

**LONG ISLAND POWER AUTHORITY  
MINUTES OF THE 158th MEETING  
HELD ON DECEMBER 4, 2003**

**Pursuant to notice dated November 26, 2003, the Long Island Power Authority (the "Authority") was convened for the one hundred and fifty-eighth time at 10:00 AM at the Omni Teleconference Center in Uniondale, NY.**

**The following Trustees of the Authority were present:**

**Richard M. Kessel, Chairman  
Patrick Foye, Deputy Chairman  
Howard Steinberg, Deputy Chairman  
Michael Affrunti  
Harvey Auerbach  
John Fabio  
Harriet Gilliam  
James Herrmann  
Robert Maimoni  
Nancy Nugent  
Vincent Polimeni  
Jonathan Sinnreich**

**Also representing the Authority were Stanley Klimberg, General Counsel, Edward Grilli, Chief of Staff, Seth Hulkower, Chief Operating Officer, Elizabeth McCarthy, Chief Financial Officer, Edward P. Murphy, Jr., Chief Administrative Officer, Richard Bolbrock, Vice President – Power Markets, Bert Cunningham,**

**Vice President – Communications, Bruce Germano, Vice President – Retail Services, Kenneth Kane, Controller, and Kathleen Stella, Secretary to the Board of Trustees.**

**Upon determining that a quorum was present, Chairman Kessel called the meeting to order.**

**Chairman Kessel indicated that the first item on the agenda is the adoption of the minutes of the September 25, 2003 Board meeting.**

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

**661. APPROVAL OF MINUTES AND RATIFICATION OF ACTIONS TAKEN AT THE SEPTEMBER 25, 2003 MEETING OF THE BOARD OF TRUSTEES OF THE LONG ISLAND POWER AUTHORITY**

---

**RESOLVED, that the Minutes of the meeting of the Authority held on September 25, 2003 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.**

**\* \* \***

**Chairman Kessel stated that the November Board meeting was canceled because of a severe wind storm. The Chairman continued that the storm was the second worst for LIPA, after Tropical Storm Floyd which hit Long Island in 1999. He added that LIPA experienced 72,000 outages due to the storm, which had wind gusts in excess of 60 miles per hour.**

**Chairman Kessel indicated that in mid-August LIPA experienced the now infamous blackout, which also impacted the entire Northeast, parts of Canada and the Midwest. The Chairman further indicated that in mid-September Long Island was brushed by Hurricane Isabel, which caused 60,000 outages. He added that LIPA also experienced storms in October and November.**

**Chairman Kessel stated that LIPA has done an extraordinary job in keeping the number of outages down, and in restoring service in record time. The Chairman indicated that the lower number of outages and quick restoration are attributable to the investment in the transmission and distribution system, and the extraordinary work of LIPA's employees. He further indicated that the performance of the system has been outstanding.**

**Chairman Kessel expressed appreciation for the extraordinary work by the LIPA and KeySpan employees in restoring service. The Chairman further stated that more than 70 percent of the outages from the wind storm in November were restored in less than four hours, with an average restoration time of approximately 120 minutes. He added that the average restoration time during normal weather is approximately 64 minutes.**

**Chairman Kessel stated that the employees continue to perform extraordinary work for LIPA often in horrible working conditions. The Chairman continued that they are very much appreciated by LIPA. He thanked Mr. Ranghelli, Ms. Redmond, Ms. DeMaio and the LIPA and KeySpan employees for**

their terrific work. Chairman Kessel further thanked Mr. Cunningham, Mr. Davidson, Mr. Frigeria and the LIPA and KeySpan executives for their great work.

Chairman Kessel stated that LIPA is working diligently on a budget for 2004. The Chairman further stated that budget hearings will be held in January, and the budget is anticipated to be on the agenda for the Board's January meeting. He indicated that the budget is extremely complicated.

Chairman Kessel stated that LIPA anticipates it will reach its target of a net income of \$20 million. The Chairman continued that LIPA has that target each year, and LIPA faces extraordinary financial pressure from the cost of fuel and purchased power.

Chairman Kessel indicated that the cost of fuel is expected to be high in 2004, and possibly 2005. The Chairman continued that in 2004 LIPA will implement the change in the fuel surcharge to a real-time recovery of fuel costs. He added that LIPA deferred approximately \$70 million of fuel costs from 2003 for recovery entirely in 2004, which will create an extremely tight budget for 2004.

Chairman Kessel stated that there will be an increase in the surcharge on LIPA's electric bill. The Chairman further stated that LIPA will attempt to keep the increase as low as possible, and extraordinary budget cuts and decisions that can impact LIPA and its customers will be necessary. He indicated that budget cuts and adjustments in an amount of approximately \$150 million will be required.

