

**LONG ISLAND POWER AUTHORITY**

**MINUTES OF THE 294th MEETING**

**HELD ON DECEMBER 16, 2020**

*The Long Island Power Authority (“LIPA”) was convened for the two-hundred-and-ninety-fourth time at 12:57 p.m. at LIPA’s Headquarters, Uniondale, NY, pursuant to legal notice given on December 11, 2020, and electronic notice posted on the LIPA’s website.*

*In compliance with Governor Andrew M. Cuomo’s Executive Order No. 202.1 on COVID-19 safety, the following guidelines were publicly posted and followed:*

*The Long Island Power Authority is taking steps to minimize the risk of exposure for the public and our employees. As such, LIPA will not be permitting in-person access to its December 16, 2020 Board meeting. Members of the public are encouraged to observe the live stream of the Board meeting posted at the LIPA website. The meeting will also be recorded and posted to LIPA’s website for later viewing*

*The following LIPA Trustees were present:*

**Ralph Suozzi, Chairman (via video conferencing)**  
**Mark Fischl, Acting Chair (in person)**  
**Elkan Abramowitz (via video conferencing)**  
**Drew Biondo (via video conferencing)**  
**Sheldon Cohen (via video conferencing)**  
**Matthew Cordaro (in person)**  
**Peter Gollon (via video conferencing)**  
**Laureen Harris (via video conferencing)**  
**Ali Mohammed (via video conferencing)**

**Representing LIPA, in person, were Thomas Falcone, Chief Executive Officer; Bobbi O’Connor, Chief Administrative Officer & Board Secretary; and Jen Hayen, Director of Communications. Participating via video conferencing were Anna Chacko, General Counsel; Mujib Lodhi, Chief Information Officer; Tamela Monroe, Chief Financial Officer;**

**Kenneth Kane, Senior Advisor to Operations Oversight; Rick Shansky, Senior Vice President of Operations Oversight; Justin Bell, Vice President of Public Policy and Regulatory Affairs; Michael Deering, Vice President of External Affairs; Kathleen Mitterway, Vice President of Audit; Donna Mongiardo, Vice President – Controller; Thomas Locascio, Director of External Affairs; Jason Horowitz, Assistant General Counsel and Assistant Secretary to the Board; and Osman Ahmad, IT-Consultant.**

*Acting Chair Fischl welcomed everyone to the 294th meeting of the Long Island Power Authority 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 submit comments, upon a motion duly made and seconded, the following resolutions were unanimously adopted by the Trustees based on the memoranda summarized below:*

**1575. APPROVAL OF MINUTES AND RATIFICATION OF ACTIONS TAKEN AT THE NOVEMBER 18, 2020 MEETING OF THE BOARD OF TRUSTEES OF THE LONG ISLAND POWER AUTHORITY**

**RESOLVED**, that the Minutes of the meeting of the Authority held on September 23, 2020 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 Board of Trustees (the “Board”) of the Long Island Power Authority (“LIPA”) is requested to adopt a resolution: (i) approving the annual report on the Board Policy on Customer Service (the “Policy”); (ii) finding that LIPA has complied with the Policy; and (iii) approving certain amendments to the Policy, which resolution is attached hereto as Exhibit “A”.

**Background**

**By Resolution No. 1370, dated July 26, 2017, the Board adopted the Policy with the purpose of providing a framework to achieve a high level of customer service and satisfaction. The Policy was last amended by the Board by Resolution No. 1480, dated May 22, 2019.**

**The Policy provides that the “Chief Executive Officer will report annually to the Board on compliance with the key provisions of the Customer Service Policy.”**

### **Compliance with the Policy**

**Performance for 2020 has been overshadowed by poor storm performance by our service provider. This performance was compounded by the failure of telephone access to report outages and the failure of the outage management system used to identify and report on outages. These matters are more fully discussed in LIPA’s 30 and 90-Day reports on Tropical Storm Isaias.**

**Nevertheless, consistent with the Policy, PSEG Long Island’s customer service performance in the aggregate has continued to improve. This Report covers customer service activities since the Board’s May 2019 review to the present. While PSEG Long Island’s performance with respect to matters identified by the Isaias Task Force remains unacceptable, LIPA staff recommends that, for the reasons set forth below, the Board find that LIPA has substantially complied with the Policy since the last annual review. Compliance with each element of the Policy is discussed in detail below, including areas designated for improvement.**

**“Funding cost-effective initiatives and ongoing operations: (i) to provide customers with a level of service, as measured by industry standard customer service metrics, within the first quartile of peer utilities; and (ii) so that customers report a level of satisfaction, as measured by third-party and internally-generated customer satisfaction surveys, within, where applicable, the first quartile of peer utilities by 2022.”**

- Since 2014 PSEG Long Island is ranked as the most improved utility nationally by J.D. Power with an increase of 216 points; however, the score remains below average for a Large East Utility.**
- PSEG Long Island met its customer satisfaction target for 2020, and LIPA and PSEG Long Island have established targets to achieve first quartile by 2022 with improvement each year.**
- PSEG Long Island Residential and Business After-Call and Personal Contact survey demonstrate continued improvement, with 94.8%, 96.0% and 96.6% of respondents, respectively, indicating satisfaction with PSEG Long Island service through September 2020.**
- First Call Resolution in the call center for 2020 YTD is 83.2%. First call resolution was added as a Tier 1 metric in 2019 and is targeted for further improvement.**
- PSEG Long Island improved its Average Speed of Answer from a 2013 baseline of 93 seconds to 15 seconds in 2019. However, poor storm performance caused the 2020 YTD result to increase to 29 seconds. Over a million calls and texts were lost or unanswered due to communication systems failure and lack of contingency planning,**

which does not meet expectations for 2020. Remedial actions to address these failures remain in progress.

- Customer complaints increased from 2019 for 4.0 complaints to 11.5 for 2020 per 100,000 customers. This increase is the result of poor storm performance and high bill complaints following a hot summer.

**“Supporting programs so that customers have information, education, and tools to manage their energy use according to their needs, including innovative billing options and emerging technologies and communications tools that enable multi-directional customer relationships for distributed resources and electric vehicles.”**

**PSEG Long Island continued to advance multiple Utility 2.0 priorities:**

- Began implementing a new rate modernization system, which will result in five new timebased rate options to be available to customers beginning in February 2021.
- Built a new locational value tool, which will enable the utility to precisely target non-wires alternatives and price signals encouraging the development of distributed energy resources, potentially deferring or avoiding costly infrastructure upgrades.
- Began implementation of an online interconnection application portal.
- Completed a volt-var optimization study, exploring new technology to improve grid efficiency.
- Accepted applications for over 150 new behind-the-meter storage systems.
- Enrolled over 400 customers in the Super Savers peak load reduction program and dynamic load management incentives, reaching a total of 1.65 megawatts of peak load reduction in the North Bellmore pilot area.
- Incentivized 624 residential smart chargers and 31 DC fast chargers.
- During 2019, 5,755 customers participated in a home energy efficiency assessment. Despite being hampered by COVID-19, PSEG Long Island performed 2,007 assessments for 2020.

**“Protecting customer information from unauthorized access, use, disclosure, modification or destruction through the adoption of appropriate policies and procedures.”**

- Through press releases, television ads and bill inserts, PSEG Long Island provides customers with proactive reminders to be aware of and how to protect themselves from unscrupulous scam calls, scam emails, and unannounced visits.
- PSEG Long Island has assessed its data privacy framework, practices, and procedures as recommended by the National Institute of Standards (“NIST”) and has put in place:
  - Notifications to customers of data being collected, reasons for collection, and intended use, retention and sharing of data; and
  - Safeguards that protect customer information from unauthorized access or improper use.
- The Meter Data Management System has been implemented using configurations to support industry-standard data rules to protect information collected from loss, theft unauthorized access, disclosure, copying, use or modification, and to maintain integrity across the systems and to improve data privacy standards.

**“Providing utility communications that are: accurate and easily accessible; understandable, including accurate billing that can be easily interpreted and conveniently paid; proactive regarding potential weather-related and/or emergency situations, including information on the restoration of electric outage.”**

- **During 2020, 278,250 smart meters were installed, exceeding the goal of 250,000 meters. As of September 2020, a total of 712,254 meters have been installed. This has improved the meter reading rate and timely and accurate billing.**
- **Revenue collected via text payments continues to increase as the number of payments received electronically continues to steadily grow reaching 70.7% up from 63.3%.**
- **Estimated time of restoration (ETR) remains an area that needs improvement. PSEG Long Island has been investigating improvements to its methodology for calculating ETRs, though its performance during Tropical Storm Isaias served to highlight the deficiencies in its approach to ETRs.**

### **Annual Review of the Policy**

**As shown in Exhibit “B”, LIPA Staff proposes one change to the Policy, to delete the section on protecting customer information, which is now covered by the Board’s Policy on Physical and Cyber Security.**

### **Recommendation**

**Based upon the foregoing, I recommend approval of the above requested action by adoption of a resolution in the form attached hereto.**

### **1576. RESOLUTION APPROVING THE REPORT TO THE BOARD OF TRUSTEES ON THE BOARD POLICY ON CUSTOMER SERVICE**

**WHEREAS, the Board Policy on Customer Service (the “Policy”) was originally approved by the Board of Trustees by Resolution No. 1370, dated July 26, 2017; and**

**WHEREAS, the Policy was last amended by the Board pursuant to by Resolution No. 1480, dated May 22, 2019; and**

**WHEREAS, the Board has conducted an annual review of the Policy and affirms that the Policy has been complied with and the changes to the Policy recommended herein are due and proper.**

**NOW, THEREFORE, BE IT RESOLVED, that consistent with the accompanying memorandum, the Board hereby finds that LIPA has complied with the Policy for the period since the last annual review and approves the annual report to the Board; and**

**BE IT FURTHER RESOLVED, that consistent with the accompanying memorandum, the changes to the Policy that are reflected in attachment Exhibit “B” are hereby approved.**

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## **Requested Action**

The Board of Trustees (the “Board”) of the Long Island Power Authority (“LIPA”) is requested to adopt a resolution finding that LIPA has complied with the Board Policy on Safety (the “Policy”) for the period since the last annual review, and approving the annual report for the Policy, which resolution is attached hereto as Exhibit “A.”

## **Background**

By Resolution No. 1379, dated September 27, 2017, the Board adopted the Policy. The Policy sets objectives to ensure a safe environment for the dedicated workforce of its service provider and the public. The Policy also establishes regular performance reporting by Staff to enable the Board to assess the adequacy of the service provider’s policies, procedures, and practices for safety; compliance with applicable health and safety laws and regulations; safety performance, including comparisons to peer electric utilities; and initiatives to improve the safety of the service provider’s operations. The Policy was last reviewed by the Board in December 2019.

## **Compliance with the Policy**

LIPA Staff recommends that the Board find that LIPA has complied with the objectives of the Policy for the period since the last annual review for the reasons set forth below.

The Policy provides the following:

“Reviewing on a periodic basis no less than every three years the policies, procedures, and practices of the Authority’s service provider.”

- In 2020, LIPA hired Schumaker & Company (“Schumaker”) to conduct the second triennial Safety Assessment of PSEG Long Island. Schumaker observed that PSEG Long Island implemented the recommendations from the 2017 report, with one follow-up recommendation required.
- The 2020 Schumaker report contains five recommendations aimed at enhancing existing practices in such areas as training, safety metrics, work practices, safety oversight, and consolidation of training services and facilities. The 2020 Schumaker report is attached hereto as Exhibit “B”.
- Schumaker noted that continued emphasis on safety training programs and practices can be credited with much of the improvements in safety performance.
- In light of the limitations on the scope of this review as a result of COVID-19, when such restrictions are lifted, LIPA intends to engage an independent third party to perform onsite field observations of PSEG Long Island’s work practices and safety management processes, including a comparison to industry best practices.

**“Benchmarking against the top quartile in safety performance of the service provider to the top 25 percent of peer utilities, as measured by OSHA Recordable Incidence Rate and OSHA Days Away Rate.”**

- **PSEG Long Island benchmarks its safety performance against a nationwide panel of electric utilities. That benchmarking helps establish programs that improve safety performance at PSEG Long Island. Since 2015 through YE 2019, there has been a 41.5% improvement in the OSHA Recordable Incident Rate and a similar 51.1% improvement in the OSHA Days Away Rate. Despite these improvements, which have resulted in median performance, continued improvement is needed to achieve first quartile performance.**

**“Assessing the operational factors that contribute to injuries, motor vehicle accidents and redlight violations and the efforts to improve performance, where necessary.”**

- **PSEG Long Island has an ongoing process for assessing the factors that drive safety performance. PSEG Long Island has identified and implemented 135 safety and health improvements from 2017 to the present. These areas included partnering with Briotix Health to develop and communicate COVID-19 Job Hazard Assessments (JHA) for Utility Operations, delayed start time due to hazardous weather conditions, removal of work hazards, and reducing musculoskeletal injuries through improved work techniques and pre-job stretching.**
- **Motor vehicle safety continues to be an area of focus in 2020 with remedial training in Alert Driving and with Smith System trainers. The addition of the automated vehicle location system and red light ticket analytics has been credited with culture change and has been credited with the continued reduction of both motor vehicle accidents and redlight violations.**
- **PSEG Long Island conducted executive-level meetings with mutual aid contractors to review their investigations of the injuries and motor vehicle accidents that took place during Tropical Storm Isaias. Additionally, PSEG Long Island has established a team of Long Island and New Jersey subject-matter experts tasked with reviewing and recommending changes to the current on-boarding and oversight practices of foreign crews during restoration efforts. LIPA will monitor the progress of the year’s efforts and assess the resulting recommendations and the schedule for implementation.**

### **Enterprise Risk Management Discussion**

**The Board has adopted a policy on Enterprise Risk Management (“ERM”). Enterprise risks are brought to the Board’s attention throughout the year. There is one risk related to the Policy. That risk is: “Employees and/or contractors don't follow safety processes and results in a serious injury/fatality, including members of the public and negative public perception.”**

**This risk is rated as a medium level risk. To mitigate this risk, PSEG Long Island’s Safety Program fosters a high level of safety awareness by PSEG Long Island employees and contractors. PSEG Long Island verifies contractor safety records, reviews and authorizes**

contractor detailed safety plans prior to commencement of work, and conducts various required trainings for employees, contractors, and supervisors (e.g., Substation Awareness Training).

Attendance is tracked and monitored at these trainings. Safety programs also include contractor roundtables with PSEG Long Island staff to ensure adherence to policies and procedures and identify additional protocols for integration into these programs. In addition, the equipment has been installed in company vehicles to record driving data to reduce vehicle incidences.

In light of the safety incidents that occurred during Tropical Storm Isaias, LIPA anticipates that pending improvements to PSEG Long Island’s oversight of its contractors will be an important element in managing safety risk, along with the other programs already in place

**Annual Review of the Policy**

LIPA Staff recommends no changes to the Policy.

**Recommendation**

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

**1577. RESOLUTION APPROVING THE REPORT TO THE BOARD OF TRUSTEES  
ON THE BOARD POLICY ON SAFETY**

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WHEREAS, the Board Policy on Safety (the “Policy”) was originally approved by the Board of Trustees Resolution No. 1739, dated September 27, 2017;

WHEREAS, the Board has conducted an annual review of the Policy and affirms that the Policy has been complied with.

NOW, THEREFORE, BE IT RESOLVED, that consistent with the accompanying memorandum, the Board hereby finds that LIPA has complied with the Policy for the period since the last annual review and approves the annual report to the Board.

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**Requested Action**

The Board of Trustees (the “Board”) of the Long Island Power Authority (“LIPA”) is requested to adopt a resolution: (i) approving the annual report on the Board Policy on Information and Physical Security (the “Policy”) (ii) finding that LIPA has complied with the Policy; and (iii) approving certain amendments to the Policy, which resolution is attached hereto as Exhibit “A”.



## Discussion

By Resolution No. 1500, dated December 18, 2019, the Board adopted the Policy. The Policy provides the Board's expectations and direction for information and physical security in accordance with public safety, operational, reputational, and compliance requirements and establishes a reporting requirement to the Board on compliance with the key provisions of the Policy.

## Compliance with the Policy

Staff recommends that, for the reasons set forth below, the Board find that LIPA has complied with the Policy. Compliance with each element of the Policy is discussed in detail below.

The Policy provides that "LIPA and its Service Provider will undertake, at a minimum, the following activities each year":

"Annual reviews of the maturity of the information and physical security programs of LIPA and its Service Provider, consistent with industry best practices."

- **LIPA and its service providers, PSEG Long Island, have adopted the NIST Cybersecurity Framework (CSF) as part of their cybersecurity program. The Framework focuses on using business drivers to guide cybersecurity activities and considers cybersecurity risks as part of the risk management processes, including guidance on People, Process, and Technology to implement defense in depth for the enterprise.**
- **PSEG Long Island -- Cybersecurity: PSEG engaged an outside consultant to perform an independent assessment of its enterprise Cybersecurity program and identified remediation plans to be implemented over the next three years.**
- **PSEG Long Island -- Physical Security: FERC reliability standards require transmission owners or operators to perform a risk assessment of their systems to identify "critical facilities," evaluate the potential threats and vulnerabilities to those identified facilities and develop and implement a security plan designed to protect against physical attacks on those identified critical facilities.**

PSEG Long Island conducts Security Vulnerability Inspections (SVI) at 53 critical and NERC facilities and Physical Security Inspections (PSI) at all LIPA sites. A computer database is used for tracking inspections and the management of NERC CIP Physical Security requirements. A "Red Team" penetration test is conducted to assess the Security Command Center response.

