should flow freely even in the worse crisis, but until our electric grids have been converted to smart grids (and perhaps even then), it will remain very difficult to give people accurate estimates when the number of outages exceeds the range of 150,000 to 200,000.

Reliability

Next I would like to address the claim that the LIPA system was essentially falling apart when the storm hit explaining the extensive damage. This claim is also completely false. Let me state for the record what no newspaper has mentioned in their coverage of these issues after Superstorm Sandy, that at the time the storm hit, **the LIPA grid was either the single most, or among the most reliable systems in New York State** (for any above ground utility). This claim by me is based upon established metrics that are regularly reported to the LIPA Board of Trustees. I have brought with me 20 copies of a PowerPoint handout from the LIPA trustee meeting of May 24, 2012 (and if the Chairman deems it appropriate, I would like to make it a part of the record). You can see on slide 7, that LIPA was ranked number 1 in NYS for 3 of these major reliability metrics for Dec. 2011 (SAIFI - System Average Interruption Frequency Index,
CAIDI - Customer Average Interruption Duration Index, and
SAIDI - System Average Interruption Duration Index).

I mentioned that I read many Facebook postings and it is true that there were more than a few statements by people who had spoken with linesmen and tree crews from out-of-state who made negative comments about the LIPA grid. My opinion on how those criticisms

can be reconciled with the high performance on the reliability metrics is that first, the comments were being reported second or third-hand, and secondly the comments had more to do with the design of the system than with its upkeep. For example, LIPA's grid is older than is the case in many other suburbs. With our grid, the wires run out from substations like spider webs going through back yards, rather than just running along roadways as many other/newer grids were designed. This makes it more time consuming to repair the LIPA grid as repairs need to be made behind homes and buildings and it is more difficult for repair crews to snake around streets tracking down breaks in the wires. It is also the case, that many trees grow very close to LIPA poles and this is not permitted by some utilities in other areas.

In the last decade or so, LIPA has invested billions in improving the LIPA grid. I have been told by people who formerly worked for LILCO that there is no comparison to the condition of the grid today to what was maintained by LILCO. Bob Catell, the former president of Keyspan Energy had frequently said at meetings that he regarded the LIPA grid as a "gold-plated system," due to the investments made to improve it.

Flood Surveys

A major motivating factor in the criticism of LIPA during Sandy restoration was due to issues involving the need to survey tens of thousands of homes that were flooded by the storm surge.

First let me acknowledge, that when Sandy hit, there was no plan in place for how to ensure that electric repairs were completed up to code before homes were repowered in order to avoid fire risks. I can tell you that in the three years that I witnessed the hurricane drills, there was never any mention of what to do if a storm surge left homes in need of internal electrical repairs and surveys or inspections before the homes could be repowered. I agree that this was in part a failure of planning by LIPA, but it was also, and significantly more so, a failure of planning by local municipalities. Simply stated, it is the responsibility of local government, not a utility

to conduct inspections **inside homes** to ensure that electrical work is done up to code standards.

Notably, in the City of Long Beach, and the Rockaways (that are part of the City of New York), there was coordination and the local governments fulfilled their responsibilities in conducting flood surveys. In the other areas, after much consternation, LIPA stepped in, authorized the hiring of the people necessary to walk house-to-house to conduct tens of thousands of surveys, which were conducted in approximately 6 days so that homes could be repowered without the risk of fires. The issue of flood surveys was a contentious issue in creating difficulty and bad feelings between LIPA and local municipalities, but even the Moreland Commission acknowledged that LIPA acted in a way that is consistent with utilities throughout the Country by first claiming that the need to inspect or survey electrical circuits inside homes is not usually a utility's responsibility, but instead is a job for local government.

Other Reforms

Board Appointments

My proposal for reform starts with the ServCo model, but it does not end there. I also believe that there is a perception of an accountability issue with the current structure where all of the trustees are appointed by the leadership in Albany. I therefore believe that local governments should have an opportunity to appoint people to the LIPA Board of Trustees. I believe that each County Executive and the largest towns on Long Island should have seats on the board. The smaller towns, the villages and the two cities should have shared appointments that are rotated. (The exact number and formula to be determined.)

During emergency planning and storm restoration efforts, an important part of what LIPA needs to do is ensure coordination with local governments for tree clearing from roads and other functions. By giving local municipalities on Long Island a direct say in appointing some of the voting members of the board, this coordination could be greatly enhanced.

Unified Emergency Response Under OEM

I also believe that the annual hurricane drill that LIPA holds should be held at the two County Offices of Emergency Management (OEM) and LIPA should be more clearly integrated into the functioning command structure of the OEMs. In my opinion, both County OEMs performed well during Superstorm Sandy, and it makes sense to build upon what worked. The OEMs are well equipped with communication capabilities that can be relied upon during storms or other crises, and I therefore believe that working with them is a good way to improve communications during the next major storm.

MOUs

After Tropical Storm Irene, LIPA implemented several reforms designed to improve coordination with local government to accomplish tree removal and other goals. (Some of these reforms were recommended by the Senate.) When Sandy hit, LIPA instituted twice-daily municipal calls. There are now discussions about perhaps having more than one large call, since there are so many municipalities on Long Island and people on the north shore have different questions and issues than those on the south shore (Suffolk vs. Nassau, etc.) Another change was the assignment of approximately 100 workers by LIPA to local governments to assist with downed wires to speed up tree clearing from roads.

In my opinion, more can be accomplished by developing formalized Memorandums of Understanding (MOU) to be adopted by LIPA and LI municipalities that should anticipate a specific series of different contingencies, set out responsibilities and should be enforceable. While this may appear complicated to develop, a good starting place for review is the extensive transcripts of the daily Muni Calls that were compiled. With the right resources, these transcripts could be reviewed; the key issues identified, and the MOUs could then be drafted.

PSC Review

Lastly, I think the issue of PSC review is simply not the big deal it has been made out to be. The state should simply make LIPA subject to the PSC going forward. I don't see any reason for LIPA to seek a rate

increase that is unwarranted, so if it requested a rate increase, there should be good cause. If the rate increase is denied, then it was not justified.

Background and Other Issues

By way of background, let me briefly mention my work experience, and then I will review my individual role as a LIPA trustee as it relates to the events surrounding Superstore Sandy, and finally my views on some of the claims and the facts as they relate to the Superstore Sandy restoration efforts.

By training and education, I am an attorney. I ran an environmental protection organization (the Neighborhood Network) for approximately 20 years before being hired for my current job as the executive director of the Sustainability Institute at Molloy College (beginning January 2009). The Sustainability Institute integrates concepts of sustainability into the academic life of Molloy College and serves as a core resource on environmental stewardship to help ensure a sustainable future for the larger Long Island community. Top priorities for Sustainability Institute team include: fighting to curb global warming, promoting clean energy and green jobs, advancing safer alternatives to toxic pesticides, preserving open space, and supporting smart growth. I am also an adjunct faculty member at Molloy College and I teach (Intro to Sustainability) in the Political Science Department.

Board of Trustees

I was appointed to the LIPA Board of Trustees on December 16, 2009. My appointment runs to August 31 of this year.

In the last few years, the LIPA Board of Trustees took on a number of significant tasks and made a series of important decisions. For example, the trustees approved -- significant increases in the annual budget for the Efficiency Long Island program, completion of the contracts for the solar array at BNL (Brookhaven National Labs), the largest solar project in the eastern US, and the solar carport projects in Suffolk County, launching the Small Business Direct Install

Program, closing two old inefficient power plants, restructuring of the LIPA business model into the ServCo model (which I have discussed), re-bidding the Management Services Agreement or MSA (currently with National Grid) into what is now called the Operations Services Agreement (OSA) with PSEG, a newly revised Power Purchase Agreement with National Grid for the power plants that they own and operate (which also sets in motion the engineering analysis for the repowering of some of those plants), the first Feed-In-Tariff (FIT) in New York State for 50 MW of commercial solar projects, and the Board did not make a final decision, but voted to narrow the choice for one potential new power plant down to two competitive choices.

The last few years have been a very active time for LIPA trustees. I am someone who came to the board as an activist who was sometimes critical of LIPA's operations, but I must say that any claim the LIPA board has been unable to make difficult or important decisions is completely unfounded.

My comments today are greatly informed by my effort to be fully engaged in gathering information in many different ways regarding the Superstorm Sandy restoration efforts.

In the days before Sandy hit I sent an email to the Board Chairman and General Counsel requesting that the trustees receive regular briefings during the storm restoration efforts. This had never been done before; there was a need to be sure to comply with the Open Meetings Law, and to ensure that while the trustees wanted to be engaged, we also did not want to micromanage. The chairman made the decision to schedule nightly phone briefings for the trustees, and keeping with the law, it was made clear that these phone calls were not meetings, no decisions were made, but instead they were held to provide information and answer questions. My notes indicate that we held our first trustee briefing on October 29th and the last on November 13th.

In addition to the daily trustee briefings, after the first several days of the storm restoration efforts, I also started listening in on the twice-

daily municipal calls (referred to as the Muni Calls). Another way I kept informed during this time was by visiting the LIPA Storm Center Headquarters in Hicksville on Sunday October 28th, November 4th, and November 11th. On my last Sunday visit, I stayed for more than 7 hours in order to sit in on group meetings, muni calls, briefings, and I also met individually with some of the executive staff. I was also active on social media, reading hundreds of posts on Facebook from both people I know and many more I did not know about their experience with the restoration efforts, and in some cases posting my own comments.

I would like to organize my remaining comments as responses to some of the other issues and claims that I have heard or read about regarding LIPA's performance during the storm restoration efforts or about LIPA in general.

Storm Preparation

To begin with, some have claimed that LIPA was not prepared for the storm. I believe this claim is completely unfounded. On October 25, 2012, LIPA held a Board of Trustees' meeting where several important items were voted on. This meeting was on the Thursday, four days before the storm hit (on Monday). Once the meeting was over, many of the trustees gathered around COO Michael Hervey who had an iPad that he was using to show the different potential tracks for the storm. There was a very serious tone to the discussions. Mr. Hervey and other staff were explaining that the weather forecasts were difficult to assess because this storm was unique in several ways. This was before anyone used the word "superstorm." I witnessed our COO issue an order that all LIPA staff were to cancel days off and plan to work long days, every day, for the duration of the storm restoration efforts. He also issued an order requesting a large number of mutual aid crews. I left the meeting with a sense of foreboding that something very serious was about to happen to Long Island.

I remember speaking with Mr. Hervey on either that Friday or Saturday night. I left a message for him and expected to speak the next day, but instead he called me right back. He was still in his office

and it was approximately 9 or 10 PM. We spoke for about an hour. When I visited the storm center the Sunday before the storm hit, I saw people working hard doing everything they could to prepare for what was coming.

Some have also claimed that LIPA was unprepared from the perspective of long-term planning. I believe this is also completely untrue. Before I became a member of the LIPA Board of Trustees, I was for three years, a member of the Major Storm Review Panel. In that capacity I sat in on the annual hurricane drill that LIPA holds each July. I can tell you that from my experience, those drills are very extensive and clearly reflect a utility that takes storm preparation very seriously.

I would like to say a word about the LIPA staff. I can't recall ever reading anything positive about the people (approx. 97) who work for LIPA and how hard they worked during the storm restoration efforts. When I visited the storm center I saw professionals who were working hard. On the last of the three Sundays that I did site visits, I clearly noticed the hours were taking a toll; people were bleary-eyed. They had gone more than two weeks (at that point) without a day off and they were working 12-hour or as much as 16-hour days. The salaried employees worked these long hours, without receiving overtime pay, and without being able to handle the challenges that their own families were experiencing because of the storm, and they did it as professionals. I did not hear a single person complain.

Poles

There was a rumor that LIPA had run out of poles. As other trustees and I read about this on Facebook, and then in the press, we asked Mr. Hervey during our briefings and he assured us that there was absolutely no pole shortage. Nevertheless, I sent an email saying that I wanted to see the poles. That Sunday when I visited, Mr. Hervey put me in a truck and we drove around the yards seeing dozens of piles of poles and other key supplies. I took pictures and posted them on my Facebook page.

Trees

There was also a claim that LIPA had reduced the budget for tree trimming, and had a policy to allow branches to grow closer to power lines (3 feet, rather than 6) than is the case with some utilities, and that these two policies had contributed to the severity of damage caused by the storm. Trustees asked about this during our briefings. Mr. Hervey pointed out the obvious, over 4,200 poles were broken by the storm not because branches got too close to wires, but because trees completely fell over onto those poles. How closely tree branches are trimmed near wires made no difference, but it is also untrue that tree trimming funds were cut. At a public meeting, in response to a question by me, the CFO indicated that LIPA budgets about $17 million annually for trees.

Regarding trees, it should also be mentioned that Long Island has a maturing urban forest of trees that in many cases seem to all be aging and reaching the end of their lifespan at about the same time. It was reported at a recent meeting that Sandy knocked down 600 trees in the Bethpage State Park alone and in all the State parks on Long Island perhaps 5,000 trees came down, this suggests that the number of trees that fell in areas where power lines and poles could be affected must have been in the many, many thousands. These numbers provide some perspective on the scale of damage that Superstorm Sandy inflicted.

LIPA Rates

LIPA is often said to have among the highest rates of any utility in the country. Yet, the Brattle Group study of reorganization options also looked at the rates issue and found that the aspects of LIPA's rates that LIPA can control are actually right in the middle of rates by other utilities.

Comparing LIPA rates to utilities in other parts of the country that get power form burning coal is unfair. Coal is cheap and dirty. Comparing LIPA to the rates of other public power companies is unfair since LIPA pays hundreds of millions in property taxes, and payments in lieu of taxes, for all of the substations, power plants, etc., across LI. State law mandates this, and if LIPA did not make these payments,

then taxes would go up in the communities where these facilities exist. Comparing LIPA's rates to the rates at small public power utilities in Freeport, RVC and Greenport is also unfair since they get low cost hydroelectric power from upstate that LIPA does not get, and they don't pay property taxes.

Debt

It is often suggested that LIPA is severely hamstrung because of the Shoreham Debt. It is frequently mistakenly stated that LIPA carries $7 billion debt that came from the ill-fated decision by LILCO to build Shoreham, and that no progress was made in paying off that debt. However, in the years since LIPA began, it has reduced the Shoreham debt to approximately $3.5 billion. The Moreland Commission agrees with these numbers. The total debt has remained at about $7 billion because in addition to leaving LIPA with a huge Shoreham debt, LILCO also left LIPA with a system that was in desperate need of upgrading. Billions have been investing in improving the system. The debt should also be kept in perspective; other utilities also carry very high levels of debt. LIPA is managing its debt and paying very low interest rates that are only possible because it is a public, not-for-profit utility.

LIPA pays more in property taxes than it does in debt payments.

Conclusion

In conclusion, I believe there is a strong basis to believe that the ServCo business model approved by the Board of Trustees and the State will deliver the best results for Long Islanders who want reliable, affordable electric service that is delivered by a corporate structure well design to respond to major storms and to advance public policy goals such as being a leader in promoting energy efficiency and renewable clean energy. I also believe the ServCo model can be further enhanced by giving local government officials who work with LIPA the ability to appoint trustees, by unifying emergency planning and responses by LIPA with the existing offices of emergency management, but adopting MOUs to establish clear agreements for tree clearing from roads, and lastly, by subjecting LIPA to PSC review.

Long Island Power Authority

Electric System Performance Review
Trustees Briefing
May 2012

Electric Reliability Continues To Show Solid Performance

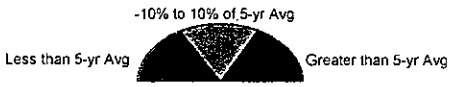
- Frequency of interruptions (SAIFI) remained near the all time LIPA best performance (about 1% deviation)* +
- Average restoration time (CAIDI) improved 6%*
- Total power outage time (SAIDI) improved 5%*
- Momentary interruptions (MAIFI) improved 19%* to a record low level
- LIPA reliability continues to rank among the first Quartile performers for all three major indices in National ranking
- As of YE 2011, LIPA was 1st in CAIDI, SAIDI and SAIFI when compared with all overhead New York State utilities

* As compared to 3-year average
+ % based on SAIFI index (decimal) not MBI

Electric Reliability Indices

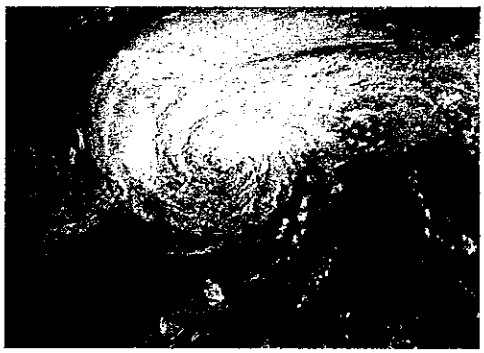
Reliability Index	2011	Trend to 5-Year Avg	LIPA MSA Metrics
SAIFI (Months Between Interruptions)	15.9	⬆	√
CAIDI (Avg Restoration Time – Mins)	68.3	⬆	√
SAIDI (Total Annual Power Outage Time – Mins)	51.6	⬆	√
MAIFI (Annual Momentary Trips)	3.8*	⬆	N/A
Storm CAIDI (Avg Restoration Time – Mins)	112	⬆	√
MCO (Cust With Greater than 3 interruptions)	46,527	⬆	√

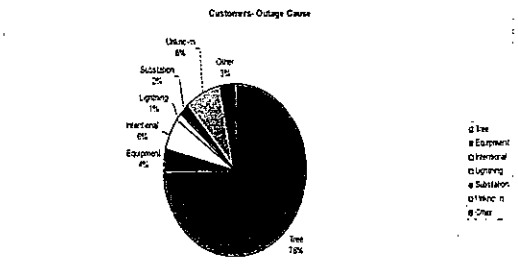
* all-time record



Tropical Storm Irene Impact

- TS Irene's high wind and drenching rains uprooted trees and broke limbs which severely challenged LIPA's electric system.
- By all measures, LIPA's electric system sustained less initial damage than during Hurricane Gloria.
- LIPA's Distribution Automation system and sound vegetation management program reduced the customers initially affected and significantly shorten restoration time.
- As a "catastrophic storm" Irene and it's aftermath are not reported in the metrics.

