

**LONG ISLAND POWER AUTHORITY**

**MINUTES OF THE 287th MEETING**

**HELD ON FEBRUARY 6, 2020**

*The Long Island Power Authority (the “Authority”) was convened for the two-hundred-and-eighty-seventh time at 10:40 a.m. at LIPA’s Headquarters, Uniondale, NY, pursuant to legal notice given on January 31, 2020, and electronic notice posted on the Authority’s website.*

*The following Trustees of the Authority were present:*

**Mark Fischl, Acting Chair  
Elkan Abramowitz  
Drew Biondo  
Sheldon Cohen  
Matthew Cordaro  
Peter Gollon  
Laureen Harris  
Ali Mohammed**

**Representing the Authority were Thomas Falcone, Chief Executive Officer; Anna Chacko, General Counsel; Rick Shansky, Vice President of Operations Oversight; Kenneth Kane, Interim Chief Financial Officer, and Bobbi O’Connor, Vice President of Policy, Strategy and Administration & Secretary to the Board of Trustees.**

**Representing PSEG Long Island were Daniel Eichhorn, President and COO; Rick Walden, Vice President of Customer Service; Paul Napoli, Vice President of Power Markets; John O’Connell, Vice President of Transmission and Distribution, Peggy Keane, Vice President of Construction and Operations and Andrea Elder-Howell, Managing Director and Vice President of Legal.**

*Acting Chair Fischl welcomed everyone to the 287th meeting of the Long Island Power Authority Board of Trustees and led the Pledge of Allegiance.*

*Acting Chair Fischl acknowledged new Trustee Laureen Harris and welcomed her to the Board of Trustees.*

*Acting Chair Fischl stated that the first item on the agenda was the Consideration of the Consent Agenda Items.*

*After questions and a discussion by the Trustees, and the opportunity for the public to be heard, upon a motion duly made and seconded, the following resolutions were unanimously adopted by the Trustees based on the memoranda summarized below:*

**1509. APPROVAL OF MINUTES AND RATIFICATION OF ACTIONS TAKEN AT THE DECEMBER 18, 2019 MEETING OF THE BOARD OF TRUSTEES OF THE LONG ISLAND POWER AUTHORITY**

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**RESOLVED**, that the Minutes of the meeting of the Authority held on December 18, 2019 are hereby approved and all actions taken by the Trustees present at such meeting, as set forth in such Minutes, are hereby in all respects ratified and approved as actions of the Authority.

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**Requested Action**

The Trustees are requested to adopt a resolution authorizing revisions to the Long Island Power Authority (the “Authority”) Governance, Planning & Personnel Committee Charter (the “Charter”) in the form attached hereto.

**Background**

The Charter was last revised in October 2018. The Charter establishes the purpose, membership, meeting requirements and responsibilities of the Governance, Planning & Personnel Committee (the “Committee”) and serves as the governing document for the Committee. Consistent with the Charter, the Committee has undertaken a thorough review of the Charter’s adequacy and compliance with applicable law, and has recommended changes to the Charter to align with the Board’s adoption during 2019 of core attributes for a Board or Committee Chair, clarify that the Committee only provides recommendations to the Board evaluation of the performance of the CEO (not all of senior management), and certain other ministerial changes.

I note that the Committee has adopted a resolution recommending approval of the proposed revisions by the Trustees.

**Recommendation**

Based upon the foregoing, I recommend approval of the above-requested action by adoption of the resolution attached hereto.

**1510. APPROVAL OF AMENDMENTS TO THE LONG ISLAND POWER AUTHORITY GOVERNANCE, PLANNING & PERSONNEL COMMITTEE CHARTER**

WHEREAS, the Trustees have adopted a Governance, Planning & Personnel Committee Charter (“Charter”) which establishes, among other things, the purpose, powers, composition and key responsibilities of the Governance Committee, Planning & Personnel (the “Committee”); and

WHEREAS, the Governance, Planning & Personnel Committee (the “Committee”) has reviewed the proposed revised Charter and has recommended to the Trustees the adoption of the revised Charter.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Trustees approves amendments to the Long Island Power Authority’s Governance, Planning & Personnel Committee Charter in the form presented at this meeting; and

BE IT FURTHER RESOLVED, that this resolution shall take effect immediately.