- **LIPA -- Cybersecurity: LIPA conducted a comprehensive third-party review of its cybersecurity program, including vulnerability assessment and penetration testing. Remediation plans were developed and are being implemented. Significant**

improvements in the LIPA's Cybersecurity management practices were made in 2020. However, we recognized the need to examine information security issues from a strategic perspective and address them in an organized manner; thus, an Information Security Strategic Plan will be developed to guide the protection of LIPA's information assets.

- **Risk Management**: The Board has adopted a policy on Enterprise Risk Management (“ERM”). Enterprise risks are brought to the Board’s attention throughout the year. There are several risks identified related to Cyber and Physical security:
  - Cyber Event - “Unauthorized access to IT and/or T&D systems could result in decreased operational abilities”.
  - Breach of Personal Identifiable Information (“PII”) - “Internal or 3rd party mass-breach of PII could result in loss of sensitive data and potential fraud”.
  - Physical Security Attack – “Substation security and the control centers are compromised and could result in reduced reliability”.

The Cybersecurity, PII, and physical security risks were all rated as medium level risks. Mitigation actions were identified to reduce business risks and negative impact on LIPA’s assets.

“Compliance with all applicable standards, directives, and guidance issued by regulatory or industry advisory bodies, including the North American Electric Reliability Corporation, Federal Energy Regulatory Commission, Department of Energy, Department of Homeland Security, and New York State Department of Public Service.”

- North American Electric Reliability Corporation Critical Infrastructure Protection (NERC CIP) is a set of requirements designed to secure the assets required for operating North America's bulk electric system. Every three years, the Northeast Power Coordinating Council (NPPC) perform an audit for compliance. The last audit was conducted in 2018, and no issues were identified. The next compliance audit is scheduled for the first quarter of 2021. Recognizing the critical role of people to cybersecurity PSEG Long Island has undertaken various training and awareness initiatives in its efforts to stay compliant:
  - Annual Cybersecurity training
  - Cybersecurity awareness messages throughout the year
  - Quarterly NERC CIP Awareness messages
  - Quarterly Entitlement Reviews

“The Service Provider will immediately notify LIPA’s Chief Information Officer of security breaches or attempted breaches and will confidentially report no less than quarterly to LIPA’s Chief Information Officer on compliance with industry and regulatory standards and implementation of innovative defensive technology initiatives.”

- In compliance with this policy requirement, PSEG Long Island staff provided periodic briefings on the state of Cybersecurity. Historically LIPA relied on PSEG Long Island representation. In 2021, LIPA plans to conduct a comprehensive review of the PSEG Long Island’s cybersecurity program and its effectiveness.

### Annual Review of the Policy

As shown in Exhibit “B”, LIPA Staff proposes to establish requirements for the Service Provider to:

- Conduct vulnerability assessments and penetration testing and submit management action plans to LIPA;
- Conduct an annual Cyber Security Maturity Assessment and self-assessment for NERC compliance and submit a management action plan to LIPA;
- Develop 3-Year Cybers and Physical security Strategic Plan and submit detailed annual Work Plan to LIPA.

These requirements will enhance LIPA’s oversight of the requirements of this Policy.

### Recommendation

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

### 1578. RESOLUTION APPROVING THE REPORT TO THE BOARD OF TRUSTEES ON THE BOARD POLICY ON INFORMATION AND PHYSICAL SECURITY

WHEREAS, the Board Policy on Information and Physical Security (the “Policy”) was originally approved by the Board of Trustees by Resolution No. 1500, December 18, 2019; and

WHEREAS, the Board has conducted an annual review of the Policy and affirms that the Policy has been complied with and the changes to the Policy recommended herein are due and proper.

NOW, THEREFORE, BE IT RESOLVED, that consistent with the accompanying memorandum, the Board hereby finds that LIPA has complied with the Policy and approves the annual report to the Board; and

BE IT FURTHER RESOLVED, that consistent with the accompanying memorandum, the changes to the Policy that are reflected in attachment Exhibit “B” are hereby approved.

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### Requested Action

The Board of Trustees (the “Board”) of the Long Island Power Authority (“LIPA”) is requested to adopt a resolution approving amendments to the Board Policy on Debt and Access to the Credit Markets (the “Policy”), which resolution is attached hereto as Exhibit “A”.

## **Background**

By Resolution No. 1319, dated September 21, 2016, the Board adopted the Policy with the purpose of serving the long-term interests of LIPA's customer-owners by adopting sound financial plans in each year. The Policy was amended by the Board by Resolution No. 1354, dated March 29, 2017, Resolution No. 1473 dated March 20, 2019 and last updated by Resolution No. 1498, dated December 18, 2019.

In 2015 PFM Financial Advisors issued its 2015 Report with recommendations to LIPA for the development of the Policy. PFM has updated its review to ensure the Policy allows LIPA to continue to reduce debt over time to prudent industry levels, ensures LIPA's consistent access to the capital markets on reasonable terms, and lowers LIPA's long-term cost of electricity for its customers.

The 2020 Report: (1) evaluated LIPA's performance against the established targets, (2) discussed the credit rating agencies' reactions to LIPA's financial performance, and (3) evaluated potential adjustments to the prior targets to maintain LIPA's recent favorable financial trajectory.

PFM recommended the following updates to the Board Policy:

- Increase the fixed obligation coverage ratio target to 1.40x in 2022;
- Transition funding of the OPEB Account with funding sourced and categorized as an operating expense in LIPA's consolidated budget; and continue to fund the Service Provider's Pension Trust from operating expense;
- Allow the percentage of Capital Expenditure Funded from New Debt to exceed 64% target on a forward-looking three-year rolling average in 2021 and 2022 as LIPA responds to the effects of the COVID-19 pandemic and Tropical Storm Isaias. Afterward the target percentage should return to 64% or below on a forward-looking basis for 2024 and beyond; and
- Continue to use cost recovery mechanisms to ensure collectability of costs that could fluctuate materially.

Changes to the Policy are more specifically detailed in PFM Report as set forth in Exhibit "D".

Additionally, LIPA Staff recommends removing the Appendix, *Methodology to Calculate Financial Metrics*, and include that level of detail in an internal LIPA Policy.

## **Recommendation**

Based upon the foregoing, I recommend approval of the above requested action by adoption of a resolution in the form attached hereto

**1579. RESOLUTION APPROVING AMENDMENTS TO THE BOARD POLICY ON DEBT AND ACCESS TO THE CREDIT MARKETS**

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WHEREAS, the Board Policy on Debt and Access to the Credit Markets (the “Policy”) was originally approved by the Board of Trustees (the “Board”) by Resolution No. 1319, dated September 21, 2016; and amended by Resolution No. 1354, dated March 29, 2017, Resolution No. 1473, dated March 20, 2019; and Resolution No. 1498, dated December 18, 2019.

WHEREAS, the Board affirms that the changes to the Policy described herein are due and proper.

NOW, THEREFORE, BE IT RESOLVED, that consistent with the accompanying memorandum, the Board hereby approves the amendments to the Policy as set forth in Exhibit “B”.

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**Requested Action**

The Trustees are requested to approve changes to LIPA’s Tariff for Electric Service. The proposed changes will (1) add four residential time-of-use (“TOU”) rates and one small commercial TOU rate; (2) allow for Community Distributed Generation (“CDG”) Net Crediting, which will allow Value Stack CDG satellite customers to receive a single bill from PSEG Long Island; (3) adjust the Revenue Decoupling Mechanism (“RDM”) and the Delivery Service Adjustment (“DSA”) to mitigate future volatility; and (4) implement new provisions of Public Service Law §66-p that allow landlords and prospective tenants to access the historical electric charges billed to a rental property.

**Time of Use Rates: Background**

In recent years, LIPA and PSEG Long Island have undertaken a rate modernization initiative with the objectives of offering customers rate options that are simple to understand, easy to compare, and that promote efficient use of the electric grid. PSEG Long Island has also launched a service territory-wide deployment of advanced metering infrastructure (“AMI”) smart meters, which enable the functionality required for rate modernization.

In its 2018 Utility 2.0 Plan and subsequent updates, PSEG Long Island presented plans to modernize the customer experience by offering tools and rate options that encourage customers to proactively manage their energy use and lower their costs. The 2018 Utility 2.0 Plan proposed four new residential time-of-use rate options. Three of the proposed rate options feature three separately priced time periods. Consistent with industry best practices, the three periods consist of a three hour or four-hour peak rate, an off-peak rate and a super-off-peak rate. These rate periods will give the customer the opportunity to reduce or shift demand more easily and manage their usage outside of the peak timeframe. The filing also presented a two-period residential rate design, which is primarily for customers who own or

lease an electric vehicle that can be charged overnight yet prefer a flat rate structure during the daytime.

In addition, the 2018 Utility 2.0 filing presented plans for a Small Business Short Peak TOU Rate.

The design of this rate includes a short four-hour peak period that may benefit small business customers who can limit their energy use during a few higher cost weekday hours and shift usage to other off-peak periods, including customers that can be flexible about when they use major business appliances, such as air conditioners, electric forklifts, or other large demand machines.

The 2018 Utility 2.0 Plan's rate modernization initiative was recommended by the Department of Public Service ("DPS") and approved by the LIPA Board of Trustees. Since that time, PSEG Long Island has conducted additional customer focus groups and reviewed TOU research from around the country, conferring with utilities experienced in smart meter enabled time-of-use rates to learn best practices. These focus groups and related research, along with our specific requirements for system operations, have informed the parameters of the rate designs in this proposal.

In addition to giving customers more options and control of their energy use, these rates will also help in reducing the peak load of the utility. By giving customers the ability to shift their load to more affordable times of the day, PSEG Long Island can decrease the amount of energy production during peak times of the day. Additionally, this will help reduce carbon emission and could possibly reduce the need for new capital expenditures as customers reduce the capacity needs on certain circuits.

#### **Time of Use Rates: Proposed Action**

LIPA Staff is proposing to add four TOU Residential Rates and a TOU Small Commercial Rate to the Tariff.

Three of the four residential and the single small commercial TOU rates will have three separate daily periods. The daily periods include: (1) peak (2) off-peak and (3) super-off-peak. The proposed three-period TOU rates will also have three pricing seasons: (1) summer (2) spring and fall (shoulder), and (3) winter. The summer peak rate will be the highest in all TOU rates. In addition to seasonal pricing, the rates will have separate pricing for both Energy and Power Supply.

Power Supply pricing for each rate will vary each month and appear on the existing Statement of Power Supply Charge. This will encourage customers to shift their energy use outside of the costliest times to produce energy.

The fourth residential TOU rate will have two daily periods: (1) daytime and (2) nighttime. Electric vehicle customers who prefer a flat rate during the daytime will be encouraged to use this rate.

#### **Residential Three-Hour Peak (Rate Code 190: Short Peak)**

This TOU rate design has a short three-hour peak from 4 PM to 7 PM and a super-off-peak from 10 PM to 6 AM. This design benefits customers who can shift their energy use away from the three-hour peak and allows them to take advantage of the super-off-peak pricing during the early morning hours of the day. During the summer period, when the rates have the largest variability, the peak-period rate is set to about 2.15 times the off-peak rate, and the super-off-peak rate will be about 0.6 times the off-peak rate.

#### **Residential Four-Hour Peak (Rate Code 191: Late Peak)**

This TOU rate design has a four-hour peak from 4 PM to 8 PM and a super-off-peak from 11 PM to 7 AM. This design benefits customers who can shift their energy use for a slightly longer amount of time during the day and allows them to take advantage of the super-off-peak pricing during the early morning hours of the day. During the summer period, when the rates have the largest variability, the peak-period rate is set to about 1.84 times the off-peak rate, and the super-off-peak rate will be about 0.6 times the off-peak rate.

#### **Residential Four-Hour Peak (Rate Code 192: Early Peak)**

This TOU rate design has a four-hour peak from 3 PM to 7 PM and a super-off-peak from 10 PM to 6 AM. It is similar to Rate Code 191 but starts and ends one hour earlier. Customers will experience savings when they shift their energy use to the evening as this TOU rate has the earliest super-off-peak time. During the summer period, when the rates have the largest variability, the peak-period rate is set to about 1.89 times the standard rate, and the super-off-peak rate will be about 0.6 times the off-peak rate.

#### **Day/Night (Rate Code 193: Overnight)**

The Day/Night TOU rate has two periods in each day. This will give customers who are interested in cost savings the opportunity to shift some of their energy use to the overnight hours without being subject to a higher peak rate during the day. The Daytime rate has a smaller ratio of only 1.12 times the standard rate for peak and the Nighttime rate will be about 0.6 times the standard rate. There are two seasons proposed for this rate option: summer and winter/shoulder season.

#### **Small Business (Rate Code 292: 4 Hour Peak Small)**

The Small Business TOU Rate has a shorter peak period than has been offered in the past. The Small Business peak period will be from 3 PM to 7 PM and a super-off peak from 11PM to 6AM. It has a four-hour peak as compared to existing time-of-use rates that have a longer 10-hour peak period from 10 AM to 8 PM. This rate allows customers to shift energy use for a shorter length of time. During the summer period, when the rates have the largest variability, the peak rate is set to about 1.8 times the off-peak rate, and the super-off-peak rate will be about 0.6 times the off-peak rate.

#### **Power Supply Charge**

The proposed new rates will time differentiate both the Delivery Service Charge and the Power Supply Charge. The Power Supply Charge will be time-differentiated for each of the proposed new rate codes using a multiplier against the standard non-time-differentiated Power Supply Charge. In each month as the Power Supply Charge gets updated, that single cents per kWh charge will be multiplied by the same factors applied to delivery rates

(described above), to create the time-differentiated charges for the peak and off-peak periods. The factors were calculated to recover the same annual total power supply costs that would be recovered through standard rates.

#### **Other Tariff Changes Related to TOU Proposal**

LIPA Staff proposes to close older, less effective TOU rates in Service Classification No. 1 – VMRP (L) and Service Classification No. 1 – VMRP (S) on January 1, 2025, with the exception of rate code 182, a TOU rate for space heating customers, which will be closed on January 1, 2025 or one year after the effective date of a new, yet-to-be-proposed space heating TOU rate (whichever is later). Customers still on these rates will be encouraged to transition to proposed Service Classification No. 1 – VTOU.

LIPA Staff also proposed to discontinue new customer enrollments in the existing off-peak energy storage rates (rate codes 480 and 481) on January 1, 2021 and to discontinue these rate codes on January 1, 2025. The proposed TOU rates with a ratio of 0.6 times the standard rate during the super-off-peak period will be more beneficial to customers seeking to charge energy storage systems overnight. Customers who are currently on rates 480 and 481 will be able to remain on these rates through the end of 2024, at which time they will be encouraged to transfer to any of the newly proposed TOU rate codes.

The new TOU rates will require clarification and additional detail regarding Net Metering banking rules. LIPA Staff proposes to add rules to the Net Metering tariff, such that a customer who switches from a rate with one rate period to a rate with multiple rate periods will transfer all billing credits to the off peak period, as this is set to equal the standard rate. Also, to allow the Tariff to address the reverse situation, customers who move from multiple rate periods to one rate period will have all credits consolidated to the standard rate bank.

Finally, LIPA Staff is proposing to designate the Federal Holidays that will be used to determine off peak days. LIPA has reviewed the various uses of “holiday” in the Tariff and determined that Federal Holiday, Public Holiday and PSEG Long Island Holiday are all terms that need to be defined in the glossary and appropriately amended in the Tariff.

#### **Community Distributed Generation Net Crediting: Background**

On July 17, 2015 and October 16, 2015 the New York Public Service Commission (“PSC” or “Commission”) issued Orders in Case 15-E-0082 setting forth policies, requirements and conditions for implementation of CDG by New York’s investor-owned utilities.<sup>5</sup> The CDG Program has three main entities: the CDG Host; CDG Satellites; and the utility. A CDG Host is the project sponsor and is responsible for owning or operating the generation facility, coordinating the project’s interconnection and operation with the utility, and signing up the project’s satellites.

CDG Satellites are the project subscribers, and customers of the utility.

Currently, each CDG Satellite customer of a Value Stack compensated CDG project receives a credit on its electric bill for its proportionate share of the Value Stack credits generated by the CDG Host, and the CDG Host separately bills each satellite for its subscription fee.