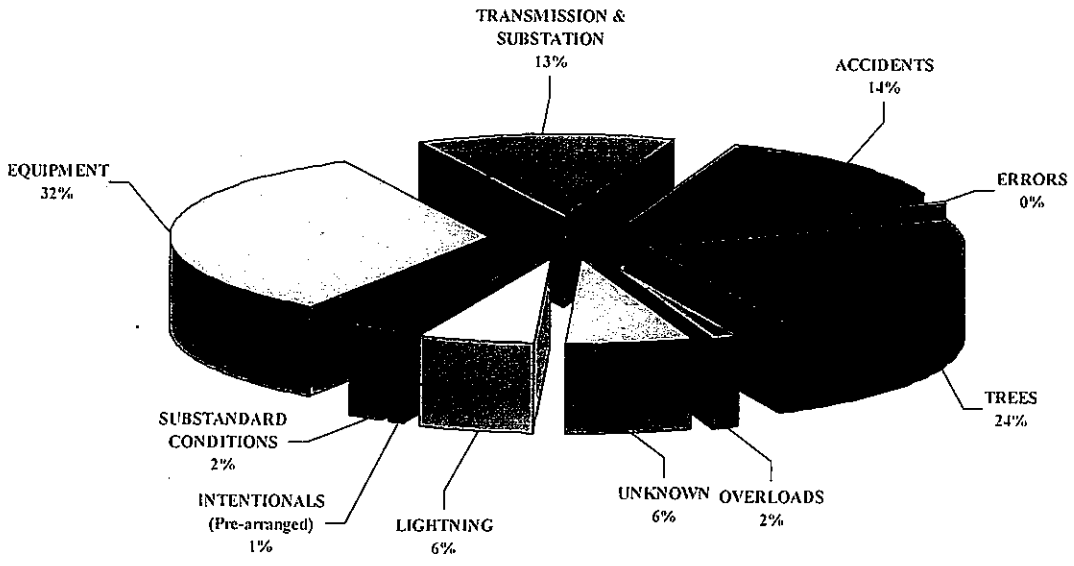




Transmission & Substation Outage Trends

- Transmission and Substation outages typically contribute approximately 10% of all interruptions during the year.
- During 2011, six substation outages accounted for 50% of the T&S customer interruptions. These outages resulted from:
  - Switchgear water intrusion issues
  - Breaker issues with closing mechanisms
- Teams were formed to investigate incidents and develop recommendations:
  - Standards were reviewed and maintenance practices modified
  - Switchgear roofs retrofitted with improved watertight seals
- Breaker replacement program to replace antiquated/poor performing equipment where maintenance can not achieve desire performance.

Causes of Customer Interruptions 2011



Comparison of NYS Utilities – Major Reliability Metrics – as of December 2011

Utility	SAIFI (RANK)	CAIDI (RANK)	SAIDI (RANK)
LIPA	1	1	1
RG & E	2	3	3
O & R	4	2	2
NAT GRID	3	4	4
NYSEG	5	5	5
CHG&E	5	6	6

Continue to Implement Reliability Centered Maintenance Programs to Insure 1st Quartile Reliability Performance

- **Focused Maintenance:**
  - Vegetation management program
  - Pole and line inspection/maintenance
  - Substation maintenance
  - Investigation of Transmission & Substation outages

- **Programatic Work:**
  - Circuit Improvement Program (CIP)
  - Storm Hardening
  - Automatic Sectionalizing Unit (ASU Program)
  - Condition based testing for underground cables
  - Infrared Scans of T&D Lines
  - Targeted Area Reliability Programs
  - Targeted replacement/upgrade of substation breaker and relays

2012 Proactive Reliability Initiatives

- Utilize new "LIGHTS" tool to identify pockets of poor performance
- Migrate from successful pilot to program based acoustic inspection and detection of overhead hardware anomalies
- Two new pilot improvement programs:
  - Underground cable rejuvenation
  - Enhance Line Protection relaying.

In Summary....

- Continued strong performance in reliability
- Recognized nationally as a top performer
- New and innovative means to continue to drive reliability
- Increased focus on managing customer expectations during outages and storm events

10 Minute remarks

Oral remarks of Cynthia Kouril, Esq.
Before the joint hearing by the
NYS Senate Investigations and Government Operations Committee and
NYS Senate Corporations, Authorities and Commissions Committee
February 27, 2013

My name is Cynthia Kouril. I am a lawyer. I began my career as Capital Construction Counsel for New York City Parks & Recreation where I gained experience in government procurement and construction contracting. Thereafter, I was recruited to be Counsel to the Inspector General for the New York City Department of Environmental Protection. Most people think DEP is the tree hugger agency, it is not. DEP is a municipal utility, actual two utilities: the water department and the sewer department.

Utilities have special problems when dealing with contract partners because those contractors believe they have a negotiation advantage because the utility fears an outage. Consequently, they do not fear cancellation of their contract as much as they should and often attempt to cut corners, or worse.

While at DEP IG, we made more than our fair share of administrative, civil and criminal cases. The Attorney General of the United States issued a finding that I possessed unique expertise in public construction, public benefit contracts and procurement not found within the Department of Justice and cross designated me to be a Special Assistant United States Attorney in the Southern District of New York where our criminal cases would be prosecuted. When my DOJ commission expired, I was promoted to the position of Examining Attorney at the New York City Department of Investigations.

In private practice I advise contractors on how to comply with the terms of complicated multi-million dollar public improvement contracts and I also do Independent Private Sector Inspector General audits, investigations and reviews. Over the course of a more than 25 year career I have immersed myself in the world of contract compliance and the detection and prevention of waste, fraud and abuse.

It is this perspective -- that, and living in a *cul de sac* that borders on a nature preserve and where the power seems to go out every time a butterfly flaps its wings -- that informs and colors my views about LIPA and its future.

<u>General Electrical Infrastructure Points</u>

As Gov. Cuomo said in his State of the State message, " New York's grid is aging — 59 percent of the state's generating capacity and 84 percent of transmission facilities were put into operation before 1980, and over 40 percent of the state's transmission lines will require replacement within the next 30 years, at an estimated cost of $25 billion. This need represents an opportunity to upgrade the transmission system to a distributed smart grid network. "

What is a "Smart Grid"?

- A **smart grid** is an electric grid that uses information and communications technology to gather and act on information, such as information about the behaviors of suppliers and consumers, in an automated fashion to improve the efficiency, **reliability**, economics, and sustainability of the production and distribution of electricity. It can level peak demand by turning off power to non essential devices like washing machines and turning it back when demand eases.

- A self healing smart grid, if built with redundant overlap, can be analogized to a traffic circle with several entrances. If one route is blocked or broken, electricity can still enter through the other routes.

- Smart grid brown out can prevent the sort of demand cascade blackout you sometimes get during heat waves.

- There are federal matching funds that can mitigate some of the cost of implementing smart grid technology.

Gov. Cuomo endorsed Micro Grid technology in his State of State message.

- Micro Grid is when you have small cluster of users around a small generation facility. Similar infrastructure demands are sometimes made on housing developments or large industrial facilities that are not capable of being serviced by existing water treatment plants. Sometimes, in order to secure a needed variance, the developer must agree to build a water treatment plant to service the new construction. You could do something similar, especially as solar and wind generation becomes more efficient.

<u>Privatizing LIPA</u>

The call to privatize LIPA without more detail makes no sense. LIPA was originally created as a mechanism for public financing of the Shoreham Debt. Some history:

In May 1998, LIPA assumed ownership of the electric transmission and distribution systems that had previously been owned by privately held LILCO. This occurred because of a financial crisis in LILCO caused by the state forcing LILCO to scrap plans to operate the Shoreham Nuclear power plant. LIPA began its life $7Billion in debt which was the cost of the assets plus assuming the debt from Shoreham.

Simultaneously, KeySpan hired the former LILCO employees and took over natural gas operations from LILCO and Brooklyn Union Gas. LIPA entered into two major contracts with KeySpan: 1) The Power Supply Agreement, which paid KeySpan both for electricity it generated and for keeping open investor owned power plants (even when not in operation) so that LIPA can meet certain peak capacity thresholds (N.B. LIPA can purchase power on the open market from other generators), and 2) The Management Services Agreement, under which KeySpan was to manage the former LILCO employees as they operated the system, including billing and customer relations.

The power supply agreement causes LIPA to pay rates at a cost plus basis and also to pay property taxes and other costs of operating these plants to the benefit of the private investors.

The whole idea behind LIPA was for LIPA to be able to borrow money much more inexpensively because it could issue government bonds.

The problems with LIPA are several:

1 The contracts were drawn in such way as to give a subsidy to the investors in the generators and did not provide enough detail in the performance standards for KeySpan.
2 LIPA began its life as funding mechanism to raise debt, not much thought was put into how LIPA would manage or oversee KeySpan.
3 LIPA became a patronage mill largely staffed with people with no experience with running a utility, no experience with contract compliance and no experience with forensic audit.
4 In the early years things seemed to drift along by dint of routine, the same individuals who had been LILCO employees reported to the same work location and did the same work they had always done. Momentum and habit carried things for a few years. Also, the people administering the contract for KeySpan lived here on Long Island and were as affected as anyone else by the performance standards.
5 In 2007, KeySpan was acquired by National Grid, suddenly the decisions were being made in London. The decline of tree trimming and maintenance was certainly observable by me, anecdotally, almost at once.

After Hurricane Irene, LIPA hired Vantage Consulting to do a study of why things went so badly.

The Vantage report stated one of the main reasons for the failure in communications and not having accurate outage information was the faulty old outage management system. I understand that some upgrade was contracted for, but not in time to be used in the storm.

Vantage report also said that LIPA's storm hardening programs and activities ,and tree trimming, were not up to industry standards.

Although the original plan was for LIPA to pay off all of its $7Billion in debt by 2013, which would make it eligible to be re-privatized, that did not happen. On January 7, 2013, Bloomberg Businessnews reported that LIPA's debt is still $7B with assets of $4B.

Bloomberg also reported that "[a]n October 2011 strategic review of LIPA by the Brattle Group concluded that privatization may raise costs by $438 million a year because an investor-owned utility can't issue tax-exempt bonds. Cost of capital for the privatized utility would be 10.73 percent compared to LIPA's current cost of capital of about 5 percent, it concluded."

That same Brattle Group report examined four possibilities: 1) maintain the status quo, 2) privatize, 3) full municipalization, 3) competitive outsourcing (which it dubbed "Serv-Co").

The status quo was rejected because pretty much everyone appears to be unhappy with it. Privatization was rejected as economically non viable. Full municipalization was considered desirable, but Brattle determined that LIPA currently lacked the in-house experience and expertise to run the system directly. The ServCo model was recommended by Brattle because it would give LIPA the time to develop or hire in house experience and expertise paving the way to a future successful transition to a full municipal utility.

Why municipalize? According to the January 2013 issue of Public Power Magazine, municipal power companies have consistently provided power at much lower rates than privately owned power companies since 1946, when the magazine first began publishing these cost comparisons.

The LIPA Board of Trustees approved the ServCo model as an interim step towards municipalization, and I agree with that decision. PSEG has won the bid and that ServCo contract is out there waiting to begin at the end of this year.

LIPA needs an IG. In my extended written remarks which are also submitted for the record, I recount multiple examples of fraud waste and abuse personally observed by me. Testimony taken in the Nassau County Legislature after Hurricane Irene, contains more. An audit conducted by the State Comptroller's office after Hurricane Earl have some astonishing examples and the dollar amounts are staggering. After Hurricane Sandy, my own Nassau County Legislator, Delia DiRiggi-Witton, busted an illegal logging ring, which while on LIPA's payroll to clear storm downed trees from roadways, was instead stealing standing old growth trees out of the Welwyn Nature preserve for their logging value.

Where are the civil litigations to recoup that money? Where are the criminal cases to provide accountability and to deter future wrongdoing? Unless LIPA tasks and empowers an Inspector General to preserve evidence and build those cases, you not going to have them. An IG can also design procedures and strategies to deter waste fraud and abuse before they occur.

LIPA needs a Compliance Unit; actually, two units. One unit to do the day to compliance work with the new PSEG ServCo contract, and another devoted to storm outage and other emergency contracts. Obviously, these units will have to work collaboratively and symbiotically with the new IG.

LIPA needs a CEO. This position has been vacant for years and interim or acting CEOs do not have the clout needed to make real change or even to enforce existing contracts. This CEO position must be filled, and filled promptly. The new CEO must be person who is committed to contract compliance, transparency and accountability, full communication with the rate paying public, and collaboration with local governments. He or she must also have a vision for modernization and hardening of the Transmission and Distribution system to meet the future. I have many more ,and more prosaic, recommendations in my extended written remarks which I have omitted from my oral testimony in the interests of time.

Extended written remarks of Cynthia Kouril, Esq.
Offered before the joint hearing of the
NYS Senate Investigations and Government Operations Committee and
NYS Senate Corporations, Authorities and Commissions Committee
February 27, 2013

My name is Cynthia Kouril. I am a lawyer. I began my career as Capital Construction Counsel for New York City Parks & Recreation where I gained experience in government procurement and construction contracting. Thereafter, I was recruited to be Counsel to the Inspector General for the New York City Department of Environmental Protection. Most people think DEP is the tree hugger agency -- it is not. DEP is a municipal utility, actually two utilities: the water department and the sewer department.

Utilities have special problems when dealing with contract partners because those contractors believe they have a negotiation advantage because the utility fears an outage. Consequently, they do not fear cancellation of their contract as much as they should and often attempt to cut corners or do even worse things.

While at DEP IG we made more than our fair share of administrative, civil and criminal cases. The Attorney General of the United States issued a finding that I possessed unique expertise in public construction, public benefit contracts and procurement not found within the Department of Justice and cross designated me to be a Special Assistant United States Attorney in the Southern District of New York where our criminal cases would be prosecuted. When my DOJ commission expired, I was promoted to the position of Examining Attorney at the New York City Department of Investigations.

In private practice I advise contractors on how to comply with the terms of complicated multi-million dollar public improvement contracts and do Independent Private Sector Inspector General audits, investigations and reviews. Over the course of a more than 25 year career I have immersed myself in the world of contract compliance and the detection and prevention of waste fraud and abuse.

It is this perspective, and living in a *cul de sac* that borders on a nature preserve and where the power seems to go out every time a butterfly flaps its wings, that informs and colors my views about LIPA and its future.

Some background about LIPA

In a ten-plus-year construction project that was originally estimated at $75 million, but ultimately cost $2 billion[1], LILCO (Long Island Lighting Company) built the Shoreham Nuclear Power Plant. It was completed in 1984[2]. Before construction was completed, in 1983, the Legislature in Suffolk County, where the plant was located, voted not to allow the plant to come online because there was no safe way to evacuate Long Islanders in the event of a meltdown or other serious event.[3] Other municipal entities throughout Long Island followed suit.

After massive public protest, Governor Mario Cuomo acquiesced to the environmentalists and ordered that no state official should approve any LILCO evacuation plan.[4] Still, LILCO thought they could change public opinion or litigate its way out of the problem or something because in 1984-5, LILCO doubled down on its bad investment and got Nuclear Regulatory permission to do testing at 5% power.[5] This caused all the piping and other internal working parts to become radioactive. Unable to operate its $2 billion investment, and facing billions more dollars in decommissioning and cleanup costs in order to use the massive building for any other purpose, private company LILCO was effectively bankrupt.

In 1989, Governor Mario Cuomo and LILCO announced a deal where the state would bail out the costs, which now had grown to $6 billion, including a $1.4 billion fine from the Public Service Commission for shoddy construction, mismanagement and hundreds of millions of dollars in decommissioning costs and costs to move the radioactive material to Pennsylvania, and created LIPA which would purchase LILCO's assets and debt.[6] A 3% surcharge was to be added to customer bills and used to pay off the debt, at which point it would be feasible to re privatize. Although the surcharge was authorized for 30 years, the planned retirement of the debt was in 2013.[7] Although, the surcharge was collected, new debt was issued replacing the retired old debt.

LIPA was able to issue tax free bonds to finance this debt, which would be ruinous to finance at commercial lending rates. Many of those bonds are not "callable" which means you cannot pay them off at will, but must continue to make periodic payments until the bonds expire. Bloomberg News has estimated that it would require additional debt, just shy of an additional $1 billion, to establish a sinking fund to make those payments if the Authority is abolished.[8] I question whether they can do that without additional legislation, because some of these bonds are dedicated funding source bonds which means you cannot just substitute another source for repayment just because you feel like it.

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[1] *Newsday*, November 30, 2007, "Lights out at Shoreham".
http://web.archive.org/web/20071201005429/http://www.newsday.com/community/guide/lihistory/ny-history-hs9shore,0,563942.story
[2] Introduction & History of the Shoreham Nuclear Power Plant, http://www.lipower.org/shoreham/history.html#1
[3] *Newsday*, November 30, 2007, "Lights out at Shoreham".
http://web.archive.org/web/20071201005429/http://www.newsday.com/community/guide/lihistory/ny-history-hs9shore,0,563942.story
[4] *Id.*
[5] Introduction & History of the Shoreham Nuclear Power Plant, http://www.lipower.org/shoreham/history.html#1
[6] *Log Island Business News*, July 4, 2003, "1989: No nukes at Shoreham". http://libn.com/2003/07/04/1989-no-nukes-at-shoreham/
[7] Introduction & History of the Shoreham Nuclear Power Plant, http://www.lipower.org/shoreham/history.html#1
[8] *Crain's New York Business*, January 18, 2013, "LIPA sale could require state bailout".
http://www.crainsnewyork.com/article/20130118/TECHNOLOGY/130119895#ixzz2Ik13mzbm

The story of how LIPA was born should relieve this conversation of any notion that investor owned utilities are somehow inherently better managed than publicly run utilities.

During the early period of the bailout, LILCO continued to own and operate most of the generation, transmission and distribution system as well as a natural gas distribution system. It took almost ten years to negotiate and complete the sale of most of the LILCO assets. Its natural gas system was sold to Brooklyn Union Gas which later became KeySpan.[9] While this was going one, most of the rank and file and middle to upper management people from LILCO stayed in place and ran the electric distributions system the same as always. LIPA had no need to get involved with the day to day running of the power system and was primarily a funding organ with its ability to access loans at less than half the commercial rate. The same people, who already knew how to run and maintain the system, reported to work to the same places and went home their own Long Island houses. Since they were customer as well as suppliers, they had self interest in making sure the power stayed on.

