

## **PART 4**

# **OPERATING PROCEDURES**

# LONG ISLAND CHOICE OPERATING PROCEDURES

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# LONG ISLAND CHOICE OPERATING PROCEDURES

## 1.0 INTRODUCTION

### 1.1 Purpose of these Operating Procedures

The purpose of these Long Island Choice (“LI Choice”) Operating Procedures is to provide a set of procedures and requirements for implementation of the LI Choice Program within the LIPA service territory. The Program will allow retail customers to choose an Energy Services Company (“ESCO”) to provide their Electric Generation Service, and large customers, who meet the criteria described herein, to become Direct Retail Customers (“DRCs”)<sup>1</sup> and therefore accept responsibility for certain functions provided to other LI Choice customers by the ESCOs. Customers may also choose an Aggregator, which is a subcategory of ESCO<sup>2</sup>. The procedures and requirements in these Operating Procedures are designed to promote competition and increase customer choice while maintaining a safe, reliable, and environmentally responsible operating environment.

The Operating Procedures:

- identify the responsibilities of participating customers, ESCOs, Aggregators, DRCs, the Long Island Power Authority, a corporate municipal instrumentality and political subdivision of the State of New York (“Authority”), and the Authority’s subsidiary, LIPA, the owner and operator of the transmission and distribution system on Long Island, in the LI Choice Program;
- set forth the procedures for enrollment of Customers in the LI Choice Program and selection by the Authority for participation in LI Choice;
- identify the requirements to become a Licensed ESCO, Aggregator, or DRC;
- set forth billing and payment procedures for LIPA, ESCOs, Aggregators, and DRCs and LI Choice Customers; and
- set forth consumer protection measures.

The Operating Procedures also set forth procedures an ESCO or DRC must follow to schedule delivery of Electric Generation Service to retail customer loads and requirements for on- and off-Island installed capacity. In all cases, whether or not explicitly stated, the capacity in which an ESCO schedules delivery services for a Long Island Choice Customer is one of agent appointed by the Customer to act on her or his behalf and not of principal.

### 1.2 Incorporation by Reference

The terms and conditions of the following documents are incorporated by reference into these Operating Procedures and are made a part hereof:

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<sup>1</sup> DRCs will not be allowed to participate in Phase I of the LI Choice Program

<sup>2</sup> An Aggregator enrolls customers in the LI Choice Program and then contracts with an ESCO for the provision of services to these customers. In Sections 1, 2, 3, 7, 9 and 11 of these Operating Procedures, the term “ESCO” refers to both ESCOs and Aggregators, except where specifically noted otherwise. In the remaining sections of the Operating Procedures, the term “ESCO” does not include Aggregators.

- 1.2.1 Tariffs, rules and procedures of the New York Power Pool (NYPP), or the New York Independent System Operator ("NYISO"), as applicable, associated with the purchase, sale, transmission and distribution of electric energy, installed capacity, and ancillary services, as the same may be amended, modified, supplemented, or superseded from time to time.
- 1.2.2 Energy Service Company Operating Agreement or Direct Retail Customer Operating Agreement, as applicable.
- 1.2.3 Sections I through VIII of LIPA's Tariff for Electric Service ("Bundled Service Tariff"), as applicable, and Section IX of LIPA's Tariff for Electric Service ("LI Choice Tariff"), as the same may be amended, modified, or supplemented from time to time by the Authority.
- 1.2.4 The LIPA Open Access Transmission Tariff ("LIPA OATT") as the same may be amended, modified, supplemented or superseded from time to time.
- 1.2.5 These Operating Procedures as the same may be amended, modified, supplemented or superseded from time to time.
- 1.2.6 Decisions by the Authority or its Chairman involving the LI Choice Program.

## 2.0 CUSTOMER ELIGIBILITY, ENROLLMENT AND SELECTION

### 2.1 LI Choice Program Phases

The Long Island Choice Program is a key element of the Authority's plan to foster competition for electricity supply on Long Island. It is the Authority's objective to encourage the development of a competitive power market as a means of providing consumer choice and additional power cost savings for its customers. Under LI Choice, all LIPA retail customers will be eligible to purchase electricity from Licensed ESCOs of their choice, or as DRCs, by January 1, 2003. The retail access objectives and the phase-in dates specified herein are targets and the schedule is subject to adjustment with appropriate Authority oversight, to address developments as they occur. LI Choice provides for implementation in three phases as described below.

- 2.1.1 Phase I 400 MW Program - The initial phase of the Program will begin with the solicitation and enrollment of customers during the Phase I enrollment period from March 1, 1999 to May 31, 1999 and will make retail choice available to both residential and non-residential customers representing, in the aggregate, 400 MW of LIPA's retail customer load. Delivery of this power under Phase I of the LI Choice Program is scheduled to commence on August 1, 1999. This 400 MW total will be divided among the following customer segments: 180 MW (45 percent) will be allocated to LIPA's residential retail customers (Residential Service Classifications included under SC1 except Wind Generation); 80 MW (20 percent) will be allocated to LIPA's small commercial retail customers (Small Commercial Service Classifications SC2, SC2-VMRP, SC2L, SC2L-VMRP, SC2H); 100 MW (25 percent) will be allocated to LIPA's large commercial retail customers (Large General and Industrial Service Classifications SC2-MRP excluding supplemental, backup and maintenance service, flexible rates, and real time pricing); and 40 MW (10 percent) to governmental entities which include federal, state, and municipal entities as defined by the New York State Comptroller's List of Minor Civil Divisions within LIPA's service area who are also LIPA's retail customers. During Phase I of the LI Choice Program, no LI Choice customer may enroll for more than 5 percent of the MW load cap for their customer segment.
- 2.1.2 Phase II Program- Phase II of the LI Choice Program will increase the total eligible LIPA retail customer load for LI Choice Program participation from 400 MW to 800 MW. It is anticipated that enrollment of additional customers for Phase II Program participation will begin on January 1, 2000. Deliveries are anticipated to begin May 1, 2000. Allocation of Phase II retail customer load to create program load caps for residential, small commercial, large commercial and governmental entities classifications, and other provisions of the Phase II Program, will be set forth in the future. It is anticipated that DRCs will be allowed to participate in Phase II.
- 2.1.3 Phase III Program - For Phase III of the Program beginning May 1, 2001, it is anticipated that participation will be ramped up such that by January 1, 2003, all LIPA customers will be eligible to participate in LI Choice. Details of the Phase III Program will be provided in the future.

## **2.2 Customer Eligibility Criteria**

- 2.2.1 A customer, to be eligible to participate in the LI Choice Program (an “Eligible Customer”), must meet the Eligibility Criteria set forth in the LI Choice Tariff.
- 2.2.2 Other than a DRC, an Eligible Customer whose Electric Generation Service and delivery services would otherwise be provided by LIPA as Bundled Service may choose to purchase Electric Generation Service and related services from an ESCO licensed by the Authority (Licensed ESCO), and delivery service separately from LIPA. Electric Generation Service includes installed capacity and installed capacity reserves with the attendant on-Island installed capacity and reserve requirement, energy, losses, transmission and ancillary services.
- 2.2.3. To participate in the LI Choice Program, an Eligible Customer other than a DRC must authorize a Licensed ESCO in writing to act as its agent in connection with receiving billing information from LIPA, the procurement and scheduling of transmission service, the associated ancillary services and the scheduling and delivery of Electric Generation Service to the LIPA system with the associated wholesale balancing and retail settlement processes.
- 2.2.4 An Eligible Customer may select only one Licensed ESCO at a time per LIPA customer account. During enrollment periods, an Eligible Customer with multiple LIPA customer accounts may select a different ESCO for each LIPA customer account.
- 2.2.5 Customers with multiple accounts may enroll with more than one ESCO, but for determining Program caps, all customer accounts will be combined to insure that enrollment does not exceed 5 percent of the MW load cap for each customer segment. Governmental entities, however, may enroll each of its LIPA customer accounts separately, or enroll one group of LIPA customer accounts such that it remains within its enrollment size limit.

## **2.3 Enrollment of Eligible Customers by ESCOs**

The process to enroll Eligible Customers has been designed to insure that customer confidentiality is protected and customer authorization is auditable. A summary of this process follows.

- 2.3.1 Prior to the enrollment period for each phase of the LI Choice Program, the Authority will assist customers in making the transition to LI Choice by providing interested customers with educational materials regarding the LI Choice Program.
- 2.3.2 A list of Licensed ESCOs will be available to interested customers. Licensed ESCOs may contact Eligible Customers to solicit enrollment. Eligible Customers are required to enroll in the LI Choice Program through a Licensed ESCO, unless they qualify as, and choose to enroll as, DRCs. DRCs will not be allowed to participate in Phase I of the LI Choice Program.

- 2.3.3 Any Eligible Customer desiring to participate in the LI Choice Program may initiate the process of Program enrollment by directly contacting a Licensed ESCO either by telephone or in writing.
- 2.3.4 The Eligible Customer may initiate the enrollment process with a Licensed ESCO by providing a valid LIPA customer account number and the name of the customer of record. The ESCO may wish to obtain historical usage information for the customer from LIPA as part of the process of determining if the ESCO will offer services to the customer. To obtain historical customer usage information from LIPA, the ESCO must obtain written authorization from the Eligible Customer in substantially the same format as the Written Authorization Form included as Attachment A, or taped verbal authorization by the Eligible Customer which complies with the Authority's Verbal Authorization Script, included in Attachment B.
- 2.3.5 The ESCO will provide LIPA with the Eligible Customer's name and LIPA's customer account number. LIPA will verify customer eligibility and inform the ESCO electronically if the customer is ineligible for enrollment. Historical billing cycle data will be provided for both eligible and ineligible customers. If LIPA is unable to identify the account number and/or name, the ESCO will be allowed to correct and resubmit the data. For accounts that exceed the MW load cap for that load classification, enrollment will be denied.
- 2.3.6 LIPA will provide the requesting ESCO with customer usage information typically containing 24 months usage information (or the life of the account, whichever is less) including service classification, billing address, meter number, meter multiplier, meter readings, meter reading dates, type of meter reading (actual or estimated), and consumption (including kWh, and kW demand if available, for the particular customer service classification, and on-peak, off-peak or recorded hourly interval data). The customer data will also contain total billing amounts for Bundled Service and taxes and the sales and GRT tax rates, but will not contain payment status or credit information. Customer usage information will not be normalized for weather. Historical customer billing cycle data requests for individual customer accounts will be provided electronically at the time of request. Historical customer billing cycle data requests for multiple customer accounts normally will be provided electronically within one business day of the request, free of charge. Requests for interval data normally will be provided electronically within 3 business days. Historical customer billing cycle and interval data provided to ESCOs will be frozen as of the start date of the enrollment period for each Program phase such that all ESCOs receive the same data for a given customer.
- 2.3.7 For certain customers, additional usage data may be available from LIPA including the following: 1) up to 48 months of monthly or bi-monthly usage data beyond the 24 months of data initially provided and 2) up to 60 months of 15-minute recorded interval load data depending upon what is available for a given customer. Requests for additional historical customer usage information normally will be responded to in 5 business days, by either supplying the requested additional information, specifying when such information will be provided, or advising that such information does not exist. The information will

be provided electronically. Fees for providing such additional information will be billed to the requesting ESCO in accordance with provisions in the LI Choice Tariff.