Chairman Kessel stated that LIPA expects to have a double-digit increase in fuel costs from 2003 to 2004. The Chairman continued that he has instructed Ms. McCarthy and LIPA's budget staff to prepare a list of options as to how LIPA can offset these cost increases. He indicated that despite the budget cuts, he wishes to protect the safety and integrity of the work force and service reliability.

Chairman Kessel stated that the Board may have some difficult decisions to make. The Chairman continued that LIPA has asked KeySpan to help find ways to cut costs. He added that KeySpan has been extraordinarily cooperative in recognizing and dealing with the problem.

Chairman Kessel indicated that the budget situation will be better in 2005, due to the \$70 million deferral being completed. The Chairman stated that certain programs may be discontinued or postponed for a year to deal with the budget issue. He further stated that LIPA recognizes it must make sacrifices.

Chairman Kessel indicated that the Board will be presented with not only a one-year budget but, for the first time, with a five-year budget plan. The Chairman further indicated that the five-year budget plan will allow for better long-term financial planning. He added that each year LIPA will adopt a budget and a five-year plan.

Chairman Kessel stated that the Board should review the five-year plan, since the Board members have varied backgrounds and can propose various changes. The Chairman indicated that at this time next year, LIPA will have the

benefit of the experience in 2004 when planning the budget. He further indicated that Ms. McCarthy will have a year of experience as LIPA's CFO, and will not be at the disadvantage of entering during the middle of the process.

Chairman Kessel requested that Mr. Hulkower deliver the Operations Report.

With respect to sales and marketing and revenue growth and retention, Mr. Hulkower reported that LIPA anticipates 40 MW of load will be added by year end, against a 36.65 MW target. He continued that revenues will also be higher. He indicated that the Dusk to Dawn Lighting program has not met its target, but LIPA has finally been able to approve changes to the program that will allow for active marketing efforts.

Mr. Hulkower reported that LIPA's Clean Energy and Peak Reduction Initiative met its goal, with the most significant element being commercial construction. He indicated that LIPA's arrears in revenue collection are approximately \$75 million higher, with the greatest problem being the 30-day arrears. He further indicated that the greater arrears are driven by commercial customers, and LIPA will focus on reducing the arrears in the coming months.

Mr. Hulkower reported that approximately 97 percent of the 2003 target mileage for tree trimming has already been completed. He further reported that a number of circuits in eastern Nassau County will require additional work.

Mr. Hulkower reported that LIPA's overall reliability statistics have improved from last year. He continued that there has been an improving trend, due to LIPA's concentration on fundamentals. He indicated that LIPA's CAIDI has improved to approximately 64 minutes for the average interruption, which is terrific due to the delays in dispatching vehicles and traveling to the scene to make repairs. He further indicated that these numbers may be further reduced with the addition of greater automation in the field.

Deputy Chairman Steinberg asked how the statistics are accumulated. Mr. Hulkower answered that the system is automated, which is more accurate than recording the information by hand.

Mr. Hulkower reported that LIPA had only 951,000 customer interruptions through October 2003, as opposed to 1,068,000 customer interruptions for the same period in 2002. He indicated that LIPA reduced transmission and substation interruptions by 15 percent, and distribution outages were reduced by 10.5 percent. He added that the level of transmission interruptions is comparable to LIPA's five-year low.

Mr. Hulkower indicated that LIPA is also working on reducing distribution outages, with a focus on repairing LIPA's aging exit cables and underground cables. He stated that LIPA remains first in the New York State in CAIDI through September, and LIPA's statistics improved, while most other utilities showed a degraded performance. He further stated that LIPA is in third place regarding its SAIFI statistics, and LIPA has been gaining on both Niagara Mohawk and

Rochester Electric and Gas. He added that weather has been a major factor concerning these statistics.

Chairman Kessel thanked Mr. Hulkower and Mr. Hervey for their great work to make the system more reliable.

Chairman Kessel stated that the next item on the agenda is the Financial Report, to be delivered by Ms. McCarthy.

Ms. McCarthy reported that for the ten-month period ended October 2003, LIPA had a net income of \$23 million, which is slightly less than planned. She indicated that LIPA's revenues have run approximately one percent above plan due to strong residential growth, but have been offset by weaker commercial and industrial sales.

Ms. McCarthy reported that fuel costs continue to be a challenge and have remained high. She continued that fuel cost deferrals are in the \$300 million range. She indicated that LIPA will recover the deferred amount over the next ten years through its fuel and purchased power clause. She indicated the O & M costs are also higher than planned, due to the costs for temporary generation this past summer.

Ms. McCarthy reported that as of October 21, 2003, LIPA had \$570 million cash on hand, which is \$220 million higher than LIPA's rate stabilization fund. She continued that the cash is invested primarily in commercial paper and held

for a relatively short term. She added that this positions LIPA for debt service requirements in the late fourth quarter of 2003.