Which is not to say they did a perfect job; Hurricane Gloria caused an outage that took LILCO two weeks to fully restore,[10] but their interests were aligned with those of their family, friends and neighbors. By 1998, KeySpan had hired the LILCO workforce and entered into two primary agreements with LIPA : 1)The Power Supply Agreement [11]whereby KeySpan agreed to keep various generators not owned by LIPA open and available to supply power if needed so that LIPA could meet mandated peak demand generation capacity levels, and 2) the Management Services Agreement [12]under which KeySpan would manage the former LILCO employees for LIPA. LIPA was still primarily a conduit for bond financing. In my opinion, the Power Supply Agreement is seriously biased in favor of the private investors who own the power plants. LIPA pays for power on a cost plus basis AND pays the property taxes and other costs of keeping these plants open. There seems to be virtually no downside risk to the private "entrepreneurs" to justify the generosity of the contract terms.[13]

IN 2007, KeySpan merged with a British company, National Grid.[14] Suddenly, the decisions about day to day management were being made by executives in London who would not be inconvenienced in the least by a blackout on the other side of the Atlantic. This is not to suggest any malice on National Grid's part. It's simply that the natural alignment of interest that occurs when the seller is also the consumer was now lost.

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[9] *New York Times*, December 20, 1996, "Boards Authorize a Merger of LILCO and Brooklyn Gas". http://www.nytimes.com/1996/12/30/nyregion/boards-authorize-a-merger-of-lilco-and-brooklyn-gas.html

[10] *Remapping Debate*, February 16, 2013,"A prescription for Long Island: fixing the sins of privately owned utility operators with more privatization" http://www.remappingdebate.org/article/prescription-long-island-fixing-sins-privately-owned-utility-operators-more-privatization?page=0,1

[11] 1997 Power Supply Agreement, http://www.lipower.org/pdfs/company/papers/contract/PSA.pdf

[12] 1997 Management Services agreement, http://www.lipower.org/pdfs/company/papers/contract/manage.pdf; 2006 Amended and Restated Management Services Agreement, http://www.lipower.org/pdfs/company/papers/LIPAGrid/06AmendedRestatedMSA.pdf,

[13] *Supra*, footnotes 10 and 12 above.

[14] http://www.nationalgridus.com/information/

I first became aware of the merger as a result of noticing that the tree trimming methods had changed; trees were being trimmed in the shape of a "Y". I used to be the Capital Construction Counsel at NYC Parks & Recreation and you pick up knowledge about things like proper tree trimming methods. When I noticed the change, I asked the pruning company I used for my own yard and they said that the new method would increase productivity in the short run, but cause new growth to come back in a way that would be even more detrimental to the overhead wires because it would weaken the tree and create deformed branches that would be more likely to snap in high winds or heavy snows and ice. I asked around a bit and found out about the merger, and that the new owners were looking to have the company hit certain metrics.

The contract between LIPA and National Grid does allow LIPA to monitor National Grid's work and do some contract compliance, but LIPA had not developed any real capacity in this area and National Grid proceeded to run roughshod over LIPA. When Governor Cuomo refers to National Grid being in violation of their contract, as he has on several occasions, he is not wrong.

The lack of oversight stems from the vagueness of the LIPA structure in the enabling law. The LIPA Act[15] charged LIPA with achieving a variety of goals, the chief one being keeping rates down,[16] and authorized LIPA to enter into contracts and to hire such personnel as it saw fit to accomplish those goals[17], but did not specify any particular organization structure other than the unpaid, part-time Board of Trustees.

The LIPA Act does call for an annual audit by an outside accounting firm,[18] but a review of those audits reveals that it is the standard audit to ensure that the books balance, not a forensic audit of storm costs or contract compliance or any similar function: LIPA, like other state entities, is subject to audit by the Comptroller,[19] but this has been done on an intermittent basis.

In his State of the State speech, Governor Andrew Cuomo advocated taking LIPA private. [20]This is fascinating since LIPA was created to bail out privately owned LILCO. LIPA owns most of LILCO's former assets and has issued debt in the form of government bonds to the tune of $7 billion. Further, the delivery of electric service is not done by LIPA, it is already being done by a private, for profit, electric company, currently National Grid. There is a fundamental misconception on the part of the Mooreland Commission which does not seem to grasp that the profit motive is the source of both the overcharging and the cost cutting that results in an under maintained system.

Over the years LIPA has spent a fair amount of money ordering up management reports from a variety of consulting firms. In 2005, there was a Strategic Organization Review performed by

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[15] Title 1-A Public Authorities Law §§1020 *et seq.*
[16] NY Pub. Auth. Law §1020-a
[17] NY Pub. Auth. Law §1020-e and §1020-f
[18] NY Pub. Auth. Law §1020-w
[19] Id.
[20] http://www.governor.ny.gov/NY/2013-State-of-the-State

FTI Consulting in conjunction with Bear Stearns and three white-shoe law firms[21]. The consultants looked at three operational options: 1) continuing as a public private hybrid, 2) full municipalization, a public run utility, and 3) privatization. The study found that there was no significant advantage of one of these models over the others in terms of reliability of service.[22] Rather, reliability was a function of the quality of management influenced by the financial stability of the entity which would allow it to make necessary capital expenditures and maintenance expenditures.[23]

The study concluded that privatization would result in an immediate costs and long term dramatic increase in electric rates.[24] It also concluded that there would be problems with finding the necessary executives and middle managers to run the system, if LIPA was immediately municipalized.[25]

The contract with KeySpan was up for renewal and FTI thought that LIPA could extract concessions that would make it possible to improve performance and pay down the Shoreham debt.[26] Instead, in the renewal negotiations, LIPA gave away something **very** important. LIPA changed the contract to allow KeySpan to pass through its storm damage costs instead of budgeting for and absorbing them.[27] A report by the New York State Comptroller shows how storm damage costs skyrocketed once KeySpan/National Grid lost any incentive to control them.[28] The chart on page 3of the Comptroller's report shows the dramatic increase in costs once the pass through went into effect.

In February 2010, Lazard produced another Strategic Review of LIPA and explored the same three operational options as well as variations involving acquiring one or more generators and an enhanced *status quo* version that included an aggressive "green" initiative as well as smart grid technology[29]. Lazard concluded that there was not enough data available to make a determination about whether continuing the public/private structure, privatization or full municipalization is best, and urges data gathering, urging that the data gathering should not be left until the existing contract with National Grid expires in 2013.

In May 2010, Navigant Consulting did just that and concluded that full municipal would be the best deal for ratepayers.[30]

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[21] Long Island Power Authority Report on Results of the Strategic Organizational Review http://www.lipower.org/pdfs/company/orgreview05.pdf
[22] *Id.* at page 19.
[23] *Id.*
[24] *Id.* pages 23-26. "We believe that a Privatization transaction cannot be accomplished at this time without significant increase in customer rates. " at page 27.
[25] *Id.* pages 27-31. The full municipalization structure considered by FTI did not include adding the workers to the public payroll and state pension. It assumed, without explaining how this could accomplished, that these workers would continue to be members of their current unions and in the union pension system. "We do not believe full Municipalization is practical." at page 31.
[26] *Id.* Pages 34-37.
[27] Amended Restated MSA, 2006 at page 37. http://www.lipower.org/pdfs/company/papers/LIPAGrid/06AmendedRestatedMSA.pdf
[28] Long Island Power Authority: Response to Hurricane Earl, December 2010. http://www.osc.state.ny.us/reports/pubauth/LIPA_HurricaneEarl2010.pdf
[29] Strategic Review Prepared for LIPA Board of Trustees, February 2010. http://www.lipower.org/pdfs/company/papers/orgreview2010.pdf
[30] http://lipaoversight.org/2011/11/01/three-reports-one-unfavorable-outcome-for-the-ratepayers/

In August 2011, there was another Strategic Review, this time by the Brattle Group. Brattle was tasked with providing the cost data comparisons that the Lazard Report requested.[31] Brattle found that privatization would immediately increase rates by 10-20% but that the rate impact of both the ServCo option and full municipal options would be comparable to current rates and within inches of each other.[32] The ServCo option was a new option to improve upon the existing public/private hybrid. It is a sort of training-wheels approach for LIPA to allow its employees time to develop expertise and institutional memory necessary to be able to one day run the utility outright. The conclusion of the Brattle Group was that privatizing would cost a fortune and immediate full municipalization might result in LIPA personnel not being able to manage the system causing outages and other delivery failures. The training wheels/ServCo model won by default.

In October 2011, LIPA began a public Strategic Review process that included hearings and input from the public to explore the ServCo option.[33] On October 27, 2011, the LIPA Board of Trustees voted to adopt the ServCo option[34] and the public process was to decide the details of how it would be done. I went to a number of the meetings, and followed the news and online accounts of the others. There were a lot of good ideas offered, including from the unions about how to manage the workforce and how to deal with the pension issue if the utility went full municipal. In fact, the electrician's union had an elegantly simple idea which was for LIPA to contract directly with the union and turn the union into a contract labor provider; the workers would stay in the union pension plan instead of creating a massive influx onto the public payroll and public pension system. There may be legal issues with that, but I thought it showed cooperative brainstorming by those involved.

LIPA put together and RFP based on the ServCo model that came out of this public process and bid out the new contract. PSE&G was the successful bidder and the contract was entered into in December 2011.[35]

The bottom line is that years of study and effort have gone into figuring out what form LIPA should take going forward. The only thing that all the consultants seemed to agree on was that privatization was too expensive. Lazard wrote the only report that held any prayer for privatization, so it is interesting to note which company was given a contract to find a private company to buy LIPA. You guessed it -- Lazard.[36]

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[31] Strategic Organizational Analysis, August 10, 2011, http://www.lipower.org/pdfs/company/papers/strategic-presentation.pdf
[32] *Id.* at page 16.
[33] http://www.lipower.org/strategicreview/
[34] http://www.lipower.org/newscenter/pr/2011/102711-strategic-review.html
[35] Operating Services Agreement between Long Island Lighting Company d/b/a LIPA and PSEG Long Island, LLC, December 28, 2011. http://www.lipower.org/pdfs/company/papers/LIPAPSEG/OSA12.pdf
[36] http://longisland.news12.com/news/officials-examine-options-to-restructure-lipa-1.4327696

The Mooreland Commission privatization recommendation does not explain how privatizing will do anything about the cause of LIPA's failures during Sandy[37] or other storms. They don't explain how it will be possible to finance LIPA's billions of dollars in debt at commercial rates; they don't explain why any private entity would want to take on all that debt. No, they just have some vague gut feeling that a private entity will be more "accountable". Never mind decades of study and analysis. Crain's is reporting that the idea of privatizing will amount to a bailout of Long Island by the rest of the state.[38]

> *But analysts believe that persuading a private company to buy the much-maligned utility would require the state to assume at least $4 billion of LIPA's $7 billion in debt. A sale would then trigger nearly $1 billion in additional costs: early-termination fees paid to bondholders, as well as penalties for the derivatives contracts that would suddenly become void, according to people who have studied a privatization.*
>
> . . . . . .
>
> *Any private buyer would seek to raise rates so it could pay down debt, cover the costs of stormproofing LIPA's infrastructure—and generate a decent shareholder return. But higher rates are a nonstarter. Mr. Cuomo earlier this month demanded they be frozen as part of any privatization. The only way out of this box, analysts say, is for the state to assume a portion of LIPA's debt so a buyer gains some financial flexibility.*

NYS just struggled to close a $1 billion budget gap. Where is it going to get another $4-5 billion to bail out LIPA?

My conclusions:

1) LIPA is an oversight agency that is **supposed** to administer the contract with National Grid (soon to be PSEG).

2) In reality, National Grid has been pretty much allowed to do whatever it wants and there have been numerous anecdotal instances of breach of contract which LIPA appears to have let slide. Governor Cuomo has alluded to these breaches of contract in public remarks.

3) According to the 2010 *Biennial Report of the Consulting Engineer and Rate Consultant*, LIPA has contracted with National Grid for the operation and maintenance of the transmission and distribution systems. LIPA can exercise control over the performance of National Grid because there are specific standards for performance contained in the contract. Report at page 7.

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[37] *Newsday*, November 8, 2012, "why LIPA Failed: Utility ignored warnings it wasn't ready for major storm". http://www.newsday.com/long-island/why-lipa-failed-utility-ignored-warnings-it-wasn-t-ready-for-major-storm-1.420 *Crain's New York Business*, January 18, 2013, "LIPA sale could require state bailout". http://www.crainsnewyork.com/article/20130118/TECHNOLOGY/130119895#ixzz2Ik13mzbm3976?qr=1

[38]

4) National Grid is supposed to adhere to performance standards which include adherence to capital budgets, the frequency and duration of outages and customer satisfaction. National Grid's responsibilities include: i) day to day operation and maintenance of the transmission and distribution system –including emergency repairs, ii) routine facilities additions and inventory management , ie spare parts, iii) preparing and monitoring budgets and energy loads and forecasts, iv) maintaining and operation and maintenance manual for the system Report page 8.

5) LIPA is responsible for i)setting rates, ii)establishing line extension policies, iii) developing service rules and regulations, iv)approving long term strategic plans, v)developing customer service programs, vi) approving National Grid's energy load and forecast plans, vii) **determining all efficiency, conservation and load management policies and plans**, viii) managing overall legal responsibilities, ix)**overseeing National Grid's operations and performance**, x) **managing community relations**, i.e. communicating with public.

6) LIPA has failed to exercise its authority to oversee National Grid's performance. LIPA has failed to report timely and accurate information to governments at all levels. LIPA has failed to exert control over energy load management. LIPA has failed to communicate timely and accurate information to the public.

The Hardware

7) LIPA's distribution system consists of 9,017 miles of overhead lines primarily strung on wooden poles and 4,664 miles of underground lines. Approximately 38% of the poles used by LIPA are actually owned by Verizon, and used by LIPA pursuant to a joint user agreement. Verizon's maintenance and repair of the poles it owns should also be examined by your committees.

8) As of December 2009, the power was distributed via 148 substations. Power is stepped down via pole mounted transformers known as ashcan transformers or "pole pigs". These transformers are essentially a coil of corrugated metal and roofing felt sitting in mineral oil all contained in a metal ashcan. This is technology that Thomas Edison would recognize. The pole mounted transformers are vulnerable to wind damage and to being damaged by falling trees. The transformers should be housed more safely on raised concrete pads with protective cases, above the flood line. For underground wired systems, transformers are mounted on concrete pads and locked in steel cases. Salt water impregnation of underground or ground level transformers corrodes the metal. These transformers should be located on rooftops (as they are at the Goldman Sachs building

which never lost power), on raised concrete pads above the flood line or encased in submarine caissons.

9) Additionally, consideration should be given to using submarine rated cable for all underground installations in or near the newly enlarged flood zone.

10) Governor Cuomo has expressed a desire to have LIPA adopt both "Smart Grid" and "Micro Grid" technologies.

11) Smart grid technology can prevent cascading demand blackouts, as we sometime get in summer or when another part of the grid fails. It can also lower everyday electricity costs.[39]

12) Federal grant money is available to offset one half of the cost of upgrading to smart grid technology.[40]

Storm Costs

13) In 2006, the contract between LIPA and National Grid was amended to allow National Grid to "pass through" its storm costs to LIPA. It not that long after this that oversight of storm response began to go haywire and costs demonstrably skyrocketed.

14) In December 2010, the NYS Comptroller's Office did a report on LIPA's response to Hurricane Earl. The report found that in 8 of the previous 9 years (2000 to 2009) LIPA's actual storm costs had exceed its budget for storms, sometimes by as much as 200%. This suggests a chronic underestimation. In 2010, the costs for hurricane Earl exceeded the storm budget by 640%. That should have been a wake-up call.

15) Much of the cost comes from hiring off island crews via "mutual aide agreements". These crews are paid from the moment the crews leave their home base and until they return home. Additionally, these crews are paid for at the Long Island rate regardless of the rate charged in their home localities. On top of this LIPA pays to lodge and feed the crews.

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[39] *See*, 42 USC §§ 17381 *et seq.* for more information on Smart Grid functions.
[40] http://www.law.cornell.edu/uscode/text/42/17386

16) In 2011, Senator Charles Schumer requested a FEMA audit of LIPA storm costs after it came to light that out of state crew meals were being billed at as much as $93 per person for a single meal.[41] Some of these charges turned out to be for alcohol.[42]

17) After the outcry, LIPA amended its reimbursement policy to expressly exclude alcohol. During Hurricane Irene, my child was asked to work at a nearby hotel as a waitress during the storm. We thought she would be safer in a well built brick building than in our frame house. The hotel informed the mutual aid crews that they would have to pay for their alcohol on a separate check which they would pay for themselves. Crew members procured gallon jugs of spirits from liquor stores and drank them in their rooms. A "Tailhook Convention" type atmosphere took over and the hallways became unsafe. The head waiter herded all of the waitresses into one of the pubs and they barricaded the doors by shoving the pool table up against it. The waiter stood guard at the door and threatened the crew workers who tried to invade looking for the girls. The next day, my child called me on her cell phone asking to be brought home. The hotel staff had been up at 5 A.M. to have breakfast for 200 mutual aid crew members ready by 7 AM. Only six workers showed up to breakfast. When I collected her at 2 PM, the obviously hung over crewmen were just beginning to filter into the parking lot filled with bucket trucks and other equipment. No substations were put back on line in my vicinity that day or the next.

18) Five days after Irene, LIPA, not National Grid, personnel began canvassing my area with a regular car and a black and white marble notebook, because they did not know what lines were down nor did they have any damage survey. Why did it take 5 days to START the survey? And why were LIPA office workers the ones to do it -- where were the National Grid people?

19) After Hurricane Sandy, a tree had fallen blocking the road out of our *cul de sac*, trapping us inside. Together with our neighbors and chain saws form home and a neighbor's ATV, we were able to cut the tree in half and move the pieces to either side of the road, we did this because we knew from prior experience that help was not on the way.

20) Several years ago, we had a blizzard and a tree blocked the exit to the *cul de sac* and the power was out and it was cold. To keep the pipes from freezing my family kept fires gong in the fireplaces at opposite ends of our ranch house. I slept in the living room to feed that fireplace. I awakened in the middle of the night to see bright lights streaming down from New Woods Road. I realized that they were those big arrays of light that contractors often use when doing road work overnight on major highways.

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[41] . http://www.meetthe112th.com/latest-news/schumer-seeks-fema-review-of-lipa-payouts/

[42] http://www.wshu.org/news/story.php?ID=8715

21) I threw on a coat and boots and climbed over the felled tree and ran up and saw equipment and workers as far as the eye could see all standing on New Woods Road. The workers were standing around talking and drinking coffee. I approached one group and told them that we were trapped by the fallen tree. The basically ignored me. I approached one group after another, and they either pretended not to hear me or said that they had not been assigned to that tree.

