LONG ISLAND POWER AUTHORITY

MINUTES OF THE 245th MEETING

HELD ON NOVEMBER 26, 2013

The Long Island Power Authority (the “Authority”) was convened for the two-hundred-and-forty fifth time at 11:00 a.m. at LIPA’s Headquarters, Uniondale, NY, pursuant to legal notice given on November 21, 2013; and electronic notice posted on the Authority’s website.

The following Trustees of the Authority were present:

Lawrence Waldman, Chair
Laurence Belinsky
Matthew Cordaro
John Fabio
Jeffrey Greenfield
Neal Lewis
Michael Maturo
Susan Gordon Ryan
Suzette Smookler
Peter Tully, Vice Chair

Representing the Authority were John McMahon, Chief Operating Officer; Michael Taunton, Chief Financial Officer; Lynda Nicolino, General Counsel and Secretary; Kenneth Kane, Vice President - Finance; Paul DeCotis, Vice President - Power Markets and Michael Deering, Vice President - Environmental Affairs and Nicholas Lizanich, Vice President of Transmission & Distribution Operations.

The Chair called for a motion to enter into Executive Session to discuss the status of negotiations related to the settlement of pension and other employee benefits with National Grid under the LILCO Agreement and Plan of Merger.

1191. EXECUTIVE SESSION - PURSUANT TO SECTION 105 OF THE PUBLIC OFFICERS LAW

RESOLVED, that pursuant to Section 105 of the Public Officers Law, the Trustees of the
Long Island Power Authority shall convene in Executive Session for the purpose of discussing confidential contract negotiation issues.

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At approximately 11:06 a.m. the Board of Trustees adjourned into Executive Session, which ended at 11:28 p.m.

After noting that no votes were taken in the Executive Session, the Public Meeting of the Board of Trustees of the Long Island Power Authority reconvened.

Chairman Waldman welcomed everyone to the 245th meeting of the Long Island Power Authority Board of Trustees and led the Pledge of Allegiance.

Chairman Waldman called for a motion to accept the minutes of the October 3, 2013 meeting of the Board of Trustees, which was seconded. He asked if there were any changes or deletions. Upon hearing none, the resolution was then adopted by the Trustees.

Upon motion duly made and seconded, the following motion was approved:

1192. APPROVAL OF MINUTES AND RATIFICATION OF ACTIONS TAKEN AT THE OCTOBER 3, 2012 MEETING OF THE BOARD OF TRUSTEES OF THE LONG ISLAND POWER AUTHORITY

RESOLVED, that the Minutes of the meeting of the Authority held on October 3, 2013 are hereby approved and all actions taken by the Trustees present at such meeting, as set forth in such Minutes, are hereby in all respects ratified and approved as actions of the Authority.

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Chairman Waldman then remarked on the following items:

- The priorities of the board after Hurricane Sandy;
- The LIPA Reform Act;
- The board’s work in facilitating transition to PSEG LI as service provider on 1/1/14;
- Passing the 2014 operating budget and the 2014 and 2015 capital budgets;
- The Moreland Commission’s (the “Commission”) final report and the appointment of
a Special Committee of the Board of Trustees to address the Commission’s findings;

- The Special Committee's actions related to addressing the Commission’s findings;
- The actions of the internal audit department with respect to Navigant consulting services; and
- PSEG LI’s preparation for a successful transition.

Chairman Waldman then turned the meeting over to Mr. McMahon for the COO’s Report.

Mr. McMahon reported on the following items:

- LIPA’s performance and customer satisfaction;
- Tree trimming targets;
- Operation and ownership of the Nine Mile Point 2 nuclear unit; and
- December energy adjustment relating to customer bills.

The Chair stated that the next item on the agenda is the Financial Report, to be presented by Mr. Taunton.

Mr. Taunton then presented the Financial Report, which included the financial results through October 31, 2013.

Mr. Taunton concluded his report and took questions from the Trustees.

The Chair stated that the next item on the agenda is the approval of LIPA’s 2014 Operating Budget and 2014/2015 Capital Budgets.