Deputy Chairman Steinberg asked what is the status of the audit discussions with KeySpan. Chairman Kessel responded that a draft audit has been sent to KeySpan, and LIPA is awaiting KeySpan's response.

Chairman Kessel stated that Governor Pataki has issued an Executive Order related to procurement and outside contacts. The Chairman further stated that the Executive Order addresses contacts with LIPA by those who seek to influence the procurement of contracts. He requested that Mr. Klimberg provide an overview of the Executive Order.

Mr. Klimberg stated that Governor Pataki recently issued Executive Order No. 127, which increases the disclosure requirements regarding persons and organizations that contact State government in connection with procurements, real estate transactions and public works. He continued that information regarding such contacts is to be available to the public upon request. He indicated that the purpose of the Executive Order is to further enhance the strength and integrity of the State's procurement process and to maintain public confidence in that process.

Mr. Klimberg stated that there are three principal elements required by the Executive Order: first, disclosure by contractors of persons or organizations designated, retained or employed to attempt to influence the procurement

process; second, recording by covered entities, including LIPA, of the identity of such persons and others who attempt to influence the procurement process; and third, determinations by covered entities whether potential contractors have previously failed to comply with the requirements of the Executive Order. He continued that with very limited exceptions these requirements apply to procurement contracts with an annual estimated value of more than \$15,000, real estate transactions and public works projects, as well as amendments to the contracts or arrangements. He added that the Executive Order's requirements commence as soon as LIPA makes an initial decision to proceed with a procurement, real estate transaction or public works project, and it continues through the process of contract award.

Mr. Klimberg stated that the Executive Order applies to all forms of contact with LIPA. He continued that although the Executive Order requires only the recording of contacts from those persons or organizations not previously disclosed who attempt to influence the procurement process, LIPA trustees and staff should record all contacts that are perceived to be attempts to influence the procurement process. He added that this includes contacts by civic organizations or trade associations, where such parties are acting independently to serve their own interests.

Mr. Klimberg stated that the Executive Order applies to solicitations commenced after the effective date of August 14, 2003. He indicated that in view of the significance of LIPA's generation and transmission RFP and the wind RFP, LIPA is treating those procurements as though they were subject to the Executive

**Order. He noted that all of LIPA's RFPs include a requirement that the proposers not contact LIPA Board members, staff or consultants during the pendency of the RFP, and a provision that any such contact is grounds for disqualification.**

**Mr. Klimberg stated that to facilitate LIPA's compliance with the Executive Order, LIPA will notify the trustees and staff whenever a new procurement has been initiated and whether there are any specific prohibitions in those procurements on contacts with LIPA trustees and staff. He indicated that a form has been provided to record any contacts by potential and existing contractors and their representatives intended to influence LIPA procurement decisions.**

**Deputy Chairman Foye asked whether the Executive Order applies to significant contacts outside the context of an RFP. Mr. Klimberg answered that the Executive Order applies to all procurements and is not limited to procurements initiated through the issuance of an RFP.**

**Chairman Kessel stated that the Executive Order applies equally to a contractor as it does to a civic or environmental group that is not involved in the RFP process, but which may want to influence the process. He added that LIPA receives a multitude of contacts from civic or environmental groups.**

**Chairman Kessel asked whether the Executive Order applies to contacts made by a group that do not point to a particular contractor, but argue for a particular technology or approach relative to the subject of an RFP. Mr. Klimberg indicated that he would review this issue. Trustee Fabio stated that the Executive**

Order seems to be directed to contacts concerning specific procurements in terms of expenditures, as opposed to contacts expressing a particular philosophy or concern.

Chairman Kessel indicated that it is possible an environmental group may not know what procurements may exist, but the group may impact the process.

Mr. Klimberg stated that LIPA should err on the side of recording contacts. He indicated that the information will simply be compiled and available to the public, so there is no harm in noting when a contact is received.

Trustee Nugent asked what the importance of the disclosure was in the case of a civic association having no financial interest in the procurement. Mr. Klimberg responded that it is important that the public be aware of these kinds of contacts and the disclosure has a salutary effect.

Trustee Nugent asked what the penalty is for non-disclosure. Mr. Klimberg responded that the potential penalty for a contractor's failure to comply with the Executive Order involves restrictions on future procurements for that contractor.

Chairman Kessel asked what is the effect of a generic request for a project when a project plan already exists. Mr. Klimberg answered that the Executive Order applies to procurements that have already been initiated or when a decision has been made to initiate procurement.

Chairman Kessel asked what is the effect of the Executive Order where a civic association makes contacts relative to a procurement in which a selection has already been made. Mr. Klimberg answered that it appears the Executive Order would not apply.

Chairman Kessel asked whether contacts with a civic group are required to be disclosed in a case where LIPA seeks to have a power plant developed, and where support of the civic group is necessary for the success of the project. Mr. Klimberg responded that if there is any doubt about whether to report a contact, the contact should be reported, and he indicated that he can discuss particular situations as they arise.