22) Finally, I found a man with a National Grid hard hat. I told him about the tree and that none of the workers would come to remove it. I asked him why they were standing around doing nothing and please could he assign someone to open out roadway. His response was, "Do you think they listen to me? Don't you think I already told them to get to work? They are ignoring me just as much as they are ignoring you."

23) I turned to walk towards home, muttering loudly about how outrageous this was, one worker took pity on me and stepped away from his colleagues. He told me that the out of town contractors don't enter the profit zone until the third day and so they make sure they are there for more than 3 days. The worker said that if it was up to him, he'd cut up the tree right away, but he could not disobey his boss, nor did he want his boss to take a loss and have to lay people off.

24) An hour or two later, I saw a single flashlight coming down from New Woods Road and heard a chain saw start up. Some brave fool was cutting up that tree in the dark and would as likely cut off his own foot. Later a second flashlight came down and the second man held the two flashlights so the chain saw operator could see better. When dawn came, I went out to thank them. They were wearing National Grid and LIPA hardhats and said that since no one was responding to their "supervision" they thought they could at least move the log for us. They pointed out that their families live on Long Island too.

25) After Hurricane Sandy, even though between the neighborhood self help and Glen Cove DPW efforts, the trees and branches had been cleared for days, it took a long time for a bucket truck to arrive to splice the wires back together.

26) I went out and spoke to the crew who told me the target productivity was to replace one pole per day. Even so, despite having two bucket trucks, the truck that lifts the pole into place and another pickup truck, it took this crew two days t install a new pole.

27) A week or so later I was out walking on Morgan's Islands. There was a crew from a Canadian utility. They had only two bucket trucks and the machine that lifts the pole into place, yet they augered five new pole holes in the ground. I asked why they had made so many holes and wouldn't it be unsafe to leave those holes open overnight. They looked

uncomfortable, and one of them finally said" Ma'am, I don't want to speak ill of other crews, but we are here to get you power back on, not to make a lot of money. We can do five poles easily today." And they did.

28) My Nassau County Legislator, Delia DeRiggi-Whitton personally busted a ring of loggers who were stealing standing timber out of the Welwyn Preserve, in the aftermath of Sandy, instead of cleaning up downed trees on the roadsides which is what they were being paid to do. I have seen no mention of civil or criminal action taken against them in the local press.

Recommendations

29) LIPA needs an Inspector General and a Contract Compliance Executive. The expiring contract with National Grid is a lost cause, but the new PSE&G contract must get off on the right foot, with strict compliance, meaningful and active oversight, and exemplary record keeping. The IG should have multiple reporting avenues so that the work of the IG cannot be impeded by upper management at LIPA.

30) Every instance of breach of contract by PSE&G must be documented and appropriate penalties imposed, including the possibility revocation of their contract, which would involve developing a backup plan to re-let the contract.

31) When a storm is predicted, based on the characteristics of the storm, a survey and deployment plan must be drawn up in the days before the storm. However, this should be a customization of plans drawn up and subjected to table top drills and field war games. LIPA and PSE&G personnel as well as out of state crews must know –**before the storm makes landfall** where they are to begin work as soon as the storm passes. They must also know who will be doing what. Any malfeasance or nonfeasance must be documented and appropriate administrative, civil or criminal case brought.

32) Communication is key. I have attended many LIPA Oversight Committee meeting in Suffolk, hearings in the Nassau Legislator and the same complaint is made by mayors and elected at every level, that they have no way of getting information from LIPA and no way of giving information (about cleared trees, for example) to LIPA. This is not rocket science. Occupy Sandy has a robust communications system relying only of public internet and smart phone technology. LIPA must contract to rent mobile satellite phone

systems for use during disasters and not rely on FEMA which was unable to have them sent up from Washington.

33) LIPA needs a CEO. This post has been vacant for years! This CEO must be committed to the transparency and accountability reforms outlined in these remarks and must support the idea and work of an IG.

34) Communication between the government and citizens must also be improved. This is simple. Every local municipality should designate several high traffic locations—like supermarkets—that will be used to communicate when the next apocalypse hits. A hand lettered sign in letters big enough to be seen from the road on butcher paper or similar medium could announce that "City Hall is open for re-charging your devices" , " a red cross shelter has been set up at the HS", "the YMCA has hot water and will let you take a shower even if not a member", "the mayor will do a daily briefing in City Hall every day at noon", or whatever it is that needs to be communicated. Supermarkets are particularly good for this because people seek out food and other supplies soon after the storm ends. Local governments should make arrangements in advance and keep rolls of paper and other sign making supplies on hand when they learn that a storm is coming. Likewise, police cars and other government vehicle that have loudspeakers can be deployed like sound truck to make announcements.

35) I learned during a Hurricane Irene hearing that LIPA had designated an individual to sit in the Nassau bunker, but that this person did not have access to LIPA information and was not able to get through any better than the government personnel he was supposed to liase with. A hot line must exist between the county governments and LIPA.

36) In areas with sufficient density, all new roadway construction should include both burying lines and the creation of self healing smart grids. The planned reconstruction of downtown Hempstead Village would be a perfect opportunity to begin this process.

> *Automatic power restoration will clearly have limited direct impact on areas where there isn't much of a power grid left standing.*
>
> *But even when a utility is facing a major grid repair effort, as utilities on the East Coast do this week, self-healing smart grids can make a big impact. They can quickly restore power to as many people as possible, which generally means customers served by parts of the grid where power lines are still intact and not significantly damaged by winds, lightning, or flooding. Such automated response*

can make a sizeable dent in the amount of work that line crews need to perform after a major storm, and can allow them to strengthen their focus on rebuilding the most damaged parts of the power system.

Distribution automation technology offers another benefit: It captures information on grid conditions that utilities can then use to evaluate power outages. When used in conjunction with data from devices like smart meters, utilities can optimize planning on where to send field crews for restoration work, which in turn will also accelerate the power restoration process.[43]

37) Self healing smart grids can also prevent power outages relating to increased demand during heat waves or transmission problems.

38) The pruning and trimming program is clearly insufficient and tree survey work must be increased. This is an area where I suspect National Grid may have been in breach of its contract since little tree pruning activity is evident during good weather and a massive amount seems to occur in the few days before a storm is predicted. This delayed tree trimming should not be passed through as storm cost.

39) During the Nassau County Hurricane Irene hearings, there was testimony from a South Shore mayor who said that he had learned his lesson after Hurricane Earl and no longer waited for LIPA contracted crews to clean up downed trees. He entered into "on call" contracts with local landscapers, not unlike the snow plowing contract let to small firms and individuals all over Long Island. His local landscapers knew when and where to report in advance of a storm. Every municipality should have a plan to use their own DPW forces and or local landscapers.

40) By the same token, there are large contractors, including electrical contractors with knowledgeable workers who can repair transformers and restore hookups. They sit idle in their cold, Long Island houses because their jobsites are shut down. The State government can insert as needed" clauses into all State and municipal contracts that allows the state to mobilize these workers, literally sitting in our own backyard, to respond in the case of a storm or other emergency. The State, through appropriate legislation can require these clauses to be inserted in all government contracts at any level. The State can then maintain a data base of the locations and skill set of workers on

[43] http://www.sandc.com/blogs/index.php/2012/10/self-healing-smart-grids-and-the-superstorm

a given project as well as an approximate inventory of equipment and its location. It need not be detailed or onerous. Example " contract ABC, at NYC School Construction Authority site X: 10 electric workers – 5 trucks, 5 plumbing workers- 2 trucks and mobile fabrication plant, 3 HVAC workers -1 truck, and 25 general construction workers- 3 trucks, 1 bulldozer, one crane, one cement mixer" . The emergency work could be compensated via change order to be reimbursed from FEMA funds and other special appropriations. You won't need to also feed and lodge these workers, they already live here.

41) Train local DPWs how to test to see if a line is dead, cut dead lines and remove trees.

42) Table top drills on storm response are every bit as important as the drills done to prepare for terrorist attacks. Federal aid and expertise should be sought from agencies such as FEMA to provide planning and drills at times when we don't have a storm bearing down on us.

43) Storm planning is not something you begin after the weather service tells you a storm is coming. Storm planning is something you have already war gamed and tweak and customize when the weather service tells you a storm is coming. Storm planning is something you is not something LIPA does internally; it is something LIPA does with federal, state and especially local governments.

44) Even in areas where low levels of density do not make buried lines or redundant grids economically feasible, it may be possible to harden the system through the use of concrete polls or other alternative materials and technology. I have noticed that the aluminum street light and traffic light poles do not fail nearly as often as the wooden utility poles, even when they are supporting wires that are torn down by falling trees.

You may also wish to listen to a conversation I had on WOR radio the not too long ago with John Gambling about the LIPA issue. https://soundcloud.com/user181268907/cindy-kouril-pod-011013

Prepared Statement for Public Hearing (oral testimony)

Hearing Room A, Legislative Office Building, Albany New York

February 27, 2013

Subject: The Future of the Long Island Power Authority

Senator Carl Marcellino
Committee on Investigations
and Government Operations

Senator Micheal Ranzenhofer
Committee on Corporations,
Authorities and Commissions

Submitted by:
IBEW Local Union 1049
Business Manager Don Daley

Good morning Senators, ladies and gentlemen, my name is Donald Daley and I represent the members of IBEW Local Union 1049 as Business Manager of the Local. I wish to present testimony before this committee examining the future of the Long Island Power Authority. I must begin by acknowledging Senator Marcellino as a long time leader on Long Island. His commitment to our community has been unwavering and my members and I look forward to his leadership on this important issue. I should also acknowledge Senator Ranzenhofer for his role as Chair of the Committee on Corporations, Authorities and Commissions and committee members Senator John Flanagan and Senator Jack Martins for their role as dedicated public servants addressing this important issue for Long Islanders. Our community has been through so much these past few months. Lives were lost, homes destroyed, and some of our neighbors are still without power. The images we saw in the papers would take your breath away as we truly appreciated these had been trying times for all Long Islanders. We had 3000 IBEW Local 1049 members, together with thousands of other emergency storm restoration responders, who worked tirelessly during a very dangerous time getting their fellow Long Islanders power back on.

Last month, in his State of the State address, Governor Cuomo proposed privatizing Long Island service, as recommended by the Moreland Commission, which will be overseen by a newly empowered PSC. When the Governor began to speak about the superstorm response in his address he started by saying "LIPA must be abolished!" Additionally, the commission said that the electrical power grid and the structures that control it must undergo a fundamental redesign that improves performances and protects ratepayers.

Obvious questions surrounding privatizing the utility such as the loss of FEMA funds, federal tax advantages and the ability to finance the outstanding debt at low rates without impacting service must be answered.

If the new model is no longer a single employer how will it compensate for lost synergy savings and potentially having half the personnel to respond to storm?

Most Long Islanders are unaware that Governor Cuomo has already signed off on a plan that has half of the 3000 National Grid workers - who currently respond to Long Island disasters like Sandy - no longer available for emergency storm response. They will be sitting home during the next emergency. Why? Because last year New York decided to split up the workforce that has been trained and qualified to perform storm restoration.

In 1997, LIPA awarded a 15 year management services agreement to the newly formed KeySpan Energy Corporation where it would provide the technical management and labor force necessary to maintain the transmission and distribution network. KeySpan, also owned the Long Island natural gas system and the power plants on Long Island. This was a good fit because the workforce employed at these facilities is extensively cross trained to perform emergency storm restoration.

In early 2012 LIPA awarded the contract for servicing the transmission and distribution system to PSEG of New Jersey. While PSEG comes to Long Island with a well deserved reputation for commitment to customer service, there is one important question that must be answered.

How will storm restoration improve when you are losing over half of the current Long Island workforce?

The next storm doesn't have to be as devastating as Sandy. If New York's decision is not revisited and closely examined for the details that are important, Long Islanders will be facing long power outages from smaller storms. For generations, the fully trained Local 1049 workforce has responded to put Long Islanders back in service.

The future structure of Long Island's electric transmission and distribution system is important to every Long Islander. Whether it is privatization, full municipalization, or some combination of both, this issue needs to be scrutinized, and Long Island ratepayers are entitled to full and open hearings before the decision is made. The Devil is always in the details.

As we examine the current structure and make recommendations to move forward, this question needs to be answered: How will the synergy savings gas and electric customers benefit from today because there is one employer for electric, gas, and generation going to be realized in the new model? The ratepayers see these savings now since one person comes to read, connect, or disconnect their gas and electric meters, one representative answers gas and electric inquiries and the customer can pay their bills at one office. In the event of a storm, that single employer can call on thousands of local, experienced employees to respond to outages before seeking off-Long Island resources. If that ends, the cost will be borne by gas and electric consumer.

Respectfully submitted,

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We Empower Our Communities

www.ibew1049.org

IBEW Local 1049

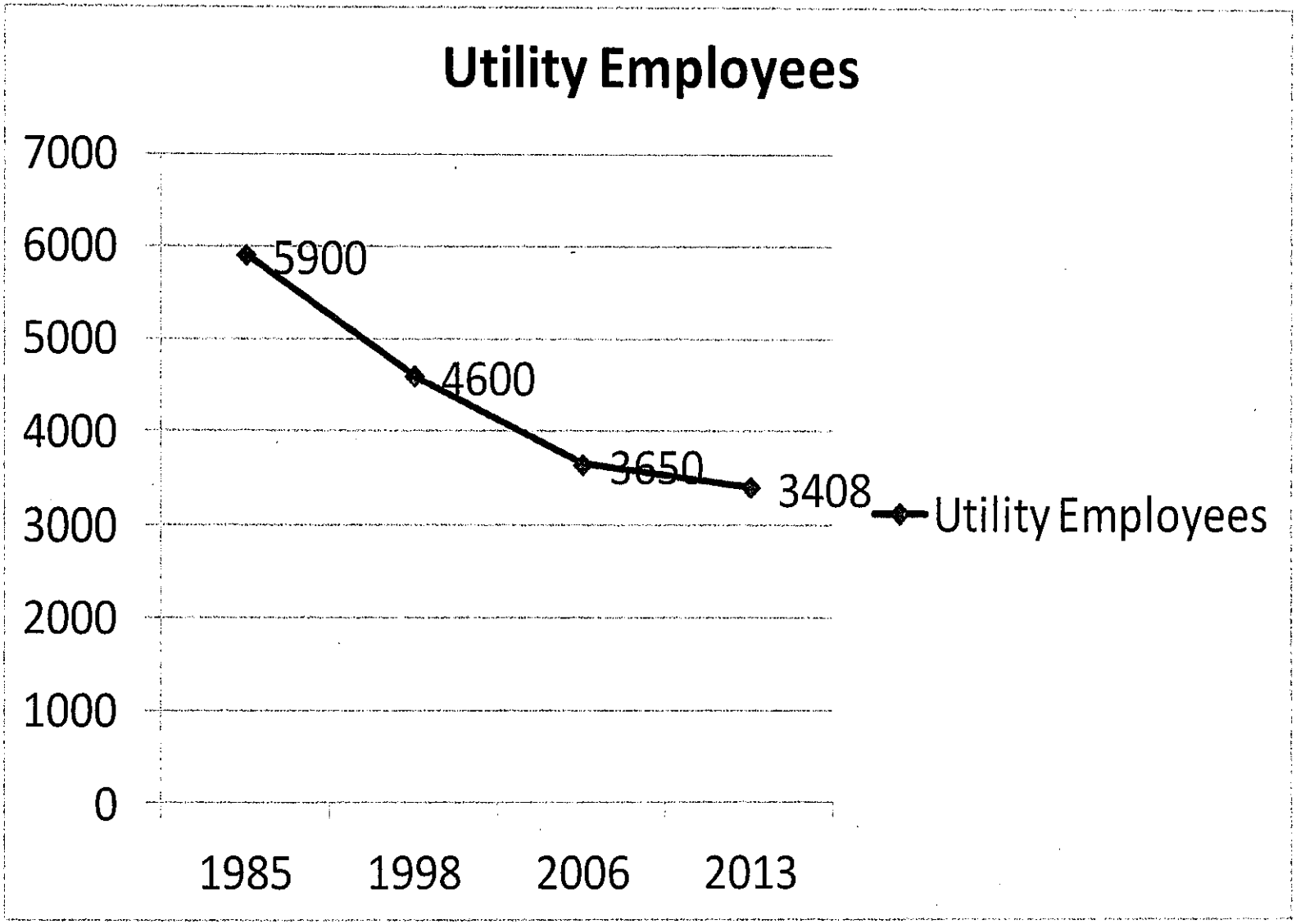
Presents

LIPA: Unasked, Unanswered

Will the new model provide lower rates and better service to Long Island?

What's Our Electric Future?