**On December 12, 2019, the Commission issued its Order Regarding Consolidated Billing for Community Distributed Generation in Case 19-M-0463 (Net Crediting Order) which established the policies, requirements and conditions to implement net crediting. Under the net crediting framework, CDG Satellites who subscribe to a CDG Host that has elected the net crediting option will receive credits on their utility bills based on the generation facility's meter, as a percentage of the generation facility's output in excess of usage on the CDG Host's account. The utility is responsible for distributing the credits from the CDG Host's account on satellite customers' bills in accordance with the CDG sponsor's instructions. The subscription fees are deducted from the credits and sent by the utility to the CDG Host, based on a percentage set by the CDG Host, less a 1% fee retained by the utility to cover its costs of administering the program.**

### **Community Distributed Generation Net Crediting: Proposed Action**

**LIPA Staff is proposing to implement CDG Net Crediting for Value Stack CDG Hosts in accordance with the Net Crediting Order. This program will allow CDG Satellites to receive one bill from LIPA, which will include their CDG-allocated credit, less their CDG Subscription Fee. LIPA will pay the CDG Host the Subscription Fee less a one percent (1%) administrative fee (calculated on the total applied credits of the CDG Host), which is retained by LIPA. CDG Hosts will be able to sign up for the net crediting program so long as all Satellites are compensated under Value Stack Crediting. All Satellites, with the exception of one Anchor Satellite (described below), will be required to have the same CDG Savings Rate, which is the percentage of savings the customer will retain. The CDG Savings Rate must be a minimum of 5% of the Value Stack Credit.**

**A CDG Satellite's Applied Credit will be calculated for each billing period, pursuant to the CDG Net Crediting Tariff, and equals the portion of the Total Available Credit that offsets the CDG Satellite's Electric Bill in the billing period. A CDG Satellite's Applied Credit cannot exceed the amount of a CDG Satellite's Electric Bill during an individual billing period. The Authority shall use the Applied Credit as the basis to determine the CDG Subscription Fee. The Authority will provide each CDG Satellite with the net credit on the CDG Satellite's Electric Bill.**

**The CDG Host can exclude one Anchor Satellite from the program. An Anchor Satellite is a large commercial customer that "anchors" the project by taking a significant share of the output of the Host facility (not to exceed 40%) and paying a significant share of the costs for that facility directly to the CDG Host. LIPA will multiply the total Value Stack Credit of the CDG Host times the percentage allocated to the Anchor Satellite (not to exceed 40%) and include that amount of credit to the Anchor Satellite's account in the month. The CDG Host would separately bill the Anchor Satellite for any subscription fees applicable to that Anchor satellite according to their separate agreement.**

**A CDG Subscription Fee will be calculated based each CDG Satellite's Applied Credit in each billing period. The CDG Subscription Fee is equal to the amount of the Applied Credit multiplied by a percentage equal to one minus the CDG Savings Rate. (e.g. if the savings rate**

is 5% the CDG Subscription Fee will equal 1 minus .05, or 95%). Payments will be made to the CDG Host from LIPA for the total Subscription Fee of the satellites in the project, less a one percent (1%) administrative fee that is retained by LIPA. The proposed 1% fee was approved by the Commission for the regulated investor-owned utilities in the State.

### **Revenue Decoupling Mechanism and Delivery Service Adjustment: Background**

LIPA implemented a Revenue Decoupling Mechanism (“RDM”) on April 1, 2015. The use of an RDM is consistent with PSC policy. It helps to achieve financial stability without the conflicting pressures created by the pursuit of energy efficiency and renewable goals that reduce electric sales and corresponding revenues until base rates are reset in the future. An RDM is designed to ensure that a distribution utility collects only its approved revenues for delivery service from customers: excess recoveries are refunded to customers and insufficient recoveries are collected in the following period.

LIPA’s customers have suffered financial hardship during the COVID-19 pandemic. During 2020, in response to the COVID-19 pandemic and resulting New York State emergency declaration, the LIPA Board of Trustees approved several relief measures for customers, including suspending late payment charges and easing terms for deferred payment agreements. The proposed change to LIPA’s RDM will complement these previously approved measures by smoothing RDM recoveries, limiting the potential impact of the RDM on customers in any particular year. It is important to put this change into effect now, to help customers beginning in 2021. Many small business customers had to suspend operations, experiencing lost revenues. This has also resulted in lower electricity sales to LIPA’s small business customer classes. Under LIPA’s existing RDM Tariff rules (absent this proposal), the full amount of this revenue loss would be recovered from these classes in 2021.

The Delivery Service Adjustment (“DSA”) is a rate mechanism to reconcile certain budgeted costs, which are based on projections, to actual accrued costs after the end of each year. The DSA ensures that customers pay only the actual costs incurred to provide service in these specified cost categories rather than the projections of these costs established during LIPA’s budgeting process. The cost categories subject to these updates and reconciliations currently include debt service costs (for variances in interest rates, capital expenditures, and bond refinancing savings), and storm restoration costs. Each of these specified costs vary based on factors largely outside of the control of the utility, so reconciliation is important to ensure that customers pay only the actual costs incurred. The proposal will add three other cost categories to the DSA for reconciliation: nonstorm emergency events, bad debt expense, and pension and other post-employment benefit (“OPEB”) expenses.

Non-storm emergency events are defined in the Amended and Restated Operating Services Agreement (“OSA”) as emergencies (other than storms) that are beyond the reasonable control of PSEG Long Island and not already budgeted.

Bad debt expenses are arrearages that, in the estimation of the LIPA's financial auditors, are not likely to be recovered and need to be written off the Authority's audited financial statements. Under the proposal, the DSA will reconcile the budgeted estimate of bad debt expense to the amount actually accrued during the year (if higher or lower than budgeted).

Pension and Other Post-Employment Benefits ("OPEB") expenses ensure that LIPA will be able to meet its contractual obligations in the future to provide benefits, such as pensions and health care, to retired employees of PSEG Long Island. These expenses are difficult to forecast in advance and vary significantly as a result of factors that are outside the control of the utility, such as market interest rates and medical cost inflation. The DSA will reconcile the O&M budget estimates of pension and OPEBs (which are estimated by an actuary around August of the prior year) to the amount actually accrued during the year. The PSC has recognized that pension and OPEB obligations are subject to volatility and has provided reconciliation mechanisms for the regulated electric utilities in the State.

#### **Revenue Decoupling Mechanism and Delivery Service Adjustment: Proposed Action**

LIPA Staff proposes to modify the Tariff for Electric Service to limit the RDM rate to a maximum of 5% of delivery service revenues for any customer class. By implementing a maximum 5% RDM rate for any customer class, LIPA will be able to mitigate customer bill impacts, which is particularly important during and after events like the COVID-19 pandemic.

As a further mitigation measure, to the extent a revenue loss is caused by a decrease in customers of more than 5% in any commercial rate class, (as opposed to reduced consumption by customers who remain on the system), then the portion of the revenue variance caused by the decrease in customers will be allocated among all commercial rate classes. This provision will prevent remaining customers from being charged a disproportionately higher RDM rate if the size of their customer class decreases.

With respect to the DSA, LIPA Staff proposes to amend the DSA to include incremental expenditures related to Non-Storm Emergencies, as defined in the OSA, net of any anticipated reimbursements from outside sources (such as the Federal Emergency Management Administration) during a non-storm emergency event or condition. Should anticipated reimbursements not come to fruition they will be added to subsequent tracking periods. Costs will be included in the DSA only if a budget amendment is requested by PSEG Long Island pursuant to the OSA, determined by LIPA Staff to be a material adjustment, and approved by the LIPA Board. DPS Staff would also review and confirm the validity of such expenses, as they currently do for storm costs.

The proposed DSA amendments will also reconcile any variance of accrued bad debt expense from the budgeted amount during periods affected by a government ordered or Board authorized moratorium on service disconnections and for up to two years following the end of such moratorium. Because this provision is only applicable for up to two years following a moratorium on service disconnections (a rare event), this provision will apply only after highly unusual events, such as the COVID-19 pandemic.

The DSA proposal will also reconcile variations in expenditures related to pensions and OPEBs from the estimated amounts included in the annual budget. At the end of each calendar year, the actual audited cost of pensions and OPEBs recognized as operating expense will be compared to the amount approved by the Board in the annual budget and the variance will be included in the DSA for recovery or refund in the following year. Any OPEB expenses recovered through the DSA will be contributed to the OPEB trust account, to meet future obligations to retired employees. To the extent that the OPEB expense recovered through the DSA is negative, the annual contribution to the OPEB account will be reduced by that same amount.

The proposal to reconcile these costs in the DSA benefits all LIPA customers because it allows LIPA to provide service at the lowest possible cost. Without a true-up mechanism like the DSA, LIPA would need to set higher budgets for these items, or incur higher borrowing costs, which would result in correspondingly higher customer rates.

#### **Rental Property Data Access: Background**

On April 18, 2020, Section 66-p of Public Service Law (PSL) became effective requiring that every electric corporation, gas corporation, and municipality provide a landlord or lessor of a residential rental premises historical billing information within ten days of a written request.

#### **Rental Property Data Access: Proposed Action**

LIPA Staff proposes to modify the Tariff to allow for potential lessee, potential tenant, or the current landlord to request, in writing, the total electric charges monthly or bi-monthly incurred by the property for the prior two years. This information will be provided via e-mail to the requesting party free of charge.

#### **Financial Impacts**

The TOU rate proposal is not expected to result in material revenue impacts. Revenue variances, if any, will be recovered in the Revenue Decoupling Mechanism. The financial impact of the proposal on any particular customer will depend on the customer's ability and willingness to reduce usage during the peak period. PSEG Long Island estimates that a typical customer who shifts 10% of peak usage would save between \$60 and \$70 annually. Energy cost savings from the avoidance of high cost generation during the peak hours would reduce the net financial impact to LIPA. The cost of implementing the billing system add-on to enable the TOU rate options was approved in prior year's Utility 2.0 filings. The total expenditures incurred through 2020 are \$5.3 million in capital and \$1.9 million in operating expenses. All expenditures were recommended by the DPS and approved by the LIPA Board of Trustees.

The CDG net crediting proposal has no anticipated financial impact to LIPA, as LIPA's costs of administering the program will be compensated through the one percent (1%) Administrative Fee.

The RDM proposal will have no long-term financial impact to LIPA. Revenues that would have been collected through the current year's RDM but for the 5% cap will either be deferred to future years or be shared among other classes in the same year. Customers may benefit from the cap in the year it is applied, as this will reduce their current year's bill impacts. Over the long term, the proposal is largely revenue neutral within any particular customer class because revenues in excess of the cap will be recovered from the same class in subsequent periods, with the exception noted above that revenue variances caused by decreases in the size of a commercial class will be allocated to all commercial classes.

The proposed changes to the DSA do not have any known financial impact because budgets for each of the included cost components are estimated based on the best available information. To the extent the budget amounts for bad debt expense, pensions or OPEBs differ from actual accrued costs, the variance will be recovered or refunded in the DSA.

The proposal to provide billing information regarding rental properties, assuming 100 requests per month, is estimated to have an annual financial impact to LIPA of approximately \$24,000, or \$20 per request. The actual financial impact will depend on the number of requests received.

### **Department of Public Service Input**

The DPS has provided a letter recommending adopting of these tariff modifications, which is attached as an exhibit. The final proposed tariffs incorporate the DPS's recommendations. The DPS also provided feedback and input throughout the process of developing the tariffs, which was reflected in the original proposals.

### **Public Comments**

LIPA held virtual public comment sessions on the proposed tariff changes on November 18<sup>th</sup> and November 19<sup>th</sup> and also solicited written comments. Transcripts of the virtual public comment sessions and copies of the written comments are attached and the comments are summarized here, together with responses from LIPA Staff.

NineDot Energy, a DER provider, submitted written comments in support of the proposed TOU rate options and the CDG net crediting proposal and additional recommendations regarding those proposals. NineDot specifically noted its support of the proposed time-differentiation of LIPA's Power Supply Charge for customers on the new TOU rates. NineDot also urged LIPA to adopt a time-differentiated Power Supply Charge for its existing large commercial TOU rates, commenting that such a change would enable more widespread adoption of energy storage.

**Regarding the CDG net crediting proposal, NineDot offered three suggestions: first, that CDG Hosts should be able to set different Savings Rates for each customer; second, that a CDG Host electing net crediting should more be able to select more than one large anchor customer who would not be subject to consolidated billing; and third, that LIPA should also adopt a remote net crediting model allowing up to ten customers to receive remote net metering credits from a single project.**

**Response: The five new TOU rate pilots in the proposed today are just the beginning of a phased, smart-meter-enabled rate modernization plan, originally proposed in PSEG Long Island’s 2018 Utility 2.0 Plan. Subsequent phases will include time-differentiated power supply rates for large commercial customers, subject to approval by the LIPA Board.**

**LIPA’s CDG net crediting proposal is closely aligned with the net crediting policy of the PSC, including with respect to the three suggestions offered by NineDot, which are not currently available at the State’s investor-owned utilities to our knowledge. Additionally, PSEG Long Island does not have billing system capabilities at present to allow for different Savings Rates for each customer or remote net crediting. However, LIPA and PSEG Long Island Staff are monitoring the PSC proceedings on this topic and will recommend to the LIPA Board that LIPA’s net crediting rules and billing system capabilities should evolve as needed to align with PSC policy on this matter.**

**The Deputy Supervisor of the Town of Southampton submitted comments in support of the CDG net crediting proposal and related recommendations. The Deputy Supervisor recommends that CDG Net Crediting Agreements between LIPA and CDG Hosts (which are related to the proposal but not part of LIPA’s Tariff) should not require the CDG Hosts to indemnify the utility for losses caused by the utility’s own negligence. The Deputy Supervisor also made recommendations regarding the Data Security Agreements applicable to administrators of Community Choice Aggregation (“CCA”). Finally, the Deputy Supervisor recommended that CDG Net Crediting be made available to net metered subscribers of CDG projects.**

**Joule Assets, a CCA Administrator to the Town of Southampton, submitted comments on the CDG net crediting proposal including the same recommendations made by the Deputy Administrator. Joule Assets also included several recommendations regarding LIPA’s Long Island Choice Tariff.**

**Response: LIPA expects to offer CDG Hosts a Net Crediting Agreement that does not require CDG Hosts to indemnify LIPA for losses caused by its own gross negligence or willful misconduct. To our knowledge, these indemnification terms are identical to those offered by the rest of the State’s utilities to CDG Hosts. The Net Crediting Agreement LIPA offers will also have data security provisions similar to those offered by other utilities in the State. Although not the subject of these Tariff proposals, LIPA notes that it is working with the DPS to develop a suitable form Data Security Agreement for CCAs that is consistent with PSC policy on data security for CCAs.**

Regarding the recommendation that net crediting be extended to Hosts of net metered CDG projects, LIPA Staff responds that it is monitoring the PSC proceedings on this topic and will recommend to the LIPA Board that LIPA's net crediting rules and billing system capabilities should evolve as needed to align with PSC policy on this matter. Finally, regarding Joule Assets' comments on Long Island Choice, LIPA notes that a separate DPS collaborative proceeding has been commenced to address potential improvements to Long Island Choice and suggests that Joule Assets submit its comments for consideration in that proceeding, which we expect will result in a recommendation to the LIPA Board.

FourGen LLC submitted comments in support of the CDG net crediting tariff proposal and recommending that net crediting be extended to Hosts of net metered CDG projects in addition to those compensated under the Value Stack.

Response: LIPA Staff is monitoring the PSC proceedings on this topic and will recommend to the LIPA Board that LIPA's net crediting rules and billing system capabilities should evolve as needed to align with PSC policy on this matter.

PowerMarket, a company that manages CDG projects on behalf of CDG Hosts, submitted comments recommending improvements to PSEG Long Island's approach for applying volumetric credits to the Satellite customers of net metered CDG projects. Specifically, PowerMarket notes that PSEG Long Island's bills to these Satellite customers reflect only the customer's net kWh usage, without any indication of either the quantity of kWh credits applied to the bill from the CDG project or the monetary value of the credits applied. According to PowerMarket, this impedes the ability of CDG Hosts to handle inquiries from Satellite customers and to substantiate the subscription fees charged by CDG Hosts to their Satellites, threatening the success of LIPA and PSEG Long Island's CDG program.

Response: LIPA Staff agrees with the comment and recommends that the LIPA Board direct PSEG Long Island to modify its billing of net metered CDG Satellites to reflect the quantity of kWh credits applied in each billing period and the monetary value of those credits.

**Recommendation:**

For the foregoing reasons, I recommend that the Trustees approve the modifications to the Tariff for Electric Service described herein and set forth in the accompanying resolutions.