Deputy Chairman Steinberg stated that he would like to see LIPA's staff address the issue of transparency with respect to the contracting process. He continued that LIPA has unfortunately, and probably for the wrong reasons, suffered a little loss of credibility with the public in terms of disclosure of some of its contracting practices. He added that he suggests that LIPA adopt a procedure for disclosing to the public LIPA's consulting contracts, including KeySpan contracts on behalf of LIPA.

Chairman Kessel stated that it is a good point and LIPA has retained Mr. Kremer to work with LIPA's staff and the State Comptroller's Office on a contracting process that will be clear. The Chairman continued that part of the problem concerning the State Comptroller's Office is that LIPA is not simply a

New York State public authority, but is also a business. He indicated that there are many gray areas, and a broad policy will have to be formulated.

Chairman Kessel stated that LIPA will hire a top level contract administrator through whom every contract will go. The Chairman indicated that the contract administrator will handle disclosure and Comptroller review issues. He added that LIPA is working on the Comptroller issues with the help of Mr. Kremer.

Chairman Kessel indicated that at the next Board meeting he wants to present a resolution to the Board to preclude from LIPA procurements any company that awards a success fee to a consultant based on the completion or adoption of a project. The Chairman further indicated that he has asked Mr. Klimberg and Mr. Kremer to draft language to this effect as part of LIPA's procurement process.

Trustee Fabio asked what the reporting mechanism is under the new Executive Order. Chairman Kessel answered that LIPA will compile the record of contacts in a procurement record, which is available upon request.

Trustee Affrunti asked whether the Executive Order applies to the lobbyists in Albany. Mr. Klimberg answered that it applies to anyone that contacts LIPA to influence a procurement.

Trustee Affrunti indicated that the Executive Order may have an extreme effect on the legislators in Albany, since they are lobbied all the time. Chairman Kessel agreed.

Chairman Kessel stated that the next item on the agenda is Board consideration of a resolution authorizing the Chairman to engage CGSolutions, Inc. as the Long Island Power Authority Disaster Recovery and Business Continuity (DRBC) consultant to assist in the creation and management of the Authority's and LIPA's Disaster Recovery plan. The Chairman continued that in July of 2003 the Authority issued an RFP for DRBC consulting services. He indicated that in August nine firms responded, and based upon the written submissions, interviews and an assessment of the Authority's needs, it was determined that CGSolutions, Inc. is best suited to fulfill the Authority's needs.

Chairman Kessel stated that the strengths of CGSolutions, Inc. include extensive knowledge and experience in the DRBC field, an understanding of the Authority's present and future DRBC needs, and a well-organized work plan. The Chairman continued that the firm has agreed to be compensated based on a competitive hourly fee structure, and CGSolutions, Inc. has also agreed to cap its fees at \$75,000 for the development of the final DRBC plan. He indicated that he recommends that CGSolutions, Inc. be selected to provide DRBC consulting services on an as-needed basis to the Authority and LIPA.

Mr. Murphy stated that LIPA has certain plans in place for storms and other difficult situations, but LIPA needs a fully integrated plan. He continued that the

best way to develop such a plan involves engaging a consultant experienced in the area, such as CGSolutions, Inc. He indicated that LIPA's plan will be dovetailed with the plan that is in place at KeySpan.

Deputy Chairman Foye asked whether there were any reportable contacts or success fees involved. Mr. Murphy stated that there were none.

Deputy Chairman Steinberg asked what the estimated full cost of the four-year contract will be. Mr. Murphy responded that the development of a final plan will cost \$75,000, with an annual fee for ongoing services.

Chairman Kessel asked whether the plan will be a physical document that can be provided to the Board. Mr. Murphy responded affirmatively.

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

**662. ENGAGEMENT OF FIRM TO PROVIDE DISASTER RECOVERY/  
BUSINESS CONTINUITY CONSULTING SERVICES**

---

**RESOLVED**, that the Chairman be, and hereby is, authorized to engage CG Solutions, Inc. to provide Disaster Recovery / Business Continuity consulting services as needed by the Authority and LIPA, with the contract term to be four years.

\* \* \*

Chairman Kessel wished all in attendance a very happy holiday.

Chairman Kessel entertained a motion to go into executive session to discuss litigation and personnel issues.

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

**663. 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 litigation and personnel matters.

\* \* \*

At 11:25 p.m. the open session of the Board of Trustees was temporarily adjourned and an executive session of the Board of Trustees was convened.

At 12:45 p.m. the executive session was adjourned and the open session was reconvened.

Chairman Kessel entertained a motion to adjourn. Upon motion duly made and seconded, the Board voted unanimously to adjourn the meeting at 12:45 PM.

Respectfully submitted,

Stanley B. Klimberg