After requesting a motion on the matter, which was seconded, the Chair indicated that the matter would be presented by Mr. Taunton.

Mr. Taunton presented the following action item:
Requested Action

The Trustees are being requested to adopt a resolution approving the proposed 2014 Operating Budget and the proposed 2014 and 2015 Capital Budgets (“Budgets”) for the Long Island Power Authority and its subsidiary, LIPA (collectively “LIPA”). These Budgets present revenue forecasts and planned operating expenditures for 2014 and capital expenditures for 2014 and 2015, including the operating budget submitted by PSEG LI under the Amended and Restated Operations Services Agreement.

Background

The proposed 2014 Operating Budget and proposed 2014 and 2015 Capital Budgets set forth the revenue as well as operating and capital expenditure forecasts for the respective years ending December 31. The Budgets incorporate operating and capital budgets developed by PSEG LI for the operation and maintenance of the transmission and distribution system, customer services, and energy efficiency and renewable energy programs which are predicated on improving storm response and restoration, customer satisfaction, and reliability and storm hardening. The PSEG LI efficiency and renewable energy budget reflects a decrease in spending for 2014, incorporating reductions in rebates levels due to market maturation while targeting similar peak load reductions achieved in 2013 of approximately 60 MWs. The Budget also reflects federal and state funding to provide for investments in hazard mitigation, hardening of critical assets and other storm restoration management systems.

The Trustees are also being asked to adopt three ratemaking principles in the proposed budget. The first request is to extend the period of amortization starting in 2014 from 10 to 12 years, consistent with the term of the Amended and Restated OSA, of the regulatory asset for certain non-internal costs associated with the transition to the new business model that was originally created by the Trustees on December 15, 2011. Second, to create a regulatory asset and subsequent amortization over an 11-year period starting in 2015, for certain non-internal costs associated with the transition of power supply management and fuel management during 2014 to PSEG LI, or an affiliate. Finally, to establish a regulatory liability for federal funds expected to be received in 2014 to assist with payment of non-FEMA reimbursed costs of Superstorm Sandy and to amortize it to Grant Income over two years (2014-15) in order to maintain rate stability.

With respect to assumptions in the budget, electric sales are forecast at 20,258 GWh, which represents a decrease of 1.0% versus the budgeted sales level for 2013 and 0.4% higher than the 2013 projected full-year sales, adjusted for normal weather.

Revenues, which are principally derived from retail sales of electricity to residential, commercial and industrial customers, are forecasted at $3.526 billion, or 2.0% lower than the approved level for 2013. The decrease primarily reflects lower budgeted costs of fuel and purchased power, primarily due to the expiration of the amortization of 2003 deferred fuel costs, lower revenue-based PILOTs. The impact of such lower operations and maintenance expenses will reflect the higher costs related to services to be provided by LIPA’s new primary services provider, PSEG LI, higher property-based PILOTs, higher
interest expenses, investment in disaster recovery resources, hazard mitigation and hardening of critical assets. However, the impact of lower revenue and higher expenses will be mitigated by higher grant income resulting from increased federal and state assistance.

In summary, the proposed budget is consistent with the goal articulated in connection with the LIPA Reform Act, to freeze delivery rates while transitioning to a new service provider, and is committed to improving customer service and storm restoration while maintaining reliability. This has been accomplished through additional federal and state funding as well as budget discipline.

The Executive Summary to the proposed 2014 Operating Budget, and the proposed 2014 and 2015 Capital Budgets (attached hereto) provides an overview of LIPA’s proposed operating and financing costs for 2014.

Capital and deferred expenditures for 2014 are projected to decrease by 2.3% from the budgeted 2013 level. The decrease is primarily due to the expiration of costs of transitioning to LIPA’s new operating business model, and LIPA’s share of refueling costs for the Nine Mile Point 2 nuclear generating station, partially offset by expenditures for the Caithness expansion and N-1-1 reliability projects.