**1580. APPROVAL OF MODIFICATIONS TO LIPA'S TARIFF RELATED TO TIME-OF USE RATES**

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WHEREAS, the Board of Trustees of the Long Island Power Authority ("LIPA") has adopted a Board Policy on Customer Value and Affordability, which sets forth the Board's commitment to establishing rates that are generally comparable to similarly situated regional utilities and New York Public Service Commission policy; and

**WHEREAS, the proposal is consistent with the Board Policy on Customer Value and Affordability; and**

**WHEREAS, the Department of Public Service is supportive of this proposal; and**

**WHEREAS, following the issuance of public notice in the State Register on September 16, 2020, public hearings were held on November 18 and 19, 2020, by phone and video conference accessible to participants in Nassau and Suffolk County, and the public comment period has since expired;**

**NOW, THEREFORE, BE IT RESOLVED, that for the reasons set forth herein and in the accompanying Memorandum, the proposed modifications to LIPA's Tariff are hereby adopted and approved to be effective February 1, 2021; and be it further**

**RESOLVED, that the Chief Executive Officer and his designees are authorized to carry out all actions deemed necessary or convenient to implement this Tariff; and be it further**

**RESOLVED, that the Tariff amendments reflected in the attached redlined Tariff leaves are approved.**

**\*\*\***

**1581. APPROVAL OF MODIFICATIONS TO LIPA'S TARIFF RELATED TO  
COMMUNITY DISTRIBUTED GENERATION NET CREDITING**

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**WHEREAS, the Board of Trustees of the Long Island Power Authority ("LIPA") has adopted a Board Policy on Resource Planning, Energy Efficiency and Renewable Energy, which sets forth the Board's commitment to integrating cost-effective distributed energy production and storage technologies into the Authority's electric transmission and distributions system, and enabling the economic and secure dispatch of resources deployed within the distribution system and within customer premises (the "Board Policy on Resource Planning"); and**

**WHEREAS, the Board of Trustees of the Long Island Power Authority ("LIPA") has adopted a Board Policy on Customer Value and Affordability, which sets forth the Board's commitment to establishing rates that are generally comparable to similarly situated regional utilities and New York Public Service Commission policy; and**

**WHEREAS, the Board of Trustees of the Long Island Power Authority ("LIPA") has reviewed the proposal and determined that it is consistent with the mission and values of the Authority as set forth in the Board's policy statements, including the Board Policy on Resource Planning and the Board Policy on Customer Value and Affordability; and**

**WHEREAS, the Department of Public Service is supportive of this proposal; and**



**WHEREAS, following the issuance of public notice in the State Register on September 16, 2020, public hearings were held on November 18 and 19, 2020, by phone and video conference accessible to participants in Nassau and Suffolk County, and the public comment period has since expired;**

**NOW, THEREFORE, BE IT RESOLVED, that for the reasons set forth herein and in the accompanying Memorandum, the proposed modifications to LIPA's Tariff are hereby adopted and approved to be effective January 1, 2021; and be it further**

**RESOLVED, that the Chief Executive Officer and his designees are authorized to carry out all actions deemed necessary or convenient to implement this Tariff; and be it further**

**RESOLVED, that the Tariff amendments reflected in the attached redlined Tariff leaves are approved.**

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**1582. APPROVAL OF MODIFICATIONS TO LIPA'S TARIFF RELATED TO THE REVENUE DECOUPLING MECHANISM AND DELIVERY SERVICE ADJUSTMENT**

**WHEREAS, the Board of Trustees of the Long Island Power Authority ("LIPA") has adopted a Board Policy on Customer Value and Affordability, which sets forth the Board's commitment to establishing rates that are comparable to similarly situated regional utilities and consistent with New York Public Service Commission policy; and**

**WHEREAS, the proposal is consistent with the Board Policy on Customer Value and Affordability; and**

**WHEREAS, the Department of Public Service is supportive of this proposal; and**

**WHEREAS, following the issuance of public notice in the State Register on September 16, 2020, public hearings were held on November 18 and 19, 2020, by phone and video conference accessible to participants in Nassau and Suffolk County, and the public comment period has since expired;**

**NOW, THEREFORE, BE IT RESOLVED, that for the reasons set forth herein and in the accompanying Memorandum, the proposed modifications to LIPA's Tariff are hereby adopted and approved to be effective January 1, 2021; and be it further**

**RESOLVED, that the Chief Executive Officer and his designees are authorized to carry out all actions deemed necessary or convenient to implement this Tariff; and be it further**

**RESOLVED, that the Tariff amendments reflected in the attached redlined Tariff leaves are approved.**

**\*\*\***

**1583. APPROVAL OF MODIFICATIONS TO RENTAL PROPERTY DATA ACCESS**

**WHEREAS, the Board of Trustees of the Long Island Power Authority (“LIPA”) has reviewed the proposal and determined that it is consistent with the mission and values of the Authority as set forth in the Board’s policy statements; and**

**WHEREAS, the Department of Public Service is supportive of this proposal; and**

**WHEREAS, following the issuance of public notice in the State Register on September 16, 2020, public hearings were held on November 18 and 19, 2020, by phone and video conference accessible to participants in Nassau and Suffolk County, and the public comment period has since expired;**

**NOW, THEREFORE, BE IT RESOLVED, that for the reasons set forth herein and in the accompanying Memorandum, the proposed modifications to the LIPA’s Tariff are hereby adopted and approved to be effective January 1, 2021; and be it further**

**RESOLVED, that the Chief Executive Officer and his designees are authorized to carry out all actions deemed necessary or convenient to implement this Tariff; and be it further**

**RESOLVED, that the Tariff amendments reflected in the attached redlined Tariff leaves are approved.**

**\*\*\***

*Acting Chair Fischl stated that the next item on the agenda was the Approval of LIPA’s 2021 Budget and Amendment of 2020 Budget be presented by Tamela Monroe and Thomas Falcone.*

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

**Requested Action**

**The Board of Trustees (the “Board”) of the Long Island Power Authority (“LIPA”) is requested to adopt a Resolution: (i) approving the proposed 2021 Operating and Capital Budgets (the “Budget”) which sets forth the revenue, grant, other income, and expenditure forecasts for the year ending December 31, 2021; (ii) amending the 2020 Operating and Capital Budgets; and (iii) establishing a regulatory asset related to the deferral of costs related to Tropical Storm Isaias for which restoration costs have been incurred but Federal Emergency Management Agency (“FEMA”) grant agreements have not yet been executed, as described below and specified in Exhibit “A”.**

## **Background on 2021 Operating and Capital Budgets**

The proposed 2021 Budget totals \$4.485 billion, including an Operating Budget of \$3.721 billion and a Capital Budget of \$764 million (attached as Exhibit “B”). The proposed 2021 Operating Budget funds delivery and power supply costs, taxes and debt service. The Capital Budget funds long-life infrastructure investments such as transmission, substations, poles and wires. In addition, the Operating and Capital Budgets fund investments in various information technology projects, services, and commodities needed to support system operations.

The proposed 2021 Budget seeks to achieve a fixed rate obligation coverage of 1.35x, which is consistent with the Board’s Policy on Debt and Access to the Credit Markets (the “Financial Policy”), as amended, which seeks to reduce LIPA’s borrowing and interest cost and maintain the LIPA’s credit ratings at a minimum of A2/A/A.

The monthly electric bill for the average residential customer is projected to be \$163.84 in 2021, which is \$3.78 per month or 2.3% below the 2020 level of \$167.62. The primary drivers of the projected decrease are lower Power Supply Costs and credits resulting from the Revenue Decoupling Mechanism, partially offset by increases in infrastructure investments, storm restoration costs, operating expenses due to inflation, and energy efficiency investments, as described in greater detail in the Budget.

For 2021, staff projects LIPA will fund 72% of the \$764 million Capital Budget from debt issues, inclusive of FEMA projects. The Board’s Financial Policy calls for generating sufficient cash flow from revenues to maintain the issuance of new debt as a percentage of capital spending at 64% or less as measured on a three-year rolling average. Due to the timing of the Smart Meter project as well as the need to minimize the rate impact to customers who are struggling financially due to the COVID-19 pandemic, the percent of capital spending funded from debt will temporarily exceed the Board policy. In addition, the Board received a recommendation from LIPA’s Financial Advisor, Public Financial Management, at its November 18, 2020 meeting to increase the coverage ratio starting in 2022 to generate additional cash flow from revenues in order to achieve the target set forth in the Board’s Financial Policy for the percent of capital funded from debt in future years.

Staff will monitor this ratio and recommend appropriate adjustments to either increase the cash flow or reduce capital spending if this percentage remains above the target in future budgets.

## **Changes from the Proposed Budget**

The 2021 Budget presented herein includes a minor adjustment to the Proposed Budget presented to the Trustees on November 18, 2020. The 2021 Budget was updated to reflect the final Department of Public Service (the “DPS”) Utility 2.0 Program recommendations, which recommended an update to the development schedule and budget for the Commercial and Industrial Demand Management Pilot.

This resulted in a minor reduction to the 2021 Operating and Capital Budgets for the Utility 2.0 Program by \$92,000 and \$2 million, respectively.

**Annual Budget and Rate Updates**

Under the New York Public Authorities Law as amended by the LIPA Reform Act (P.A.L. § 1020 et seq.), LIPA and PSEG Long Island are required to submit a proposed rate increase to the New York DPS for review if it would increase the rates and charges by an amount that would increase LIPA’s annual revenues by more than 2.5% of the total annual revenues. The proposed budget and associated rate adjustments (attached as Exhibit “C”) would increase LIPA’s 2021 revenues by less than this threshold. The delivery rate adjustments will be effectuated through a pro rata increase to all Service Classifications and rate components.

**Allocation of Intra-Year Power Supply Capacity Costs**

In December 2015, the Trustees approved a regulatory asset to allow for a greater share of the recovery of certain fixed generation capacity costs in the Power Supply Charge (“PSC”) from customers during the summer months consistent with when the generation capacity is needed rather than recovering these fixed costs equally through the year. Staff believes this accurately reflects cost causation in electric rates. The December 2015 approval by the Trustees specified that the schedule of deferrals and amortization of such costs in future years would be presented in future budgets.

There is no net impact on an annual basis from the reallocation of these costs within the year, with allocations by month from plus \$33 million to minus \$22 million, as shown in the table below.

<b>Allocation of Intra-Year Power Supply Capacity Costs (\$ millions)</b>	
<b>January</b>	<b>(\$11.460)</b>
<b>February</b>	<b>(\$21.530)</b>
<b>March</b>	<b>(\$18.670)</b>
<b>April</b>	<b>(\$11.660)</b>
<b>May</b>	<b>\$1.150</b>
<b>June</b>	<b>\$7.960</b>
<b>July</b>	<b>\$24.920</b>
<b>August</b>	<b>\$32.560</b>
<b>September</b>	<b>\$17.200</b>
<b>October</b>	<b>(\$10.910)</b>
<b>November</b>	<b>(\$8.670)</b>
<b>December</b>	<b>(\$0.890)</b>
<b>Total</b>	<b>(\$0.000)</b>

**2021 Utility 2.0 Plan**

**The 2021 Proposed Budget includes \$96 million (including the carryover) in Capital funding and \$13 million in Operating funding for Utility 2.0 initiatives. The amounts budgeted for Utility 2.0 plan initiatives reflect programmatic and budgetary adjustments recommended by the DPS in its recommendation to the LIPA Board regarding the Utility 2.0 Plan (attached as Exhibit “D”).**

**Initiatives funded by the Utility 2.0 Program include the previously approved full deployment of Smart Meters, expanded customer outreach and information initiatives to increase customer awareness of programs to reduce energy usage, an on-bill financing pilot, advanced hosting capacity maps, a DER visibility platform, a new process for assessing non-wires alternatives, and support for beneficial electrification such as electric vehicle make ready initiatives and a heat pump pilot program.**

**Pursuant to the DPS recommendation, PSEG Long Island tracks all Utility 2.0 project costs and reconciles these costs within the Utility 2.0 Program funding levels on an annual basis. Further, DPS recommends that budget variances be addressed exclusively as part of future Utility 2.0 filings. As a result, LIPA follows regulatory accounting treatment to properly align Utility 2.0 Program revenue recognition with the timing of expenses.**

#### **2021 Energy Efficiency Plan**

**The 2021 Proposed Budget includes \$87 million in Operating Revenue for initiatives proposed in the PSEG Long Island’s 2021 Energy Efficiency and Renewable Plan. The proposed funding of the Energy Efficiency and Renewable Plan is consistent with the DPS recommendation (attached as Exhibit “D”).**

#### **LIPA Information Technology**

**The Proposed Operating and Capital Budgets include \$13 million for Information Technology (“IT”) professional services and commodities that are expected to be procured off the contracts negotiated by the New York State Office of the General Services (NYS-OGS) and Federal Supply Schedules (General Service Administration, GSA).**

**IT professional services include management support and expert assistance outside the scope of service for LIPA’s current IT consulting services contracts. These services would be billed on a fixed hourly labor rate or at a fixed-cost, as applicable, on an as-needed basis to support various IT system implementation initiatives as well as operational and oversight support functions. Over the next three years, such professional services anticipated includes system design and architecture to support LIPA IT infrastructure upgrades, data analytics, a data warehouse, advanced analytics, an enterprise document and record management system, intranet, website, time and attendance initiatives, system integration and implementation of IT helpdesk, inventory management, enterprise resource planning system (ERP), rate case management, financial management and modeling, Human Resource management, cloud migration, cybersecurity planning and implementation, IT strategic planning, business process improvement initiatives related to various IT systems implementations, quality**

assurance of various IT initiatives within LIPA, independent verification and validation of IT system implementations managed by PSEG Long Island, and Oversight Support.

Commodities to be procured include hardware, software licenses, software, applications, cloud services, cybersecurity and systems monitoring and management subscription services, system and data center hosting, telephony, telecom, audiovisual, video conferencing support and services on an as-needed basis in the ordinary course of business and continued maintenance of the existing hardware and software.

### **Amendment of the 2020 Operating and Capital Budgets**

PSEG Long Island's 2020 approved Operating Budget is being reduced by \$10 million due to the underrun in the 2020 Utility 2.0 Operating Budget. This underrun was identified in the July 2020 Utility 2.0 Filing.

PSEG Long Island is reducing its approved 2020 Capital Budget by \$18 million. This reflects the carryover of \$28 million in Capital projects from 2020 to 2021, including \$11 million associated with various Transmission and Distribution projects and \$14 million associated with Information Technology projects. The reduction is offset by an increase of \$10 million in the 2020 Utility 2.0 Capital Budget associated with the acceleration of Smart Meter installations.

### **Regulatory Accounting for Tariff Amendments**

LIPA is proposing to amend its Tariff to include in its Delivery Service Adjustment additional mechanisms for costs related to Board approved Non-storm Emergency Events and budget variances related to Bad Debt Expenses and Service Provider Pension and Other Post-Employment Benefits.

The budget resolution requests approval of regulatory accounting treatment to implement the tariff changes and ensure a proper alignment of revenue recognition and the timing of expenses.

### **Regulatory Accounting for the Deferral of Costs Related to Tropical Storm Isaias**

Governmental Accounting Standard Board Statement No. 33, *Accounting and Financial Reporting for Nonexchange Transactions* establishes accounting guidance for grants. Additional guidance requires LIPA have a signed grant agreement in order to recognize grant income related to Tropical Storm Isaias as a receivable from FEMA. As LIPA has not yet entered into such an agreement, grant income cannot be recognized at this time.

LIPA is afforded the ability to defer current costs to future periods to align cost recognition with the period of recovery from customers under GASB Statement No. 62, *Codification of Accounting and Financial Reporting guidance contained in pre-November 30, 1989 FASB and AICPA pronouncements*. Accordingly, staff is seeking Board approval for the deferral for future recovery of the portion of Tropical Storm Isaias costs anticipated to be reimbursed by FEMA. LIPA anticipates receiving grant reimbursement, although the amounts are

estimates and cannot reasonably be determined until completion of the grant application process.

### **Public Comment on the 2021 Operating and Capital Budgets**

LIPA held two virtual public comment sessions regarding the 2021 Budget. The first session occurred on Wednesday, November 18, 2020 and the second session occurred on Thursday, November 19, 2020. No public comments were received at these sessions regarding the 2021 Operating and Capital Budgets. LIPA also accepted written comments. To date, no written comments have been received.

### **Public Comment on the Utility 2.0 and Energy Efficiency Plan**

The DPS solicited public comments on PSEG Long Island's Utility 2.0 and Energy Efficiency Plan. These comments have also been reviewed by LIPA and PSEG Long Island, and the following comment summaries and responses are for consideration by the LIPA Board.

The Natural Resources Defense Council ("NRDC") submitted comments in support of all of the initiatives proposed in the Plan, with one exception. The NRDC stated that the proposed DER Visibility Platform, a tool for remote monitoring of DERs, would increase costs and reduce benefits for customers with DERs.

**Response:** LIPA and PSEG Long Island appreciate the NRDC's support of the Utility 2.0 and Energy Efficiency Plan. Regarding the DER Visibility Platform, as proposed in the Utility 2.0 Plan, the Platform will enable a deeper understanding of the generation characteristics of DERs located in the most saturated areas of Long Island's grid. At this stage, the Platform is not intended (and will not have the capability) to remotely control or curtail individual DERs. DER control functionality may be proposed in subsequent Utility 2.0 filings. However, whether or not control functionality is ultimately added, the DER Visibility Platform will enable greater (not lesser) penetration of DERs, because visibility into actual DER output will allow PSEG Long Island distribution operators to ensure the safety and reliability of the electric system with DERs integrated on the circuits under different system conditions, ultimately increasing the hosting capacity of constrained feeders.

Additionally, the proposed DER Visibility Platform will support New York State's Accelerated Renewable Energy Growth and Community Benefit Act's purpose of prioritizing the planning, investment and responsible development of grid infrastructure, allowing for renewable energy to be delivered to where it is needed in the State to meet CLCPA targets.

The proposed DER Visibility Platform directly supports the Renewable Energy Growth Act by enabling greater penetration of DERs without compromising the safety and reliability of Long Island's electric grid.