- 2.3.8 All LIPA customer account numbers and any related password and/or encrypted coding requests, and similar information, must be kept confidential by the ESCO and may not be disclosed to others. All historical customer usage information obtained by an ESCO must be kept confidential by the ESCO, and not disclosed to others, unless otherwise authorized by the customer. Customer information, such as telephone numbers and service addresses, shall also be kept confidential and not disclosed to others, unless otherwise authorized by the customer.
- 2.3.9 An ESCO that agrees to provide Electric Generation Service and related services to an Eligible Customer must provide the Eligible Customer with an Agreement. Residential customers must receive the ESCO's standard Agreement for Residential Customers and non-residential customers must receive an Agreement containing, at a minimum, the provisions required by LIPA for non-residential customers. The Agreement must specify the ESCO's terms and conditions of service, rates for all services being offered, a statement designating the ESCO as the customer's agent for the purposes of requesting and receiving customer billing information from LIPA and the transmission and ancillary services from LIPA or other suppliers required to deliver the customer's Electric Generation Service to the LIPA System, and a Signature Page to be executed by the Eligible Customer. An ESCO may not enroll a customer in LI Choice unless the ESCO has provided the Eligible Customer with the information discussed above and provided the Eligible Customer with sufficient time to review them and obtains an executed Signature Page from the Eligible Customer.
- 2.3.10 Once an Agreement has been signed, the ESCO shall inform LIPA electronically that the customer has signed an Agreement and wishes to participate in the LI Choice Program by enrolling with the ESCO. Enrollment submissions will be time/date stamped by LIPA. LIPA will send a letter to the customer confirming enrollment in the LI Choice Program and identifying the ESCO that will provide Electric Generation Service and related services to the customer if the Eligible Customer is selected to participate in the LI Choice Program. The letter will also instruct the customer to contact LIPA if the information in the letter is incorrect regarding the customer's desire to participate in the LI Choice Program or if the ESCO identified in the confirmation letter is not the ESCO with which the customer has an Agreement. If the customer has not contacted LIPA within 7 calendar days of the date of the letter, LIPA will enroll the customer with the Licensed ESCO consistent with the information in the confirmation letter. If the customer contacts LIPA within the specified time period and disputes any information in the confirmation letter, the customer will not be enrolled with the Licensed ESCO until the customer issues are resolved. If the Eligible Customer notifies LIPA after the specified notice period and before deliveries begin that the enrollment request by the ESCO should be cancelled, LIPA will remove the Eligible Customer from the ESCO's enrollment list. If LIPA receives notice from the customer that the customer was improperly enrolled in LI Choice, the

enrollment and selection will be reversed.

- 2.3.11 Potential participants in the LI Choice Program who are new to LIPA's service area will first need to establish a LIPA customer account in accordance with LIPA's Bundled Service Tariff. Subject to the limitations of the LI Choice Program phase-in enrollment and selection processes, new customer accounts for electric service will be able to take service as participants in the LI Choice Program without having to initially take Bundled Service from LIPA.

## **2.4 Selection of Enrolled Customers for Program Participation by LIPA**

Phase I of the LI Choice Program will target specific levels of LIPA's retail customer load in the residential, small commercial, large commercial and governmental customer segments (MW load caps). If at the end of the enrollment period for Phase I the Licensed ESCOs propose customer enrollment which either under-subscribes or over-subscribes the MW load caps for specific customer segments, the customer selection process described below will be utilized to determine which customers will participate in Phase I of the LI Choice Program. During the enrollment and selection processes, it will be the obligation of each Licensed ESCO to keep its enrolled customers informed of their status regarding participation in the LI Choice Program.

### **2.4.1 Customer Enrollment Verification**

- 2.4.1.1 LIPA will contact customers whose customer accounts have been identified as being enrolled with multiple Licensed ESCOs. The customer will be asked to verify which Licensed ESCO the customer has selected. If LIPA cannot verify with the Eligible Customer which Licensed ESCO the customer has selected, LIPA will contact the ESCOs for documentation to support the enrollment. If no documentation has been received within 7 calendar days, the Eligible Customer will be enrolled with the ESCO who enrolled the customer first. All affected ESCOs will be notified of the results.

- 2.4.1.2 At the end of the enrollment period for Phase I, LIPA will assemble customer enrollment information by residential, small commercial, large commercial and governmental customer segments and screen the customer lists to verify account numbers, identify customers on the lists of more than one Licensed ESCO and identify and resolve any discrepancies.

- 2.4.2 If an ESCO fails to meet minimum load requirements, that ESCO will be notified electronically and given the opportunity to pool with another ESCO to transact business. If LIPA has not been notified of a pooling arrangement at least 1 calendar month before the start of delivery, the ESCO's customers will not be selected for the Program.

- 2.4.3 If any of the residential, small commercial, large commercial, or governmental customer segments for LI Choice Program Phase I are under-subscribed, the Authority will select all of the enrolled customers in the under-subscribed customer segments for Program participation, and may, at its discretion, reopen

Program enrollment on a first-come, first-served basis until the under-subscribed customer segments enroll enough customers to meet the MW load caps specified for Phase I. The calculation of enrolled customer peak load by customer segment will be made by using actual LIPA metering interval data when available, totaling the non-coincident monthly peak demands and applying a coincidence factor for demand metered customers, or using annual kWh consumption scaled by a factor which provides coincident peak demand for non-demand metered customers. If a customer has interval metering solely because of a load research program, profile data will be used instead of interval data. If a customer is participating in LIPA's Energy Cooperative Program or other qualifying peak reduction program with measured hourly load adjustment (Measured DSM Program), the interval metering data may be adjusted according to Program procedures. The peak demands calculated shall be coincident with the LIPA system summer peak load hour during the NYPP Summer Capability period (May through October).

2.4.4 If the residential customer segment is over-subscribed, LIPA will conduct a lottery by LIPA customer account number to determine which of the residential customers enrolled with Licensed ESCOs will be selected to participate in Phase I of the LI Choice Program. Any Agreement to provide Electric Generation Service under the LI Choice Program between an ESCO and a residential customer not selected to participate in the LI Choice Program will be null and void. LIPA will inform each Licensed ESCO electronically which residential customer accounts have not been selected for participation in Phase I of the LI Choice Program.

#### 2.4.5 Small Commercial Segment Over Subscription

2.4.5.1 If the small commercial customer segment is over-subscribed, each ESCO with customers enrolled in the small commercial customer segment will receive an allocation of the small commercial customer segment MW load cap based upon its percentage of the total small commercial load enrolled by all Licensed ESCOs. This percentage allocation of load will be based upon the amount of small commercial customer peak load aggregated by each Licensed ESCO, as determined by the use of actual LIPA metering interval data when available, totaling the non-coincident monthly peak demands and applying a coincidence factor for demand metered customers, or using annual kWh consumption scaled by a factor which provides coincident peak demand for non-demand metered customers. The peak demands calculated shall be coincident with the LIPA system summer peak load hour during the NYPP Summer Capability period (May through October). Once the small commercial MW load level for each Licensed ESCO is identified, each Licensed ESCO will be allowed to select the small commercial customer accounts that it wants for participation in the LI Choice Program up to the MW level allocated to it in the selection process. No small commercial customer may be allocated more than 5 percent of the total MW load cap for the small commercial load customer segment. Any Agreement to provide Electric Generation Service under the LI Choice Program between an ESCO and a small commercial customer not selected to

participate in the LI Choice Program will be null and void. The ESCO shall inform LIPA electronically which small commercial customers it has not selected for participation in Phase I of the LI Choice Program.

2.4.5.2 If, 7 calendar days prior to the scheduled start of deliveries, an ESCO has not reduced its customer list to the allocated MW level and notified LIPA of same, the deliveries for all of the ESCO's customers will be rescheduled until the following month. If, 7 calendar days prior to the rescheduled start of deliveries, an ESCO has not reduced its customer list to the allocated MW level and notified LIPA of the same, all of the ESCO's small commercial customers will be removed from the Program.

2.4.6 If the governmental customer segment is over-subscribed, LIPA will conduct a lottery by LIPA customer account number or group of LIPA customer account numbers. A governmental customer may enroll each of its LIPA customer accounts separately, or enroll one group of LIPA customer accounts such that it remains within its enrollment size limit. Governmental customer, as used in these Operating Procedures, is defined as any federal or state agency or instrumentality, or a municipality listed on the New York State Comptroller's List of Minor Civil Divisions that is also a LIPA retail customer. Any Agreement to provide Electric Generation Service under the LI Choice Program between an ESCO and a governmental customer not selected to participate in the LI Choice Program will be null and void. LIPA will inform each Licensed ESCO electronically which governmental customers have not been selected to participate in Phase I of the LI Choice Program.

#### 2.4.7 Large Commercial Segment Allocation

2.4.7.1 To encourage participation by residential and small commercial customers in the LI Choice Program, the Authority will provide an incentive to each Licensed ESCO for enrolling residential and small commercial customers for participation, by allocating to each Licensed ESCO, 1 MW of load in the large commercial load classification for 1) each 2.5 MW of load enrolled by the ESCO in the residential load classification; and 2) each 4 MW of load enrolled by the ESCO in the small commercial load classification if the large commercial load classification is over-subscribed.

2.4.7.2 For load aggregated by a Licensed Aggregator to be counted in the incentive allocation process, the Aggregator must notify LIPA regarding which Licensed ESCO the Aggregator's load will be assigned to prior to the end of the enrollment period.

2.4.7.3 LIPA will facilitate the operation of a secondary market among interested Licensed ESCOs to trade (buy and/or sell) the large commercial load classification allocation incentives described above. LIPA will collect and distribute a list of ESCOs interested in incentive trading.

2.4.7.4 Subsequent to the incentive allocation process and secondary market trading of incentives, if any, remaining load up to the MW load cap will be

allocated based upon each Licensed ESCO's percentage of the total large commercial customer peak load enrolled by all Licensed ESCOs. This percentage allocation of load will be determined using the methodology set forth in Section 2.4.6.

2.4.7.5 Once the large commercial customer MW load level for each Licensed ESCO is determined through the incentive allocation process, secondary market trading of incentives (if any) and the post-incentive allocation process, each Licensed ESCO will be allowed to select the large commercial customer accounts that it wants for participation in the LI Choice Program up to the MW load level allocated to it. If the Licensed ESCO's allocation of large commercial load is smaller than its smallest enrolled large commercial customer, the ESCO will receive no allocation of large commercial load. Any Agreement to provide Electric Generation Service under the LI Choice Program between an ESCO and a large commercial customer not selected to participate in the LI Choice Program will be null and void. The ESCO shall inform LIPA electronically which large commercial customers it has not selected for participation in Phase I of the LI Choice Program.

2.4.7.6 If, 7 calendar days prior to the scheduled start of deliveries, an ESCO has not reduced its customer list to the allocated MW level and notified LIPA of same, the deliveries for all of the ESCO's customers will be rescheduled until the following month. If, 7 calendar days prior to the re-scheduled start of deliveries, an ESCO has not reduced its customer list to the allocated MW level and notified LIPA of the same, all of the ESCO's large commercial customers will be removed from the Program.

2.4.8 Before an ESCO can begin deliveries to the Aggregator's customers, the Aggregator must notify LIPA which Licensed ESCO the Aggregator's load will be assigned to at least 1 calendar month before the beginning of deliveries. If the Aggregator fails to do so, the deliveries for all of the Aggregator's customers shall be rescheduled until the following month. If, 1 month prior to the re-scheduled beginning of deliveries, the Aggregator fails to notify LIPA of the ESCO assignment, all of the Aggregator's customers will be removed from the Aggregator's rolls and be allowed to enroll with other ESCOs and Aggregators.

## **2.5 Service Initiation Under the LI Choice Program**

2.5.1 Subsequent to the selection process for Phases I and II of the LI Choice Program, selected customers in the residential, small commercial, large commercial and governmental customer segment shall receive a letter from their ESCOs informing them that they have been selected for participation in the LI Choice Program, and indicating the date when the customer will be switched from Bundled Service with LIPA to service under the LI Choice Tariff. Service start dates for the LI Choice Program will normally be the first day of a calendar month regardless of the actual date when the customer's meter is read.

2.5.2 If the residential, small commercial, large commercial, or governmental customer segment for Phases I or II of the Program are under-subscribed and the

Authority extends enrollment on a first-come first-served basis, and during the open enrollment associated with Phase III of the Program, the process for a customer initiating service under the LI Choice Program will not include post-enrollment selection.