Four-year projections of revenues and expenses, and sources and uses of cash are presented to give the reader an indication of LIPA’s longer-term financial position. The information contained herein is based on assumptions, particularly with respect to fuel and purchased power commodity costs, which may or may not occur. Therefore, actual results may differ from those presented herein.

Although not required, LIPA conducted two public comment sessions, one each in Nassau and Suffolk Counties, on November 14. Both sessions were sparsely-attended, with nine people in total having commented during the sessions. Comments pertained primarily to the proposed efficiency and renewables budget.

Further, as required by regulations issued by the State Comptroller in 2006 (2 NYCRR Part 203), attached hereto is a certification signed by, John D. McMahon, Chief Operating Officer, who has assumed the responsibilities of the President and CEO, certifying that to the best of his knowledge and belief after reasonable inquiry, the budget information and financial projections for the years ending December 31, 2014 through December 31, 2017, attached hereto, have been developed based upon reasonable assumptions and methods of estimation and that the requirements of such regulations have been satisfied.

Mr. Taunton noted that the Finance and Audit Committee of the Board has passed a resolution both approving the 2014 Operating Budget and recommending the 2014 Operating Budget and the 2014 and 2015 Capital Budgets for approval.
Recommendation

Based upon the foregoing, Mr. Taunton recommended approval of the above requested action by adoption of a resolution in the form of the draft resolution attached hereto.

After a discussion by the Trustees and the opportunity for the public to be heard, the following resolution was adopted with Trustees Lewis and Cordaro opposed.


WHEREAS, the Long Island Power Authority (“Authority”), through its wholly owned subsidiary, LIPA, owns and operates the electric transmission and distribution system (“T&D System”) serving the counties of Nassau and Suffolk and a small portion of the County of Queens known as the Rockaways; and

WHEREAS, the Board of Trustees is required to approve annual budgets for the operation and maintenance of the T&D System and for capital improvements; and

WHEREAS, the Authority released its proposed 2014 Operating Budget and proposed 2014 and 2015 Capital Budgets on November 12, 2013; and

WHEREAS, the proposed budget incorporates operating and capital budgets developed by PSEG LI for the operation and maintenance of the transmission and distribution system, customer services, business services and energy efficiency and renewable energy programs which are predicated on improving storm response and restoration, customer satisfaction, and reliability and storm hardening; and

WHEREAS, the proposed budget contains no change to the current Delivery Charge, consistent with the goal articulated in connection with the LIPA Reform Act; and

WHEREAS, the Finance and Audit Committee of the Board has passed a resolution both approving the 2014 Operating Budget and recommending the 2014 Operating Budget and the 2014 and 2015 Capital Budgets for approval:

NOW, THEREFORE, BE IT RESOLVED, that consistent with the accompanying memorandum, the proposed 2014 Operating Budget and the proposed 2014 and 2015 Capital Budgets, all of which are attached hereto, are hereby approved; and

BE IT FURTHER RESOLVED, that the Authority incorporate into rates through straight-line amortization over a twelve-year period beginning in 2014, the regulatory asset for certain non-internal costs associated with the transition to the new business model; and

BE IT FURTHER RESOLVED, that the Authority establish a regulatory asset and subsequent amortization over an eleven-year period starting in 2015, for certain non-
internal costs associated with the transition of power supply management and fuel management during 2014 to PSEG LI, or an affiliate; and

BE IT FURTHER RESOLVED, that the Authority establish a regulatory liability for federal funds expected to be received in 2014 to assist with payment of non-FEMA reimbursed costs of Superstorm Sandy and to amortize it to Grant Income over two years (2014-15) in order to maintain rate stability; and

BE IT FURTHER RESOLVED, that the Authority intends to finance the requirements of the 2014 and 2015 Capital Budgets, as adjusted from time to time, through a combination of internally-generated funds and the issuance of tax-exempt or taxable debt of the Authority and authorizes the officers of the Authority to evidence such intent by appropriate certifications.

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The Chair stated that the next item on the agenda is the Consideration of Authorization to Enter into Settlement Agreement and Release with National Grid Related to Employee Benefit Plan Issues.