- Private Utility
- Fully Municipalized Utility
- Public/Private Partnership


Utility Employees
7000
6000
5000
4000
3000
2000
1000
0
5900
4600
3650
3408
1985
1998
2006
2013
Utility Employees

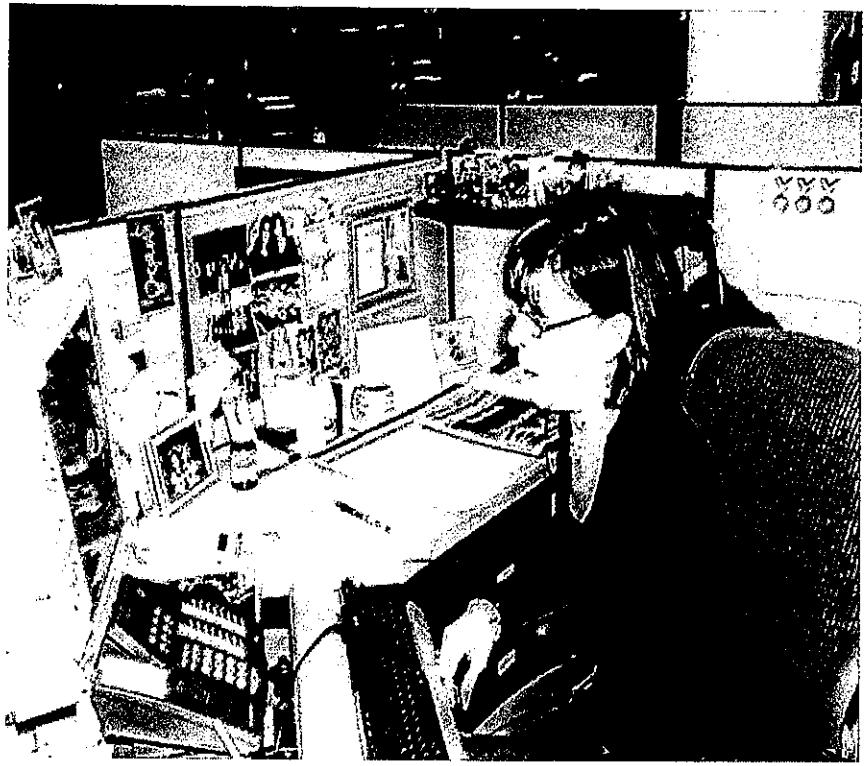
Non-Electric Workers
Storm Restoration Duties

2 Man Restoration

Material Delivery

Foreign Crew Support

Call Center Support



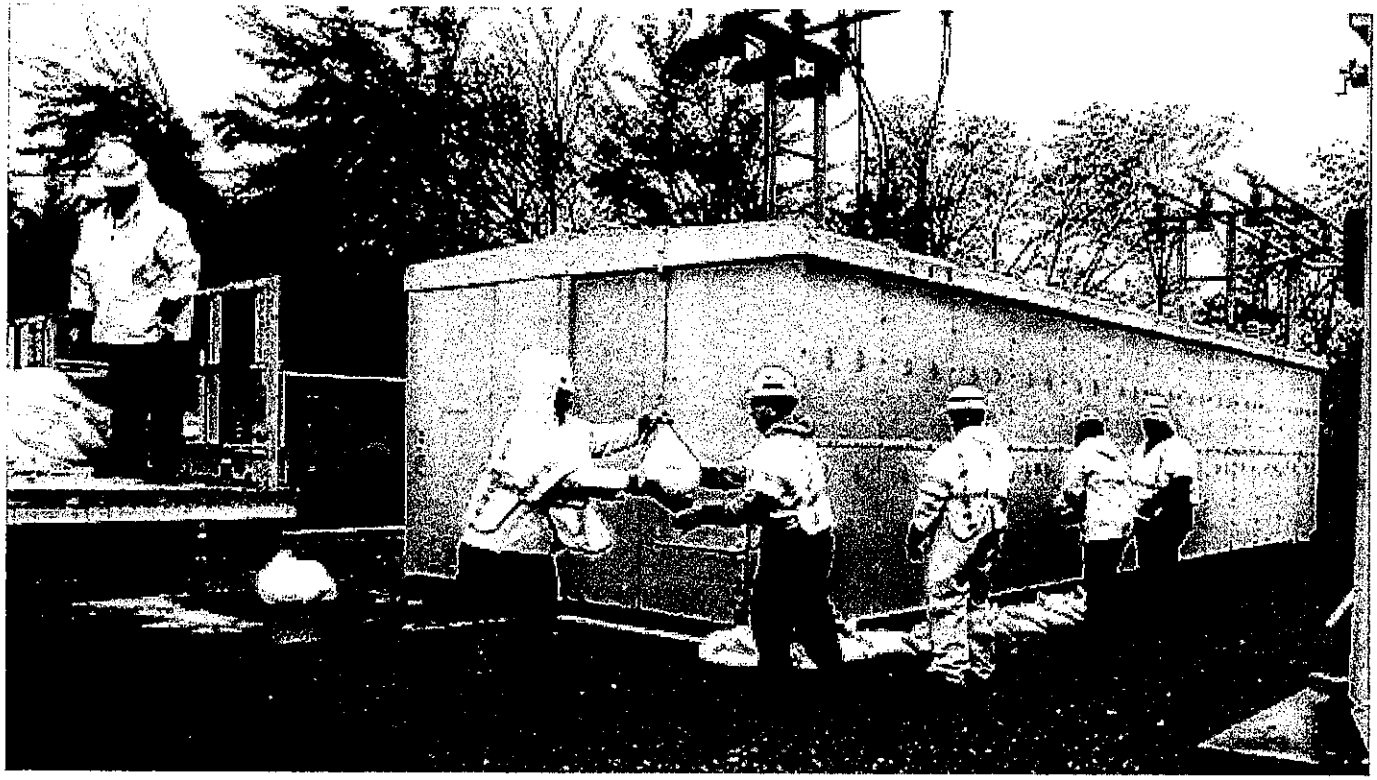
Fleet Services

Survey

Crew Guides

Physical Assist

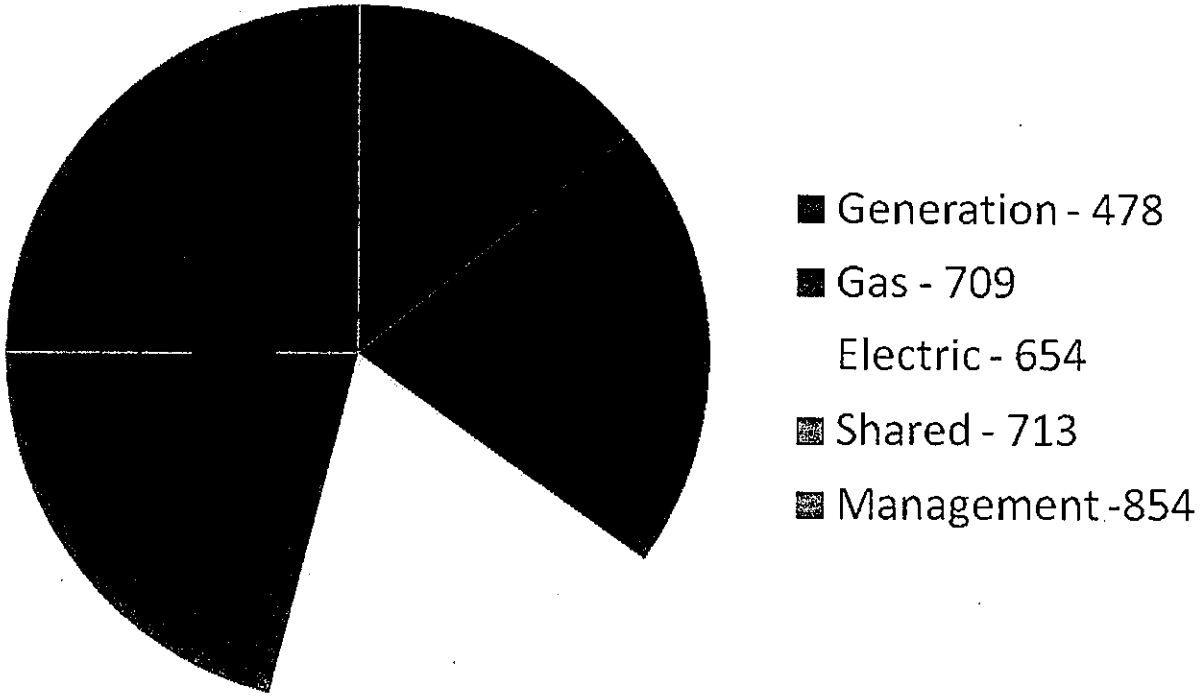
Facility Protection



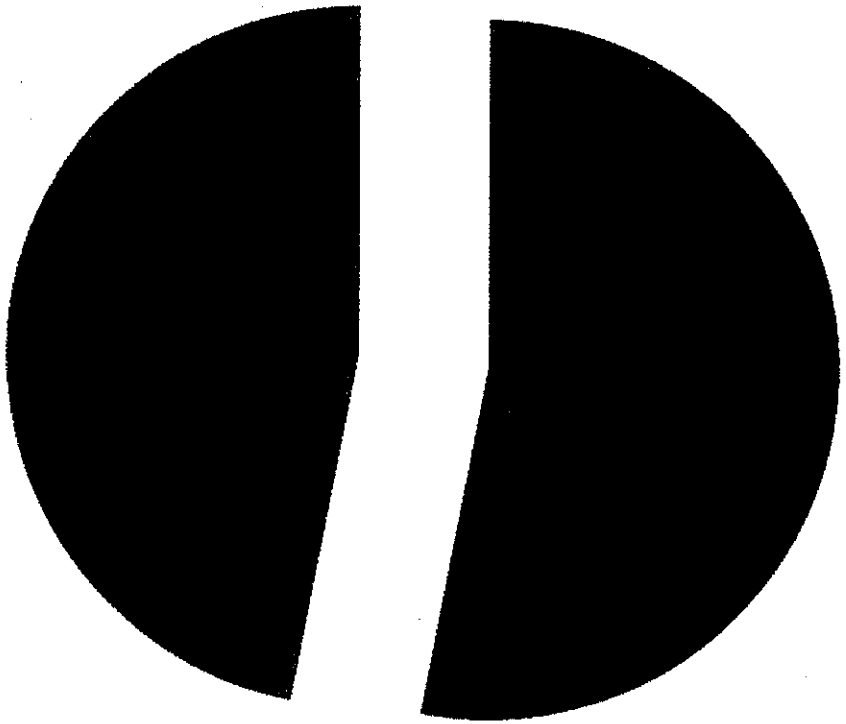
Wire Watch

Traffic Control

Current Responders



Post 1/1/2014 Responders



- National Grid - 1354 Union + 454 Mgmt
- LIPA - 1200 Union + 400 Mgmt

Daily Synergies

Daily Synergies

- Warehouse
- Fleet
- Facilities
- Clerical
- Meter Reading
- Collections
- Call Center
- IT
- Billing
- Service Connect/Disconnect
- Project Management
- Legal/Real Estate
- Accounts Payable
- Human Resources
- Purchasing
- Claims
- Communications/Public Affairs
- Payroll
- Environmental Services
- Security
- Training
- Health Services

What does this mean for Long Islanders?

We need to ask questions…

We need answers

Senate Committees on Investigations and Government Operations and Corporations, Authorities and Commissions
Senator Carl L. Marcellino, Chairman
Senator Michael Ranzenhofer, Chairman

Public Hearing

"To examine the best course of action to ensure the residents of Long Island receive the electrical and customer service that they deserve at affordable prices"
Written Testimony of Rick Gonzales and Thomas Rumsey
February 27, 2013

I. Welcome and Introductions

Good afternoon Chairman Marcellino, Chairman Ranzenhofer, and Members of the Senate Committees on Investigations and Government Operations and on Corporations, Authorities and Commissions. Thank you for the opportunity to participate in today's hearing.

My name is Tom Rumsey. I serve as Vice President of External Affairs for the New York Independent System Operator (NYISO). With me today is Rick Gonzales, Senior Vice President and Chief Operating Officer of the NYISO. He and his team are responsible for New York State's grid reliability, market operation and system planning.

II. Maintaining Grid Reliability is Our Primary Focus and Remains a Collaborative Effort

The NYISO is an independent not-for-profit corporation that carries out three key functions for the State of New York. Our primary focus is to reliably operate New York's bulk electric system in accordance with all national, regional, and state reliability requirements. With the exception of our control center, the NYISO does not own any physical electric assets (e.g. – generation, transmission, or distribution). Additionally, we administer competitive wholesale electricity markets to satisfy New York's electrical demand. In conjunction with our stakeholders, we also conduct extensive planning

processes to determine power demands of the future and allow market solutions time to meet identified needs. Finally, we participate as a technical, non-voting member of the New York State Energy Planning Board and have provided technical assistance to the Governor's Energy Highway Task Force.

The NYISO is governed by an independent Board of Directors and a committee structure comprised of representatives from every market sector -- transmission owners, generation owners, other suppliers, end-use consumers, public power and environmental parties. The Long Island Power Authority (LIPA) is among the market participants participating in the shared governance as part of the public power/environmental sector.

LIPA is an owner of high voltage power lines, the operation of which the NYISO coordinates with LIPA's local power system control center on Long Island. Although LIPA meets most of its power needs through contracted agreements with power plants on and off Long Island, it also buys and sells a portion of its electrical needs through the NYISO's wholesale electricity markets. LIPA participates in the NYISO's short term planning processes, such as determining the amount of generating capacity that must be located on Long Island to reliably serve its forecasted peak demand. LIPA also participates in the NYISO's long-term transmission system planning for the needs of the state power grid over a ten-year horizon.

The NYISO operates under federal tariffs and agreements approved by the Federal Energy Regulatory Commission (FERC), and is also regulated by the New York State Public Service Commission (PSC). We conduct our grid operations and system planning functions in compliance with national, regional, and state reliability standard organizations that oversee and audit our operations.

Federal law requires that we provide non-discriminatory open access to the power grid, allowing any resource to interconnect, provided that it does not harm system reliability. In addition to carrying out these functions, the NYISO serves as an independent, objective source of data and analysis on New York's energy needs.

At this point, I'd like to turn things over to the NYISO's Chief Operating Officer, Rick Gonzales to give an overview of the State of the Grid.

III. State of the Grid

Grid reliability is our primary focus at the NYISO and is a responsibility that we share with New York stakeholders and policy makers.

Our most recent reliability analysis indicates New York's power grid reliability is secure. Over the past several years, growth in the demand for electricity has diminished due to the recession and the state's energy efficiency programs, contributing to a surplus of supply in the near term. With the planned addition of new resources, New York State

has sufficient reserves to meet reliability requirements, and existing supply is expected to meet the forecasted demand until 2019.

Together with New York State policy initiatives, New York's wholesale electricity markets are continuing to encourage new investments in cleaner and more efficient generation. More than 1,400 megawatts of generation – power plants with an average age of more than four decades -- retired or suspended operations last year. However, since NYISO's inception in 1999 nearly 9,200 MWs of new generation have been added to the power grid. More than 760 megawatts of that new generation came online in 2012, most of those megawatts being powered by natural gas or wind. Since 1999, New York has also added 1,640 megawatts of new transmission capability; and approximately 2,000 megawatts of demand response that is available to reduce power consumption on peak demand days. Currently, New York State has more than 43,000 megawatts of available resources to meet an anticipated 2013 summer system peak demand of 33,279 megawatts. To reliably serve load at all times New York State requires seventeen (17) percent more supply than the forecasted peak load level.

Currently, Long Island has 6,268 megawatts of available resources to meet an anticipated 2013 Long Island system peak demand of 5,515 megawatts. Long Island has limited electrical ties to the rest of New York, New England, and New Jersey.

Because of these electrical limits, Long Island must have the majority of its supply physically located on the island. Almost ninety-two (92) percent of Long Island supply must be located locally.

Last year, the average New York State Day Ahead electricity price was $37.64 per megawatt-hour, dropping from $50.29 per megawatt-hour in 2010 and $48.47 in 2011. The average Day Ahead Long Island electricity price was $47.00 per megawatt-hour last year, dropping from $59.39 per megawatt-hour in 2010 and $58.53 in 2011.

In New York, the price of natural gas and the cost of electricity are closely related. Power plants with the ability to use natural gas account for more than half of the electric generating capacity in New York State. The cost of procuring fuel for these units is reflected in their offers. As the price of natural gas dropped and remained low over the past three years, the cost of electricity closely tracked those changes.

The close correlation of electricity prices with gas supplies and demand will likely persist. The continued development of new natural gas resources across the nation is expected to keep gas prices low for the near future. In addition, the pace of economic recovery and the persistence of energy efficiency efforts will have a direct influence on electric demand.

IV. Hurricane Sandy

The effects of Hurricane Sandy were not felt in New York until Monday, October 29th. However, preparations for the storm began days earlier when weather forecasts began to indicate the potential severity of the impact on coastal New York.

Working with New York's Transmission Owners, the Northeast Power Coordinating Council, and others, the NYISO began enacting established emergency preparedness plans on Thursday, October 25th. This included cancelling all planned transmission line maintenance and scheduling additional units for reliability.

Customer outages started on Long Island by 4 p.m. on Monday, October 29th, and in New York City at around 5 p.m. As customers began losing power, the storm impacts also began to take transmission lines and generation facilities out of service.

Outages continued through the night and by Tuesday morning, more than 2 million utility customers in the state were without power. While the entire state was affected, the brunt of the outages occurred near the coast – with over 900,000 without power on Long Island, and over 750,000 without power in ConEd's service territory.

Over 2,000 MW of generation capacity was unavailable on Long Island, along with three of the seven transmission facilities connecting Long Island to New York City, ISO New England, and PJM Interconnection remaining in service. Were it not for the

three circuits connecting New York City and Long Island, LIPA's service territory would have electrically separated from the Eastern Interconnection completely.

Wednesday, October 31st saw continued improvements in the availability of transmission and generation facilities; however, the external ties between New York City, Long Island, New Jersey, and Connecticut remained out of service.

Even with the vast amount of damage done to the electric transmission and distribution system in the state, the wholesale market and the system as a whole remained operational, allowing the power to be available when restoration was complete. To date, all bulk electric facilities have returned to service except for three transmission facilities and two generators that were damaged by the storm.

IV. Closing

In closing, I would like to reinforce the fundamental message that maintaining grid reliability -- on Long Island, in New York State, throughout the Northeast, and across the nation -- is job number one. It requires a collaborative effort involving the NYISO, New York Transmission Owners including NYPA and LIPA, other power system stakeholders, and public policy makers. We will continue to work hand-in-hand with state, regional, and federal authorities, to keep the lights on for all New Yorkers.

Electric system planning will play an increasingly important role for grid reliability, economic development, and the integration of public policy objectives. Policy

makers need to allow sufficient time for implementation of public policy objectives because changes to the electric system require years to plan and build effectively.

Thank you, Chairmen Marcellino and Ranzenhofer for this opportunity to assist you and your colleagues in examining these important issues. I look forward to your questions.

Long Island Fact Sheet

Summer Capability

Total Zone K Summer Capacity*..... 5,278 MW
Cross Sound Cable ..... 330 MW
Neptune ..... 660 MW
Total Zone K Resources ..... 6,268 MW

Generation Owners	MW
National Grid	3,676
Caithness Long Island LLC	310
New York Power Authority	187
PPL	173
Calpine Energy Service LP	172
Freeport Electric	120
Florida Power & Light	108
Rockville Centre	33
Long Island Solar Farm, LLC	32
All Others	469
Total Zone K Generation	5,278

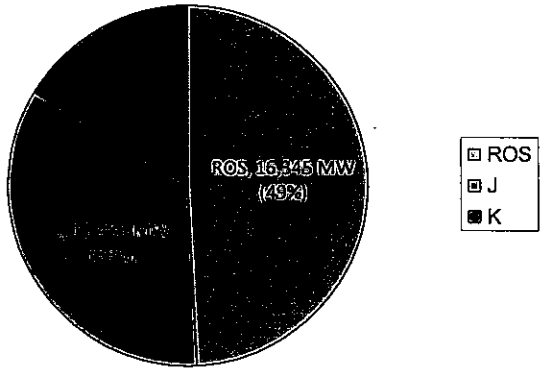
Current 2013 Summer Peak Forecast

Zone K Non-Coincident Peak Demand = 5,515 MW
16% of total NYCA peak

Zone K Locational Capacity Requirement = 105%

NYCA Coincident Peak Demand = 33,279 MW
Zone J Coincident Peak Demand = 11,485 MW
Rest-of-State (ROS) = 16,345 MW

2013 Peak Load Forecast – 33,279 MW



Interconnection Queue

Q#154 – LIPA Holtsville-Brentwood-Pilgrim 138 kV AC circuit, in-service 2018
Q#337 – LIPA Northport-Norwalk 138 kV AC uprate from 300 to 450 MVA, in-service 2016
Q#363 – Poseidon Transmission HVDC 500 MW tie from PSE&G, in-service 2016

Sources

NYISO 2012 Load & Capacity Data Report ("Gold Book")
NYISO 2013 Installed Capacity Forecast (12/18/2012)
NYISO Interconnection Queue (1/31/2013)

** Six units totaling 336 MW have retired in Zone K since April, 2012.*
Assignment of generation owners to units is based on best available information.