**The New York Battery and Energy Storage Technology Consortium (“NY-BEST”) submitted comments stating that while NY-BEST is supportive of many of the components of the 2020 Utility 2.0 Plan, it believes the Plan takes “a narrow, incremental and conservative approach and fails to provide a clear path to the future which aligns with and supports the State’s goals.” NY-BEST recommended that LIPA and PSEG Long Island adopt more aggressive energy storage deployment goals and examine opportunities including peaker replacements and T&D deferralment.**

**Response: The Utility 2.0 Plan is not intended to be the only initiative to meet the State’s CLCPA goals, rather there are a number of actions and programs, of which the Utility 2.0 Plan is a subset. LIPA remains committed to meeting at least its share of State goals for energy storage. LIPA and PSEG Long Island intend to issue a storage RFP in the first quarter of 2021, which will offer a comprehensive analysis of actual proposals. LIPA and PSEG Long Island are committed to deploying as much storage as is beneficial to our customers using the actual proposals of the RFP.**

**In addition, we continue to analyze all capital construction projects for non-wire alternative solutions, with a particular focus on storage. Similarly, we continue to investigate storage as part of a potential solution for existing fossil generation displacement in load pockets as witnessed by our recent RFI for relief solutions on the North Fork. Where feasible and cost effective, we envision pursuing these storage opportunities and expect that as prices continue to drop more and more of these opportunities will materialize and be capable of providing cost effective alternative solutions. We also note that LIPA and PSEG Long Island launched a behind the meter storage offering as part of its Dynamic Load Management program, and presently has interconnection applications for approximately 440 behind the meter battery installations.**

**Bloom Energy, a company that markets fuel cells, submitted comments stating that the Utility 2.0 Plan should place much greater emphasis on the potential for distributed generation to be used as a tool to improve system resiliency and customer reliability. Bloom objects to the cancellation of previously existing incentives for fuel cells and combined heat and power in November 2019 and the lack of newly proposed incentives for these resources in the 2020 Utility 2.0 Plan.**

**Response: LIPA and PSEG Long Island put a high emphasis on resiliency and have undertaken numerous initiatives since hurricane Sandy to improve overall reliability and resiliency of the electric grid. We also remain committed to leveraging the value of distributed energy resources as discussed throughout PSEG Long Island’s filed Utility 2.0 plan. However, LIPA and PSEG Long Island are also committed to the State policy goals of reducing carbon by focusing on renewable energy and promoting beneficial electrification of existing fossil-based consumer activities. We believe that the elimination of ratepayer funded incentives for fossil-fuel powered resources is consistent with the CLCPA mandates and parallel actions taken by NYSERDA, which eliminated incentives for fossil-fuel powered DERs in the rest of New York’s utilities.**



**The New York Power Authority (“NYPA”) submitted comments supporting PSEG Long Island’s proposal to establish a make-ready infrastructure program for electric vehicle chargers, with recommended changes. Specifically, NYPA recommends that the proposed timeline and funding for this program should be accelerated, that a single point of contact (or ombudsperson) be identified and EV charger hosting capacity maps be developed to streamline the interconnection process for electric vehicle charging stations, and that a fleet advisory service be developed. NYPA also recommended a change in LIPA’s VDER tariff to value the capacity component of the value stack using summer and winter strip installed capacity prices instead of spot market prices.**

**The City of New York also submitted comments urging the acceleration of PSEG Long Island’s proposed EV make-ready program. The City notes that the make-ready budget proposed in the 2020 Utility 2.0 Plan is small relative to the make-ready budget ordered by the Public Service Commission for Consolidated Edison of nearly \$300 million over five years.**

**Response: LIPA and PSEG Long Island remain committed to the overall goals of the EV Make Ready order and have commence work on an EV Make Ready Study, as described in the Utility 2.0 Plan. The study, which is planned for the 1st quarter of 2021, will establish a timeline for full deployment of make-ready infrastructure and a fleet advisory service consistent with statewide deployment goals. This timeline will be included in the 2021 Utility 2.0 filing for public review and comment. We note that the 2020 Utility 2.0 Plan included only the 2021 make-ready budget, and the total five-year make-ready budget (to be proposed upon completion of the study) will be significantly larger. In the meantime, LIPA and PSEG Long Island remain committed to working with the industry on any EV Make Ready projects that materialize during 2021 and have incentives available to support such projects. LIPA agrees with NYPA that a single point of contact (or ombudsman) should be established for interconnection of EV chargers and that defined and measurable interconnection timelines should be in place and monitored. LIPA directs PSEG Long Island to develop a single point of contact for EV charger interconnection, as well as an EV charger interconnection developer satisfaction survey, which will enable LIPA and PSEG Long Island to assess the timeliness and effectiveness of the EV charger interconnection process. LIPA and PSEG Long Island do not believe that end-use specific hosting capacity maps are cost-justified at this time but will continue to assess this recommendation for potential inclusion in future Utility 2.0 Plans. LIPA and PSEG Long Island believe the current VDER pricing is appropriate because the capacity spot market prices are more reflective of actual capacity costs on Long Island.**

**Edgewise Energy submitted comments stating that PSEG Long Island should launch a continuous marketing campaign to raise awareness and educate residential ratepayers about community distributed generation (“CDG”) opportunities beginning in early Q1 2021.**

**Response: LIPA and PSEG Long Island intend to develop a webpage to educate customers on CDG and connect them with potential opportunities and work with**

developers to consider other marketing approaches as appropriate. We believe it is important to ensure that sufficient CDG capacity is in place to meet customer demand before any broad-based marketing campaign, such as that proposed by Edgewise, is launched, so that customer inquiries generated by such a marketing campaign are capable of being directed to an in service CDG project in a timely manner.

The Sierra Club submitted comment in support of PSEG Long Island's proposal to develop a makeready infrastructure program and fleet electrification plan and urges timely deployment of the proposal. The Sierra Club urges PSEG Long Island to ensure that its Energy Efficiency Plans and electric vehicle programs are capable of meeting Long Island's share of the State's energy efficiency and electric vehicle goals.

**Response:** LIPA and PSEG Long Island remain committed to meeting New York's CLCPA targets and other policy goals, including targets for energy efficiency and beneficial electrification. We believe that Long Island is on track to meet its energy efficiency and EV charger deployment goals, and we will continue to assess and adjust plans as needed to ensure the targets are met.

The New York Solar Energy Industry Association ("NYSEIA") submitted comments stating that Long Island's allocated share of New York's 6 gigawatts distributed solar goal should serve as a minimum target, that PSEG Long Island and LIPA should establish a roadmap for compliance with the CLCPA's 2030 and 2040 mandates, and that PSEG Long Island and LIPA should increase their investments in incentives and distribution infrastructure in support of distributed solar and community solar.

**Response:** LIPA and PSEG Long Island have been leaders in the promotion and development of distributed solar photovoltaics. We are evaluating the CLCPA and developing our long range approaches for meeting such goals, in coordination with the CLCPA working groups established for this purpose. LIPA's next integrated resource plan, currently in development, will incorporate the State's 70% by 2030 and 100% by 2040 mandates and will set forth the most cost-effective pathway to meeting them. With respect to distributed solar targets, LIPA and PSEG Long Island are on target to exceed Long Island's share of the 2025 mandate. We note that the Utility 2.0 filing is an annual filing, and as the working groups and committees supporting the CLCPA continue to issue guidance, we expect our annual filings to set forth expanded plans on approaches which balance and optimize achievement of NYS goals with maintaining affordable and reliable energy delivery to our customers.

### **Recommendation**

Based upon the foregoing, I recommend approval of the above requested action by adoption of a resolution in the form of the draft resolution attached hereto

*After questions and a discussion by the Trustees, and the opportunity for the public to submit comments, upon a motion duly made and seconded, the following resolutions were approved by the Trustees.*

**1584. APPROVAL OF THE 2021 OPERATING AND CAPITAL BUDGETS AND AMENDMENT OF THE 2020 BUDGETS**

**WHEREAS, the Long Island Power Authority (“LIPA”), through its wholly owned subsidiary, the Long Island Lighting Company d/b/a LIPA, owns the electric transmission and distribution system serving the counties of Nassau and Suffolk and a small portion of the County of Queens known as the Rockaways; and**

**WHEREAS, the Board of Trustees (the “Board”) is required to approve annual budgets for LIPA’s operations and for capital improvements; and**

**WHEREAS, the proposed 2021 Budget incorporates Operating and Capital Budgets for the operation and maintenance of the transmission and distribution system, customer services, business services and energy efficiency and renewable energy programs which are predicated on improving storm response and restoration, customer satisfaction, reliability and storm hardening; and**

**WHEREAS, the proposed Operating and Capital Budgets include \$13 million for Information Technology (“IT”) professional services and commodities that are expected to be procured off the contracts negotiated by the New York State Office of the General Services (“NYS-OGS”) and Federal Supply Schedules; and**

**WHEREAS, the resolution is being adopted in accordance with the requirements of section 1.150-2 of the applicable Treasury Regulations, as evidence of LIPA’s intent to finance certain of its capital expenditures through the issuance of debt; and**

**WHEREAS, under the New York Public Authorities Law as amended by the LIPA Reform Act (P.A.L. § 1020 et seq.), LIPA and PSEG Long Island are required to submit a proposed rate increase to the New York State Department of Public Service for review if it would increase the rates and charges by an amount that would increase LIPA’s annual revenues by more than 2.5% of total annual revenues. The proposed Budget and associated rate adjustments would increase LIPA’s 2021 revenues by less than this threshold. Therefore, the proposed Budget contains rate updates consistent with the LIPA’s Mission, Board Policies, and the LIPA Reform Act; and**

**WHEREAS, LIPA presented its proposed 2021 Operating and Capital Budgets to the Board of Trustees on November 18, 2020 and held two public comment sessions one on November 18, 2020 and one on November 19, 2020; and**

**WHEREAS, the memorandum accompanying this resolution includes a schedule of deferrals and amortization of certain generation capacity costs within the months of the year to affect the more accurate reflection of cost causation in electric rates within each month of the year; and**

**WHEREAS, LIPA's financial statements are prepared in accordance with generally accepted accounting principles as prescribed by the Governmental Accounting Standard Board ("GASB"); and LIPA is subject to existing GASB No. 62, which outlines regulatory accounting for entities or operations which are rate regulated and allows LIPA to defer for future recovery reimbursable costs related to Tropical Storm Isaias to the recovery period subsequent to completion of the FEMA grant process; and**

**WHEREAS, the Finance and Audit Committee (the "Committee") of the Board of Trustees recommended approval of the 2021 Operating and Capital Budgets and associated rate adjustments.**

**NOW, THEREFORE, BE IT RESOLVED, that consistent with the accompanying memorandum, the Board of Trustees hereby approves the 2021 Operating and Capital Budgets and associated rate adjustments, which are attached hereto; and**

**BE IT FURTHER RESOLVED, that the Board hereby approves amendment to LIPA's 2020 Capital Budget to reduce expenditures by approximately \$18 million and defer approximately \$28 million to 2021; and**

**BE IT FURTHER RESOLVED, that the Board hereby approves amendment to LIPA's 2020 Operating Budget to reduce expenditures by \$10 million associated with Utility 2.0 Plan initiatives; and**

**BE IT FURTHER RESOLVED, that the Board hereby approves the establishment of a regulatory accounting treatment to ensure a proper alignment of revenue and costs associated with the Utility 2.0 Plan initiatives; and**

**BE IT FURTHER RESOLVED, that the Board hereby approves LIPA's regulatory accounting treatment to ensure proper alignment of revenue and costs associated with the proposed tariff changes to include in its Delivery Service Adjustment additional mechanisms for costs related to Board approved Non-storm Emergency Events and budget variances related to Bad Debt Expenses and Service Provider Pension and Other Post-Employment Benefits; and**

**BE IT FURTHER RESOLVED, that the Board hereby approves the establishment of a regulatory asset related to the deferral of costs related to Tropical Storm Isaias for which restoration costs have been incurred but Federal Emergency Management Agency grant agreements have not yet been executed; and**

**BE IT FURTHER RESOLVED, that the Board hereby approves LIPA's finance the requirements of the 2021 and 2022 Capital Budgets, as adjusted from time to time, through**

a combination of internally-generated funds and the issuance of LIPA tax-exempt or taxable debt and authorizes the Chief Executive Officer or his designers to evidence such intent by appropriate certifications; and

**BE IT FURTHER RESOLVED**, the Chief Executive Officer or his designee be, and hereby is, authorized to execute and effect agreements to engage IT professional services and commodities consistent with the accompanying memorandum; and

**BE IT FURTHER RESOLVED**, that the Board hereby authorizes the Chief Executive Officer and his designees to carry out all actions deemed necessary or convenient to implement this resolution.

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*Acting Chair Fischl stated that the next item on the agenda was the Approval of the 2021 Plan of Finance and Amendments to Certain Contracts Referencing LIBOR be presented by Tamela Monroe.*

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

### **Requested Action**

The Board of Trustees (the “Board”) of the Long Island Power Authority (“LIPA”) is requested to authorize the issuance of up to \$560,000,000 aggregate principal amount of Electric System Revenue Bonds (the “Authorized Bonds”) for the purposes described below.

The Board is also requested to authorize LIPA Staff to negotiate and deliver amendments to interest rate exchange or swap agreements, letter of credit and reimbursement agreements, revolving credit agreements, fuel cost hedging arrangements, and direct placement agreements as well as other documents relating to its Electric System General Revenue Bonds and other indebtedness that reference the London Interbank Offered Rate (“LIBOR”).

### **Plan of Finance**

LIPA’s 2021 Plan of Finance includes the following elements, some of which have previously been presented to and approved by the Board:

- (i) Issuance of the Authorized Bonds in an amount no greater than \$560,000,000 for the purposes of funding the costs of system improvements and/or reimbursing

such costs already incurred, including refinancing of notes or revolving credit agreement borrowings incurred to finance such costs.

- (ii) Issuance of the Medium Term Notes authorized by the Trustees at their September 23, 2020 meeting in an amount no greater than \$350,000,000 for system repairs due to damage from severe storms, including Tropical Storm Isaias.
- (iii) Issuance of bonds authorized by the Trustees at their December 18, 2019 and May 20, 2020 meetings in an amount no greater than \$1,086,025,000 for the purposes of refunding LIPA’s fixed or variable rate bonds or notes.

Refunding Bonds Authorized December 18, 2019	Refunding Bonds Authorized May 20, 2020	Total Refunding Bonds Authorized	Refunding Bonds Issued August 20, 2020	Remaining Refunding Bonds Previously Authorized
\$200,000,000	\$1,000,000,000	\$1,200,000,000	\$113,975,000	\$1,086,025,000

- (iv) Making amendments to certain LIPA contracts including, but not limited to, interest rate exchange or swap agreements, letter of credit and reimbursement agreements, revolving credit agreements, fuel cost hedging arrangements, and direct placement agreements as well as other documents relating to its Electric System General Revenue Bonds and other indebtedness (collectively, the “LIBOR Contracts”) which reference LIBOR for interest rate setting purposes.

**Authorized Actions**

**The Authorized Bonds**

The Authorized Bonds will be issued as either fixed-rate or variable-rate bonds or a combination thereof and sold either on a negotiated basis (i) to one or more underwriters for resale to investors or (ii) directly to one or more investors or financial institutions. In each case, the sale shall be at such price or prices as determined to be the most cost-effective and advantageous for LIPA. The new Authorized Bonds could be issued in conjunction with such previously authorized, but not yet issued, bonds or be sold separately.

Any underwriter, dealer, or swap counterparty will be one of the firms approved pursuant to LIPA’s most recent procurement for underwriting, investment banking, and swap counterparty services, which firms include BofA Merrill Lynch, Barclays, Citigroup, Goldman Sachs & Co., J.P. Morgan, Loop Capital Markets, Morgan Stanley, RBC Capital Markets, Ramirez & Co. Inc., Siebert Cisneros Shank & Co. LLC, TD Securities, UBS, and Wells Fargo Securities. The Trustees are requested to permit the Chief Executive Officer, Chief Financial Officer or Vice President -- Controller to designate, as necessary, the underwriters, remarketing agents, or swap counterparties, as applicable, assigned to each bond series from the approved list of firms.

In addition to the issuance of the Authorized Bonds to finance Cost of System Improvements, LIPA has determined that it may be appropriate to enter into one or more interest rate or basis swaps (“Financial Contracts”) relating to the Authorized Bonds, should they provide debt service savings or mitigate interest rate risk for the Authorized Bonds as compared to merely issuing conventional fixed-rate or floating-rate bonds. Authorization to enter into such Financial Contracts with an aggregate notional amount of up to \$560,000,000 is requested. The material terms of the agreements relating to any such Financial Contracts are expected to be substantially similar to agreements previously entered into by LIPA and may include interest rate risk, basis risk, settlement risk, termination risk, counterparty risk, and certain continuing covenants. Any such Financial Contracts would be approved by the LIPA’s Executive Risk Management Committee, per the Board’s Policy on Interest Rate Exchange Agreements.

### *The LIBOR Contracts*

On July 27, 2017, the Financial Conduct Authority, the United Kingdom regulator and overseer of LIBOR, announced that all currency and term variants of LIBOR may be phased out after the end of 2021 (the “LIBOR Phase Out”). Although LIBOR is expected to continue to be published after the end of 2021, it may cease to be a representative reference rate after such date. Since 2017, regulators and industry groups have worked to identify alternative indexes and to provide guidance regarding the LIBOR Phase Out. As of October 9, 2020, the US Treasury Department and the Internal Revenue Service have issued guidance permitting modification of contracts without triggering a taxable event.

In anticipation of the LIBOR Phase Out, LIPA Staff recommends amendments to the LIBOR Contracts to replace references to LIBOR with an alternative rate calculation mechanism.

### *Recommendation*

Based upon the foregoing and the recommendation of the Finance and Audit Committee, I recommend that the Trustees adopt the resolutions attached hereto authorizing the issuance of up to \$560,000,000 aggregate principal of Electric System General Revenue Bonds to fund Cost of System Improvements and the execution and delivery of one or more new Financial Contracts, all as described above.

Additionally, based upon the foregoing, I recommend that the Board adopt the resolution attached hereto authorizing the negotiation and delivery of amendments to the LIBOR Contracts.