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*Acting Chair Fischl stated that the next item on the agenda was the CEO’s Report to be presented by Thomas Falcone.*

*Mr. Falcone presented the CEO Report and took questions from the Trustees.*

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*Acting Chair Fischl stated that the next item on the agenda was the Approval of the Authorization to Execute a Power Purchase Agreement with LI Solar Generation LLC to be presented by Rick Shansky.*

*After requesting a motion on the matter, which was seconded, Mr. Shansky presented the following action item and took questions from the Trustees.*

## **Requested Action**

The Trustees are requested to approve and adopt a resolution authorizing the Chief Executive Officer or his designee, to execute a Power Purchase Agreement (“PPA”), with LI Solar Generation, LLC (“LI Solar”), and to take such other actions as may be reasonably necessary to implement arrangements for the Long Island Power Authority (“LIPA”) to purchase energy, generating capacity and renewable attributes from a solar generating facility being developed by LI Solar, a company jointly owned by NextEra Energy Resources, LLC and National Grid plc.

## **Background**

On December 22, 2015, PSEG Long Island issued a Request for Proposals for New, Renewable Capacity and Energy (“2015 Renewable RFP”) which sought to procure energy, capacity, and environmental attributes from eligible projects 1 MW or greater. Responses to the 2015 Renewable RFP were received on June 22, 2016 and evaluation results were presented to the Board at the July 26, 2017 meeting with the recommendation for the selection of two solar projects, rated 22.9 MW and 36 MW, respectively. Thereafter, PSEG Long Island commenced PPA negotiations with the developers and both projects were also subject to applicable local or State environmental reviews.

LI Solar is developing a 22.9 MW solar generating facility located on two parcels near the Edwards Avenue substation in Calverton that total approximately 200 acres (the “Project”). The Town of Riverhead (“Town”) has completed a coordinated environmental assessment of the Project, which included LIPA as an involved agency. As indicated in Attachment B, the Town found that the Project would have no significant adverse impact on the environment. Concurrently, the proposed PPA is ready for consideration by the Trustees.

Under the proposed PPA, LIPA will purchase all renewable energy, related capacity and renewable attributes produced by the Project during a term of thirty (30) years, at a total cost of approximately \$190 million. The energy produced by the Project will contribute to meeting LIPA’s share of the State’s renewable energy goals. As compared to the cost of existing conventional generation, purchases from LI Solar are estimated to increase residential customer bills by 16 cents per month.

The target Commercial Operation Date (“COD”) for the Project is December 31, 2020. The PPA requires LI Solar to obtain all required Federal, State and local permits and reach key Project construction milestones by dates certain. LI Solar would be subject to payment of specified liquidated damages for failure to meet the construction milestones and/or its commitment to construct 22.9 MW of installed capacity.

The terms of the PPA are consistent with, if not more favorable than, the original LI Solar proposal.

The PPA is a pay-for-performance contract, i.e., LI Solar gets paid only when it provides energy. LI Solar has committed to a performance guarantee so that the Authority will receive

at least the guaranteed quantity of solar energy or be compensated by LI Solar for any shortfall. Moreover, LIPA has the right to terminate the PPA in the event of chronic underperformance.

**Recommendation**

For the foregoing reasons, I recommend that the Trustees authorize the Chief Executive Officer or his designee to take all actions, including, without limitation, execution of the LI Solar PPA and all other related agreements to enable the Authority’s purchase of renewable power from the LI Solar Project described above.