AARP New York

Testimony Before Senate Investigations and Government Operations and Corporations, Authorities and Commissions

Hearing on the Future of LIPA

Wednesday February 27, 2013

Legislative Office Building, Hearing Room A
Albany, New York

Good afternoon Senator Marcellino and Senator Ranzenhofer. My name is Elizabeth Horan and I am an AARP member and a lifetime resident of Long Island. With me today is Bill Ferris, AARP New York State Legislative Representative.

I have lived through many hurricanes, but last October I saw Superstorm Sandy devastate and decimate much of the Long Island I know and love. I live in Sound Beach on the north shore of Long Island and my home was spared – but we were out of electricity for 12 long days. Because a northeaster quickly followed Sandy, it got real cold, real fast and I had to leave my home.

When the house temperature reached the 50s, I knew it was time to go. I returned every day or two to check the power status as calls to LIPA got you nothing but a phone message.
As I said, I am one of the lucky ones on Long island, but I know so many people who lost so much. Many didn't get their power back for weeks.

As a resident of Long Island and a member of AARP, I would like to publically thank you, Senator Marcellino, for holding this hearing and for all your work and leadership to help the people on Long Island. It is my understanding that the Senate is trying to get the issues surrounding LIPA done right and in the best interests of the Long Island ratepayer. I sincerely thank you for making that a priority.

There is no question that LIPA must be reformed. AARP agrees with state leaders that LIPA's performance during Superstorm Sandy and its aftermath was nothing short of disastrous.

However, it is AARP's position that a change in ownership is not necessarily the only way to improve service for LIPA customers.

AARP has not taken a position for or against re-privatization of LIPA because the association does not yet have all the facts regarding the impact on ratepayers' pocketbooks if a decision is made to reprivatize LIPA.

However, AARP has a very simple view on this issue which I support as an AARP member: How will privatization, at the end of the day, benefit the ratepayer and how much will they pay on their future monthly energy bills? If privatizing LIPA is ultimately the road we take, with no uncertainty, it should include a clear benefit to Long Island's ratepayers.

It is my understanding from being briefed by representatives from AARP, that published reports from rating organizations like Fitch and Moody's believe the privatization of LIPA could be expensive and may not result in ratepayer benefits. In addition, AARP has identified a report from 2010 that was prepared for LIPA by an organization called the Brattle Group, which found that privatizing would result in a rate increase of from 15 percent to 20 percent.

As you know Senator Marcellino, the last thing Long Island needs is a double-digit rate increase now or in 4 years when a proposed rate freeze would be lifted, a proposal I have read about in the news.

AARP believes that we should be looking at other publicly-owned utilities to see how the rates and storm performance of publicly-owned and -operated utilities that run their own operations compare with utilities that are investor-owned.

AARP strongly believes that we need to keep examining the pros and cons of privatizing as the Senate is doing here today before any deal is struck on the future of LIPA.

I would also like to touch on the need for an independent consumer advocate office in New York. The state continues to grapple with the aftermath of Superstorm Sandy, and the need for residential ratepayers to have representation is critical as potentially hundreds of millions of dollars in rate hikes and accountability of utilities are being discussed.

More than 40 states and the District of Columbia have independent state offices charged with the mission to represent residential utility service consumers in cases before state and federal utility regulatory commissions.

In a recent New York Times article, the Governor's spokesperson mentioned that they are thinking of an independent consumer advocate office for Long Island. AARP strongly believes that an independent utility consumer office should be created not only for Long Island but for all New Yorkers.

Again, thank you for allowing me to speak today. We need to keep examining the pro and cons of privatization as the Senate is doing here today before any deal is struck on the future of LIPA. Please make sure that ratepayers get a fair deal in any plan that moves forward on improving LIPA, and ensure that all New Yorker residents benefit from the establishment of an independent consumer advocate office.

Thank you.

Consumers Union

NONPROFIT PUBLISHER OF CONSUMER REPORTS

TESTIMONY OF

CONSUMERS UNION OF U.S. INC.

BEFORE THE

SENATE STANDING COMMITTEE ON INVESTIGATIONS

AND GOVERNMENT OPERATIONS

REGARDING

REBUILDING AFTER SANDY – THE FUTURE OF THE LONG ISLAND POWER AUTHORITY

Presented by
Charles W. F. Bell, Programs Director
Consumers Union of U.S., Inc.

February 27, 2013

Introduction

Consumers Union is pleased to be here today to express our strong concerns about the future of the Long Island Power Authority, and to urge that additional funding and resources be committed to ensure that consumers are adequately represented in regulatory proceedings on utility issues.

Consumers Union is the publisher of *Consumer Reports* magazine, an independent, nonprofit testing and information organization serving only consumers. We are a comprehensive source for advice about products and services, personal finance, health and nutrition, and other consumer concerns. Since 1936, our mission has been to test products, inform the public, and protect consumers. Our income is derived solely from the sale of *Consumer Reports*, *ConsumerReports.org*, and our other services, and from noncommercial contributions, grants, and fees.

As part of our work on energy issues, Consumers Union is involved in public education and advocacy on home energy issues, including energy building codes and residential energy retrofits. As part of this work, I serve on the Green Jobs Green New York Advisory Council to provide advice and recommendations to NYSERDA for the implementation of a program to retrofit 1 million homes in New York state.

Consumers Union is a nonprofit membership organization chartered in 1936 to provide consumers with information, education, and counsel about goods, services, health and personal finance; and to initiate and cooperate with individual and group efforts to maintain and enhance the quality of life for consumers. Consumers Union's income is solely derived from the sale of *Consumer Reports*, its other publications and services, and from noncommercial contributions, grants, and fees. In addition to reports on Consumers Union's own product testing, *Consumer Reports* and *ConsumerReports.org* with approximately 7 million subscribers, regularly carry articles on health, product safety, marketplace economics, and legislative, judicial, and regulatory actions which affect consumer welfare. Consumers Union's publications and services carry no outside advertising and receive no commercial support.

We recognize that the issues relating to possible restructuring and/or privatization of LIPA are complex and may involve significant tradeoffs. We are very concerned about proposals that could result in significant rate increases for residential ratepayers. As I will explain, many households in Long Island have very significant difficulty paying home energy bills now.

Affordability of Utility Service is a Critical Issue for Consumers

Consumer problems with the affordability of utility service are not limited to a narrow swath of the low-income population, but broadly affect many working families and moderate-income households. At the national level, 39% of women, and 26% of men, reported difficulty in paying monthly utility bills in 2010, according to a national survey carried out by the Institute for Women's Policy Research.[1] For people who were unemployed, over 60% of those surveyed reported difficulty paying their bills.

As noted by AARP, New York has some of the highest utility costs in the US. A recent AARP survey of New Yorkers over age 50 revealed 41 percent reported that they had difficulty paying their monthly electric bill. This figure was even higher among minority populations with 48 percent of African Americans and 56 percent of Hispanics age 50+ in New York indicating that they experienced difficulty paying their electric bill.[2]

If we look at affordability of home energy from a statewide perspective, over 1.5 million households in New York experience a household energy burden of over 6% of their income, according to a study commissioned by the Low-Income Forum on Energy in Albany.[3] The overall Energy Affordability Gap amounts to a whopping $1.55 billion in the aggregate, which is the amount that consumers pay that exceeds the recommended 6% of their income.

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[1] Hayes, Jeff and Heidi Hartmann. 2011. *Women and Men Living on the Edge: Economic Insecurity After the Great Recession.* Washington, DC: Institute for Women's Policy Research.

[2] AARP, "New York's Utility Termination Storm: The Quiet Blackout, March 2011.

[3] Colton, Roger D., "Home Energy Affordability In New York: The Affordability Gap (2008 – 2010)," commissioned by: Low Income Forum on Energy, Albany, New York, June 2011

New York Energy Affordability Gap by Range of Federal Poverty Level (2010)

Poverty Level	Number of Households	Average per HH Burden (%)	Average Per HH Gap ($)	Aggregate Burden
0 – 49%	447,984	41.10%	$1,479	$662,650,651
50 – 74%	248,639	16.40%	$1,092	$271,568,303
75 – 99%	309,061	11.70%	$845	$265,071,051
100 – 124%	290.68	9.30%	$617	$179,248,705
125 – 149%	296,778	7.60%	$369	$109,640,834
150 – 184%	278,667	6.30%	$153	$42,654,656
185 – 199%	123,177	5.90%	$102	$12,603,808
200 – 299%	172,054	5.50%	$65	$11,113,892
300 – 399%	1,086,929	4.30%	$1	$1,327,832
400 – 499%	931,108	3.10%	$0	$0

Source: Low-Income Forum on Energy, Home Energy Affordability in New York: The Affordability Gap (2008-2010), Table 1, page 6

While 40% of the Energy Affordability Gap is located in New York City, other regions of the state are very much affected. Four regions (Niagara-Frontier, Finger Lakes, Hudson Valley, Long Island) had an aggregate Affordability Gap of more than $100 million. Two regions, (Central Leatherstocking and Saratoga-Capital) had aggregate Affordability Gaps of between $70 and $90 million. As the report notes:

> Home energy unaffordability in New York is a statewide phenomenon. It affects areas of the state both rural and urban. It affects areas of the state both North and South, both East and West. It affects the river valleys, the mountains, and the lake regions.[4]

[4] Ibid. p. 20.

Utility costs need to be considered in relation to the high costs of housing in many parts of the state. Over 1.65 million renters, and over 1.35 million homeowners, pay more than 30% of their income for rent or housing costs, according to the 2010 Census, exceeding the commonly accepted housing affordability guideline.

In Long Island, Nassau and Suffolk Counties had a combined Home Energy Affordability Gap of $115,899,000, working out to an average of $328 per affected household. 97% of the affordability gap affects households with incomes below 150% of poverty level. However, we would note that high energy costs broadly affect working and middle class families in Long Island, because of high costs for rental and ownership housing, relative to family income. The median price for a single family house in Long Island in December 2012 was $357,750, according to the Multiple Listing Service.[5] An estimated 60% of Nassau and Suffolk Counties 155,000 rental households are unable to afford the median Fair Market Rent for a 2 bedroom apartment. A family would need an income of approximately $66,440 to afford the median Fair Market Rent 2 bedroom apartment on Long Island.

Behind these numbers, one must consider the daily struggle of families to keep the lights and power turned on. For the hundreds of thousands of households on Long Island who experience an Energy Affordability Gap, there are probably many different stories about the household budget doesn't add up, and collides with other spending priorities for rent, food, and medicine.

We also know that many Long Island ratepayers are unable to consistently pay their utility bills, and as a consequence, experience utility shutoffs and termination of service. In the year 2010, LIPA reported 18,164 terminations of service, an average of over 1,500 households losing service each month, according to a report by AARP.[6]

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[5] Multiple Listing Service of Long Island, Inc, Dec. 2012,, accessed at: http://links.mlsstratus.com/actrep/2012/December/Highlight.pdf

[6] AARP, "New York's Utility Termination Storm: The Quiet Blackout, March 2011, p. 6.

Possible Restructuring and Privatization of LIPA

We share the deep public concerns that have been expressed about LIPA's high debt load, its unusual operating structure, continuing high costs for ratepayers and businesses, and its poor record in storm response and customer service, as was recently experienced during Hurricane Sandy. However, as advocates for consumers and the public interest, we are very concerned that LIPA's high rates could go even higher as a result of potential restructuring or privatization, if such impacts are not carefully analyzed, controlled and mitigated. We feel that there is insufficient information in the public record to justify privatization, because no one has clearly explained how a change in the ownership structure would affect the rates that consumers and businesses pay.

As pointed out by AARP and PULP:

> When LIPA took ownership of Long Island Lighting Company assets, utility rates on Long Island, once highest in the state, were reduced by 20%. Subsequently, Long Island rates have remained below those of Consolidated Edison Company of New York ("Con Edison"). Prior reports considering the merits of re-privatization have recognized that it would entail higher costs and higher rates, principally due to the higher commercial borrowing rates on debt (LIPA is tax exempt and thus eligible for lower interest rates) and due to the fact that when a utility is investor-owned, regulators are required to set rates so that the owners receive a reasonable after-tax return on their invested capital. Recently, a bond rating service has cautioned that a shift to investor ownership could result in higher rates.[7]
>
> Under the current ownership, LIPA rates may gradually decline as its large debts are paid off or refinanced at currently low tax exempt bond interest rates. Thus, proposals for "rate freezes" along with privatization may actually prolong the period of high rates that could be avoided under the current public ownership. Also, "rate freeze" proposals may not take into account higher energy supply costs over time if LIPA were

[7] Cite from AARP/PULP Report, op. cit. 8. >> "Fitch believes the suggested privatization of Long Island Power Authority (LIPA) could be extremely expensive and may not result in the ratepayer benefits projected." Fitch, *LIPA Proposal Could be Money for Nothing, available at* http://www.marketwatch.com/story/fitch-lipa-proposal-could-be-money-for-nothing-2013-01-08. "[T]he promise of stable rates flies in the face of a 2010 report prepared for LIPA by the Brattle Group, which found that privatizing would result in a rate increase of from 15 percent to 20 percent.... Equally skeptical, Moody's noted a private utility would lose the benefit of tax-exempt debt and would be ineligible for major storm cost reimbursements. The firm said the cost was "likely greater than any potential synergies or economies of scale that could be achieved by combining with another utility." Newsday, Jan. 8, 2013, *available at* http://www.newsday.com/long-island/cuomo-expected-to-announce-lipa-privatization-plan-1.4422905.

to sell its interest in low cost upstate nuclear power supply.[8]

Nor has it been adequately explained how privatization would advance other urgent public policy goals such as reliability, improved customer service, conservation/energy efficiency and environmental sustainability. If we are to reform LIPA in the way it should and must be reformed, these issues will all come to the fore. Policymakers should want LIPA to be among the best utilities in the country in delivering against these critically important goals. We should consider a range of best practices, benchmarks and policy options to create the most appropriate ownership structures, regulatory policies, and oversight and consumer representation policies. But we believe the discussion about how to accomplish these in the context of a reformed LIPA is at an early stage, and needs to be filled out with much more information, evidence and policy information, prior to making any public decision. It is important for the Governor and the Legislature to make a strong case to the public on how the reformed LIPA will work, so that the public is assured that our interests in affordability, reliability, customer protection, energy efficiency and environmental sustainability can be advanced by the reform plan.

Need for Independent Consumer Advocacy Office

Along with other prominent consumer organizations in New York, including AARP, NYPIRG and Public Utility Law Project (PULP), Consumers Union strongly supports establishment of a robust public consumer advocate in New York state. We think the case for establishing and funding this office on a equal footing with utility advocates in other states is urgent and very compelling. While New York has some capacity in the form of the Utility Intervention Unit at the New York Department of State Bureau of Consumer Protection, we are greatly troubled that the staff capacity of this agency has been greatly reduced over time, compared to the staffing levels of its predecessor Consumer Protection Board in the 1980s.

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[8] "Utility Performance and the Need for Improvement and Consumer Protection and Oversight," AARP and Public Utility Law Project, February 2013, p. 8.

The 2011-12 State Budget eliminated the Consumer Protection Board and divided its responsibilities between the newly created Department of Financial Services and the Department of State (DOS). The legislation established the Division of Consumer Protection at DOS. The statute also created a Utility Intervention Unit within the Division of Consumer Protection to continue the Board's energy related consumer advocacy, including but not limited to:

- Intervening on behalf of consumers before the Public Service Commission (PSC);
- Representing consumers before federal regulators;
- Fielding consumer complaints about the Long Island Power Authority (LIPA);
- Advocating at the New York Independent System Operator (NYISO); and
- Handling consumer issues relating to the provision of energy.

We are very concerned by reports that the number of staff people and budget resources allocated by the New York State to consumer representation on utility issues may be declining, at a time when many consumers are struggling to stay connected to service and to pay their bills. These challenges come at a time when there are substantial regulatory and technological changes underway in both the energy and telecommunications sectors. The energy market has been restructured, and telecommunications services are shifting and morphing into new forms, including wireless and broadband. These developments directly affect the prices consumers will pay, and the choices they will have (or not have), and other critical features of service relating to consumer protections and lifeline rates for low- and moderate-income customers.

In addition, precisely because energy policy is complex and multi-faceted, an independent consumer advocate office needs to have resources to participate in multiple forums and levels of government that affect ratepayer interests. Prior to its elimination, the Consumer Protection Board was a member of the State Energy Planning Board, Regional Greenhouse Gas Initiative Advisory Group, Green Jobs Green New York Advisory Council and Low Income Forum on Energy (LIFE). In addition to ratemaking proceedings before the Public

Service Commission, the CPB participated in matters related to the Renewable Portfolio Standard, Systems Benefit Charge and Energy Efficiency Portfolio Standard. On the Federal level, the CPB has frequently weighed in on issues before the US Department of Justice, Federal Trade Commission and Northeast Electric Reliability Council. To be an effective public champion of the public interest, the UIU would need augmented funding to participate in these and other policy bodies.

Nonprofit Consumer Organizations Play Critical Supplementary Role

We believe consumers need both robust public state utility watchdogs, and nonprofit consumer organizations that can monitor the marketplace for problems, analyze trends and policy issues, and provide input to regulators and legislators. Consumers Union helped support the establishment of the Citizens Utility Board in the early 1990s, and was very disappointed when Gov. Pataki revoked the executive order that permitted the CUB access to state mailings to recruit members. But in addition, we have been concerned that funding was in recent years discontinued for the Public Utility Law Project, which is a critical resource for regulators, policymakers, nonprofit organizations and consumers in New York. This year, some funding to PULP has now been restored as a result of the Constellation energy price-fixing settlement.