*After questions and a discussion by the Trustees, and the opportunity for the public to submit comments, upon a motion duly made and seconded, the following resolutions were approved by the Trustees.*

**1585. AUTHORIZATION RELATING TO THE ISSUANCE OF ELECTRIC SYSTEM GENERAL REVENUE BONDS FOR THE PURPOSES OF FUNDING COSTS OF SYSTEM IMPROVEMENTS AND CERTAIN OTHER COSTS**

**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, such bonds to be designated as “Electric System General Revenue Bonds” (the “Bonds”), for, among other purposes, funding Costs of System Improvements (as defined in the General Resolution) and other lawful purposes of the Authority and refunding other bonds or notes of the Authority; and**

**WHEREAS, Article II of the General Resolution requires that the issuance of each series of Bonds by the Authority shall be authorized by a supplemental resolution or resolutions of the Authority adopted at or prior to the time of issuance, subject to further delegation to certain officers to establish the details of the terms of such Bonds; and**

**WHEREAS, the Authority wishes to authorize the issuance of one or more series of Bonds (the “Authorized Bonds”) for the purpose of funding Costs of System Improvements (as defined in the General Resolution) and/or reimbursing such costs already incurred, including refinancing of notes or revolving credit agreement borrowings incurred to finance such costs, which Authorized Bonds shall be in an aggregate principal amount not to exceed \$560,000,000 in principal amount and shall be issued for the purpose of funding Costs of System Improvements; provided that the principal amount of any bond anticipation notes issued pursuant to this resolution which are refunded with Bonds issued pursuant to the Thirty-First Supplemental General Resolution (as defined herein) shall be excluded for purposes of the limit on the principal amount of Authorized Bonds that may be issued; and**

**WHEREAS, the Authority wishes to issue the Authorized Bonds as either a fixed rate or variable rate or a combination thereof; and**

**WHEREAS, in order to achieve such purposes there has been prepared and submitted to the Trustees a form of Thirty-First Supplemental Resolution (the “Thirty-First Supplemental General Resolution”); 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, under current market conditions the Authority has determined that it may achieve debt service savings by entering into one or more such interest rate swap agreements in an aggregate notional amount of up to \$560,000,000 relating to all or a portion of the Authorized Bonds pursuant to which the Authority and the counterparties thereto would agree to make payments to one another based principally upon certain indices, formulae or methods to be specified therein; and**

**WHEREAS, the decision as to which specific strategy or strategies to be employed in connection with such new or existing 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 Thirty-First Supplemental General Resolution, in the form presented to this meeting and made a part of this resolution as though set forth in full herein, is hereby approved and adopted. The Chief Executive Officer, Chief Financial Officer, Vice President-Controller and Secretary (collectively, the "Authorized Officers") are each hereby authorized to deliver the Thirty-First Supplemental General Resolution to The Bank of New York Mellon, as the Trustee for the Bonds, with such amendments, supplements, changes, insertions and omissions thereto as may be approved by such Authorized Officer, which amendments, supplements, insertions and omissions shall be deemed to be part of such resolution as approved and adopted hereby.**
- 2. The Chief Executive Officer and the Chief Financial Officer are each authorized to sell all Bonds issued on a negotiated basis either (i) to one or more underwriters for resale to investors or (ii) by private placement to one or more investors or financial institutions. The Chief Executive Officer and the Chief Financial Officer are each authorized to sell all Bonds issued on a competitive basis to one or more underwriters for resale to investors. In each case, the sale shall be at such price or prices as determined to be the most cost effective and advantageous for the Authority.**
- 3. Each of the Chief Executive Officer and the Chief Financial Officer is hereby authorized with respect to each series of the Authorized Bonds, to execute and deliver (i) a Bond Purchase Agreement (a "Bond Purchase Agreement") in substantially the form of the bond purchase agreement executed by the Authority in connection with the issuance of the Authority's Electric System General Revenue Bonds, Series 2020, with such modifications thereto as the Chief Executive Officer or Chief Financial Officer, upon the advice of counsel to the Authority, approves, (ii) in connection with any private placement of the Authorized Bonds, a placement continuing covenant or other financing, loan or credit agreement (each a "Placement Agreement") with the purchaser(s) thereof in such form, upon advice of counsel to the Authority, as may be**

approved by the Chief Executive Officer or Chief Financial Officer, which approval in each case shall be conclusively evidenced by the execution thereof by the Chief Executive Officer or Chief Financial Officer, or (iii) in connection with any competitive sale of the Authorized Bonds, a Notice of Sale or other bidding documents (each a “Bidding Document”) with the purchaser(s) thereof in such form, upon advice of counsel to the Authority, as may be approved by the Chief Executive Officer or Chief Financial Officer, which approval in each case shall be conclusively evidenced by the execution thereof by the Chief Executive Officer or Chief Financial Officer.

4. Each of the Chief Executive Officer and the Chief Financial 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 official statements or other disclosure documents and instruments and to do and cause to be done any and all acts necessary or proper for carrying out each Bond Purchase Agreement or Placement Agreement, the issuance, sale and delivery of the Authorized Bonds and for implementing the terms of each Bond Purchase Agreement or Placement Agreement, and the transactions contemplated thereby, the Thirty-First Supplemental General Resolution and this resolution.
5. As and to the extent that the Chief Executive Officer or the Chief Financial Officer determines that it would be advantageous in current market conditions to issue bond anticipation notes, such officer is hereby authorized to determine whether such bond anticipation notes shall be issued as “Bonds” or “Subordinated Indebtedness” (as defined in the General Resolution). In the event that bond anticipation notes are issued as Subordinated Indebtedness, the details thereof shall be incorporated in a Note Certificate executed by such officer and delivered to the trustees under the General Resolution and the Authority’s Electric System General Subordinated Revenue Bond Resolution, along with a copy of this resolution. Such Note Certificate may include such amendments and modifications to the provisions of this resolution as such officer shall determine necessary and appropriate to effectuate such determinations and details. A copy of such Note Certificate also shall be filed with this resolution into the records of the Authority and, upon such filing, shall be deemed to be a part of this resolution as if set forth in full herein.
6. The Chief Executive Officer and the Chief Financial Officer are, and each of them hereby is, authorized to enter into interest rate swap agreements in an aggregate notional amount of up to \$560,000,000 relating to the Authorized Bonds with such Qualified Counterparties (as defined in the General Resolution) 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 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 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 Chief Financial Officer, and (iv) otherwise be in accordance with the Guidelines and substantially in the form of interest rate swap agreements entered into by the

Authority in relation to other interest rate swap transactions, 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.

7. The Chief Executive Officer and the Chief Financial Officer are, and each of them hereby is, authorized to enter into reimbursement or other agreements with banks or other financial institutions providing Credit Facilities (as defined in the General Resolution) in connection with the Authorized Bonds, which agreements shall be substantially similar to such agreements previously entered into by the Authority in relation to other Credit Facilities, 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. Such agreements may be entered into with such banks or financial institutions as the Chief Executive Officer and the Chief Financial Officer shall select, in accordance with the Authority's procurement procedures.
8. Each of the Chief Executive Officer and the Chief Financial Officer are hereby further authorized and directed to execute and deliver any and all documents and instruments and to do any and all acts necessary or proper for carrying out and implementing the terms of, and the transactions contemplated by this resolution and each of the documents authorized thereby and hereby.
9. This resolution shall take effect immediately.

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**1586. THIRTY-FIRST SUPPLEMENTAL ELECTRIC SYSTEM GENERAL REVENUE  
BOND RESOLUTION**

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**BE IT RESOLVED** by the Trustees of the Long Island Power Authority as follows:

**ARTICLE I  
DEFINITIONS AND STATUTORY AUTHORITY**

**101. Supplemental Resolution; Authority.** This resolution (“Supplemental Resolution”) is supplemental to, and is adopted in accordance with Articles II and VIII of, a resolution adopted by the Authority on May 13, 1998, entitled “Electric System General Revenue Bond Resolution,” as heretofore supplemented (“General Resolution”), and is adopted pursuant to the provisions of the Act.

**102. Definitions.** 1. All terms which are defined in Section 101 of the General Resolution (including by cross-reference to Section 101 of the Resolution) shall have the same meanings for purposes of this Supplemental Resolution, unless otherwise defined herein.

**2. In this Supplemental Resolution:**

“Authorized Denominations” with respect to Bonds of a Series, shall have the meaning set forth in the applicable Certificate of Determination.

“Bonds” or “Bonds of a Series” and words of like import shall mean each or all a Series of Bonds issued pursuant hereto collectively, as the context may require.

“Bond Purchase Agreements” means the Bond Purchase Agreement(s) among or between the Authority and Purchaser or Purchasers for the sale of the Bonds and shall include any placement, continuing covenant, financing, loan or credit agreement entered into in connection with the placement of Bonds with an investor or financial institution.

“Certificate of Determination” shall mean a certificate or certificates of an Authorized Representative of the Authority delivered pursuant to Section 204 of this Supplemental Resolution, setting forth certain terms and provisions of the Bonds of a Series, as such certificate(s) may be amended and supplemented.

“Code” means the Internal Revenue Code of 1986 (Title 26 of the United States Code), as amended or supplemented.

“Commercial Paper Rate” with respect to Bonds of a Series, has the meaning set forth in the applicable Certificate of Determination.

“Commercial Paper Mode” means the mode during which Bonds of a Series bear interest at a Commercial Paper Rate.

“Credit Facility Issuer” means the issuer of any Credit Facility.

“Daily Rate” with respect to Bonds of a Series, has the meaning set forth in the applicable Certificate of Determination.

“Daily Rate Mode” means the mode during which Bonds of a Series bear interest at a Daily Rate.

“DTC” shall mean The Depository Trust Company, New York, New York, or its successors.

**“Electronic Means” means telecopy, facsimile transmission, e-mail transmission or other similar electronic means of communication.**

**“Fiduciary” or “Fiduciaries” means any Fiduciary (as defined in the General Resolution) and any Tender Agent, or any or all of them, as may be appropriate.**

**“Fixed Rate” means an interest rate fixed to the maturity date of the Bonds of a Series.**

**“Fixed Rate Mode” means the period during which Bonds of a Series bear interest at a Fixed Rate.**

**“Index Mode” means the mode during which Bonds of a Series bear interest at an Index Rate.**

**“Index Rate” with respect to Bonds of a Series, has the meaning set forth in the applicable Certificate of Determination.**

**“Interest Period” for a Series of Bonds, shall have the meaning set forth in the applicable Certificate of Determination.**

**“Liquidity Facility” means any standby bond purchase agreement, letter of credit or similar obligation, arrangement or instrument issued or provided by a bank, insurance company or other financial institution which provides for payment of all or a portion of the Purchase Price (including accrued interest) of the Bonds of any Series that may be obtained by the Authority pursuant to Section 601 hereof.**

**“Liquidity Facility Issuer” means the issuer of a Liquidity Facility.**

**“Mandatory Purchase Date” for any Series of Bonds, means any date specified as such in the applicable Certificate of Determination.**

**“Maturity Date” means, with respect to any Bond, the final date specified therefor in the Certificate of Determination, which shall not be later than thirty-five years after the date of issuance.**

**“Maximum Rate” means for Bonds of a Series, such rate as may be specified in the applicable Certificate of Determination; provided, however, that in no event shall the Maximum Rate exceed the maximum rate permitted by applicable law.**

**“Mode” means the Commercial Paper Mode, Daily Rate Mode, Index Mode, Term Rate Mode, the Weekly Rate Mode, the Fixed Rate Mode or any other method of determining the interest rate applicable to Bond of a Series permitted under the applicable Certificate of Determination.**

**“Mode Change Date” means, with respect to Bonds of a Series, the date one Mode terminates and another Mode begins.**

**“Purchase Date” for Bonds of a Series shall have the meaning set forth in the applicable Certificate of Determination.**

**“Purchase Fund” means a fund by that name that may be established by a Certificate of Determination pursuant to Section 403 hereof.**

**“Purchase Price” means the price at which Bonds subject to optional or mandatory tender for purchase are to be purchased as provided in the Certificate of Determination.**

**“Purchaser” or “Purchasers” means the underwriter(s) or purchaser(s) for the Bonds of a Series named in the Bond Purchase Agreement for the Bonds of such Series.**

**“Remarketing Agent” means the remarketing agent at the time serving as such for the Bonds of a Series (or portion thereof) pursuant to Section 503 hereof.**

**“Remarketing Agreement” means the remarketing agreement entered into by and between the Authority and the Remarketing Agent with respect to the Bonds of a Series (or portion thereof).**

**“Replacement Bonds” means the Bond certificates provided to the beneficial owners of the Bonds, or their nominees, pursuant to Section 203(a) hereof.**

**“Resolution” means the General Resolution, as amended and supplemented by the Supplemental Resolution.**

**“Securities Depository” shall mean DTC as the Securities Depository appointed pursuant to Section 203(a) hereof, or any substitute Securities Depository, or any successor to any of them.**

**“Tender Agent” means the Trustee as tender agent appointed for the Bonds pursuant to Section 504 hereof.**

**“Term Rate,” with respect to Bonds of a Series (or portion thereof), has the meaning set forth in the applicable Certificate of Determination.**

**“Term Rate Mode” means the mode during which Bonds of a Series (or portion thereof) bear interest at a Term Rate.**

**“Weekly Rate” with respect to Bonds of a Series, has the meaning set forth in the applicable Certificate of Determination.**

**“Weekly Rate Mode” means the mode during which Bonds of a Series bear interest at a Weekly Rate.**

**ARTICLE II  
AUTHORIZATION OF BONDS**

**201. Principal Amount, Designation, Series and Trustee.**

(a) Pursuant to the provisions of the General Resolution, one or more separate Series of Bonds entitled to the benefit, protection and security of such provisions are hereby authorized in a not-to-exceed aggregate original principal amount described below and with the following designation: “Electric System General Revenue Bonds, Series 20\_\_” and with such additional or different designations as may be set forth in the applicable Certificates of Determination. The aggregate principal amount of each Series of Bonds shall be determined by an Authorized Representative of the Authority, subject to the terms of Section 204 hereof.

Each Series shall initially bear interest in accordance with the Interest Rate Mode specified in and as may be provided by the applicable Certificate of Determination.

(b) Bonds issued pursuant to this Supplemental Resolution shall be issued in a not-to exceed aggregate original principal amount of \$560,000,000, provided that to the extent that any bond anticipation notes are issued pursuant to Section 204(b) of this Supplemental Resolution and are refunded with Bonds issued pursuant to this resolution, the principal amount of such bond anticipation notes shall be excluded for purposes of the limit on the aggregate original principal amount of Bonds that may be issued hereunder.

(c) The authorization in this Section 201 to issue additional Bonds is in addition to any previous authorization of Bonds pursuant to any prior Supplemental Resolution, which shall remain in full force and effect. Any Bonds issued pursuant to this Supplemental Resolution bonds may be issued in conjunction with any previously authorized, but not yet issued, Bonds or be issued separately as may be provided in the applicable Certificate of Determination.

**202. Purposes.**

(a) The purposes for which the Bonds of any Series are to be issued shall include such of the following as shall be specified in the applicable Certificate of Determination:

- (i) to fund Costs of System Improvements, including, without limitation, reimbursement of moneys theretofore expended by the Authority or the Subsidiary for such costs or refinancing of notes or revolving credit agreement borrowings incurred to finance such costs;
- (ii) to pay or reimburse the Authority for amounts due under any Financial Contract entered into in connection with any bonds or notes of the Authority; and
- (iii) to pay fees and expenses in conjunction with each of the foregoing and the issuance of the Bonds of a Series, including reimbursement of fees and expenses expended by the Authority in connection therewith.

**(b) The proceeds of each Series of Bonds shall be deposited and applied in accordance with the applicable Certificate of Determination.**

### **203. Securities Depository.**

**(a) Securities Depository. The Bonds of each Series when initially issued shall be registered in the name of Cede & Co., as nominee of DTC, in the form of a single fully registered Bond for each maturity of the Bonds of each Series. DTC is hereby appointed initial Securities Depository for the Bonds, subject to the provisions of subsection (b) of this Section. So long as DTC or its nominee, as Securities Depository, is the registered owner of Bonds, individual purchases of beneficial ownership interests in such Bonds may be made only in book-entry form by or through DTC participants, and purchasers of such beneficial ownership interest in Bonds will not receive physical delivery of bond certificates representing the beneficial ownership interests purchased.**

**So long as DTC or its nominee, as Securities Depository, is the registered Owner of Bonds, payments of principal, the Purchase Price and the Redemption Price of and interest on such Bonds will be made by wire transfer to DTC or its nominee, or otherwise pursuant to DTC's rules and procedures as may be agreed upon by the Authority, the Trustee and DTC. Transfers of principal, the Redemption Price, and interest payments to DTC participants will be the responsibility of DTC.**

**Transfers of such payments to beneficial owners of Bonds by DTC participants will be the responsibility of such participants, indirect participants and other nominees of such beneficial owners.**

**So long as DTC or its nominee, as Securities Depository, is the Owner of Bonds, the Authority shall send, or cause the Trustee to send, or take timely action to permit the Trustee to send, to DTC notice of redemption of such Bonds and any other notice required to be given to Owners of Bonds pursuant to the General Resolution, in the manner and at the times prescribed by the General Resolution, or otherwise pursuant to DTC's rules and procedures or as may be agreed upon by the Authority, the Trustee (if applicable) and DTC.**

**Neither the Authority nor any Fiduciary shall have any responsibility or obligation to the DTC participants, beneficial owners or other nominees of such beneficial owners for (1) sending transaction statements; (2) maintaining, supervising or reviewing, or the accuracy of, any records maintained by DTC or any DTC participant, indirect participant or other nominees of such beneficial owners; (3) payment or the timeliness of payment by DTC to any DTC participant, indirect participant or by any DTC participant, indirect participant or other nominees of beneficial owners to any beneficial owner, of any amount due in respect of the principal or the Redemption Price of or interest on Bonds; (4) delivery or timely delivery by DTC to any DTC participant or indirect participant, or by any DTC, indirect participant or other nominees of beneficial owners to any beneficial owners, of any notice (including notice of redemption) or other communication which is required or permitted under the terms of the General Resolution to be given to holders or Owners of Bonds; (5) the selection of the beneficial owners to receive payment in the event of any partial redemption**



of Bonds; or (6) any action taken by DTC or its nominee as the registered Owner of the Bonds.