## **2.6 Changing ESCOs**

- 2.6.1 If a LI Choice Customer chooses to change ESCOs, the parties involved must adhere to the procedures listed in Section 2.3 above and Section 2.8 below.
- 2.6.2 Once an Agreement has been signed, the new ESCO shall inform LIPA electronically not less than 15 calendar days prior to the beginning of the next calendar month of the customer's desire to change ESCOs. Enrollment submissions will be time/date stamped by LIPA. LIPA will send a letter to the customer confirming participation in the LI Choice Program, identifying the ESCO that will provide Electric Generation Service and related services to the customer, and indicating the date when the customer will be switched to the new ESCO for participation in the LI Choice Program. LIPA will also send a notification letter to the LI Choice customer's current ESCO, informing the ESCO of the switch. Service start dates for the LI Choice Program will normally be the first day of a calendar month regardless of the actual date when the customer's meter is read. The letter to the LI Choice customer will also notify the customer to contact LIPA within 7 calendar days if the information in the letter is incorrect regarding the customer's desire to participate in the LI Choice Program or if the ESCO identified in the confirmation letter is not the ESCO with which the customer has an Agreement. If the customer has not contacted LIPA within 7 calendar days, LIPA will switch the customer to service under the new ESCO consistent with the information in the confirmation letter. If the customer contacts LIPA within the specified time period and disputes any information in the confirmation letter, the customer will not be switched to the new ESCO until the customer issues are resolved. If the Eligible Customer notifies LIPA that the request should be cancelled, after the notification period, the switch will be reversed. If the current ESCO notifies LIPA that the request is not valid, LIPA will contact the LI Choice Customer for verification and then, if warranted, the switch will be reversed.
- 2.6.3 If the process of changing ESCOs leaves the LI Choice Customer without an ESCO to provide service under the LI Choice Program for the upcoming calendar month, LIPA will switch the customer to LIPA's Bundled Service until the customer obtains the services of a Licensed ESCO under the procedures described in this Section and switches from LIPA's Bundled Service to service under the LI Choice Tariff.
- 2.6.4 Transfer of a LI Choice Customer from one Licensed ESCO to a different Licensed ESCO is not permitted without proper notice to the LI Choice Customer.
- 2.6.5 If a LI Choice Customer or DRC chooses to return to LIPA's Bundled Service, that customer must contact LIPA not less than 15 calendar days prior to the beginning of the calendar month when the return is to occur. Upon receipt of

such notice, LIPA will send a confirming letter to the customer and notify the ESCO electronically that a return to LIPA Bundled Service will be implemented.

- 2.6.6 Whenever a LI Choice Customer makes a change in ESCOs, or a LI Choice Customer or DRC returns to Bundled Service with LIPA, the change will become effective on the first day of the next calendar month if proper notice has been provided to LIPA.
- 2.6.7 Fees associated with changing ESCOs or returning to LIPA's Bundled Service are addressed in the LI Choice Tariff.

## **2.7 Termination or Discontinuance of Service**

- 2.7.1 Termination of Service by LIPA - LIPA may terminate service to a LI Choice customer in accordance with the Tariff for Electric Service. LIPA will notify the ESCO of such termination regarding LI Choice Customers electronically. During the period of disconnection, a LI Choice Customer's ESCO is no longer obligated to secure Electric Generation Service for the LI Choice Customer, and LIPA is not obligated to provide delivery service to the LI Choice Customer or DRC.
- 2.7.2 ESCO Voluntary Discontinuance of Operations in LIPA's Service Area

2.7.2.1 An ESCO may discontinue operations in LIPA's service area at will (subject to any penalties, fees, and other requirements arising from the ESCO's contractual obligations), upon submission of a written notice to LIPA and the ESCO's LI Choice Customers at least 30 calendar days prior to the discontinuance date. Voluntary discontinuance must be effective on the first day of a calendar month. The notice to LI Choice Customers shall inform them of the following:

- 2.7.2.1.1 Of the date of the ESCO's discontinuance of service;
- 2.7.2.1.2 Of their option either to select another Licensed ESCO to provide Electric Generation Service and any related services or to return to Bundled Service from LIPA;
- 2.7.2.1.3 That if they do select another ESCO, the new ESCO will file a change of ESCO request with LIPA on their behalf, and there will be no fee charged by LIPA to the customer;
- 2.7.2.1.4 That after the discontinuance and unless and until a new ESCO is selected and the change of ESCO is completed, Bundled Service will be provided by LIPA, unless LIPA has notified the customer that LIPA's delivery services will be terminated on or before the discontinuance date;
- 2.7.2.1.5 That there will be no switching fee charged by LIPA to the customer for a switch back to LIPA, whether as an interim measure until a new ESCO is selected or as a permanent action; and,

- 2.7.2.1.6 That whenever a LI Choice customer makes a change of ESCOs or a LI Choice customer returns to Bundled Service with LIPA, the change will become effective on the first day of the next calendar month.
- 2.7.2.2 Within 5 calendar days of its receipt of notice from the ESCO, LIPA will send a notice to the ESCO's customers containing the same information specified in Section 2.7.2.1 above, and also providing a list of Licensed ESCOs.
- 2.7.2.3 If LIPA learns that an ESCO has discontinued operations in its service territory without giving the proper notice to LI Choice Customers and LIPA in accordance with the above requirements prior to discontinuing operations, LIPA shall inform the Authority of same. LIPA will then promptly provide notice of such discontinuance to all of the ESCO's customers as set forth in Section 2.7.2.1. In that notice, LIPA shall also advise the customers that effective on the date of discontinuance, their service is being provided by LIPA as Bundled Service and that payment for such service from the date of the notice until a subsequent change of ESCOs takes place must be made to LIPA.
- 2.7.2.4. If the ESCO does not give the required notice to its LI Choice Customers and to LIPA in accordance with the above requirements prior to discontinuing operations in LIPA's service area, the ESCO's license may be suspended or revoked by the Authority.
- 2.7.2.5. Upon voluntary discontinuance of operations by an ESCO, the ESCO shall remain responsible for payment or reimbursement of any and all sums owed under the LI Choice Tariff or under any tariffs on file with the FERC, and service agreements relating thereto, or under any contracts between the ESCO and LIPA. The ESCO shall also remain obligated to its LI Choice Customers for any and all sums owed them under the ESCO's Agreements with such customers.
- 2.7.2.6. Upon receipt of a change of ESCO request from a subsequent Licensed ESCO, following a discontinuance notice by an ESCO, LIPA will verify the intended change of ESCO with the LI Choice Customer in accordance with Section 2.6.2 above, and subject to verification, switch the LI Choice customer to the new ESCO.
- 2.7.2.7 If a more expeditious discontinuance process is deemed necessary in a specific situation, the ESCO may request such expedited treatment upon a showing of need to the Chairman of the Authority, who shall have the authority to grant such a request upon such terms and conditions as he or she deems fair and appropriate under the circumstances.
- 2.7.3 Discontinuance of Service by an ESCO to an Individual LI Choice Customer

2.7.3.1 An ESCO may discontinue service to individual LI Choice Customers in LIPA's service area at will (except as may be otherwise provided in its Agreements with its customers and subject to its obligations under such Agreements), upon submission of a notice to those individual LI Choice Customers and LIPA at least 15 calendar days prior to the discontinuance date. The notice to LI Choice Customers shall inform them of the following:

2.7.3.1.1 Of the date of the discontinuance;

2.7.3.1.2 Of their option either to select another Licensed ESCO to provide Electric Generation Service and any related services or to return to Bundled Service from LIPA.

2.7.3.1.3 That if they do select another ESCO, the ESCO will file a change of ESCO request with LIPA on their behalf;

2.7.3.1.4 That after the discontinuance and unless and until a new ESCO is selected and the change of ESCO is completed, Bundled Service will be provided by LIPA, unless LIPA has notified the customer that Delivery Services will be terminated on or before the discontinuance date; and,

2.7.3.1.5 That whenever a LI Choice Customer makes a change of ESCOs or a LI Choice Customer returns to Bundled Service with LIPA, the change will become effective on the first day of the next calendar month.

2.7.3.2 If the ESCO does not give the required notice to its LI Choice Customers and to LIPA in accordance with the above requirements prior to discontinuance of service to the LI Choice Customer, the ESCO's license may be suspended or revoked by the Authority.

2.7.3.3 Upon receipt of a change of ESCO request from a subsequent Licensed ESCO, following a discontinuance notice by an ESCO, LIPA will verify the intended change of ESCO with the LI Choice Customer in accordance with Section 2.6.2 above, and subject to verification, switch the LI Choice customer to the new ESCO.

#### 2.7.4 Involuntary Discontinuance of an ESCO's Right to Provide Service to LI Choice Customers

2.7.4.1 The Authority may revoke an ESCO's license to participate in the LI Choice Program in accordance with the procedures set forth in the LI Choice Tariff.

2.7.4.2 In the event the ESCO's license is revoked resulting in the involuntary discontinuation of the ESCO's services, LIPA will send notices to the ESCO's LI Choice Customers advising them of the following:

- 2.7.4.2.1 Of the date of the discontinuance;
  - 2.7.4.2.2 Of their option either to select another Licensed ESCO to provide Electric Generation Service and any related services or to return to Bundled Service from LIPA.
  - 2.7.4.2.3 That if they do select another ESCO, the new ESCO will file a change of ESCO request with LIPA on their behalf, and there will be no fee charged by LIPA for the change of ESCO;
  - 2.7.4.2.4 That after the discontinuance and unless and until a new ESCO is selected and the change of ESCO is completed, Bundled Service will be provided by LIPA, unless LIPA has notified the customer that delivery services will be terminated on or before the discontinuance date; and,
  - 2.7.4.2.5 That whenever a LI Choice Customer makes a change of ESCOs or a LI Choice Customer or DRC returns to Bundled Service with LIPA, the change will become effective on the first day of the next calendar month.
- 2.7.4.3 Upon revocation of an ESCO's license by the Authority, the ESCO shall remain responsible for payment or reimbursement of any and all sums owed under the LI Choice Tariff or under any tariffs on file with the FERC, and service agreements relating thereto, or under any contracts between the ESCO and LIPA. The ESCO shall also remain obligated to its LI Choice Customers for any and all sums owed them under the ESCO's Agreements with such customers.
- 2.7.4.4 Upon receipt of a change of ESCO request from a subsequent Licensed ESCO, following a discontinuance notice by an ESCO, LIPA will verify the intended change of ESCO with the LI Choice Customer in accordance with Section 2.6.2 above, and subject to verification, switch the LI Choice customer to the new ESCO.
- 2.7.5 Customer-Initiated Discontinuance of an ESCO's Service
- 2.7.5.1 If a LI Choice Customer terminates or cancels its Agreement with an ESCO, the LI Choice Customer must provide at least 15 calendar days notice to the ESCO or terminate or cancel the Agreement in accordance with any notice period provisions of the Agreement, whichever is longer. The Customer shall remain obligated to the ESCO for any and all sums owed the ESCO under the Agreement with the ESCO.
  - 2.7.5.2 The ESCO shall provide same-day notice electronically to LIPA of termination or cancellation of the LI Choice Customer Agreement. Alternatively, the LI Choice Customer may provide at least 15 calendar days notification to LIPA of termination or cancellation of the ESCO

Agreement and LIPA will provide same-day notice to the ESCO electronically and written confirmation to the LI Choice Customer.

- 2.7.5.3 LIPA will make the necessary changes to the customer's account to return that customer to LIPA's Bundled Service unless the LI Choice Customer makes arrangements for a new ESCO at least 15 calendar days prior to the beginning of the next calendar month. In such case, the parties shall follow the procedures set forth in Section 2.6.

## **2.8 Protecting Consumers From Slamming**

All Licensed ESCOs shall comply with the Authority's requirements and procedures regarding consumer protections. The following enrollment procedure provides protection against slamming by requiring customer authorization records to be kept and subject to audit, requiring customer notification prior to switching, and allowing customers to notify LIPA that the switch was not authorized.

- 2.8.1 An Eligible Customer must provide a Licensed ESCO with its valid LIPA customer account number and the name on the customer account.
- 2.8.2 The Licensed ESCO shall forward the customer information to LIPA electronically.
- 2.8.3 If an Eligible Customer wishes to enroll with an ESCO or change ESCOs, the ESCO must inform LIPA electronically that the customer has signed an Agreement with the ESCO .
- 2.8.4 LIPA will send a verification letter to the Eligible Customer and the existing ESCO (if any) confirming enrollment in the LI Choice Program or a change of ESCOs for service under the LI Choice Program. The verification letter will request that the Eligible Customer or the ESCO (if any) contact LIPA if the switch request information in the letter is incorrect.
- 2.8.5 If the Eligible Customer notifies LIPA within the notification period that the switch request is not valid, the switch will not be made. If the Eligible Customer notifies LIPA after the notification period that the request was not valid, the switch will be reversed. If the current ESCO notifies LIPA that the request is not valid, LIPA will contact the LI Choice Customer for verification and comply with the customer's instructions as appropriate.
- 2.8.6 ESCOs must report all unauthorized switches to the Authority.
- 2.8.7 ESCOs shall preserve records as follows: 1) at least one year from the date of receipt thereof, all written, taped verbal or third-party verification records of customer authorizations of access to the customer's historical billing information; 2) for at least 2 years from the ESCO's discontinuance of service to the LI Choice Customer, all other records pertaining to the customer, including written, taped verbal, or third-party verification records of all customer authorizations for eligibility and enrollment, changes in Agreement terms, customer information and billing data, and change of ESCO records.