After requesting a motion on the matter, which was seconded, the Chair indicated that the matter would be presented by Ms. Nicolino.

Ms. Nicolino presented the following action item:

Requested Action

The Trustees are being requested to adopt a resolution authorizing the Chief Operating Officer or his designee to negotiate and execute a settlement agreement and release with National Grid related to employee benefit plan costs associated with the expiration of the Management Services Agreement (“MSA”) and the Long Island Power Authority’s (“LIPA”) transition to a new business model, as more fully set forth below.

Background

Schedule E (“Schedule E”) to the Agreement and Plan of Merger dated as of June 26, 1997 (the “Merger Agreement”) between LIPA and KeySpan Corp. (now National Grid) was intended to set forth the respective rights and obligations of KeySpan Corp. and LIPA with respect to employee benefit plan funding obligations and liabilities for employees serving LIPA’s transmission and distribution system (the “LIPA Serving Employees”). Pursuant to Schedule E, it is clear that LIPA is at a minimum responsible for (and LIPA has been paying) the cost of annual funding for employee benefit plan (primarily pension plan) liabilities for LIPA Serving Employees, as well as retirement plan benefit obligations
“OPEB”) for those employees and for retirees of the Long Island Lighting Company dedicated to the electric side of the business (the “LIPA Retirees”).

Schedule E further contemplates that at the end of the MSA between LIPA and National Grid, the successor service provider would assume the benefit plan funding obligations for LIPA Serving Employees and LIPA Retirees, and that LIPA would be secondarily liable for these obligations. In this connection, Schedule E appears to further contemplate that the National Grid employee benefit plan assets and liabilities attributable to LIPA Serving Employees and LIPA Retirees would be separated and “spun off” to new plans established by the successor service provider.

Given the new business model and the fact that during the procurement process for a successor service provider all three proposers expressed their unwillingness to assume these benefit plan assets and liabilities, the Operations Services Agreement (the “OSA”) with PSEG-LI provides for (i) PSEG-LI to establish new, substantially similar plans for LIPA Serving Employees transferred to it by National Grid and (ii) LIPA to assume and pay the related funding obligations as a pass-through expenditure. Adding to the complexity of the situation, it is not clear from Schedule E whether under these circumstances, at the expiration of the MSA, LIPA would be obligated to fund any underfunded portion of the benefit plans attributable to LIPA Serving Employees and LIPA Retirees, or if National Grid remains responsible for funding this obligation.

Separately, in connection with the 2006 amendment and restatement of the MSA, LIPA and National Grid entered into a Letter Agreement dated January 1, 2006 relating to Schedule E (the “2006 Letter Agreement”). The 2006 Letter Agreement deals, in part, with employee benefit contributions for LIPA Serving Employees that National Grid had funded (and might fund in the future) in excess of the required ERISA minimum funding obligation (the “Discretionary Funding Amounts.”) In the 2006 Letter Agreement, the parties agreed that unless LIPA objected, National Grid could make additional Discretionary Funding Amounts if it were tax effective. In the event National Grid were to do so, LIPA agreed to pay National Grid a carrying charge, effectively an interest rate, on those amounts, calculated as provided in the 2006 Letter Agreement.

National Grid has from time to time invoiced LIPA for the net carrying costs for the Discretionary Funding Amount since the parties entered into the 2006 Letter Agreement and LIPA has reimbursed Grid for these amounts. Both the 2006 Letter Agreement and Schedule E are entirely silent, however, as to whether LIPA has the obligation to reimburse National Grid for the Discretionary Funding Amount itself.

In our many discussions with National Grid on this issue over the past few years (and particularly since the OSA was signed), National Grid has made clear its position that pursuant to Schedule E, LIPA is responsible both for (i) the underfunded employee benefit plan obligations attributable to LIPA Serving Employees and LIPA Retirees and (ii) the Discretionary Funding Amounts National Grid has contributed to the pension plan on LIPA’s behalf pursuant to the 2006 Letter Agreement.
Given the uncertainty associated with the language and intent of Schedule E and the 2006 Letter Agreement, we have had Morgan, Lewis & Bockius LLP, LIPA’s outside counsel, provide a legal analysis and their views of LIPA’s obligations thereunder. We have also engaged a consulting actuary firm to perform an analysis of the plan assets and liabilities attributable to LIPA Serving Employees and LIPA Retirees and the amounts by which the pension and OPEB plans may be underfunded.