Notwithstanding any other provisions of this Supplemental Resolution to the contrary, the Authority, the Trustee and each other Fiduciary shall be entitled to treat and consider the Person in whose name each Bond is registered in the books of registry as the absolute owner of such Bond for the purpose of payment of principal, the Purchase Price, the Redemption Price, and interest with respect to such Bond, for the purpose of giving notices of redemption and other matters with respect to such Bond, for the purpose of registering transfers with respect to such Bond, and for all other purposes whatsoever. The Trustee shall pay all principal and the Redemption Price of and interest on the Bonds only to or upon the order of the respective Owners, as shown on the books of registry as provided in this Supplemental Resolution, or their respective attorneys duly authorized in writing, and all such payments shall be valid and effective to fully satisfy and discharge the Authority's obligations with respect to payment of principal and the Redemption Price of and interest on the Bonds to the extent of the sum or sums so paid.

Notwithstanding any other provisions of this Supplemental Resolution to the contrary, so long as any Bond is registered in the name of Cede & Co., as nominee of DTC, all payments with respect to principal, the Purchase Price and the Redemption Price of, and interest on such Bond and all notices with respect to such Bond shall be made and given, respectively, pursuant to DTC's rules and procedures.

Payments by the DTC participants to beneficial owners will be governed by standing instructions and customary practices, as is now the case with municipal securities held for the accounts of customers in bearer form or registered in "street name," and will be the responsibility of such DTC participant and not of DTC, the Trustee or the Authority, subject to any statutory and regulatory requirements as may be in effect from time to time.

Provisions similar to those contained in this subsection (a) may be made by the Authority in connection with the appointment by the Authority of a substitute Securities Depository, or in the event of a successor to any Securities Depository.

Authorized Officers are hereby authorized to enter into such representations and agreements as they deem necessary and appropriate in furtherance of the provisions of this subsection (a)(b) Replacement Bonds. The Authority shall issue Bond certificates (the "Replacement Bonds") directly to the beneficial owners of the Bonds, or their nominees, in the event that DTC determines to discontinue providing its services as Securities Depository with respect to such Bonds, at any time by giving notice to the Authority, and the Authority fails to appoint another qualified Securities Depository to replace DTC. In addition, the Authority shall issue Replacement Bonds directly to the beneficial owners of the Bonds, or their nominees, in the event the Authority discontinues use of DTC as Securities Depository at any time upon determination by the Authority, in its sole discretion and without the consent of any other Person, that beneficial owners of the Bonds shall be able to obtain certificated Bonds.

**(c) Notices.** In connection with any notice of redemption provided in accordance with Article VI of the General Resolution, notice of such redemption shall also be sent by the Trustee by first class mail, overnight delivery service or other secure overnight means, postage prepaid, to any Rating Agency; to the Securities Depository which are known to the Trustee to be holding Bonds, to any Liquidity Facility Issuer with respect to such Bonds, and to at least two (2) of the national Information Services that disseminate securities redemption notices, in each case not later than the mailing of notice required by the General Resolution.

**204. Delegation of Authority.** There is hereby delegated to each Authorized Representative of the Authority, subject to the limitations contained herein, the power with respect to the Bonds of each Series to determine and effectuate the following:

**(a)** the principal amount of the Bonds of each Series to be issued, provided that the aggregate original principal amount of Bonds of all Series shall not exceed the limit set forth in Section 201(b);

**(b)** whether to issue Bonds as “bond anticipation notes” and the maturities, interest rates, tender and redemption provisions, if any, and other terms of such bond anticipation notes;

**(c)** the dated date or dates, maturity date or dates and principal amount of each maturity of the Bonds of such Series, the first and subsequent interest payment date or dates of the Bonds of such Series, and the date or dates from which the Bonds of such Series shall bear interest;

**(d)** the methods of determining the interest rate applicable to the Bonds of such Series which may include Commercial Paper Rates, Daily Rates, Index Rates, Term Rates, Fixed Rates, Weekly Rates or other methods of determining the interest rate applicable to such Bonds and the initial interest rate or rates of the Bonds of such Series, provided that the initial interest rate or rates applicable to the Bonds of a Series at the date of their issuance shall not exceed six percent (6%) per annum;

**(e)** the amounts of the proceeds of the Bonds of each Series to be deposited and applied in accordance with Section 202 hereof;

**(f)** the redemption provisions, if any, of the Bonds;

**(g)** the tender provisions, if any, of the Bonds;

**(h)** the definitive form or forms of the Bonds and the definitive form or forms of the Trustee’s certificate of authentication thereon;

**(i)** the specification, from time to time, of a new Maximum Rate, in accordance with the definition thereof;

**(j)** provisions that are deemed advisable by such Authorized Representative in connection with a change in the Mode applicable to the Bonds of a Series;

**(k) obtaining any Credit Facility or Liquidity Facility related to the Bonds of a Series or any portion thereof, and complying with any commitment therefor including executing and delivering any related agreement with any Credit Facility Issuer or Liquidity Facility Issuer, to the extent that such Authorized Representative determines that to do so would be in the best interest of the Authority;**

**(l) whether the interest on the Bonds will be included in gross income for Federal income tax purposes; and**

**(m) any other provisions deemed advisable by such Authorized Representative, not in conflict with the provisions hereof or of the General Resolution.**

**Such Authorized Representative shall execute one or more certificates evidencing determinations or other actions taken pursuant to the authority granted herein, an executed copy of which shall be delivered to the Trustee. Each such certificate shall be deemed a Certificate of Determination and shall be conclusive evidence of the action or determination of such officer as to the matters stated therein.**

**The provisions of each Certificate of Determination shall be deemed to be incorporated in Article II hereof. No such Certificate of Determination, nor any amendment to this Supplemental Resolution, shall change or modify any of the rights or obligations of any Credit Facility Issuer or any Liquidity Facility Issuer without its written assent thereto.**

**205. Form of Bonds and Trustee's Authentication Certificate. Subject to the provisions of the General Resolution and this Supplemental Resolution, the form of the Bonds of each Series, form of assignment, and the Trustee's Certificate of Authentication shall be in substantially the form set forth in the applicable Certificate of Determination. Any portion of the text of any Bond of a Series may be set forth on the reverse thereof, with an appropriate reference thereto on the face of such Bond. Bonds of any Series may be typewritten, printed, engraved, lithographed or otherwise reproduced and may incorporate such legends and other additional text as may be customary, including but not limited to any legend to reflect delivery of the Bonds of any Series to a Securities Depository.**

**206. Denominations; Medium, Method and Place of Payment of Principal and Interest; Dating. The Bonds of each Series shall be issued in the form of fully registered bonds in Authorized Denominations and shall be numbered, lettered and dated as prescribed in the applicable Certificate of Determination. The principal of and premium, if any, and interest on the Bonds of each Series shall be payable in lawful money of the United States of America as provided in the applicable Certificate of Determination.**

**Interest on Bonds of a Series shall be calculated as provided in the applicable Certificate of Determination. The interest rates for Bonds of a Series contained in the records of the Trustee shall be conclusive and binding, absent manifest error, upon the Authority, the Remarketing Agent, the Tender Agent, the Trustee, the Liquidity Facility Issuer, the Credit Facility Issuer and the Owners.**

No Bond of a Series may bear interest at an interest rate higher than the Maximum Rate.

**207. Determination of Interest Rate(s); Purchase Price.** The interest rate applicable during any Rate Period (other than a Fixed Rate determined on or prior to the date of issuance of the related Bonds) shall be determined in accordance with the applicable Certificate of Determination.

Except as otherwise provided in the applicable Certificate of Determination, any such rate shall be the minimum rate that, in the sole judgment of the Remarketing Agent, would result in a sale of the Bonds of the Series at a price equal to the principal amount thereof on the date on which the interest rate on such Bonds is required to be determined in accordance with the applicable Certificate of Determination, taking into consideration the duration of the Interest Period, which shall be established by the Authority.

**ARTICLE III  
SALE OF EACH SERIES; CERTAIN FINDINGS; DETERMINATIONS  
AND AUTHORIZATIONS; AMENDMENTS TO GENERAL RESOLUTION**

**301. Sale of the Bonds.**

(a) The Bonds of each Series may be sold to the Purchasers therefor named in the respective Bond Purchase Agreement and approved by an Authorized Representative of the Authority, upon the terms and conditions set forth in the Bond Purchase Agreement at an aggregate purchase price (excluding accrued interest) of not less than ninety-five percent (95%) of the aggregate principal amount of such Bonds to be sold. The Purchaser or Purchasers of the Bonds of each Series shall be approved by the Chief Executive Officer and shall be one or more of the financial institutions approved by the Authority to act as underwriters of the Authority's bonds.

(b) The Authority hereby authorizes one or more Bond Purchase Agreements with respect to the Bonds, which in the case of any series of Bonds being sold to a purchaser for resale to the public, shall be in substantially the form of the bond purchase agreements executed by the Authority in connection with the issuance of the Authority's Electric System General Revenue Bonds, Series 2020 (the "Series 2020 Bonds"), with such modifications thereto as any Authorized Representative of the Authority, upon the advice of counsel to the Authority, approves, but subject to subsection (a) above. In the case of a placement of Bonds with one or more investors or financial institutions, the Bond Purchase Agreement shall be in such form as any Authorized Representative of the Authority, upon the advice of counsel to the Authority, approves, but subject to subsection (a) above. Any Authorized Representative of the Authority is hereby authorized to execute and deliver such Bond Purchase Agreements, which execution and delivery shall be conclusive evidence of the approval of any such modifications. Any Bond Purchase Agreement or placement agreement may provide for the sale of the Bonds on a forward delivery basis.

(c) The Bonds of each Series may be sold to the Purchasers therefor pursuant to a competitive sale, upon the terms and conditions set forth in a Notice of Sale at an aggregate purchase

price (excluding accrued interest) of not less than ninety-five percent (95%) of the aggregate principal amount of such Bonds to be sold.

**302. Preliminary and Final Official Statements.** The Authority hereby authorizes one or more preliminary and final official statements substantially in the form of the Official Statements, delivered with respect to the Authority's Series 2020 Bonds, with such modifications thereto as any Authorized Representative of the Authority, upon the advice of counsel to the Authority, approves, including, without limitation, modifications to reflect matters reflected in continuing disclosure filings made with the Municipal Securities Rulemaking Board subsequent to the date of such Official Statement.

Any Authorized Representative of the Authority is hereby authorized to deliver such preliminary official statements to the Purchasers for delivery to prospective purchasers of the Bonds and to execute copies of such final official statement and deliver the same to the Purchasers or Remarketing Agents, as the case may be, in connection with the original issuance of the Bonds of any Series or the remarketing thereof, which execution and delivery shall be conclusive evidence of the approvals of such preliminary and final official statements. The Authority hereby authorizes the use of such preliminary and final official statements and the information contained therein in connection with the public offering and sale of the Bonds of each Series by the Purchasers.

**303. Continuing Disclosure.** The Authority hereby approves the Continuing Disclosure Certificate substantially in the form delivered in connection with the Series 2020 Bonds, and authorizes any Authorized Representative to execute and deliver the same, or any similar undertaking, whether in the form of an agreement with the Trustee or any other instrument, to provide secondary market disclosure in order to permit the Purchasers of the Bonds of any Series to comply with Rule 15c2-12 of the Securities and Exchange Commission, with such modifications as any Authorized Representative, upon the advice of counsel to the Authority, approves, which execution and delivery shall be conclusive evidence of the approval of such modifications. The Authority covenants with the Owners from time to time of the Bonds of each Series for which a Continuing Disclosure Certificate is delivered that it will, and hereby authorizes the appropriate officers and employees of the Authority to take all action necessary or appropriate to, comply with and carry out all of the provisions of such undertaking as amended from time to time. Notwithstanding any other provision of the Resolution, failure of the Authority to perform in accordance with such continuing disclosure undertaking shall not constitute a default or an Event of Default under the Resolution and shall not result in any acceleration of payment of the Bonds of any Series, and the rights and remedies provided by the Resolution upon the occurrence of such a default or an Event of Default shall not apply to any such failure, but such undertaking may be enforced only as provided therein.

**304. Remarketing Agreements and Tender Agency Agreements.** The Authority hereby authorizes one or more Remarketing Agreements and Tender Agency Agreements with respect to the Bonds of any Series in substantially the form of the remarketing agreements and the tender agency agreements entered into by the Authority in connection with prior series of Bonds, with such modifications and with such Remarketing Agents and such Tender

Agents as any Authorized Representative, upon the advice of counsel to the Authority, approves. Any Authorized Representative of the Authority is hereby authorized to execute and deliver such Remarketing Agreements and such Tender Agency Agreements in connection with the original issuance of the Bonds of any Series or remarketing thereof, which execution and delivery shall be conclusive evidence of the approval of any such modifications.

**305. Further Authority.** All Authorized Representatives of the Authority are and each of them is hereby authorized and directed to execute and deliver any and all agreements, documents and instruments and to do and cause to be done any and all acts necessary or proper for carrying out this Supplemental Resolution and each agreement authorized hereby, the issuance, sale and delivery and remarketing of the Bonds of any Series and for implementing the terms of each such agreement and the transactions contemplated thereby and by this Supplemental Resolution.

**306. Certain Findings and Determinations.** The Authority hereby finds and determines:

(a) The General Resolution has not been amended, supplemented, or repealed since the adoption thereof except by the resolution of the Authority entitled “First Supplemental Resolution authorizing Electric System General Revenue Bonds, Series 1998A” adopted May 13, 1998, by the resolution of the Authority entitled “Second Supplemental Resolution authorizing Electric System General Revenue Bonds, Series 1998B” adopted October 20, 1998, by the resolution of the Authority entitled “Third Supplemental Resolution authorizing Electric System General Revenue Bonds, Series 2000A” adopted February 29, 2000, by the resolution of the Authority entitled “Fourth Supplemental Resolution authorizing Electric System General Revenue Bonds, Series 2001A” adopted March 1, 2001, by the resolution of the Authority entitled “Fifth Supplemental Resolution authorizing Electric System General Revenue Bonds, Series 2001B through 2001P” adopted May 1, 2001, by the resolution of the Authority entitled “Sixth Supplemental Resolution authorizing Electric System General Revenue Bonds, Series 2003A” adopted February 27, 2003, as amended March 27, 2003, by the resolution of the Authority entitled “Seventh Supplemental Resolution authorizing Electric System General Revenue Bonds” adopted March 27, 2003, by the resolution of the Authority entitled “Eighth Supplemental Resolution authorizing Electric System General Revenue Bonds” adopted May 26, 2004, by the resolution of the Authority entitled “Ninth Supplemental Resolution authorizing Electric System General Revenue Bonds” adopted March 24, 2005, by the resolution of the Authority entitled “Tenth Supplemental Resolution authorizing Electric System General Revenue Bonds” adopted April 27, 2006, by the resolution of the Authority entitled “Eleventh Supplemental Resolution authorizing Electric System General Revenue Bonds” adopted October 18, 2006, by the resolution of the Authority entitled “Twelfth Supplemental Resolution authorizing Electric System General Revenue Bonds” adopted February 26, 2008, and by the resolution of the Authority entitled “Thirteenth Supplemental Resolution authorizing Additional Interest Rate Modes and Modifications to the Operational Provisions and Characteristics of Existing Interest Rate Modes of Outstanding Electric System General Revenue Bonds” adopted February 26, 2008 and by the resolution of the Authority entitled “Fourteenth Supplemental Resolution authorizing Electric System General Revenue Bonds” adopted

October 23, 2008, by the resolution of the Authority entitled “Fifteenth Supplemental Resolution authorizing Electric System General Revenue Bonds” adopted April 23, 2009, by the resolution of the Authority entitled “Sixteenth Supplemental Resolution authorizing Electric System General Revenue Bonds” adopted December 17, 2009, and by the resolution of the Authority entitled “Seventeenth Supplemental Resolution authorizing Electric System General Revenue Bonds” adopted September 27, 2010, by the resolution of the Authority entitled “Eighteenth Supplemental Resolution authorizing Electric System General Revenue Bonds” adopted December 15, 2011, by the resolutions of the Authority entitled “Nineteenth Supplemental Resolution authorizing Electric System General Revenue Bonds,” “Twentieth Supplemental Resolution authorizing Electric System General Revenue Bonds” and “Twenty-First Supplemental Resolution authorizing Electric System General Revenue Bonds,” each adopted December 13, 2012, by the resolutions of the Authority entitled “Twenty-Second Supplemental Resolution authorizing Electric System General Revenue Bonds” and “Twenty-Third Supplemental Resolution authorizing Electric System General Revenue Bonds,” each adopted August 6, 2014, by the resolution of the Authority entitled “Twenty-Fourth Supplemental Resolution authorizing Electric System General Revenue Bonds” adopted December 16, 2015, by the resolution of the Authority entitled “Twenty-Fifth Supplemental Resolution authorizing Electric System General Revenue Bonds” adopted March 21, 2016, by the resolution of the Authority entitled “Twenty-Sixth Supplemental Resolution authorizing Electric System General Revenue Bonds” adopted December 19, 2016, by the resolution of the Authority entitled “Twenty-Seventh Supplemental Resolution authorizing Electric System General Revenue Bonds” adopted December 19, 2017, by the resolution of the Authority entitled “Twenty-Eighth Supplemental Resolution authorizing Electric System General Revenue Bonds” adopted December 19, 2018, by the resolution of the Authority entitled “Twenty-Ninth Supplemental Resolution authorizing Electric System General Revenue Bonds” adopted December 18, 2019, as amended and restated May 20, 2020, and by the Resolution of the Authority entitled “Thirtieth Supplemental Resolution authorizing Electric System General Revenue Bonds” adopted September 23, 2020, and the certificates of determination delivered pursuant to all such resolutions. This Supplemental Resolution supplements the General Resolution, constitutes and is a “Supplemental Resolution” within the meaning of such quoted term as defined and used in the General Resolution, and is adopted under and pursuant to the General Resolution.