- 2.8.8 In the event of an unresolved complaint or dispute between a LI Choice Customer and an ESCO, no records pertaining to such customer shall be destroyed until the complaint or dispute is finally resolved. In the event of an audit or ongoing investigation of an ESCO by the Authority, no customer records shall be destroyed until the audit or ongoing investigation is completed and the matter finally resolved.
- 2.8.9 An ESCO responsible for a request to change an Eligible Customer's or a LI Choice Customer's provider of Electric Generation Service without such customer's written authorization shall pay all costs and fees incurred by such customer and LIPA arising from or related to the unauthorized change. In such cases, the ESCO's license may be suspended or revoked by the Authority.
- 2.8.10 Each ESCO shall maintain the confidentiality of customer information received from LIPA or the customer unless the customer has consented to the release of such information in the customer's Agreement with the ESCO. For purposes of Section 2.8.10, the term customer information means information relating to the customer's energy usage history, billing history or any other information provided to the ESCO by the customer or LIPA.

### **3.0 ESCO, AGGREGATOR OR DRC ELIGIBILITY & COMPLIANCE**

#### **3.1 General Eligibility Requirements for ESCOs**

3.1.1 An ESCO is an entity that performs electric supply, transmission and customer service functions in a competitive environment, including producing or contracting for and supplying Electric Generation Service and related services, and procuring and scheduling transmission and ancillary services to deliver the Electric Generation Service purchased by LI Choice Customers to the LIPA system.

3.1.2 To be eligible to participate in the LI Choice Program, an ESCO must:

3.1.2.1. File a completed ESCO LI Choice License Application including the attachments required by the form with the Authority. The Form of ESCO License Application is contained in Attachment C.

3.1.2.2 Receive and maintain a license from the Authority and therefore become a Licensed ESCO. An ESCO may not begin to enroll customers for the LI Choice Program until it is licensed by the Authority. Within 30 calendar days of receiving an application, LIPA will notify the ESCO by first class mail: 1) that the ESCO has received a favorable preliminary determination regarding a license; or, 2) that the application has been rejected and the reasons why the application was rejected.

If the ESCO receives a favorable preliminary determination, the ESCO will receive a license from the Authority when any required financial security has been received by LIPA. If no financial security is required, the ESCO will receive a license shortly after the mailing of the favorable preliminary determination. If the Application was rejected, the ESCO may submit a new application.

3.1.2.3. Aggregate at least 1MW of load in the minimum annual load hour prior to commencement of service to LI Choice Customers and maintain at least 1 MW of load in the minimum annual load hour for the duration of participation in the LI Choice Program. Two or more Licensed ESCOs may pool their load to reach the 1 MW minimum annual load hour threshold, but one Licensed ESCO must be promptly identified to LIPA as the lead ESCO. The lead ESCO will be responsible for all transactions with LIPA including forecasting of load, scheduling procedures, and paying all charges related to the wholesale balancing and retail settlement processes under the terms of these Operating Procedures. If a Licensed ESCO with less than 1 MW of load in the minimum annual load hour increases its aggregated LI Choice Customer load to the 1 MW threshold and wishes to end the ESCO pooling arrangement, it must notify LIPA at least 15 calendar days prior to the beginning of the next calendar month, and demonstrate to LIPA's satisfaction its ability to comply with the 1 MW minimum annual load hour requirement. LIPA will then initiate transactions directly with the ESCO at the beginning of the next calendar month. If a Licensed

ESCO's aggregated load falls below 1 MW in the minimum annual load hour, within 30 calendar days the ESCO must either increase its aggregated LI Choice Customer load to meet the 1 MW minimum annual load hour threshold requirement or pool its load with another Licensed ESCO as described above. If the ESCO does not increase its aggregated LI Choice Customer load to meet minimum threshold requirements or pool its load with another Licensed ESCO, the ESCO's license to participate in the LI Choice Program may be revoked by the Authority.

- 3.1.2.4 Register, as applicable, with the North American Electric Reliability Council ("NERC"), the New York Power Pool ("NYPP") or the New York Independent System Operator ("NYISO").
- 3.1.2.5 Enter into a Network Transmission Service Agreement with LIPA, the NYPP or the NYISO as applicable.
- 3.1.2.6 Obtain and retain each LI Choice Customer's written authorization designating the ESCO as agent for receiving customer billing information from LIPA and for procuring and scheduling the transmission and ancillary services necessary to deliver Electric Generation Service purchased by the customer to the LIPA system.

## **3.2 General Eligibility Requirements for Licensed Aggregators**

- 3.2.1 An Aggregator is an entity that facilitates enrollment of customers in the LI Choice Program but does not perform power supply, transmission or customer service functions for the LI Choice Customer. An Aggregator must contract with a Licensed ESCO for power supply, customer service and scheduling services.
- 3.2.2 An Aggregator which seeks to enroll Eligible Customers for the LI Choice Program, or facilitate such enrollment for the purpose of transferring such Eligible Customers to a Licensed ESCO, must first become a Licensed Aggregator from the Authority if;
  - 3.2.2.1 The Aggregator will require access to the LI Choice website; or
  - 3.2.2.2 The Aggregator wishes to receive historical customer usage and billing information from LIPA; or
  - 3.2.2.3 The Aggregator wishes to execute an Agreement with an Eligible Customer regarding the customer's participation in the LI Choice Program.
- 3.2.3 To be eligible to participate in the LI Choice Program as a Licensed Aggregator, an Aggregator must:
  - 3.2.3.1. File a completed Aggregator LI Choice License Application and required attachments. The Form of Aggregator License Application is contained in Attachment E and the Aggregator Contact Form is

contained in Attachment F.

- 3.2.3.2 Receive and maintain a license from the Authority and therefore become a Licensed Aggregator. An Aggregator may not begin to enroll customers for the LI Choice Program until it is licensed by the Authority. Within 30 calendar days of receiving an application, LIPA will notify the Aggregator by first class mail: 1) that the Aggregator has received a favorable preliminary determination regarding a license; or, 2) that the application has been rejected and the reasons why the application was rejected.

If the Aggregator receives a favorable preliminary determination, the Aggregator will receive a license from the Authority when any required financial security has been received by LIPA. If no financial security is required, the Aggregator will receive a license shortly after the mailing of the favorable preliminary determination. If the Application was rejected, the Aggregator may submit a new application.

- 3.2.3.3 If signing Agreements with customers, obtain and retain each LI Choice Customer's written authorization granting the Aggregator the right to assign to a Licensed ESCO the obligations to act as agent for receiving customer billing information from LIPA, procure power supply for the customer, and procure and schedule the transmission and ancillary services necessary to deliver to the LIPA system Electric Generation Service purchased by the customer.

- 3.2.3.4 Arrange for all of its customers to be served by a single Licensed ESCO before service to its customers begins.

### **3.3 General Eligibility Requirements for DRCs**

- 3.3.1 A Direct Retail Customer (DRC) is an Eligible Customer with a minimum annual load hour metered demand of at least 1 MW that acts without an ESCO or an Aggregator to contract for and supply Electric Generation Service and related services solely for its own use and procures and schedules transmission and ancillary services to the Electric Generation Service to deliver to the LIPA system.

- 3.3.2 To be eligible to participate in the LI Choice Program, a DRC must:

- 3.3.2.1 File a completed DRC LI Choice License Application with the Authority.

- 3.3.2.2 Receive and maintain a license from the Authority and therefore become a Licensed DRC. Only Licensed DRCs are eligible to participate in the LI Choice Program and a DRC may not begin to schedule resources to serve its own load under the LI Choice Program until it is licensed by the Authority. The Authority will provide a determination of eligibility regarding completed DRC license applications within 30 calendar days via first class mail. A DRC will not be licensed by the Authority until the required financial security (if any)

has been received by LIPA.

- 3.3.2.3 Have at least 1MW of its own load in the minimum annual load hour prior to commencement of service hereunder and maintain at least 1 MW of load in the minimum annual load hour for the duration of participation in the LI Choice Program. If a Licensed DRC's load falls below 1 MW in the minimum annual load hour, the DRC, within 30 calendar days thereof, must increase its load to meet the 1 MW minimum annual load hour threshold requirement or the DRC's license to participate in the LI Choice Program may be revoked by the Authority.
- 3.3.2.4 Register, as applicable, with the NERC, NYPP or the NYISO and comply with all applicable tariffs, rules and procedures of NERC, NYPP and NYISO, and the Operating Agreement, LIPA's Tariff for Electric Service, the LIPA OATT and these Operating Procedures, as the same may be amended, modified, supplemented, or superseded from time to time.
- 3.3.2.5 Enter into a Network Transmission Service Agreement with LIPA, the NYPP or the NYISO as applicable.

#### **3.4 General Compliance Requirements for ESCOs**

An ESCO must:

- 3.4.1 Comply with all applicable Authority consumer protection requirements, including the policies and procedures associated with Product Disclosure and Product Labeling and Consumer Protections.
- 3.4.2 Follow the ESCO's own policies and procedures as set forth in its Disclosure Statement to Eligible Customers.
- 3.4.3 Keep the Authority apprised of any material change in the data originally submitted in the ESCO's LI Choice License Application. The ESCO shall submit written notification, in accordance with Section 11.0, of any material changes in the data contained in the ESCO's License Application to the Authority within 5 business days of such change.
- 3.4.4 Aggregate and maintain at least 1 MW of LI Choice Customer Load in the minimum annual load hour or enter into a pooling arrangement with a Licensed ESCO to reach and maintain the 1 MW minimum annual load hour threshold requirement.
- 3.4.5 Provide LIPA with such information it deems necessary for LI Choice Program customer enrollment and selection and for termination or cancellation of ESCO service to LI Choice Customers.
- 3.4.6 Be responsible for billing and collecting from its LI Choice Customers all charges and fees associated with providing Electric Generation Service and related

services under the LI Choice Program.

- 3.4.7 Respond to inquiries from LI Choice Customers regarding Electric Generation Service and related services provided by the ESCO, and refer inquires from LI Choice Customers regarding LIPA's delivery service and any related services to LIPA.
- 3.4.8 Comply with all applicable tariffs, rules and procedures of NERC, NYPP and NYISO and the Operating Agreement, LIPA's Tariff for Electric Service, the LIPA OATT and these Operating Procedures, as the same may be amended, modified, supplemented, or superseded from time to time.
- 3.4.9 Provide or contract for and supply sufficient installed capacity, including installed capacity reserves and losses with the attendant on-Island installed capacity and installed capacity reserves requirement to meet the requirements of the ESCO's LI Choice Customer load as more fully described in Section 4.5.
- 3.4.10 Provide proof to LIPA that 1) all installed capacity meets LIPA, NYPP and/or NYISO requirements; 2) the installed capacity is available to the LIPA System Operator or the NYISO, as applicable, for commitment and dispatch to support the LIPA system; and, 3) the ESCO has arranged for sufficient transmission capability such that energy from the source of supply can be reliably delivered to the LIPA system.
- 3.4.11 Produce or contract for and deliver sufficient amounts of electric energy to LIPA's system to meet the hourly requirements of the ESCO's LI Choice Customer load and provide for all applicable losses as more fully described in Section 4.2.

### **3.5 General Compliance Requirements for Licensed Aggregators**

An Aggregator must:

- 3.5.1 Comply with all applicable Authority consumer protection requirements, including the policies and procedures associated with Product Disclosure and Product Labeling and Consumer Protections.
- 3.5.2 Follow the Aggregator's own policies and procedures as set forth in its Disclosure Statement to Eligible Customers.
- 3.5.3 Keep the Authority apprised of any material change in the data originally submitted in the Aggregator's LI Choice License Application. The Aggregator shall submit written notification, in accordance with Section 11.0, of any material changes in the data contained in the Aggregator's License Application to the Authority within 5 business days of such change.
- 3.5.4 Provide LIPA with such information LIPA deems necessary for LI Choice Program customer enrollment and selection and for termination or cancellation of ESCO and Aggregator service to LI Choice Customers.