Based on outside counsel’s view of LIPA’s potential liability and our prospects of success should this dispute be submitted to arbitration, management over the past year has been meeting with National Grid, its counsel and actuaries in an effort to see if this dispute can be resolved. We have now reached an agreement in principle with National Grid, subject to Board approval and execution of definitive settlement documentation, to settle and resolve the Schedule E and Letter Agreement issues.

The liability associated with Schedule E and the 2006 Letter Agreement, which is in part subject to market fluctuations, has varied greatly over the years, and as of March 31, 2012, was in the mid-$400 millions. As of September 30, 2013, however, given current market conditions, National Grid believes the total amount due is now slightly less than $400M, including pension and OPEB plan underfunding, Discretionary Funding Amounts made on LIPA’s behalf under the 2006 Letter Agreement, plus accrued and unpaid carrying costs.

Based on LIPA’s consultants’ review of the potential liability and in order to avoid the cost and uncertainty of a potentially lengthy arbitration, LIPA and National Grid have reached an agreement in principle whereby LIPA has agreed to convey value to National Grid of approximately $263.5M by:

- Relieving National Grid of its payment obligations related to legacy NYSERDA financing notes that were issued prior to the LILCO/LIPA merger, which is currently valued at $172M; and
- Making a cash payment of $91.5M to National Grid from LIPA’s revolving credit facility, of which LIPA has previously accrued $33M.

LIPA intends to refinance the NYSERDA notes and the credit facility borrowing with bonds to be issued under the upcoming securitization financing, which we anticipate would result in a net present value savings to LIPA customers of approximately $10M.

LIPA and National Grid would enter into a settlement agreement embodying these terms and releasing, discharging and relieving LIPA from any further liability or obligation with respect to past or future employee benefit plan and OPEB funding obligations for LIPA Serving Employees and LIPA Retirees under the National Grid plans. These liabilities and obligations would remain with, and would be paid by, National Grid. Accordingly, by settling the pension and OPEB funding matter, LIPA will be relieved of future risk of plan asset valuation, changes in actuarial assumptions, retiree benefit costs and the like under the National Grid plans. LIPA would continue to be obligated to fund future employee benefit plan costs going forward under the new plans established by PSEG-LI under the OSA.
I note that the Finance and Audit Committee has been advised by Staff and LIPA’s outside counsel during the discussions and negotiations with National Grid, and believes this proposed settlement is reasonable and appropriate to resolve these legacy issues.

Recommendation

Based on the foregoing, Ms. Nicolino recommended approval of the above-requested actions by adoption of a resolution in the form of the attached draft resolution.

After a discussion by the Trustees and the opportunity for the public to be heard, the following resolution was unanimously adopted by the Trustees:

1194. AUTHORIZATION TO NEGOTIATE AND EXECUTE SETTLEMENT AGREEMENT AND RELEASE WITH NATIONAL GRID RELATED TO EMPLOYEE BENEFIT PLAN ISSUES

WHEREAS, the Long Island Power Authority (“LIPA”) and National Grid have been discussing certain employee benefit plan cost obligations associated with the expiration of the Management Services Agreement and LIPA’s transition to a new business model; and

WHEREAS, LIPA has engaged legal and actuarial consultants to review and provide advice on this matter; and

WHEREAS, based on such advice, LIPA has negotiated an agreement in principle for the settlement of the matter without the need for arbitration; and

WHEREAS, for the reasons set forth in the preceding Memorandum, settling the matter is in the best interests of LIPA and its customers:

NOW, THEREFORE, BE IT RESOLVED, that the Chief Operating Officer (“COO”), or his designee, be and hereby is authorized to negotiate and execute a definitive settlement agreement and release, consistent with the terms and conditions of the agreement in principle presented at this meeting, and other related agreements and arrangements, and to perform such further acts and deeds as may be necessary, convenient or appropriate, in the judgment of the COO, to carry out the aforesaid agreements.