*After questions and a discussion by the Trustees, and the opportunity for the public to be heard, upon a motion duly made and seconded, the following resolution was approved by the Trustees.*

**1511. AUTHORIZATION TO ENTER INTO POWER PURCHASE AGREEMENT WITH LI SOLAR GENERATION, LLC FOR THE PURCHASE OF ELECTRICITY AND RENEWABLE ATTRIBUTES**

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WHEREAS, pursuant to the December 22, 2015 Request for Proposals for New, Renewable Capacity and Energy issued and administered by PSEG Long Island, LIPA staff selected a proposal by LI Solar Generation, LLC (“LI Solar”) to develop a 22.9 MW solar generating facility (“Project”) in Calverton; and

WHEREAS, the Project represents a source of renewable energy that will contribute to LIPA meeting the renewable energy goal established by the Trustees through the Policy on Resource Planning, Renewable Energy and Energy Efficiency; and

WHEREAS, LIPA and LI Solar have negotiated a Power Purchase Agreement (“PPA”) under which LI Solar will construct, own, operate and maintain the Project and sell the capacity, energy and renewable attributes produced by the Project to LIPA for a term of 30 years; and

WHEREAS, pursuant to the State Environmental Quality Review Act, after a coordinated review with LIPA, the Town of Riverhead issued a Negative Declaration, dated February 4, 2020, finding that the Project will not have a significant adverse impact on the environment.

NOW, THEREFORE, BE IT RESOLVED, that the Chief Executive Officer and his designee be and hereby are authorized to execute and effect a PPA and other related agreements and arrangements, consistent with the terms of the accompanying memorandum, and to perform such further acts and deeds as may be necessary, convenient or appropriate, in the judgment of the Chief Executive Officer or his designee, to implement LIPA’s purchase of electricity and renewable attributes from LI Solar.

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*Acting Chair Fischl stated that the next item on the agenda was the Approval of Authorizations Related to Letters of Credit and Other Bank Products, to be presented by Kenneth Kane.*

*After requesting a motion on the matter, which was seconded, Mr. Kane presented the following action item and took questions from the Trustees.*

### **Requested Actions**

*Approval of Selection of Banks pursuant to Request for Proposals.*

The Authority has various Letter of Credit (“LOC”) facilities supporting its outstanding General Revenue Notes, which expire between May 1, 2020 and October 2023.

The Authority issued a Request for Proposal for Letter of Credit Facilities and Direct Placement Agreements (the “Bank Facility RFP”) that was sent to 22 institutions in November 2019. Eight proposals were received. A selection committee consisting of three Authority staff, with the assistance of the Authority’s financial advisor, reviewed the proposals and concluded that the Authority should accept the LOC proposals from Bank of America, N.A. for \$300 million and Barclays Bank PLC for \$250 million. The committee further recommended that (i) the current letter of credit facility with Barclays Bank, PLC be increased from \$100 million up to the \$250 million currently being offered, (ii) the current letter of credit facility with TD Bank, N.A. be increased from \$200 million up to the \$350 million currently being offered, and (iii) the letter of credit facility with Citibank N.A. for \$100 million remain in effect.

The Authority will be entering into new agreements with such banks, which agreements will be substantially similar to the agreements previously entered into by the Authority in relation to other letters of credit supporting its General Revenue Notes, and will be amending certain of its currently existing agreements. The existing agreements with U.S. Bank National Association and Royal Bank of Canada would be terminated.

The new agreements and amendments will require the execution of new or amended offering memorandums or other disclosure documents, Issuing and Paying Agency Agreements, Dealer Agreements, and other instruments.

*Approval of the Extension of the Total Return Swaps with Wells Fargo.*

The Authority entered into two “total return” interest rate swaps (the “Total Return Swaps”) with Wells Fargo, N.A. (“Wells Fargo”), on June 9, 2015, in connection with its

Electric System General Revenue Bonds, Series 2015A-1 and Series 2015A-2 (the “Series 2015A Bonds”) which are held by Wells Fargo. The Total Return Swaps will terminate pursuant to their terms on June 29, 2020.