- 3.5.5 Have their customers serviced by a Licensed ESCO at all times and notify LIPA 1 calendar month prior to any reassignment of service to another Licensed ESCO.
- 3.5.6 Notify their customers at least 1 calendar month prior to any reassignment of service to another Licensed ESCO.
- 3.5.7 Allow a customer to cancel their Agreement with the Aggregator, without Aggregator or ESCO charge or penalty, within 60 days of notice of reassignment of service to another Licensed ESCO.

### **3.6 General Compliance Requirements for DRCs**

A DRC must, on an ongoing basis:

- 3.6.1 Keep the Authority apprised of any material change in the data originally submitted in the DRC's LI Choice License Application. The DRC shall submit written notification, in accordance with Section 11.0, of any material changes in the data contained in the DRC's License Application to the Authority within 5 business days of such change.
- 3.6.2 Serve and maintain at least 1 MW of its own load in the minimum annual load hour.
- 3.6.3 Comply with all applicable tariffs, rules and procedures of NERC, NYPP and NYISO, and the Operating Agreement, LIPA's Tariff for Electric Service, the LIPA OATT and these Operating Procedures, as the same may be amended, modified, supplemented, or superseded from time to time.
- 3.6.4 Provide or contract for and supply sufficient installed capacity, including installed capacity reserves and losses with the attendant on-Island installed capacity and installed capacity reserves requirement to serve its own load as more fully described in Section 4.5.
- 3.6.5 Provide proof to LIPA that 1) all installed capacity meets LIPA, NYPP and/or NYISO requirements; 2) the installed capacity is available to the LIPA System Operator or the NYISO, as applicable, for commitment and dispatch to support the LIPA system; and 3) that the DRC has arranged for sufficient transmission capability such that energy from the source of supply can be reliably delivered to the LIPA system.

- 3.6.6 Produce or contract for and deliver sufficient amounts of electric energy to LIPA's system to meet the hourly requirements of its own load and provide for all applicable losses as more fully described in Section 4.2.

### **3.7 Creditworthiness**

- 3.7.1 Credit Review - For the purpose of determining the ability of an ESCO or DRC to meet its financial obligations to LIPA and its service obligations to LI Choice Customers hereunder, LIPA will undertake a reasonable credit review. This review shall be made in accordance with standard commercial practices. LIPA may require an ESCO or DRC to provide and maintain in effect financial security, prepayments, an unconditional, irrevocable letter of credit, a surety bond, or corporate guarantee as security to meet its financial responsibilities and obligations to LIPA, or an alternative form of security proposed by the ESCO or DRC and acceptable to LIPA, which is consistent with standard commercial practices and which protects LIPA against the risk of non-payment. The financial security shall be based on not more than two (2) months of an ESCO's or DRC's highest projected Electric Generation Service and related services billings to all of its customers and shall be calculated utilizing LIPA's bill credit as provided in the LI Choice Tariff. Any cash financial security deemed necessary will accrue interest at LIPA's established interest rates for Consumer Deposits.
- 3.7.2 Creditworthiness Requirements - The ESCO or the DRC or any corporate guarantor will be considered creditworthy if (a) the ESCO or the DRC maintains a Dun and Bradstreet rating of (1A2) or better, or has long-term unsecured debt securities that are, and remain, rated a minimum of BBB or Baa2 by Standard & Poor's (S&P), Moody's or Fitch's, respectively, and if applicable, the ESCO or the DRC has a satisfactory long-term payment history with LIPA as determined by LIPA in its sole discretion, or (b) the ESCO or the DRC has, as determined by LIPA in its sole discretion, a satisfactory long-term payment history with LIPA.

An ESCO or DRC that is not considered creditworthy may not participate in the LI Choice Program, unless and until it provides and maintains in effect during the term of the Operating Agreement, financial security, a prepayment, an unconditional irrevocable letter of credit, a surety bond, a guarantee, or an alternative form of security proposed by the ESCO or the DRC and determined to be acceptable by LIPA.

A letter of credit, if used, must be provided by a bank rated (A) or better by S&P's, Moody's, or Fitch's. A surety bond, if used, must be provided by a company licensed to do business in New York State and rated (BBB or Baa2 or better) by S&P's, Moody's or Fitch's, respectively. A corporate guarantee must be unconditional and in a form satisfactory to LIPA, and include responsibility for all financial obligations under the LI Choice Program, including the ESCO or DRC Operating Agreement.

- 3.7.3 Credit Limit - LIPA shall determine a credit limit for all ESCOs or DRCs. Such credit limit shall be based on the creditworthiness of the ESCO or DRC. If financial security, prepayment, letter of credit, surety bond, or corporate guarantee is required from the ESCO or DRC, then the credit limit shall be equal

to the value of such prepayment, letter of credit, surety bond, or corporate guarantee. LIPA may use such information as it deems appropriate to determine creditworthiness and credit limits, including, but not limited to, company size, credit rating, financial statements, future projections and industry trends.

3.7.3.1 If LIPA has established creditworthiness and a credit limit for an ESCO or DRC but the ESCO or DRC wishes to obtain a higher credit limit, then the ESCO or DRC may, in a form acceptable to LIPA, provide additional financial security, prepayment, letter of credit or corporate guarantee. The additional financial security or prepayment so made shall be added to the original credit limit for the ESCO or DRC. If a corporate guarantee or letter of credit is provided, then such guarantee or letter of credit, in the increased amount, shall replace the original credit limit for the ESCO or DRC.

3.7.3.2 LIPA may, in its sole discretion, modify the credit limit for an ESCO or DRC for the following reasons, among others: (1) the creditworthiness of the ESCO, DRC or entity providing the corporate guarantee changes, or (2) LIPA changes the credit limit for all ESCOs or DRCs of similar creditworthiness, or (3) LIPA reviews all ESCOs' or DRCs' loads and requests the necessary changes.

3.7.3.3 Requirements for financial security will be reviewed quarterly during the operation of the LI Choice Program to determine changes in an ESCO's or DRC's load and financial status. The ESCO or DRC will be notified by LIPA in writing of any additional security requirements and will be required to post same within 20 calendar days.

3.7.3.4 If LIPA fails to exercise any one or more of its rights under this section for any reason, such failure shall not preclude LIPA from exercising such rights later.

### **3.8 Dispute Resolution Procedure**

The LI Choice Tariff sets forth procedures that shall be followed regarding complaints and disputes between ESCOs/DRCs and/or LIPA involving LI Choice Program requirements and performance. Each ESCO and DRC shall designate specific personnel to be responsible for responding to complaints and disputes under this process.

### **3.9 License Suspension and Revocation**

The Authority, in its sole discretion, may suspend or revoke an ESCO's or DRC's license to participate in the LI Choice Program for violating requirements of the LI Choice Program. The procedures and criteria relating to license suspension and revocation by the Authority are set forth in the LI Choice Tariff.

### **3.10 Records Access, Audits and Investigations**

Requirements relating to records access, audits and investigations by the Authority and

related matters are set forth in the LI Choice Tariff.

## 4.0 WHOLESALE POWER DELIVERY PROTOCOLS

### 4.1 Overview

Under Long Island Choice, energy deliveries will be scheduled by the ESCO,<sup>3</sup> as agent for its LI Choice Customers, to LIPA's service territory. These scheduled deliveries will be based on the ESCO's forecasted energy use by its customers. These deliveries will occur at the wholesale level. To the extent that the ESCO delivers energy as scheduled, then the interaction between the NYISO/LIPA and the ESCO will be in "balance". Any differences ("imbalances") between the schedule and deliveries will be reconciled between the ESCO and the NYISO/LIPA.

The procurement and delivery of power to LI Choice Customers will be arranged as a wholesale transaction and consist of two components. These are:

Wholesale Energy Scheduling - The ESCO will schedule energy deliveries to meet the projected consumption of its customers and arrange for transmission service with the NYISO and/or transmission providers ("TPs").

Wholesale Delivery and Balancing - The NYISO/TPs will deliver energy to Long Island according to the ESCO's schedule. Actual deliveries that differ from the ESCO's scheduled deliveries will be settled via the wholesale balancing mechanism.

### 4.2 Energy Requirements

#### Post-NYISO:

- 4.2.1 ESCO Estimated LBMP Energy - Each ESCO must input its estimated hourly amount of LBMP energy purchases (the sum of the estimated hourly day ahead LBMP purchase amount plus the estimated hourly real-time LBMP purchases) by 3:00 p.m. two days prior to the dispatch day.
- 4.2.2 LIPA Estimated Available ICAP - LIPA will calculate the each ESCO's estimated available ICAP by multiplying the ESCOs share of local ICAP by the estimated percentage availability of unavoidable generation for each hour. When possible, LIPA will reserve sufficient generation to provide for the lesser of each ESCO's estimated LBMP Energy or estimated available ICAP, to serve the estimated hourly purchases
- 4.2.3 ESCO Load Forecast - Each ESCO, acting as the Load Serving Entity for its respective customers, will be required to submit its hourly customer load forecast to the NYISO each day. The format, timing and frequency of these forecasts shall be as set forth in the NYISO Tariff.
- 4.2.4 Energy Requirements - Each ESCO must obtain sufficient energy to satisfy its energy requirements (including losses).
- 4.2.5 Scheduling Energy Deliveries - Each ESCO is required to submit its schedule of

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<sup>3</sup> ESCO is used throughout this Section 4.0 to include both an ESCO, and when eligible for Program participation, any Direct Retail Customer (DRC). In these Operating Procedures, a DRC is also considered a LI Choice Customer.

wholesale energy transactions to the NYISO. The format, timing and frequency of these schedules shall be as set forth in the NYISO Tariff.

- 4.2.6 Wholesale Energy Balancing - Deviations between scheduled and actual power deliveries by the ESCO will be settled with the NYISO as provided in the NYISO Tariff.
- 4.2.7 Data for Retail Settlement - After the ESCO receives its wholesale settlement, each ESCO shall provide LIPA, in a specified electronic format, the hourly aggregate energy delivered as settled by the NYISO.
- 4.2.8 Actual ESCO Hourly LBMP Energy - Each ESCO is to provide or authorize the NYISO to provide LIPA the total hourly amount of LBMP energy purchases (the sum of the estimated hourly day ahead LBMP purchase amount plus the estimated hourly real-time LBMP purchases)
- 4.2.9 Data for Energy Adjustment Calculation - The amount of unavoidable generation used to serve Bundled Service and LI Choice load (system load), to be used for the energy adjustment calculation in the LI Choice Tariff, will be calculated as follows:
  - 4.2.9.1 The hourly amount of unavoidable generation used to serve LI Choice load will be calculated by taking the minimum value of the following: 1) the total ESCOs' hourly available ICAP calculated by multiplying the ESCOs' share of local ICAP by the actual availability of unavoidable generation for the hour; 2) the hourly sum of all ESCO actual purchases from the day ahead and hour ahead LBMP market; and 3) the sum of all ESCO estimated hourly purchases from the day ahead and hour ahead LBMP market
  - 4.2.9.2 The hourly amount of generation used to serve LIPA bundled service load will be calculated using the following steps: 1) the actual hourly generation from unavoidable LIPA generation will be calculated; 2) the hourly unavoidable generation available to LIPA will be calculated by subtracting the hourly generation used by ESCOs from the total generation from unavoidable generation; and 3) the available generation used to serve LIPA bundled service load will be equal to the lesser of the hourly LIPA load or the unavoidable generation available to LIPA.
  - 4.2.9.3 The hourly amount of unavoidable generation used to serve system load will be equal to the hourly amount of generation used by the ESCOs plus the hourly amount of generation used to serve LIPA bundled service load.

Pre-NYISO:

All data submitted to LIPA pursuant to Sections 4.2.10 - 4.2.15 below will be in an electronic format specified by LIPA.

- 4.2.10 ESCO Load Forecast - Each ESCO, acting as the Load Serving Entity for its respective Customers, will be required to submit its hourly day-ahead customer load forecast, as well as a seven-day hourly load forecast, to LIPA each day by

12:00 noon. The day-ahead hourly forecast will be binding. The ESCO must schedule to the day-ahead forecast. The seven-day forecast will be used by LIPA, at its discretion, to schedule unit maintenance and commitment.