Over nearly three decades, PULP has led and championed efforts to create, promote and sustain effective regulations and public policies that promote universal service, prevent unfair and deceptive practices, promote affordable service, and prevent shutoffs of life-sustaining heat, electricity and phone service. Across a wide range of complicated, technical issues, PULP was the frontlines of addressing that the serious, urgent problems of utility consumers. PULP led the way in developing the Home Energy Fair Practices Act (HEFPA), the Bill of Rights for New York's utility customers, and in ensuring the law is appropriately interpreted, implemented and enforced. PULP also intervened on behalf of low-income consumers in Public Service Commission proceedings, to ensure that there is balanced administrative record for making decisions that affect millions of consumers statewide. PULP's creative and tenacious work resulted in the establishment and improvement of low-income

utility rates and programs, including the Lifeline program for telephone service.

We also know that PULP was a valuable resource for the New York State CPB and the UIU, and in effect served as a force multiplier, given the large volume of work and complex technical issues that need to be tackled from a consumer perspective. The remaining nonprofit organizations are in no position to pick up the work that PULP was doing, and much of their painstaking efforts to analyze rates and rulemakings, and close regulatory gaps that left consumers overcharged and at risk of utility shutoffs, will simply not be done.

We strongly urge that ongoing funding for PULP or a similar statewide utility watchdog be reinstated by the legislature and the governor. Such funding would in no way supplant or replace the critical role of the UIU but would in effect provide a supplementary capacity that works broadly to benefit New York consumers, and leverages additional funding from nonprofit and public sources.

New York State Needs to Fund Ratepayer Representation

As documented by AARP and PULP in their recent report, New York's budgetary resources for utility consumer representation is significantly lower than in other states. The total New York allocation of resources for the UIU and the nonprofit PULP are estimated to be approximately $2,100,000, representing about 10 - 11 cents per capita. In contrast, other states spend far more for consumer representation in utility rate proceedings and policy interventions in issues that affect residential ratepayers. For example, New Jersey allocates resources in the amount of $7,000,000 that represent a $0.79 per capita expenditure, and Connecticut allocates resources in the amount of $2,989,134 that represent a $0.83 per capita expenditure.[9]

As individual consumers and ratepayers, we are dispersed in the marketplace, and do not have an easy way to pool our resources to hire our own lawyers and experts to represent their interests before the state Public Service Commission, the Federal Energy Regulatory

[9] "Utility Performance and the Need for Improvement and Consumer Protection and Oversight," AARP and Public Utility Law Project, February 2013, p. 5-7.

Commission, or other state or federal agencies. Needless to say, there is an enormous disparity of resources between the aggregate resources available to consumers, on the one hand, and the resources of utilities, on the other. Large utilities such as Con Edison, National Grid, NYSEG, LIPA, Verizon and Cablevision are able to deploy hundreds of professional staff to advance their interests at the regulatory agencies and in legislative bodies, including technical experts, attorneys, lobbyists and media relations staff. State utility advocates can only exercise voice and influence on behalf of consumers if they are entrusted with sufficient resources to engage in research, analysis and advocacy.

All of our organizations agree on this point. The solution is for the Governor and legislature to provide increased funding for an independent state utility consumer advocate office, solely dedicated to representing residential and small commercial ratepayers. The state should also provide increased funding for PULP to advocate on behalf of low-income consumers. It should also enact an intervener compensation program, funded by PSC utility assessments, that would financially support not-for-profit organizations representing the interests of residential customers who contribute to developing the record for decision by the PSC in its proceedings. Intervenor funding is provided to consumer utility advocates in other states and it allows consumers to be heard on the various legal, technical and policy issues that affect consumer interests, in the same venues where the investor-owned or public utilities are making their case for the rates and policy changes they want.

To achieve the complex goals that policymakers have for reforming LIPA, we feel strongly that you have to put the consumer and the public squarely in this game. We know from painful experience that our voice is not nearly as strong or as amply resourced as the voices of the investor-owned and public utilities. The private marketplace will not by itself deliver affordability, energy efficiency or environmental sustainability, unless we have a specific plan and strategy to secure these public goods. We believe a reformed regulatory structure, that gives the PSC greater oversight and disciplinary powers, such as those recommended by the Moreland Commission, is vital and essential. But we also believe New

York state should do much more to provide for independent public and nonprofit consumer voices to be represented in energy policy.

The legislature has a critical role to play in assessing this situation and rebalancing the scales for consumers, by providing compensatory resources to an independent public consumer advocate, to nonprofit advocates such as the former Public Utility Law Project, and enacting other policy solutions to ensure that consumer needs for accessible, affordable utility service are met.

Conclusion

In conclusion, thank you very much for the opportunity to participate in this hearing. We greatly appreciate your interest in these issues, and look forward to working with the Committee to provide additional information regarding ways that LIPA can be effectively reformed and restructured, and to advance the interests of utility consumers in New York state.

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• ATTACHMENT B •

WRITTEN TESTIMONY

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STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

February 27, 2013

Honorable Carl L. Marcellino, Chairman
Senate Investigations and Government Operations Committee
Legislative Office Building, Room 811
Albany, NY 12247

Honorable Michael H. Ranzenhofer, Chairman
Senate Corporations, Authorities and Commissions Committee
Legislative Office Building, Room 848
Albany, NY 12247

Dear Senator Marcellino, Senator Ranzenhofer and distinguished Committee members:

Comptroller DiNapoli appreciates your invitation to provide testimony at this hearing on the future of the Long Island Power Authority (LIPA).

Over the past six years, the Comptroller has raised numerous questions about the performance of LIPA in audits and other reports. Most recently, a report issued by the Office of the State Comptroller in October 2012 showed that LIPA's average retail price for electricity had risen by 45 percent over the past decade, substantially more than the 33 percent median increase for utilities throughout New York State. A 2010 report recommended improvements in LIPA's monitoring of sales of emission credits by its contractor, National Grid. Additional reports by this Office have included analysis of LIPA's internal controls, costs related to Hurricane Earl and other topics. I have appended copies of these reports to this testimony.

In addition to the audits and analysis performed by the Comptroller's staff, we have reviewed the interim report issued last month by the Moreland Commission on Utility Storm Preparation and Response, reports in recent years by LIPA's consultants and other information on LIPA's history and performance. In light of his agency's work and other evidence, Comptroller DiNapoli believes the case for fundamental change to LIPA is more compelling than ever before. Further reform to the electrical power marketplace in LIPA's territory should be undertaken in such a manner as to insure that future generations of ratepayers are not burdened with the mistakes of the past. As the Legislature considers options for potential changes to LIPA, the Authority's financial condition, debt burden and certain institutional considerations are among the issues requiring close attention.

LIPA debt and financial condition

As has been widely reported, the scale of LIPA's outstanding debt has presented a difficult challenge for many years. The 2010 Strategic Review prepared by LIPA's consultant, Lazard, pointed to several relevant metrics. Among its findings, the Strategic Review concluded that the significant level of remaining debt associated with the abandoned Shoreham project "reduces LIPA's financial flexibility to pay down substantial amounts of debt and/or freely invest capital in the system."

In December 2012, Standard & Poor's reviewed LIPA's ratings and revised its outlook from stable to negative. Also in December, Moody's placed LIPA under review for a possible downgrade. These warnings related in part to short-term organizational issues, but also reflected concerns with the Authority's diminished liquidity and financial flexibility. In November 2012, Fitch Ratings revised its rating outlook for LIPA from stable to negative, reflecting Fitch's view that the effects of Hurricane Sandy will impair LIPA's already constrained financial flexibility.

The Comptroller's reviews of LIPA over a number of years, as well as the outlook from the rating agencies, have consistently pointed to serious ongoing issues related to the Authority's financial condition.

In both December 2012 and January of this year, LIPA asked the Public Authorities Control Board (PACB) to approve additional borrowing capacity. LIPA submitted two resolutions to be considered at the December 2012 PACB meeting requesting the authorization to enter into a $500 million Revolving Bank Facility as well as the issuance of $205 million of Electric System General Revenue Bonds for the purpose of retiring some or all of LIPA's outstanding commercial paper notes. LIPA indicated that the authorizations were intended to enhance LIPA's liquidity position, put the Authority in a position to manage its capital and operating expenses effectively, strengthen its financial profile and improve its overall credit profile. LIPA indicated that this enhanced liquidity position would allow the Authority to fulfill these intentions and address the rating agencies' concerns mentioned above. In January, the PACB approved the issuance of additional short-term bonds or notes of up to $500 million to finance the cost of system improvements and operating expenses related to repair of damage caused by Hurricane Sandy and other storms in October and November 2012. LIPA indicated that it was seeking this authorization in order to provide a bridge between the time when storm-related expenses must be paid and the recovery of such costs, including federal reimbursement.

The Comptroller's office expressed concern regarding LIPA's borrowing in both December and January, and called on the Authority to manage its financial resources in a manner that would minimize costs for ratepayers.

LIPA's most recent Official Statement, dated June 27, 2012, indicated that as of June 1, 2012 the Authority had approximately $6.7 billion in outstanding debt. This outstanding debt matures at various points, with final maturity in 2042. The average life,

a metric used to measure the rapidity with which principal payments are expected to be paid, is estimated to be approximately 13.8 years. This figure represents the weighted period of time required to repay half of the scheduled principal payments of the overall debt portfolio. The Authority also has certain interest rate exchange agreements, commonly known as swaps, currently outstanding.

LIPA's 2010 Strategic Review described the Authority's debt of more than $6,000 per customer as "extremely high" and its debt service cost of nearly 3 cents per kilowatt-hour as "very high." The review indicated that LIPA management projected only "modest" debt reduction over the coming five years.

While LIPA's heavy debt burden remains a significant concern, the Authority has taken some steps to realize debt-service savings as a result of favorable market conditions. In recent years, interest rates have been at historically low levels. As a result of this market environment, many issuers of municipal bonds, including LIPA, have refunded outstanding debt to capture savings from lower rates.

LIPA's outstanding debt and swap portfolios have serious implications with respect to the discussion of potential changes in the legal status of the Authority or the transfer of its assets to a new owner. For example, if a private company were to take over LIPA, commitments to bondholders and counterparties in swap agreements would be required to be met, potentially at a cost to LIPA and its ratepayers. Unless a private purchaser could gain access to the tax-exempt market as a conduit borrower, new debt would be required to be taxable. It is likely that taxable debt would have to be incurred to defease the existing tax-exempt debt. Taxable debt generally has a higher yield than tax-exempt debt, meaning that issuers – and in this case ratepayers – face higher costs. The yield differential varies over time; in case of a privatization, such differences would also vary based on the credit quality of the private company that sought to refund the debt in the taxable market.

Institutional and structural issues

As numerous observers have pointed out in discussion of LIPA's future, the Authority's status is unusual if not unique in the U.S. electrical marketplace. Both of the more traditional structures for electrical utilities – regulated companies in the private sector, and fully public entities – tend to have clear lines of responsibility and accountability. The LIPA Board of Trustees bears ultimate responsibility for ensuring an affordable and secure electrical supply, and, for the most part, has operated in a regulatory vacuum. Even the most straightforward effort to impose a degree of control over LIPA – the requirement implemented by PACB in 1997 that any LIPA rate increase over 2.5 percent must be brought to the Public Service Commission for a full evidentiary hearing – was circumvented. The current combination of public and private responsibilities, along with the lack of oversight, may make it difficult for ratepayers and policy makers to assess the sources of continuing problems with respect to cost and performance.

To address this issue, in 2012 the Legislature and the Executive enacted the LIPA Oversight and Accountability Act, which requires the Public Service Commission to conduct comprehensive and regular management and operations audits of the Authority. This legislation represented an important step toward heightened accountability and transparency for LIPA's ratepayers.

As you are well aware, an intense debate is underway regarding further changes to LIPA. One of the most complicated questions is whether ratepayers will be better served by a public entity, such as LIPA or the New York Power Authority, or by a private entity such as an existing investor-owned utility.

LIPA was created as a public entity in part because of the lower-cost financing available via tax-exempt debt. As discussed above, cost advantages from tax-exempt financing remain today. The Moreland Commission estimates the additional cost of private ownership – including investor equity, taxable debt and tax on profits – at "several hundred million dollars." Any change to LIPA's corporate structure must minimize the impact not only on LIPA ratepayers – current and future – but on the rest of New York's taxpayers as well. Unfortunately, as Comptroller DiNapoli has pointed out repeatedly, the State has too often used debt in ways that provided immediate relief but resulted in a high long-term cost.

Public ownership may be advantageous in regard to federal assistance for rebuilding and recovery costs in case of future storm damage. Federal Emergency Management Agency assistance is typically not available to private companies. (Congressional action to provide support for recovery and rebuilding after Hurricane Sandy, which included funding for certain costs incurred by private utilities, did not address FEMA's permanent funding provisions.) A private company might face the need to set aside additional reserves – supported by ratepayer dollars – for such costs.

The Moreland Commission found that "potentially hundreds of millions of dollars in synergy benefits" could be achieved through privatization if an existing electric utility were to take over LIPA and combine certain staff, facilities and systems. As the wording of the Commission's report indicates, it is difficult to quantify any such potential savings.

Whatever the structure of any potential successor to LIPA, ratepayers deserve comprehensive and accurate information about both the cost and quality of their electrical service provider, including comparisons to service in other regions, to provide clearer understanding of relative performance. Toward that end, the Legislature may wish to consider creation of an independent entity to provide a regularly recurring "report card," including: measurements and comparisons of residential, commercial and industrial rates; number and duration of service outages; response to customer complaints; and other metrics. Knowledge is power. Detailed, unbiased data about the performance of LIPA or any successor entity could help ratepayers reach informed conclusions about the optimal structure of electric service.

The long-term outlook

Energy markets are complex, and decisions regarding the future of LIPA will inherently need to address conflicting goals. For example, local governments and school districts on Long Island benefit from LIPA payments in lieu of taxes. Such payments support essential public services and help restrain growth in property taxes – but they are reflected in the bills LIPA customers pay. As with every electrical utility, customers would suffer if LIPA did not have adequate revenues to invest both in capital improvements and in ongoing operations; at the same time, rates must be held to levels that are affordable for residents, businesses and nonprofit entities. Obligations to bondholders must be met, and the Authority's bond ratings must be kept at investment grade to avoid further increases in debt service costs and the potential loss of financial stability. Comptroller DiNapoli also believes it is important that LIPA continue to make investments in energy efficiency, renewable power sources and cleaner technology.

Inevitably, there is tension among these conflicting needs. Today's hearing provides an important opportunity to inform public discussion and debate regarding the most appropriate balance among competing goals.

The Legislature's decision to create LIPA in 1986 represented a consensus that fundamental change was required in electrical service for the territory then served by the Long Island Lighting Company. Comptroller DiNapoli believes we are again at a time when broad change is essential to provide affordable and reliable electrical power for Nassau and Suffolk counties and the Rockaway Peninsula.

Sincerely,

Robert B. Ward

Robert B. Ward
Deputy Comptroller for
Budget and Policy Analysis

February 27, 2013

Comments and Testimony of
Frederick Fastiggi
Senior Vice President – Energy Consulting
Birdsall Services Group

With regard to Public Hearing
On Issues concerning the
Future of the Long Island Power Authority

Background and Qualifications

Good morning. I am Fred Fastiggi, Senior Vice President of Energy Consulting for the Birdsall Services Group which is a Consulting and Engineering firm of approximately three hundred and seventy five professionals, operating primarily in the northeastern United States. We have four offices in New Jersey as well as three offices in New York in Manhattan, White Plains and Patchogue. I have been with Birdsall for over four years and am responsible for all aspects of our energy consulting practice which includes general management consulting related to energy issues for public utilities, local government entities and private commercial and industrial operations. Our practice has large components focused on renewable and sustainable energy practices, energy efficiency, energy project development and financial structuring, energy master planning, utility program management and energy procurement advisory services.

Prior to working for Birdsall I ran my own consulting organization for six years dealing with similar issues and servicing public utility, private industry, engineering companies, unregulated electric generators and multiple family housing entities.

I also spent thirteen years with the Public Service Enterprise Group, parent company of Public Service Electric and Gas, in a variety of management positions in the areas of financial planning, energy services and non-utility generation. My last position with PSEG was Vice President of Development and Energy Solutions for PSEG Energy Technologies, a $500 million, unregulated subsidiary focused on the development and financing of energy infrastructure, energy efficiency, operations and maintenance of energy infrastructure and the retail supply of electric and gas to end use customers.

I have a BS in Finance and an MBA in Quantitative Analysis from Seton Hall University and I hold the designations of Certified Energy Manager (CEM) and Distributed Generation Certified Professional from the Association of Energy Engineers.

Testimony

I have reviewed the historical financial statements and recent budget presentations of LIPA as well as parts, or all of the various consulting reports from Lazard, Navigant and Brattle. Each of these independent studies recommends a different course of action for LIPA; Lazard recommends privatization, Navigant recommends municipalization and Brattle recommends a continuation of the Authority/Service Agreement structure that is currently in place. I have also reviewed the recommendations of the Moreland Commission which advocates a course of action similar to that of Lazard, i.e. privatization.

I am in agreement with the findings and recommendations of the Moreland Commission that LIPA and the former assets of the Long Island Lighting Company (LILCO) would be best managed for the benefit of the people of Long Island and the portions of Queens served by LIPA, by a private entity. Clearly the balance sheet burdens of the Shoreham investment and the penalties, fees or premiums that would be due to current bondholders in the event that their debt would need to be terminated and restructured before maturity, upon the sale of LIPA assets or stock to another company, needs to be considered and factored into a transitional plan.

New York should consider carving out the liabilities represented by Shoreham and the resulting early termination fees from a potential sale transaction. Assuming the total of these items amounts to $3.6 billion, the resulting balance sheet for the new company (Newco) might look like this:

Newco, Inc.

	Current LIPA	Adjustments	Newco
Assets	$11.8	$ 0.0	$11.8
Liabilities	11.4	(3.6)	7.8
Equity	$ 0.4	$(3.6)	$ 4.0

The adjusted LIPA liabilities representing Shoreham and the early termination fees might be partially offset by a portion of the proceeds from the sale of LIPA with the remaining balance being placed in a fund to be serviced and amortized over a twenty year period by all ratepayers in the state of New York.