The Authority issued a Request for Qualifications for Alternative Bank Products (the “Bank Products RFQ”) that was sent to our current pool of underwriters in November 2019. In response, Wells Fargo proposed to extend the termination date of the Total Return Swaps until a date no later than June 30, 2023, to lower the rate paid by the Authority, and for Wells Fargo Municipal Capital Strategies, LLC to continue to hold the Series 2015A Bonds.

The extension of the Total Return Swaps will require the amendment of existing swap confirmations or the execution of new confirmations. The Authority may also enter into amendments to certain agreements relating to the Series 2015A Bonds.

### **Recommendation**

Based upon the foregoing and the recommendation of the Finance and Audit Committee, I recommend that the Trustees adopt the attached resolutions.

*After questions and a discussion by the Trustees, and the opportunity for the public to be heard, upon a motion duly made and seconded, the following resolution was approved by the Trustees.*

### **1512. EXTENSION OF THE TOTAL RETURN SWAPS AND APPROVING CERTAIN RELATED AGREEMENTS**

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WHEREAS, on May 13, 1998 Long Island Power Authority (the “Authority”) adopted its Electric System General Revenue Bond Resolution (the “General Resolution”), which authorizes bonds, notes or other evidences of indebtedness of the Authority as special obligations of the Authority for any lawful purpose of the Authority; and

WHEREAS, pursuant to the Authority’s Request for Proposal for Letter of Credit Facilities and Direct Placement Agreements (the “Bank Facilities RFP”), the Authority has received proposals from a number of banks to enter into credit facilities or to issue letters of credit in support of the Authority’s bonds and notes and, based on such proposals, the staff selection committee has recommended that the Authority accept proposals (i) from Bank of America, N.A. to provide letter of credit support for \$300 million of the Authority’s General Revenue Notes (the “Revenue Notes”), (ii) from Barclays Bank PLC to increase its letter of credit support for the Revenue Notes from \$100 million to \$250 million, and (iii) from TD Bank, N.A. to increase its letter of credit support for the Revenue Notes from \$200 million to \$350 million (such proposals being referred to hereinafter as the “Selected Proposals” and the banks making such proposals are referred to hereinafter as the “Selected Banks”), and that

**the \$100 million letter of credit facility with Citibank N.A. for \$100 million supporting the Revenue Notes remain in effect; and**

**WHEREAS, pursuant to the Authority's Request or Qualifications for Alternative Bank Products (the "Bank Products RFQ"), the Authority received a proposal from Wells Fargo, N.A. ("Wells Fargo") to extend two existing "total return" interest rate swaps (the "Total Return Swaps") which the Authority entered into with Wells Fargo on June 9, 2015, in connection with its Electric System General Revenue Bonds, Series 2015A (the "2015A Bonds"), on improved terms; and**

**WHEREAS, the General Resolution permits the Authority to enter into Financial Contracts (as defined therein), which include interest rate caps or collars and forward rate, future rate and certain swap agreements with Qualified Counterparties (as defined therein); and**

**WHEREAS, the Authority has determined that the use of such swap agreements is appropriate in certain circumstances but recognizes that certain risks can arise in connection with their use and the Authority has adopted guidelines (the "Guidelines") for the use of such agreements in order to assure that such agreements are used for appropriate purposes and to assure that the risks potentially associated with such agreements are effectively managed and minimized; and**

**WHEREAS, the decision as to which specific strategy or strategies to be employed in connection with such interest rate swap agreements and the indices, formulae or methods to be used in calculating payments to be made to the Authority or the counterparties will be made by the Chief Executive Officer or Chief Financial Officer, taking into account market conditions and the advice of the Authority's Financial Advisor, with the intention of lowering the effective rate of interest payable in connection with the Authority's indebtedness or mitigating risks associated with such indebtedness consistent with interest rate and other risk considerations;**

**NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:**

- 1. The Trustees hereby approve the Selected Banks and the Chief Executive Officer, Chief Financial Officer, Vice President-Controller and Secretary (the "Authorized Officers") are each hereby authorized to enter into reimbursement or other agreements or amend existing reimbursement or other agreements with the Selected Banks or in connection with the Revenue Notes, which agreements shall be substantially similar to such agreements previously entered into by the Authority in relation to other letters of credit supporting Revenue Notes, with such changes and additions to and omissions from such prior agreements as such authorized executing officer deems in his discretion to be necessary or appropriate, such execution to be conclusive evidence of such approval.**
- 2. The Chief Executive Officer or the Chief Financial Officer of the Authority are, and each of them hereby is, authorized to enter into new interest rate swap agreements relating to the 2015A Bonds with Wells Fargo or an affiliate thereof or amendments**



to the existing Total Return Swaps as such officers may select in accordance with the Guidelines, which agreements shall (i) commence on such date or dates as the Chief Executive Officer or the Chief Financial Officer specifies, (ii) have a term ending on or prior to the anticipated final maturity of the bonds to which they relate, as the Chief Executive Officer or the Chief Financial Officer specifies, (iii) provide for payments to the Authority determined based upon such index, formula or method as may be approved by the Chief Executive Officer or the Chief Financial Officer, and (iv) otherwise be in accordance with the Guidelines and substantially in the form of the existing Total Return Swaps, with such changes and additions to and omissions from such form as such authorized executing officer deems in his discretion to be necessary or appropriate, such execution to be conclusive evidence of such approval. In connection with the authorizations herein set forth, the Authority has determined, after consideration of the risks inherent in the use of interest rate swap agreements, including those outlined in the memo submitted to the Trustees in connection with the financing authorized hereby and the advice of the Authority's financial advisor relating to the use of the proposed interest rate swap agreements, that (a) the use of such interest rate swap agreements will, in the judgment of the Authority, result in lowering the effective rate of interest payable in connection with the Authority's indebtedness, (b) the risks of the proposed interest rate swap agreements are both manageable and reasonable in relation to the potential benefits; and (c) the proposed interest rate swap agreements are necessary or convenient in the exercise of the power and functions of the Authority under the Act.

3. Each Authorized Officer is hereby authorized and directed to execute and deliver any and all documents, including but not limited to the execution and delivery of one or more offering memorandums or other disclosure documents, Issuing and Paying Agency Agreements, Dealer Agreements, agreements relating to the Series 2015A Bonds, and other instruments, and to do any and all acts necessary or proper for carrying out and implementing this resolution and each of the documents authorized hereby and each Authorized Officer shall be an Authorized Representative (as defined in the General Resolution) in connection with such matters.
4. This resolution shall take effect immediately.

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*Acting Chair Fischl stated that the next item on the agenda was the CFO's Report to be presented by Kenneth Kane.*

*Mr. Kane presented the CFO Report and took questions from the Trustees.*

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*Acting Chair Fischl stated that the next item on the agenda was the Secretary's Report on Board Policies and Communication to be presented by Bobbi O'Connor.*

*Ms. O'Connor presented the Secretary's Report and then took questions from the Trustees.*

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*Acting Chair Fischl stated the next item on the agenda was the PSEG Long Island Operating Report and Discussion of PSEG Long Island's 2019 Metric Performance to be presented by Daniel Eichhorn.*

*Mr. Eichhorn presented the PSEG Long Island Operating Report and 2019 Metric Performance and took questions from the Trustees.*

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*Acting Chair Fischl then allowed public comment to be heard, and then announced that the next Board meeting is scheduled for Friday, March 27, 2020 at 11:00 a.m. in Uniondale.*

*Acting Chair Fischl then asked for a motion to adjourn to Executive Session and announced that no votes would be taken and that the Board would not be returning to Open Session. The motion was duly made and seconded, and the following resolution was adopted:*

**1513. EXECUTIVE SESSION – PURSUANT TO SECTION 105 OF THE PUBLIC OFFICERS LAW**

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**RESOLVED**, that pursuant to Section 105 of the Public Officers Law, the Trustees of the Long Island Power Authority shall convene in Executive Session for the purpose of discussing litigation matters.

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*At approximately 12:01 p.m. the Open Session of the Board of Trustees was adjourned on a motion to enter into Executive Session.*

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