- 4.2.11 Energy Requirements - Each ESCO must meet its energy requirements from its own resources or purchases from LIPA or both. Purchases from LIPA must be made using LIPA's day-ahead hourly forecast of energy prices for Long Island to satisfy its forecasted day-ahead energy requirements (including losses).
- 4.2.12 Scheduling Energy Deliveries - Each ESCO, as agent for its LI Choice Customers, is required to submit its schedule of hourly wholesale energy deliveries to LIPA and NYPP each day.

The ESCO shall provide hourly energy delivery schedules in an electronic format prescribed by LIPA by 12:00 noon one day prior to the dispatch day. The delivery schedule must include on an hourly basis: 1) the amount of energy that the ESCO expects to import to the LIPA system; 2) the amount of energy that will be generated on-Island by each non-LIPA resources; and 3) the amount of energy that will be purchased from LIPA.

If the ESCO's schedule differs from the forecast, a penalty equal to 35% of LIPA's day-ahead hourly forecasted price times the absolute value of the difference between the forecast and schedule may be charged to the ESCO. Scheduling imbalances are grounds for license suspension or revocation.

- 4.2.13 Wholesale Energy Balancing - Deviations between scheduled and actual power deliveries by the ESCO will be settled with LIPA as provided in the LIPA OATT. Scheduled deliveries are defined as the "day-ahead" schedule. For imported power from off-Island, actual power deliveries will be assumed to be those set forth in the "dispatch-day" schedule provided to LIPA by the NYPP showing hourly imports to Long Island by the ESCOs. Actual power deliveries from on-Island resources will be as measured by the metered injections from each source into the LIPA system. If multiple ESCOs schedule energy from the same on-Island resource, the total imbalance of the resource will be prorated between the ESCOs in proportion to their respective schedules. ESCOs will be responsible for any consequences resulting from a difference between the prorated imbalance and the ESCOs' underlying resource arrangements.
- 4.2.14 Sale of Energy from LIPA Resources - Under LI Choice, each ESCO may purchase energy directly from LIPA's power supply mix up to each ESCO's allocation of available installed capacity. The allocations to ESCOs shall be performed by LIPA each day. The price paid by ESCOs for this energy shall be that set forth in the LIPA's day-ahead hourly forecast of energy prices for Long Island. This energy may be used to satisfy the ESCO's energy requirement for its LI Choice customers.

Each day, LIPA will post information on the availability of its generation, thereby allowing each ESCO to determine the maximum amount of energy that may be purchased from LIPA. By 8:30 a.m. the day before energy deliveries would begin, LIPA will post LIPA's hourly day-ahead pricing and the amount of LIPA

generation available to ESCOs. ESCOs must accept and schedule nominations for LIPA generation by 10:00 a.m. the day before energy deliveries would begin. After 10:00 a.m., the ESCOs may only schedule energy from LIPA generating resources based upon their respective allocations. If available, ESCOs may purchase additional energy amounts at market prices on a first-come, first-served basis after 10:00 a.m.

4.2.15 Data for Energy Adjustment Calculation - The amount of unavoidable generation used to serve Bundled Service and LI Choice load (system load), to be used for the energy adjustment calculation in the LI Choice Tariff, will be calculated as follows:

4.2.15.1 The hourly amount of unavoidable generation used to serve LI Choice load is equal to the hourly amount of generation scheduled by 10:00 a.m. the day before energy deliveries began.

4.2.15.2 The hourly amount of generation used to serve LIPA bundled service load will be calculated using the following steps: 1) the actual hourly generation from unavoidable LIPA generation will be calculated; 2) then the hourly unavoidable generation available to LIPA will be calculated by subtracting the hourly generation used by ESCOs from the total generation from unavoidable generation; and 3) the available generation used to serve LIPA bundled service load will be equal to the lesser of the hourly LIPA load or the unavoidable generation available to LIPA.

4.2.15.3 The hourly amount of unavoidable generation used to serve system load will be equal to the hourly amount of generation used by the ESCOs plus the hourly amount of generation used to serve LIPA bundled service load.

### **4.3 Arranging Transmission Service**

Under the LI Choice Program, the ESCO, as agent for the LI Choice Customer, will arrange for transmission service to deliver Electric Generation Service to the LI Choice Customers. For on-Island generation owned or contracted for by ESCOs, the LI Choice Customer will take title to the energy at the generator's interconnection with the LIPA system. For purchase of off-Island energy, the LI Choice Customers will take title to the energy before it is delivered to the LIPA system. ESCOs are responsible for scheduling energy deliveries to the LI Choice Customer, and, in Phase I of the Program, shall be based on each ESCO's on-Island installed capacity requirement.

#### Post-NYISO:

4.3.1 Transmission Requirement - Each ESCO as agent for its LI Choice Customers is required to arrange for transmission service under the NYISO Tariff. ESCOs must register with the NYISO to qualify for access to the NYISO internal scheduling system. Scheduling of transactions external to the NYISO into the NYISO shall utilize the NERC Tag system, if applicable. The ESCO must

conform with all NYISO scheduling, planning and operating requirements and practices.

- 4.3.2 Transmission Restriction - Under the LI Choice Program, ESCOs may schedule transmission deliveries to on-Island sources only under the NYISO Tariff as agents for LI Choice Customers. An ESCO's purchase of transmission service for its own account as principal may jeopardize the tax-exempt status of LIPA's bonds. Therefore, if an ESCO wishes to use LIPA's transmission system for non-LI Choice Program deliveries on or through the LIPA system, the ESCO must negotiate an individual agreement with LIPA pursuant to the NYISO Tariff.
- 4.3.3 Transmission Payments - Payments for transmission shall be paid by the ESCO on behalf of its LI Choice Customers pursuant to the NYISO Tariff. The Transmission Service Charge (TSC) component of the Tariff will be billed to the customer and paid to LIPA. All other components of the NYISO Tariff will be billed to the ESCO, as agent for the LI Choice Customer, and paid to the NYISO.

Pre-NYISO:

- 4.3.4 Transmission Requirement - Each ESCO as agent for its LI Choice Customers will be required to arrange for transmission service sufficient to deliver all of its energy requirements (including losses). This transmission service must be provided as Retail Network Service purchased as part of LIPA's Delivery Service.

In addition, if applicable, ESCOs will be required to schedule with third-party TP and pay all transmission, ancillary services charges and losses required by third parties necessary to deliver Electric Generation Service purchased outside LIPA's service territory.

- 4.3.5 Transmission Request - Each ESCO will be required to submit its schedule of hourly transmission transactions to LIPA each day. This hourly schedule will include system-wide (on-Island) use of the LIPA transmission system, as well as the hourly import schedule from off-Island resources. The format, timing and frequency of these schedules are set forth in Section 4.3.7.

Scheduling of transactions internal and external to the NYPP will utilize the NERC Tag system. The ESCO must register with NERC to use the NERC Tag system. The ESCO must comply with all LIPA and NYPP scheduling, planning and operating practices and requirements to maintain the reliability of LIPA and NYPP's electric transmission and distribution systems.

- 4.3.6 Transmission Payments - Each LI Choice Customer shall pay to LIPA the Network Service charge (which is based on LIPA's OATT) contained in the LI Choice Tariff.
- 4.3.7 Use of LIPA Transmission Rights - Under LI Choice Program, each ESCO, as agent for its customers, may use a share of LIPA's existing transmission rights for importing power onto Long Island. The transmission interconnection capability of each interface will vary depending on system conditions, including unit outages, and changes in seasonal and daily ratings. The transmission

service will be allocated in the following manner. (All transmission transactions described below shall be undertaken by the ESCO as an agent for the LI Choice Customers).

- 4.3.7.1 Each ESCO must input its request to LIPA for off-Island Network Service by 3:00 p.m. two days prior to dispatch day.
- 4.3.7.2 Each ESCO's share of tie-line capability will be calculated as follows: 1) The LIPA import capability for the system will be calculated by subtracting NYPA and Con Edison deliveries from the on-Island import capability; 2) The import capability used for unavoidable generation capacity as defined in the LI Choice Tariff will be subtracted from the LIPA import capability to obtain an adjusted LIPA import capability; 3) A Network Service load ratio share will be calculated by allocating the adjusted LIPA import capability among LIPA and the ESCO in proportion to each entities' load ratio share of the LIPA system as defined in the Retail Network Service provisions of LIPA's OATT; 4) LIPA and each ESCO will be granted its request up to its Retail Network Service entitlement; 5) Any remaining adjusted import capability will be allocated to LIPA and the ESCOs in proportion to their respective LIPA OATT load ratio share; and, 6) The total transmission capacity allocated to each ESCO and LIPA will not exceed their request for Retail Network Service.
- 4.3.7.3 LIPA will post ESCO off-Island network transmission allocations by 7:30 a.m. on the day prior to dispatch day.
- 4.3.7.4 The ESCO shall submit to LIPA a final energy schedule for the off-Island import capability by 10:00 a.m. on the day prior to dispatch day.
- 4.3.7.5 In the event that the ESCO does not utilize its allocated share of network transmission interconnection capability, the unused transmission capability will be posted on the OASIS system by 11:00 a.m. the day prior to dispatch.
- 4.3.7.6 Final requests for network transmission shall be made by 12 noon and submitted with the energy schedules described above.

#### **4.4 Arranging for Ancillary Services**

- 4.4.1 Post-NYISO - As agent for its LI Choice Customers, each ESCO is required to purchase ancillary services pursuant to the NYISO Tariff.
- 4.4.2 Pre-NYISO - All ancillary services except wholesale balancing, are included in the LIPA Delivery Service rate.
- 4.4.3 Pre-NYISO - In the event of a system emergency, each ESCO shall, at LIPA's request, provide any available ancillary services of operating reserve, spinning reserve, and reactive power from resources procured for the ESCO's LI Choice Customers to LIPA. These resources will be purchased by LIPA at the cost

incurred by the ESCO.

#### **4.5 Installed Capacity Requirements for the Long Island Choice Program**

4.5.1 Pre-NYISO - ESCOs serving LI Choice Customers are required to procure installed capacity and installed capacity credits to supply customer load. The Installed Capacity Reserve Requirement (ICAP) will be equal to the customer coincident peak load plus losses plus the NYPP utility installed reserve requirement times the customer peak load plus losses. Because of transmission constraints between Long Island and the NYPP and the ISO New England systems, a Local Installed Capacity Reserve Requirement (Local ICAP) will be established to protect Long Island system reliability. The ESCO's Local ICAP requirement must be met by resources that qualify as on-Island resources. The current values for the NYPP utility reserve requirement, loss factors and Local ICAP percentage are set forth in the LI Choice Tariff's Statement of Values for Losses ICAP and Local ICAP. During Phase I, LIPA expects that ESCOs may be unable to procure sufficient installed capacity resources other than generation resources dedicated to LIPA, to meet all of their Local ICAP requirement. LIPA will provide installed generating capacity credits to assist ESCOs in meeting their total ICAP and Local ICAP requirements. In all phases of the LI Choice Program, ESCOs must contract with other generators or suppliers for the ICAP and Local ICAP requirements not provided by LIPA. It is the responsibility of the ESCOs to demonstrate to LIPA that all of their capacity resources meet LIPA and NYPP ICAP requirements. The procedures outlined in the LI Choice Tariff describe how an ICAP penalty will be assessed against the ESCOs and LIPA and distributed to the ESCOs and LIPA if warranted.

4.5.1.1 During Phase I of the LI Choice Program, each ESCO will be allocated an amount of on-Island installed generating capacity credits with a summer rating equal to its Local ICAP requirement. The winter rating of the Local ICAP provided by LIPA will be equal to the summer rating times the ratio of unavoidable capacity winter capability over the unavoidable capacity summer capability. These installed capacity credits will be provided to ESCOs at no charge because the associated costs are already embedded in LIPA's Delivery Service rates for LI Choice Customers under the LI Choice Tariff. The ICAP provided will be adjusted monthly to reflect changes in the ESCO load.

4.5.1.2 In Phase II, it is anticipated that LIPA will conduct a seasonal auction of on-Island capacity credits equal to the combined on-Island ICAP requirements of the ESCOs and DRCs. The details of this auction process will be developed in the future.

4.5.1.3 In Phase III, it is anticipated that LIPA will conduct a seasonal auction of on-Island capacity credit surplus to LIPA's on-Island requirement. The amount of capacity credits that would be available for the auction is uncertain.