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The Chair stated that the next item on the agenda is Consideration of Approval of Revisions to Governance Committee Charter.

After requesting a motion on the matter, which was seconded, the Chair indicated that the matter would be presented by Ms. Nicolino.
Ms. Nicolino presented the following action item:

**Requested Action**

The Trustees are being requested to adopt a revised Long Island Power Authority (the "Authority") Governance Committee Charter in the form attached hereto.

**Background**

The Governance Committee Charter (the “Charter”) establishes, among other things, the purpose, powers, composition and key responsibilities of the Governance Committee (the “Committee”). Pursuant to the newly enacted LIPA Reform Act (Chapter 173 of the Laws of 2013), the Committee is required, by no later than January 1, 2014, to amend the Authority’s guidelines to ensure that staffing is kept at levels only necessary to enable the Authority to meet its obligations with respect to its bonds and notes, applicable laws and contracts, and to oversee the activities of the service provider.

Accordingly, the proposed revision to the Charter consists of adding to the Committee’s responsibilities the obligation to periodically review staffing levels at the Authority for consistency with the LIPA Reform Act.

Ms. Nicolino noted that the Committee believes that the proposed revised Charter is in all respects reasonable and appropriate and has adopted a resolution recommending approval of the Charter by the Trustees at this time.

**Recommendation**

Based upon the foregoing, Ms. Nicolino recommended approval of the above-requested action by adoption of a resolution in the form of the draft resolution attached hereto.

*After a discussion by the Trustees and the opportunity for the public to be heard, the following resolution was unanimously adopted by the Trustees:*

1195. APPROVAL OF REVISED LONG ISLAND POWER AUTHORITY GOVERNANCE COMMITTEE CHARTER

WHEREAS, the Trustees adopted a Governance Committee Charter (“Charter”) on June 26, 2008, as amended, with respect to the purpose, powers, composition and key responsibilities of the Governance Committee (the “Committee”); and

WHEREAS, consistent with the accompanying memorandum, it is proposed that the Charter be revised to incorporate the requirements under the LIPA Reform Act (Chapter 173 of the Laws of 2013); and

WHEREAS, the Committee has reviewed the Charter and believes that the proposed changes are reasonable and appropriate:
NOW, THEREFORE, BE IT RESOLVED, that the Trustees hereby adopt the “Long Island Power Authority Governance Committee Charter (November 26, 2013)” in the form presented at this meeting.

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The Chair stated that the next item on the agenda is Consideration of Approval of Appointment of Interim Chief Financial Officer.

After requesting a motion on the matter, which was seconded, the Chair indicated that the matter would be presented by Mr. McMahon.

Mr. McMahon presented the action item, which after a discussion by the Trustees and the opportunity for the public to be heard, the following resolution was unanimously adopted by the Trustees:

1196. APPOINTMENT OF INTERIM CHIEF FINANCIAL OFFICER

RESOLVED, that Ken Kane be, and hereby is, appointed Interim Chief Financial Officer, effective on January 1, 2014 until the earlier of his resignation or removal; and be it further

RESOLVED, that the incumbent of the position of Interim Financial Officer shall be an officer of the Long Island Power Authority (“Authority”) and its subsidiary, LIPA, within the meaning of the Authority’s enabling legislation (Chapter 517 of the Laws of 1986), as amended, including Section 1020-bb of the Public Authorities Law, and all other applicable laws.

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Next, the Chair made closing remarks related to the Authority’s accomplishments during his tenure on the Board; announced his resignation effective November 30th; thanked staff and the Trustees for their hard work, and presented honorary service plaques to the Trustees.

The Chair then allowed public comment to be heard, after which a motion to adjourn was made and seconded.

At approximately 1:43 p.m. the Open Session of the Board of Trustees was adjourned.
Respectfully submitted,

Lynda Nicolino