The following table depicts the current market price for various investor owned utilities and the multiple that market price represents when compared to book value. Market price as a multiple of book value ranges from a low of 1.04 to a high of 2.313 with an average of 1.536. While using the average multiple of book value seems like a reasonable approach, LIPA will likely sell at a significant discount to the average, at some multiple on the lower end of the sample range due to the uncertainty and risk associated with future regulatory treatment, pro-forma profit and loss performance that is probably significantly under the investor owned utilities cited here and the possible hangover from a NY state ratepayer bailout. Given this we believe a valuation in the $2.5 to $3.0 billion range is more reasonable. This valuation assumes that the Shoreham liabilities and early termination fees to bondholders previously discussed in the amount of $3.6 billion are removed from the transaction.

LIPA Estimated Sales Price

Assumes Shoreham and Early Termination of Contract Fees of $3.6 Billion Transitioned to All NYS IOU Ratepayers as Adder in Energy Tariff

Company	Symbol	Book Value (MM's of $'s)	Shares Outstanding (MM's)	Book Value per Share	27-Feb Share Price	Mkt Value as Mult. of Share Price
PSEG	PEG	$10,708	505.89	$21.17	$32.16	1.519
Con Ed	ED	$11,869	292.88	$40.53	$58.22	1.437
PPL	PPL	$10,480	580.02	$18.07	$30.55	1.691
First Energy	FE	$13,084	418.22	$31.28	$39.21	1.253
Dominion	D	$12,075	504.61	$23.93	$55.35	2.313
Exelon	EXC	$21,624	854.28	$25.31	$30.54	1.207
Duke	DUK	$40,863	704.00	$58.04	$69.66	1.200
Pepco	POM	$4,453	229.47	$19.41	$20.18	1.040
UGI	UGI	$2,335	113.18	$20.63	$35.42	1.717
American Electric Power	AEP	$15,306	485.67	$31.52	$46.39	1.472
Entergy	ETR	$9,471	177.80	$53.27	$61.64	1.157
Nextera	NEE	$16,069	423.21	$37.97	$71.62	1.886
Southern Co.	SO	$19,721	874.11	$22.56	$44.75	1.983
Tampa Electric	TE	$2,292	217.26	$10.55	$17.04	1.615
DTE	DTE	$7,373	172.55	$42.73	$65.96	1.544
Portfolio Totals		$197,723	6,553.15	$30.17	$46.33	1.536
Portfolio Totals are:		Totaled	Totaled	Calculated	Calculated	Averaged
Minimum						1.040
Maximum						2.313
Average						1.536
Standard Deviation						0.348

LIPA Adjusted Book Value	$4,000		
LIPA Market Value Estimates:			
Market Value at Minimum Book Value Multiple	$4,160		
Market Value at Average Book Value Multiple	$6,143		
Market Value -Low Side 95% Confidence Interval	$3,359		
Market Value -Low Side 64% Confidence Interval	$4,751		
Estimated Sellling Price Range for Adjusted LIPA	$3,400	to	$4,000

Taking a shot at estimating the first year P&L for Newco based on the 2013 submitted LIPA budget and making estimates on expected operating expenses and interest charges, suggests net income in the range of 6 to 7% of revenues. This level is significantly below the level experienced by the fifteen investor owned utilities cited above who have net income as a percent of revenue that range from 9 to 14%.

Pro-forma Newco (LIPA Sold Company)
Profit and Loss - Year 1
(all figures in MM's of $'s)

Revenue		$3,598	100.0%
Fuel and Purchased Power		$1,533	42.6%
Revenue net of Fuel and Purchase Power		$2,065	57.4%
Estimated Operating Expenses		$1,500	41.7%
Operating Income		$565	15.7%
Other Income		$34	0.9%
Grant Income		$21	0.6%
Earnings Before Interest and Tax		$620	17.2%
Estimated Interest after Shoreham Liability Reduction		$227	6.3%
Earnings Before Tax		$393	10.9%
Estimated Effective Tax @	40.0%	$157	4.4%
Net Income		$236	6.6%

Earnings Before Interest and Tax	$620
Depreciation and Amortization	$278
EBITDA	$898

This lower level of net income is another reason why we are lowering our estimated selling price from projections based on market value as a multiple of book value.

Again, our estimated selling price for LIPA after carving out Shoreham and Early Termination liabilities is in the range of $2.5 to $3.0 billion, and probably toward the lower end of that range.

Our recommendation would be to transfer any Shoreham or Early Termination liabilities to a fund that is amortized over a twenty year period. An adder to all utility tariffs specifically tailored to the resulting amortization schedule would fund this amortization.

While it is valid to say that it will be unfair and unpopular to transfer a portion, or all of the burdens from the prior LILCO management decisions to non-LILCO ratepayers, it could also be argued that with deregulation, and the separation of the generation function from the transmission and distribution

functions of traditional utilities, this type of treatment may have happened earlier had not the LIPA solution been instituted by NY lawmakers. That is to say, with deregulation traditional utilities were forced to sell, or de-couple their generation from T&D assets and had LILCO been an operating public utility at that time, the issue of Shoreham-related liabilities would have been dealt with then to complete the deregulation mandate.

Additionally, generators in the state of New York and elsewhere no longer provide electric service to captive utilities. For example, the output of Indian Point no longer serves only Con Ed. The new merchant generator owners are selling their output into multiple T&D utilities offering default service, and non-utility suppliers. While Shoreham represents a generating asset that has never generated electricity, in the generation divestiture that followed deregulation, it is not unreasonable to assume that its costs would have found their way to the overall generating consumption market in New York where it would have been packaged with other assets. It is not an unreasonable assumption to believe that the burden of Shoreham's carrying costs would have found their way into the deregulated generation market to ultimately be borne by New York electric consumers.

The financial structure and balance sheet of Newco resulting from the sale of LIPA assets or stock, needs to be planned in a manner such that the ability of the Newco to operate as a normal T&D utility is not impaired by ongoing financial pressure, particularly in the early stages of its development.

We believe that the assumed $3.6 billion in liabilities which we advocate to be separated from the privatization of LIPA and placed in a sinking fund, cam be offset partially by LIPA sale proceeds, as well as the proceeds from the sale of any other remaining generating assets on the books of LIPA (e.g. LIPA's ownership interest in Nine Mile Point Nuclear Power Station, Unit 2).

If this is correct the amount of burden to be borne by NY ratepayers will be less than $3.6 billion but in a worst case, if we make the assumption that all $3.6 billion would need to be carried by NY rate payers throughout the state, their estimated burden would be as follows:

LIPA Sinking Fund to be covered by NY Ratepayers	$3,600,000,000
Assumed Interest Rate	3.25%
Term of Amortization	20 years
Annual Service	$ 247,603,982
Divided by:	140,000,000,000 Annual KWH
Requires a per KWH charge on the Tariff of:	$0.00177

If we assume the average delivered price for electricity in NY is approximately $0.155 per KWH, the proposed sinking fund charge in the worst case of 1.8 mills would be approximately 1.14% of the overall cost of delivered electricity at current rates.

The above cited depicts a worst case scenario in the event there is very little from the proceeds of the sale of LIPA to reduce the Shoreham and Early Termination ongoing liabilities. The following chart provides a sense for what the KWH adder to tariffs would be under two scenarios: 1) All New York ratepayers paying for the obligations, and; 2) Only Newco ratepayers paying for the obligations.

Post Sale Shoreham/ET Fund (billions)	20 Year Annual Amortization @ 3.25%	Per KWH Tariff Adder for All NY Ratepayers with 140 Billion KWH Annually	Per KWH Tariff Adder for All Newco Ratepayers with 20.5 Billion KWH Annually
$1.0	$68,778,884	$0.00049	$0.00336
$2.0	$137,557,768	$0.00098	$0.00671
$3.0	$206,336,652	$0.00147	$0.01007
$3.6	$247,603,982	$0.00177	$0.01208
$4.0	$275,115,535	$0.00197	$0.01342
$5.0	$343,894,419	$0.00246	$0.01678

New York should make every effort to structure this transaction in a manner that will reduce the proposed Shoreham/Early Termination sinking fund as rapidly as possible. The initial $3.6 billion liability can be reduced from several sources initially including LIPA sale proceeds and the proceeds from the sale of non-Shoreham generating or other non-T&D assets in the current LIPA portfolio. Additionally the state may want to consider requiring a contribution toward an annual payment earmarked for the further reduction of the sinking fund from the buyer of the LIPA assets or stock. That payment could be listed as a condition of sale and could be stipulated as requiring a payment in an amount of the greater of $30 million or 15% of the annual earnings before tax over a forty or fifty year period, or until the fund is paid in full. Obviously this type of contractual liability would lower the ultimate sales price for LIPA so a careful balance of the pluses and minues of this type of stipulation is warranted.

In this manner, assuming that the Newco will have its T&D rates set by rate based rate of return, the ratepayers on Long Island and Queens will be participating in the reduction of the sinking fund in two ways. First through the sinking fund adder that will be included in every NY rate-payers rates, plus through the allocation of a portion of the earnings before tax from Newco. The resulting tariff from rate based regulation, all other things being equal, would need to be slightly higher for LIPA customers if LIPA earnings are tapped on an annual basis to reduce the sinking fund. This would be a gradual and less harmful approach to having LIPA ratepayers shoulder all of the Shoreham/Early Termination burden and would place less pressure on the financial performance of Newco, allowing it to concentrate on improvements and strengthening of the remaining transmission and distribution infrastructure and operating systems.

There may be other ways to accelerate the retirement of the Shoreham/Early Termination sinking fund through renewable energy credits or additional heretofore unanticipated revenue sources that could materialize in the future. When these programs and policies are developed, incorporating a portion of their revenues into strategies to further reduce the sinking fund more rapidly should be standard operating procedure.

Finally, we believe it is very important that New York regulators carefully evaluate the entity who might buy LIPA. Based on our experience with Investor Owned Utilities who are

headquartered both in-state, or out-of-state, we believe New York should give added weight to any qualified buyer who is located within the state of New York. IOU's who are headquartered within the state where T&D services are being offered generally are easier to regulate and to gain cooperation in the achievement of public policy objectives. In New Jersey we have seen utilities like PSE&G, NJ Natural Gas and South Jersey Gas be much more cooperative and interested in the well being of their franchise territory than utilities who operate here but are headquartered out-of-state. I cannot make a blanket statement that all out-of-state utilities/generators will have less interest in local policy and community relations. For example, PSEG has a stellar reputation for being involved in the City of Bridgeport since its purchase of the Bridgeport Harbor Generating Station on Long Island Sound. All other things being equal however, we believe it would be prudent to evaluate any potential buyer for their reputation in participating in public policy initiatives and community initiatives, particularly in light of the poor experience Long Island electric consumers have experienced historically from LIPA, their contract management and service firms, and LILCO.

Thank you, and if there are any questions, I would be happy to address them now, or by phone or email. I can be reached at ffastiggi@birdsall.com or at (732) 380-1700, extension 1208.

NY AREA

February 27, 2013

The Honorable Carl L. Marcellino
Chairman
New York Senate Investigations and Government Operations Committee
188 State Street Room 811, Legislative Office Building
Albany, NY 12247

Dear Chairman Marcellino:

I am writing on behalf of the New York Affordable Reliable Electricity Alliance (New York AREA), a diverse coalition of New York's leading business organizations, labor unions, independent energy experts, and community and environmental leaders. New York AREA was formed shortly after the 2003 northeast blackout with the mission to advocate for sensible solutions to meet New York's growing demand for reliable and affordable energy.

There is much to learn from Superstorm Sandy and much to do. New York AREA applauds the important work that has been undertaken thus far to review the deficiencies exposed by the storm, and to develop a framework for improving our energy infrastructure in order to better prepare for future challenges. As you know, the damage from Sandy was unprecedented. The New York Independent System Operator reports that approximately 90 transmission lines, representing 13 percent of New York's total in-state generating capacity, were knocked out of service. Yet, most of New York's utilities managed to restore power to the majority of their customers within days of the storm.

We must learn from the mistakes that were made so that we can improve New York's energy infrastructure and ensure that utilities have the best possible flood and electrical outage mitigation systems. Any proposed plan must take into account both function and cost, factoring the effect on New York electric rates, which are among the highest in the nation.

Competitive electric rates are essential for economic recovery and growth in New York. While wholesale electricity prices remain at historic lows, New York consumers continue to pay the fourth highest electricity rates in the nation, due in part to the host of government fees, surcharges, and assessments that pad utility bills. For example, the state-imposed 18-a assessment raises utility rates for New Yorkers by $600 million dollars annually. For too long New York ratepayers, and especially those on Long Island, have been asked to shoulder the costs imposed by poor energy policies.

Improving Long Island's electric infrastructure requires long-term comprehensive planning and protection for ratepayers from further financial burden. Long Island customers deserve high-quality utility service, state of the art energy infrastructure, and relief from nearly three decades of excessively high power bills.

In making recommendations with regard to the future of the Long Island Power Authority (LIPA), New York AREA urges state decision makers to consider the utility's history: the premature shutdown of Long Island's Shoreham nuclear power plant and subsequent Long Island Lighting Co. bailout demonstrate the serious, lasting consequences of losing an important

regional energy and economic generator. Nearly a quarter century later, Long Island ratepayers continue to shoulder a nearly $7 billion debt burden and pay some of the highest electric rates in the nation.

New York's energy future will be determined by the decisions made today. We must build upon the existing components of our energy infrastructure and make critical improvements to transmission and distribution channels in Long Island and the rest of the state in order to ensure the consistent availability of affordable, reliable power in New York.

Enclosed with this letter please find a copy of New York AREA's issue brief, "Shoreham's Continuing High Costs and Impact," which details the economic impacts of the closure of the Shoreham nuclear power plant.

Thank you for your time and attention in this important matter.

Sincerely,

Richard Thomas
Director

Enclosure: "Shoreham's Continuing High Costs and Impact"

Shoreham's Continuing High Costs and Impact

By: Jerry Kremer

On May 19, 1989, New York State and the Long Island Lighting Company (LILCO) cut a deal to not operate the Shoreham Nuclear Plant in Brookhaven, with $5.6 billion of costs passed onto Long Island residents. At that time, LILCO agreed to transfer the plant and certain properties on the site to the Long Island Power Authority (LIPA) which had been formed to close and decommission Shoreham.

These costs have been severe and continue to this day. The lessons that policymakers can learn from Shoreham are profound and merit careful attention today.

The Costs

With Long Island having approximately 2.7 million residents, the $5.6 billion cost, assuming just principal and *no* interest payments, comes to $2,074 for every man, woman, and child living on Long Island. For a family of four this is over $8,000.

Over the years the costs have been significant. For example, a 1996 report by the New York State Comptroller stated that the percent of the electric bill that residential customers paid as a result of Shoreham was 32%. This amounts to $424 for a residential customer, and $3,735 for a commercial customer, in this one year alone.[i]

In addition, the New York State Supreme Court ruled that LILCO had previously excessive property taxes on the Shoreham plant. It was and continues to be common practice for utilities to begin paying tax assessments on plant valuation as if the plant is operational.[ii]

As a result, the Shoreham Tax Settlement Agreement was implemented. This is a formal agreement among LIPA, Suffolk County, Brookhaven Town, the Shoreham/Wading River School District, other Suffolk taxing jurisdictions and Nassau County under which LIPA agreed to reduce these jurisdictions refund obligation by over half, to $620 million. Suffolk ratepayers pay the settlement through a 2.8 percent surcharge on their bills that began June 1, 2003 and will go until December 2029.[iii]

Community Impact

Over the years, Brookhaven and surrounding communities faced significant difficulties in finding adequate funding for school and other community services as a result of Shoreham's closure. The town's tax base has also been hurt because of the loss of what would have been good paying, quality jobs at the plant. This has led to higher taxes than would be otherwise be necessary and curtailments in education spending.

Shoreham Debt and LIPA's Day-to-Day Operations

The large amount of Shoreham debt has likely interfered with LIPA performing many of its functions, or at least made performing those functions much more challenging.

In an August 26, 2009 news release praising legislation Senator Schumer introduced that would have allowed LIPA to refinance its debt, LIPA's then President and CEO, Kevin Law, said, "LIPA was built on a mountain of debt." The release went on to say, "LIPA currently has approximately $7 billion of outstanding debt ... almost half of which is attributable to Shoreham."[iv] 15 percent of every Long Island resident's electric bill goes just to pay for debt service.[v]

Applications to Indian Point

Today, anti-nuclear activists and some politicians are calling for the Indian Point nuclear power plant in Buchanan, New York (Westchester County) to be closed.

The costs and challenges of closing Indian Point would be formidable. For example, while Shoreham could produce 820 megawatts of electricity Indian Point produces 2,069 megawatts, 153 percent more power. A September 2012 study by the Business Council of Westchester found that closing Indian Point would cost Westchester $75 million per year in property taxes and revenue with the state. More than 3,300 jobs in Westchester County alone would be lost and consumers would pay $374 million per year more in added electric bills.[vi]

As New York evaluates its energy future and its response to Superstorm Sandy, it is important, for reasons of cost and reliability, to keep safe, well functioning components of our electricity infrastructure online. This includes Indian Point.

In addition, one cannot help but wonder how much better off Long Island would have been had Shoreham become fully operational, and been producing power today.

About the Author: Arthur "Jerry" Kremer is Chairman of the New York Affordable Reliable Electricity Alliance (New York AREA), is a diverse group of more than 150 business, labor, and community groups whose mission and purpose is to ensure that New York metropolitan area has an ample and reliable electricity supply, and economic prosperity for years to come. For 23 years Mr. Kremer served in the New York Assembly, including as Chairman of the Ways & Means Committee. He was also the principal author of the state's power plant siting law. Mr. Kremer also formerly served as LIPA's counsel on contract compliance issues.

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[i] State of New York, Office of the State Comptroller, Division of Management Audit, Staff Study: Disposition of the Shoreham Nuclear Power Plant, Report 95-D-38, p. 9, http://www.osc.state.ny.us/audits/audits/9596/95d38.pdf .
[ii] "Shoreham," Long Island Power Authority Website, Frequently Asked Questions, http://www.lipower.org/residential/custserv/faq/faq-shoreham.html .
[iii] Ibid.
[iv] LIPA news release, August 26, 2009, http://www.lipower.org/newscenter/pr/2009/082609-debt.html .
[v] Ibid.
[vi] Dr. Howard Axelrod, Energy Strategies, Inc., "An Assessment of Energy Needs in Westchester County." Study prepared for the Business Council of Westchester and Westchester Business Alliance, September 7, 2012, http://www.westchesterny.org/downloads/Energy%20Needs%20Assessment%20Final%20version.pdf .