4.5.2 Post-NYISO - After the NYISO becomes operational for wholesale energy transactions, it is anticipated that the ICAP requirements for ESCOs will be

essentially the same as those described in Section 4.5.1 above. However, the NYPP ICAP requirements will be replaced by the ICAP requirements of the NYISO. The Authority's Local ICAP requirement will be retained until the NYISO establishes Local ICAP requirements for Long Island. LIPA will convert Pre-NYISO ICAP commitments into an equivalent bilateral ICAP contract. Until the NYISO or a Power Exchange establishes a suitable ICAP market, LIPA will allocate ICAP installed generating credits for Phases I, II and III of LI Choice in the manner described in Section 4.5.1 above. At some point, the NYISO or a Power Exchange may facilitate a market for ICAP. If this ICAP market is designed to accommodate a Local ICAP requirement and does not violate the tax exempt bonding requirements of LIPA's power supply, it is anticipated that LIPA will release Local ICAP and ICAP into this market.

## 5.0 RETAIL SETTLEMENT PROCESS

### 5.1 Overview

An ESCO's<sup>4</sup> actual customer load plus losses will vary from the hourly scheduled wholesale deliveries. The Retail Settlement process is used to charge the ESCO for under-deliveries and credit the ESCO for over-deliveries. The Retail Settlement process is based on the concept of load profiles.

#### 5.1.1 Load Profiles

For customers without interval metering data, load profiling will be used to provide estimated hourly load requirements for scheduling resources and the wholesale balancing and retail settlement processes. Load profiles for Phase I of LI Choice will be based on existing load profile data for all major electric rate classes. The hourly load profiles will be differentiated by season, temperature range and day type. Coincidence factors with respect to LIPA's system monthly peak hour will be provided. LIPA will obtain ESCO input in the development of future load profile methodologies.

#### 5.1.2 Interval Metering Data

Hourly interval metering data will be used for retail settlement when such metering is in place with the following exceptions:

5.1.2.1 If interval metering has been installed on a customer's account for load research purposes, the applicable load profiles for that customer will be used for retail settlement.

5.1.2.2 If a customer participates in LIPA's Load Cooperative Program or other qualifying peak reduction program with measured hourly load adjustment (Measured DSM Program), the interval metering data will be adjusted to reflect what the load would have been without the Measured DSM Program according to the Measured DSM Program's procedures. LIPA will provide ESCOs information on which customers participate in Measured DSM Programs and provide ESCOs a statement summarizing the aggregate load adjustment.

#### 5.1.3 Projected Load Profile

The Projected Load Profile will be calculated for each ESCO based on actual interval metered data for customers with interval meters and the load profiles of customers without interval metered data. The load profile will be for each hour of the month. The load profiles will be developed using the day-ahead projected peak temperature posted on the Long Island Choice web site and the customer load profiles adjusted for historic usage patterns. The profile will include losses.

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<sup>4</sup> ESCO is used throughout this Section 5.0 to include both the ESCO, and when eligible for Program participation, any Direct Retail Customers (DRCs). In these Operating Procedures, a DRC is also considered to be a LI Choice Customer.

#### 5.1.4 Actual Load Profile

The Actual Load Profile will be calculated for each ESCO based on the actual interval metered data (with any adjustments for Measured DSM Programs) for customers with interval meters and the load profiles of customers without interval metered data. The load profile will be for each hour of the month. The load profiles will be developed using the actual daily peak temperature for the day and the customer load profiles adjusted for metered customer usage. The profile will include losses.

### **5.2 Retail Settlement Process Timing**

LIPA will conduct Retail Settlement in the pre-NYISO timeframe. LIPA will conduct Retail Settlement in the post-NYISO timeframe until the NYISO is prepared to do so.

5.2.1 Two months after the end of each calendar month, the Final Settlement process will take place. At this point, the necessary metered data will be available for nearly all LI Choice customers. The process will follow these steps:

5.2.1.1 LIPA will utilize the best available information to determine hourly loads for the calendar month for which the Final Settlement is to be determined. Billed energy and load profiles will be used to estimate hourly loads for those customers that do not have hourly interval metering. Hourly interval metering will be used wherever possible. If interval metering has been installed on a customer's account for load research purposes, the ESCO will not be required to use the hourly data and may elect to use the applicable load profile.

5.2.1.2 LIPA will determine the Actual Load Profile used by the customers of each ESCO and compare that to each ESCO's load schedule to determine the hourly imbalances.

5.2.1.3 Pre-NYISO - LIPA will apply the real-time marginal cost used for Energy Adjustment calculations in the tariff (Real-Time Marginal Cost) for each hour to each ESCO's imbalance. LIPA will then sum the credits and charges across all the hours in the calendar month for each ESCO.

Post-NYISO - LIPA will apply the Real-Time LBMP's for each hour to each ESCO's imbalance. LIPA will then sum the credits and charges across all the hours in the calendar month for each ESCO.

5.2.1.4 By the 5th business day after the first day of the month two months after the month being settled, LIPA will send each ESCO a summary of its imbalance charges for review. The ESCO's will have 15 business days to review for concurrence. At the end of that 15 business day period, LIPA will make any necessary adjustments and in 5 business days will issue a Final Settlement Statement and credit or debit the ESCO's billing account.

- 5.2.2 Six months after the end of each calendar month LIPA will perform adjustments to the Final Settlement resulting from information that has become available in the interim, such as bill adjustments or meter tampering. The process will follow the following steps:
  - 5.2.2.1 LIPA and the ESCO's will submit adjustments prior to the 1st business day of the month six months after the month being adjusted.
  - 5.2.2.2 LIPA will process these adjustments by the 5th business day and issue a statement and adjust the ESCO billing account for any subsequent charges or credits.

### **5.3 Retail Energy Reconciliation and Imbalance Charges**

Until the NYISO assumes responsibility for providing retail settlement services to ESCOs, LIPA will reconcile imbalances between the ESCO's scheduled deliveries and the ESCO's Actual Load Profile each month, impose charges for actions taken by LIPA to manage under-deliveries, and provide credits for certain over-deliveries to its system.

- 5.3.1 Post-NYISO Retail Settlement for ESCOs - Energy imbalances will be reconciled in accordance with the NYISO Tariff.
- 5.3.2 Post-NYISO, but Pre-NYISO Retail Settlement for ESCOs - On an hourly basis, LIPA will determine whether the scheduled energy deliveries from an ESCO match the Actual Load Profile of its aggregated LI Choice Customers' load for ESCOs, when adjusted for applicable losses.
  - 5.3.2.1 Subject to the timing in Section 5.2, on a monthly basis, LIPA will review the schedule of hourly energy deliveries for each ESCO and compare the scheduled hourly energy deliveries to the Actual Load Profile for the ESCO's LI Choice Customers. Energy imbalances will be calculated and priced on an hourly basis.
    - 5.3.2.1.1 All energy imbalances will be reconciled based upon the value of energy for that hour as follows.
      - 5.3.2.1.1.1 The ESCO will be assessed a charge for under-deliveries equal to the amount of the shortfall in kWh multiplied by the NYISO real-time LBMP for the Long Island zone for the same hour in which the imbalance occurred.
      - 5.3.2.1.1.2 The ESCO will be issued a credit for over-deliveries equal to the amount of the surplus in kWh multiplied by the NYISO real-time LBMP for the Long Island zone for the same hour in which the imbalance occurred.
- 5.3.3 Pre-NYISO -- On an hourly basis, LIPA will determine whether the scheduled energy deliveries from an ESCO match the Actual Load Profile.

- 5.3.3.1 Subject to the timing in Section 5.2, on a monthly basis, LIPA will review the schedule of hourly energy deliveries for each ESCO and compare the scheduled hourly energy deliveries to the Actual Load Profile for the ESCO's LI Choice Customers. Energy imbalances will be calculated and priced on an hourly basis.
  - 5.3.3.1.1 A deviation band will be calculated as follows:1) a lower bound will be established by taking the lesser of the Projected Load Profile and the Actual Load Profile; 2) an upper bound will be established by taking the greater of the Projected Load Profile and the Actual Load Profile; 3) the lower bound will be adjusted downward by the greater of 2MW or 10% of the lower bound; 4) the upper bound will be adjusted upward by the greater of 2MW or 10% of the upper bound; 5) the deviation band will be established by the adjusted upper bound and adjusted lower bound.
  - 5.3.3.1.2 Energy imbalances within the deviation band will be reconciled based upon the value of energy for each hour as follows:
    - 5.3.3.1.1.1 The ESCO will be assessed a charge for under-deliveries equal to the amount of the shortfall in kWh multiplied by 100% of the Real-Time Marginal Cost for Long Island for the same hour in which the imbalance occurred.
    - 5.3.3.1.1.2 The ESCO will be issued a credit for over-deliveries equal to the amount of the surplus in kWh multiplied by 100% of the Real-Time Marginal Cost for Long Island for the same hour in which the imbalance occurred.
  - 5.3.3.1.3. Energy imbalances outside the deviation band will be reconciled based upon the value of energy for that hour as follows:
    - 5.3.3.1.3.1 The ESCO will be assessed a charge for under-deliveries equal to the amount of the shortfall measured in kWh multiplied by 135 percent of the Real-Time Marginal Cost for Long Island for the same hour in which the imbalance occurred.
    - 5.3.3.1.3.2 The ESCO will be issued a credit for over-deliveries equal to the amount of the surplus measured in kWh multiplied by 65 percent of the Real-Time Marginal Cost for Long Island

for the same hour in which the imbalance occurred.

#### **5.4 Unmetered Service and Fast Meters**

5.4.1 Unmetered Service - If LIPA determines that service to an ESCO's customer is unmetered, in whole or in part,

5.4.1.1 Post-NYISO Retail Settlement for ESCOs - Unmetered energy will be handled according to the NYISO Tariff Retail Settlement process.

5.4.1.2 Post-NYISO Prior to NYISO Retail Settlement - LIPA will retroactively bill the ESCO for the estimated unmetered energy consumed by the LI Choice Customer at a rate equal to the NYISO Real-Time LBMP for the same hour in which the estimated unmetered consumption occurred through the NYISO retail settlement process. Any applicable charges and penalties will be assessed in accordance with the NYISO Tariff. To the extent that the NYISO Tariff does not fully address charges and penalties associated with unmetered energy, meter tampering or other interference with the meter or LIPA's facilities necessary for the receipt of service, LIPA's Pre-NYISO procedures will apply.

5.4.1.3 Pre-NYISO - LIPA will retroactively bill the LI Choice Customer at LIPA's Bundled Service rates for the estimated unmetered consumption, plus any applicable penalties and late payment charges set forth in LIPA's Bundled Service Tariff.

#### **5.4.2 Fast Meters Retail Settlement**

5.4.2.1 Post-NYISO Retail Settlement for ESCOs - Fast meter energy adjustments will be credited by the NYISO according to its policies established for fast meter adjustments. To the extent that the NYISO rules and procedures do not adequately address these credits, LIPA's regular procedures for fast meters will apply. The customer will be credited for overcharges on the delivery portion by LIPA

5.4.2.2 Post-NYISO but Prior to NYISO Retail Settlement - The procedures for Pre-NYISO will be used.

5.4.2.3 Pre-NYISO - Fast meter adjustments will be credited to the ESCO at the seasonal bill credit established in the LI Choice Tariff. No change in Retail Settlement will occur. Any capacity penalties that would not have been incurred, except for the fast meter adjustment, will also be credited. The customer will be credited for overcharges on delivery by LIPA.

#### **5.5 Major System Outages**

Post-NYISO and Pre-NYISO - In the event of a major system outage, LIPA may, at its discretion, declare a "system emergency." Under a system emergency,

LIPA may assume responsibility for scheduling all customer loads within its transmission and distribution system. If requested by LIPA, the ESCO shall allow LIPA to schedule ESCO capacity and energy resourced during the emergency. A cost-based settlement for energy provided by ESCOs and LIPA and provided to customers will be negotiated by LIPA and the ESCOs.

## **6.0 LI CHOICE ESCO AND DRC FINANCIAL ADJUSTMENTS**

LIPA will calculate and invoice financial adjustments to ESCOs for variances in certain energy, capacity, transmission and ancillary costs under LI Choice. Energy and capacity adjustments that will be made are associated with LIPA's unavoidable supply resource costs that remain in the LI Choice Delivery Services rates. Transmission adjustments that will be made are associated with LIPA's import capability. These transmission adjustments may also involve a crediting back of certain LIPA OATT charges or certain Transmission Service Charges that ESCOs may be required to pay. Adjustments will also be made for ancillary service costs retained in the LIPA Delivery Services rate that are subsequently paid by the ESCO. The manner of calculating these financial adjustments and related matters are set forth in the LI Choice Tariff.

## 7.0 PRODUCT DISCLOSURE

The Authority believes that LI Choice Customers should have information concerning the costs and environmental characteristics of their power supply. Therefore, the Authority will require disclosure of this information to customers through a product label.

The New York Public Service Commission (PSC) is currently developing product labeling requirements for the other New York State utilities that will be based on data obtained from the NYISO after it becomes operational (PSC Program). The Authority anticipates voluntarily participating in the PSC Program when it is established.

### 7.1 Interim Product Disclosure and Product Labeling

7.1.1 Requirements - Prior to implementation of the PSC Program, a claims-based product disclosure process will be implemented by the Authority. Under this claims-based process, if an ESCO makes no claim about the fuel or product characteristics of its product, then it would be required to disclose to LI Choice Customers a historic 12-month average Long Island fuel mix as specified by LIPA. If the ESCO desires to make a “green” or other product claim, then it would be required to disclose to the customer a prospective 12-month average estimate of the fuel mix for that product. The average Long Island fuel mix would also be included for comparison purposes. Fuels source categories included in the fuel mix disclosure are listed below:

- Biomass (landfill gas, sewage gas, urban wood waste, pallet waste, mill residue wood from primary and secondary wood products industries, harvested wood including site conversion waste wood, silvicultural waste wood, agricultural residue, and sustainable yield wood);
- Coal (steam turbine and pumped storage hydro powered by coal);
- Gas (natural gas from steam turbine, simple combustion turbine, and combined-cycle combustion turbine, LPG and pumped storage hydro powered by gas);
- Hydro (pondage and run-of-river-hydro);
- Nuclear (boiling and pressurized reactors and pumped storage hydro powered by nuclear);
- Oil (Oil steam turbine, simple combustion turbine, and combined-cycle combustion turbine, diesel, No. 2 heating oil, gasoline, kerosene, pumped storage hydro powered by oil);
- Solar (photovoltaics);
- Solid Waste (municipal solid waste, tire waste, urban wood waste such as construction and demolition and municipal solid waste wood);
- Wind (wind turbines); and,
- Unknown external purchase.

7.1.2 The Label - The ESCO is required to provide its customers a standardized label that discloses the appropriate fuel mix, both prior to customer enrollment and on at least an annual basis in the LI Choice Customer’s bill. Prior to the PSC’s Program, the Long Island average fuel mix shall be a historic 12-month average as specified in these Operating Procedures and as updated from time to time by posting on the LI Choice website by the Authority. If a “green” or other product

claim is made, then the ESCO also must disclose the appropriate product fuel mix estimated on a 12-month average prospective basis.

In addition, ESCOs must disclose on the label the average Electric Generation Service price per kWh to the customer for monthly customer usage levels of 250 kWh, 500 kWh, 1,000 kWh and 2,000 kWh. The product label must include a plain language description of contract pricing terms. A sample label format is included in Attachment H. The Authority will approve the ESCO's standard label as part of the licensing process. Proposed changes to the standard label subsequent to ESCO's licensing will need to be filed with the Authority for approval.

- 7.1.3 Interim Verification - If a complaint about an ESCO's "green" or other product claim is received by the Authority, the Authority may investigate the complaint. Among other things, the Authority may request copies of the ESCO's power supply contracts sufficient to verify an ESCO's fuel mix. Copies of such contracts shall be provided within 10 days of the Authority's request. The Authority may suspend or revoke an ESCO's license based on false product claims.

## **8.0 LI CHOICE CUSTOMER BILLING AND SERVICES**

### **8.1 LI Choice Customer Bills**

Under Phase I of the LI Choice Program, LI Choice Customers may have two options regarding the way they are billed for LIPA's Delivery Services and the Electric Generation Service and any related services provided by their ESCOs.

- 8.1.1 Under Option 1, the LI Choice Customer will receive two bills; one from LIPA for Delivery Services and any other services it provides, and one from the ESCO for Electric Generation Service and any related services it provides.
- 8.1.2 Under Option 2, the LI Choice Customer will receive a statement from LIPA identifying the Delivery Services and any other services it provides and LIPA will automatically debit the ESCO's bank account via electronic funds transfer for such services. The LI Choice Customer would then be billed for LIPA's services on the ESCO's itemized customer bill. LIPA will not forward its bill for Delivery Services and any other services to the LI Choice Customer's ESCO.
- 8.1.3 In billing LI Choice Customers, ESCOs must use the form of sample customer bills they provided to the Authority in their License Application.

### **8.2 LIPA's Services to LI Choice Customers**

LIPA will:

- 8.2.1 Deliver Electric Generation Service across LIPA's system to each LI Choice Customer location;
- 8.2.2 Ensure that the current reliability standards of the bulk power transmission system in LIPA's service area are maintained until the NYISO assumes this responsibility;
- 8.2.3 Bill and collect from LI Choice Customers charges for Delivery Services and any other services it provides under the LI Choice Tariff;
- 8.2.4 Respond to inquiries from LI Choice Customers regarding services provided by LIPA, refer inquiries from LI Choice Customers regarding Electric Generation Service and related services to the appropriate ESCO, and monitor customer complaints regarding ESCOs and report them to the Authority;
- 8.2.5 Respond to service interruptions;
- 8.2.6 Investigate and address power quality issues;
- 8.2.7 Provide customer service support for Delivery Services;
- 8.2.8 Be the Provider of Last Resort (POLR) for those LIPA customers who do not participate in the LI Choice Program, or who terminate their Agreements with an ESCO and do not designate another ESCO to provide Electric Generation

Service; and,

- 8.2.9 Assist Eligible Customers in making the transition to the LI Choice Program by providing interested customers with educational materials regarding the LI Choice Program.

## **9.0 LIPA'S BILLING AND SERVICES TO ESCOS AND DRCS**

### **9.1 Billing and Payment**

LIPA will establish a billing account for each ESCO and DRC to accumulate the debits or credits associated with wholesale balancing and retail settlement (before the NYISO provides these services to ESCOs and DRCs) and other special fees and charges as described in these Operating Procedures and the LI Choice Tariff. Billing accounts shall be settled monthly for charges or credits in excess of \$100.

- 9.1.1 Payment of the full amount stated in any invoice from LIPA to the ESCO or DRC, without deduction, set-off or counterclaim, shall be made by electronic funds transfer within 10 days from the date of such invoice. Claims that any invoice is not correct shall be made no later than 90 days after the invoice date.
- 9.1.2 Upon the ESCO's or DRC's failure to make any payment when due, LIPA will assess a late payment charge at the rate set forth in LIPA's Tariff for Electric Service on all amounts billed. In the event there are insufficient funds for the electronic funds transfer, LIPA will charge the ESCO all applicable late payment charges, bank fees incurred by LIPA and the uncollectible payment handling charge specified in LIPA's Tariff for Electric Service.
- 9.1.3 Upon failure of the ESCO to make any payment when due, LIPA will give the ESCO written notice of such failure. Payment shall be made within 5 days after receipt of such notice.

### **9.2 LI Choice Customer Billing Information**

- 9.2.1 LIPA will make available to ESCOs, electronically, the individual energy consumption (and demand if applicable) billing determinants of the ESCO's LI Choice Customers. LIPA will indicate whether the information is based on an actual or estimated meter reading. The ESCO will be responsible for billing for the Electric Generation Service and any related services it provides.
- 9.2.2 Subsequent to LIPA performing cycled meter readings, LIPA will send to the ESCO electronically a file containing the applicable billing determinants for each of the ESCO's customers, normally on the same day that such information is validated. LIPA will also electronically send current information on customer enrollment and termination, when appropriate.

### **9.3 Wholesale Balancing and Retail Settlement**

LIPA will invoice ESCOs and DRCs for amounts owed or credits due in accordance with the wholesale balancing and retail settlement procedures set forth in Section 4.0 and 5.0 herein.

### **9.4 Special Services**

- 9.4.1 Any fees for special services rendered by LIPA shall be paid by the entity requesting such services. Examples of such fees would include those for special

metering equipment, special meter reads, switching ESCOs, and additional customer historic usage information as provided in the LI Choice Tariff.

- 9.4.2 Collections from Customers - For Phases I and II of the LI Choice Program, both LI Choice Customer billing options require that LIPA and ESCO collections be performed independently.
- 9.4.3 Unbilled Service - When retail settlement is performed by the NYISO, unmetered service resulting from meter tampering, meter problems, an unmetered service, estimated billings, or other circumstances will be submitted to the ESCO for customer billing through the retail settlement process.

## 10.0 METERING

### 10.1 Provision of Meters

- 10.1.1 All Electric Generation Service delivered by LIPA to a LI Choice Customer shall be measured by electric meters which shall be owned, installed and maintained by LIPA. Customers that choose to take part in the LI Choice Program may continue to use the same metering equipment and meter reading process that is in place at the time of their enrollment in the LI Choice Program. The LI Choice Customer or ESCO shall also have the option to upgrade the billing meter and metering instrument transformers (at their expense) which will then be installed, owned, and maintained by LIPA.
- 10.1.2 Customers shall own, install, and maintain all conduit and wiring systems required for installation of meters and metering instrument transformers. LIPA shall make all final connections to metering equipment. The customer may own, install, and maintain other meters and metering instrument transformers for the purpose of measuring electricity delivered, provided that it is installed on the load side of LIPA's billing meter.
- 10.1.3 LIPA retains all rights to access, read, install, remove, maintain and change meter types. If a meter change results from a change to the customers' rate code or rate structure, notification of this change will be given to the ESCO. For example, if an S.C. 2 customer's use exceeds 4000 kWh in two consecutive thirty day periods, a demand meter is installed to replace the standard meter.
- 10.1.4 A DRC or ESCO may request an upgrade of metering equipment to support enhanced functionality. A schedule of options regarding enhanced metering capabilities for upgrade of existing LIPA billing meters and the costs associated with LIPA providing and installing those options are provided for in the LI Choice Tariff. In addition, if remote access to the meter is required, the LI Choice Customer, ESCO or DRC must provide a direct-dial telephone line maintained at its expense.

### 10.2 Meter Reading

LIPA will retain responsibility for reading all LIPA-owned LI Choice Customer meters. LI Choice Customer billings by LIPA and the ESCOs will be based upon LIPA readings of LIPA-owned meters. LIPA's meter reading policy is outlined below:

- 10.2.1 Scheduled Meter Reading - LIPA will read customers meters and record both kWh and kW (if applicable) using its existing meter reading routes and schedules. These schedules may be modified occasionally to meet operating needs and efficiencies.
- 10.2.2 Estimating - If no meter reading is available, or if a meter reading is not usable, estimating will be done according to current LIPA operating practices.
- 10.2.3 Access - LIPA retains all rights of access to read, install, remove, and maintain meters, or change meter types. In addition, LIPA is responsible for installing and

removing anti-tampering devices on the meter. Failure by LIPA to gain access to meters at reasonable times may result in a no-access charge in accordance with procedures outlined in LIPA's Tariff for Electric Service.

- 10.2.4 Special Readings - Special meter reading requests by ESCOs or LI Choice Customers for the ESCOs' purposes will be performed for a fee, with at least 72 hours notice, if scheduling can accommodate such a meter reading. Rules and procedures for special meter readings and the associated fees are provided in the LI Choice Tariff.

## 11.0 CONTACTS

Any notice to be given hereunder will be deemed given, and any other document to be delivered hereunder will be deemed delivered, if in writing and (i) delivered by hand, (ii) deposited for next-business day delivery (fee prepaid) with a reputable overnight delivery service, (iii) mailed by certified mail (return receipt requested) postage prepaid, or (iv) provided by facsimile with proof of answerback.

To the Authority:

Long Island Power Authority  
333 Earle Ovington Blvd., Suite 403  
Uniondale, NY 11553  
Fax: 516-222-9137

Attention: Vice President Power Markets

To LIPA:

LIPA  
Electric Sales & Marketing Department  
175 E. Old Country Road  
Hicksville, NY 11801  
Fax: 516-545-4207

Attention: Manager Contracts and Administration