(b) The Bonds of each Series constitute and are “Bonds” within the meaning of the quoted word as defined and used in the General Resolution.

(c) The Trust Estate is not encumbered by any lien or charge thereon or pledge thereof which is prior to or of equal rank with the lien and charge thereon and pledge thereof created by the General Resolution.

(d) There does not exist an “Event of Default” within the meaning of such quoted term as defined in Section 1001 of the General Resolution, nor does there exist any condition which, after the giving of notice or the passage of time, or both, would constitute such an “Event of Default.”

### **307. Amendment to the General Resolution.**

(a) *Amendment.* Pursuant to the resolution of the Board of Trustees of the Authority, dated July 22, 2020, the General Resolution shall be amended and restated as set forth in such resolution, subject to the consent or deemed consent of not less than a majority of the holders of Bonds and certain other conditions.

(b) *Deemed Consents.* Pursuant to Section 903 of the General Resolution, the original purchasers and Holders of the Bonds of each Series issued pursuant to this Supplemental Resolution, by their purchase and acceptance thereof, thereby (i) consent, and shall be deemed to have consented to, the amendments made by or pursuant to this Supplemental Resolution, and (ii) waive, and shall be deemed to have waived, any and all other formal notices, implementation or timing requirements that may otherwise be required under the Resolution, which consents shall be effective and binding unless and until revoked pursuant to and to the extent permitted by said Section 903 of the General Resolution.

## **ARTICLE IV REDEMPTION AND PURCHASE OF BONDS**

**401. Optional and Sinking Fund Redemption.** Bonds of a Series shall be subject to optional and mandatory redemption as and to the extent and at the times and subject to such conditions, if any, as shall be specified in the applicable Certificate of Determination.

**402. Optional and Mandatory Purchase of Bonds.** The Bonds of a Series shall be subject to optional and mandatory tender for purchase to the extent, at the times and subject to such conditions as shall be set forth in the applicable Certificate of Determination.

**403. Purchase Fund.** A Purchase Fund may be established in a Certificate of Determination in connection with the delivery to the Trustee of a Liquidity Facility, which fund, if established, shall be held by the Tender Agent and may have such separate accounts as shall be established in such Certificate of Determination. Such Purchase Fund and accounts therein may be established for the purpose of depositing moneys obtained from (i) the remarketing of Bonds of a Series which is subject to tender for purchase in accordance with the applicable Certificate of Determination, (ii) draws under a Liquidity Facility and (iii) the Authority. Such deposited moneys shall be used solely to pay the Purchase Price of Bonds of such Series or to reimburse a Liquidity Facility Issuer.

**404. Remarketing of Bonds of a Series; Notices.** The Remarketing Agent for Bonds of a Series shall offer for sale and use its best efforts to find purchasers for all Bonds of such Series required to be tendered for purchase. The applicable Certificate of Determination shall prescribe provisions relating to the notices which shall be furnished by the Remarketing Agent in connection with such remarketing and as to the application of the proceeds of such remarketing.

**405. Source of Funds for Purchase of Bonds of a Series.**



(a) Except as may otherwise be provided in the applicable Certificate of Determination, the Purchase Price of the Bonds of a Series on any Purchase Date shall be payable solely from proceeds of remarketing of such Series or proceeds of a related Liquidity Facility (including moneys that are borrowed by the Authority pursuant to a Liquidity Facility), if any, and shall not be payable by the Authority from any other source.

(b) As may be more particularly set forth in the applicable Certificate of Determination, on or before the close of business on the Purchase Date or the Mandatory Purchase Date with respect to Bonds of a Series, the Tender Agent shall purchase such Bonds from the Owners at the Purchase Price. Except as otherwise provided in a Certificate of Determination, funds for the payment of such Purchase Price shall be derived in the order of priority indicated:

- (i) immediately available funds transferred by the Remarketing Agent to the Tender Agent derived from the remarketing of the Bonds; and
- (ii) immediately available funds transferred by the Liquidity Facility Issuer (or the Authority to the Tender Agent, if the Liquidity Facility permits the Authority to make draws thereon), including, without limitation, amounts available under the Liquidity Facility.

**406. Delivery of Bonds.** Except as otherwise required or permitted by the book-entry only system of the Securities Depository and in the applicable Certificate of Determination, the Bonds of a Series sold by the Remarketing Agent shall be delivered by the Remarketing Agent to the purchasers of those Bonds at the times and dates prescribed by the applicable Certificate of Determination. The Bonds of a Series purchased with moneys provided by the Authority shall be delivered at the direction of the Authority. The Bonds of a Series purchased with moneys drawn under a Liquidity Facility shall be delivered as provided in such Liquidity Facility.

**407. Delivery and Payment for Purchased Bonds of a Series; Undelivered Bonds.**

Each Certificate of Determination shall provide for the payment of the Purchase Price of Purchased Bonds of the related Series and for the sources of such payment and shall also make provision for undelivered Bonds.

**408. Credit Facility and Liquidity Facility.**

(a) At any time and subject to such limitations and other provisions as may be set forth in the applicable Certificate of Determination, the Authority may obtain or provide for the delivery to the Trustee of a Liquidity Facility and/or a Credit Facility with respect to the Bonds of any Series.

(b) The Liquidity Facility or Liquidity Facilities relating to the Bonds of any Series shall provide for draws thereon or borrowings thereunder, in the aggregate, in an amount at least equal to the amount required to pay the Purchase Price for the related Bonds of a Series. Except as may otherwise be provided in the applicable Certificate of Determination, the obligation of the Issuer to reimburse the Liquidity Facility Issuer or to pay the fees, charges

and expenses of the Liquidity Facility Issuer under the Liquidity Facility shall constitute a Parity Reimbursement Obligation within the meaning of the Resolution and shall be secured by the pledge of and lien on the Trust Estate created by Section 501 of the Resolution.

## ARTICLE V COVENANTS

### **501. Tax Covenant.**

(a) Subject to subsection (e) of this Section, the Authority shall not take or omit to take any action which would cause interest on any Bonds authorized by this Supplemental Resolution to be included in the gross income of any Owner thereof for Federal income tax purposes by reason of subsection (b) of Section 103 of the Code. Without limiting the generality of the foregoing, no part of the proceeds of any Bonds or any other funds of the Authority shall be used directly or indirectly to acquire any securities or obligations the acquisition of which would cause any Bond to be an “arbitrage bond” as defined in section 148 of the Code and to be subject to treatment under subsection (b)(2) of Section 103 of the Code as an obligation not described in subsection (a) of said section. The Authority shall make such payments to the United States as may be necessary to comply with the provisions of Section 148 of the Code.

(b) There is hereby delegated to each Authorized Representative of the Authority the power to execute and deliver for and on behalf of the Authority one or more Arbitrage and Use of Proceeds Certificates with respect to the Bonds of each Series in furtherance of the covenant in subsection (a).

(c) Notwithstanding any other provision of the Resolution to the contrary, upon the Authority’s failure to observe, or refusal to comply with, the covenants in subsection (a) above, the Owners of the Bonds, or the Trustee acting on their behalf, shall be entitled only to the right of specific performance of such covenant, and shall not be entitled to any of the other rights and remedies provided under Article X of the General Resolution.

(d) Notwithstanding Section 1201 of the General Resolution, the Owners of the Bonds of any Series shall be entitled to the benefit of the covenants in subsection (a) above until the retirement of the Bonds of such Series, whether at maturity or earlier redemption or otherwise.

(e) The preceding clauses of this Section 501 shall not apply to any Bonds authorized by this Supplemental Resolution the interest on which is included in gross income for Federal income tax purposes.

**502. Trustee and Paying Agent.** The Trustee heretofore appointed pursuant to the General Resolution, is also appointed as Paying Agent for the Bonds.

**503. Remarketing Agent.** The Authority shall appoint and employ the services of a Remarketing Agent prior to any Purchase Date or Mode Change Date while the Bonds of

any Series are in the Commercial Paper Mode, Daily Rate Mode, Weekly Rate Mode, Index Mode or Term Rate Mode.

As and to the extent so provided in the related reimbursement agreement, no appointment of the Remarketing Agent for the Bonds of a Series shall be effective without the consent of the Credit Facility Issuer or the Liquidity Facility Issuer, as the case may be, for the Bonds of such Series. Such consent shall be deemed to have been given if such Credit Facility Issuer or Liquidity Facility Issuer, as the case may be, unreasonably withholds its consent. The Authority shall have the right to remove the Remarketing Agent as provided in the Remarketing Agreement. To the extent so provided in the related reimbursement agreement, the Authority shall, upon a written direction of the Credit Facility Issuer or the Liquidity Facility Issuer for the Bonds of a Series, remove the Remarketing Agent for the Bonds of such Series if the Remarketing Agent fails to comply with its obligations under the Remarketing Agreement.

**504. Tender Agent.** The Authority shall appoint and employ the services of a Tender Agent prior to any Purchase Date or Mode Change Date while the Bonds of any Series are in the Daily Rate, Weekly Rate, the Term Rate Mode, the Index Rate Mode or the Commercial Paper Mode. The Authority shall have the right to remove the Tender Agent as provided in the Tender Agency Agreement.

## ARTICLE VI MISCELLANEOUS

**601. Additional Right to Amend.** This Supplemental Resolution may be amended without consent of the Owners of Bonds or of the Trustee and only with the consent of the Credit Facility Issuer and the Liquidity Facility Issuer for the Bonds of a Series affected by such amendment, at any time or from time to time, (i) for the purpose of making changes in the provisions hereof relating to the characteristics and operational provisions of the Modes of any Series of Bonds or (ii) in order to provide for and accommodate Credit Facilities or Liquidity Facilities for Bonds of any Series. Each such amendment shall become effective on any Mandatory Purchase Date applicable to the Bonds of a Series affected by such amendment next following the filing of a copy thereof, certified by an Authorized Officer, with the Trustee, the Tender Agent, the Remarketing Agent, the Credit Facility Issuer and the Liquidity Facility Issuer with respect to the Bonds of such Series.

### **602. Notices.**

(a) **Notices to Owners.** All notices required to be given to Owners of Bonds of a Series under this Supplemental Resolution, unless otherwise expressly provided in this Supplemental Resolution, shall be given by first class mail, postage prepaid.

(b) **Notices to Rating Agencies.** The Authority shall give prior written notice to the Rating Agencies of any of the following events:

- (1) Any change of Trustee, Tender Agent or Remarketing Agent;

- (2) Any material changes to the Resolution, the General Resolution or this Supplemental Resolution that affect the Bonds;
- (3) Any changes to the Liquidity Facility, the Credit Facility, or any agreement with the Liquidity Facility Issuer, Credit Facility Issuer, Remarketing Agent or Tender Agent pertaining to the Bonds;
- (4) Any expiration, termination or extension of any Liquidity Facility or Credit Facility or the obtaining of an alternate Liquidity Facility or alternate Credit Facility pertaining to the Bonds;
- (5) Any change in the Mode applicable to the Bonds of any Series from any Mode which is supported by any Liquidity Facility or Credit Facility then in effect to a different Mode which is not supported by such Liquidity Facility or Credit Facility; and
- (6) Any redemption, defeasance, mandatory tender or acceleration of all the Outstanding Bonds.

**603. Effective Date.** This Supplemental Resolution shall be fully effective in accordance with its terms upon the filing with the Trustee of a copy hereof certified by an Authorized Representative.

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**1587. AUTHORIZATION RELATING TO THE AMENDMENT OF SWAP DOCUMENTS, CREDIT AGREEMENTS AND BOND DOCUMENTS IN CONNECTION WITH LIBOR PHASE OUT**

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WHEREAS, the Long Island Power Authority (the “Authority”) has numerous contracts including, but not limited to, interest rate exchange or swap agreements, letter of credit and reimbursement agreements, revolving credit agreements, [fuel cost hedging arrangements,] and direct placement agreements as well as other documents relating to its Electric System General Revenue Bonds and other indebtedness (collectively, the “LIBOR Contracts”) which contain calculations based on the London Interbank Offered Rate (“LIBOR”); and

WHEREAS, the regulator overseeing LIBOR has announced that it will be phased out after the end of 2021 (the “LIBOR Phase Out”), and Authority staff has determined that LIBOR may cease to be representative reference rate after such date; and

WHEREAS, in anticipation of the LIBOR Phase Out, the Authority wishes to amend the LIBOR Contracts to replace references to LIBOR with alternative rate setting or calculation mechanisms; and

WHEREAS, the decision as to which specific amendments will be made and the indices, formulae or methods to replace LIBOR 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 advisors and counsel, with the intention of achieving a result consistent with the result intended by the original contracts and minimizing disruption as a result of the LIBOR Phase Out;

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

- 1. The Chief Executive Officer and the Chief Financial Officer are each authorized to negotiate, execute and deliver such amendments to the LIBOR Contracts as they deem desirable, necessary or proper, in order to replace references to LIBOR with alternative rate setting or calculation mechanisms.**
- 2. Each of the Chief Executive Officer and the Chief Financial Officer are hereby further authorized and directed to execute and deliver any and all documents, certificates and instruments and to do any and all acts desirable, necessary or proper for carrying out and implementing the terms of, and the transactions contemplated by this resolution and each of the documents authorized thereby and hereby.**
- 3. This resolution shall take effect immediately.**

**\*\*\***

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

*After requesting a motion on the matter, which was seconded, Ms. O'Connor presented the Secretary's Report on Board Policies and Communication and the following action item and took questions from the Trustees.*

### **Requested Action**

**The Board of Trustees (the "Board") of the Long Island Power Authority ("LIPA") is requested to adopt a resolution: (i) finding that LIPA has complied with the Policy on Board Governance and Agenda Planning (the "Policy") for the period since the last annual review of the Policy; and (ii) approving the annual report for the Policy, which resolution is attached hereto as Exhibit "A".**

### **Background**

**By Resolution No. 1323, dated September 21, 2016, the Board adopted the Policy. The Policy provides that the "members of the Board of Trustees of the Long Island Power Authority are fiduciaries who are collectively entrusted with responsibility for the Authority, including ensuring LIPA achieves its mission and values for the benefit of its customer-owners. The**

Chief Executive Officer of the Authority, including acting through the Authority’s service provider, is responsible for implementing the Board’s policies and the day-to-day operations of the Authority.” The Board conducts an annual review of the Policy and considers as part of its annual review whether LIPA has remained in compliance with the Policy and whether any updates or revisions should be made to the Policy. The Board last reviewed and amended the Policy in December 2019.

### **Compliance with the Board Policy on Governance and Agenda Planning**

LIPA Staff recommends, for the reasons set forth below, that the Board find that LIPA has complied with the objectives of the Policy for the period since the last annual review.

The Policy provides that the Board will “Use the expertise of individual members to enhance the understanding of the Board as a body, without allowing the expertise of individual members or staff to substitute for the judgment of the Board as a whole.”

- Trustees are assigned by the Chair to Board Committees based, in part, on their individual experience outside of LIPA. In 2020, Trustee Harris was assigned to the Finance and Audit Committee based on the relevant experience from her highly-sophisticated legal practice.
- Trustees have adopted a Board Policy process to provide clear direction to LIPA Staff from the Board, acting as a whole, rather than from Trustees acting as individual members, including the Board Policy on Trustee Communication.
- The Trustees have annually conducted a survey and review of their collective performance, and have instituted improvements to the Board’s governance, such as a facilitated process to review and enhance the Board Policy governance model, changes to Committee charters, the inclusion of developmental workshops on the Board’s agenda, and better use of the Board’s time through judicious use of a Consent Agenda for consensus and ministerial items.

The Policy provides that the Board will “Direct and control the Authority through the careful establishment of broad written policies reflecting the Board’s values and perspectives for the benefit of the Authority’s customer owners. The Board’s major policy focus will be on the intended long term impacts, not on the administrative means of attaining those impacts, which are the role of the chief executive and service provider.”

- The Board has over the course of six years adopted approximately 20 policies that focus on the intended long-term impacts, rather than the administrative means of achieving those impacts. New policies are developed, and existing policies are revised at the direction of the Board to address LIPA’s long-term plans and values or adapt to changing circumstances in the industry or within LIPA’s operations.
- Most recently, in December 2019, the Board adopted the Information and Physical Security policy.

**The Policy provides that “the Board will monitor the Board’s process, performance and activities in comparison to its governance objectives” and “Monitor the Board’s process, performance and activities in comparison to its governance objectives.”**

- **The Board policies are reviewed by the Board or appropriate Committee annually for compliance purposes. The annual reports include information relating to performance and activities in furtherance of the Board’s governance objectives. In addition, the Governance, Planning and Personnel Committee (the “Governance Committee”) conducts an annual review of the overall effectiveness of the Board.**
- **The Policy Implementation Reports are available on the LIPA’s website.**

**The Policy provides that the Board “Pursue continual board education and development across all areas of the Authority’s operations and Board activities, including orientation of new members in the Board’s fiduciary duties, governance process, and periodic discussion of governance process improvement.”**

- **LIPA Staff regularly provides the Board with training opportunities, including those requested by the Trustees, in a variety of different areas, including governance, utility operations and trends, electric rates, and finance.**

**The Policy provides that “the Board will establish and maintain an outline of the core competencies required for an effective Board member (see, Appendix A of the Policy); establish and maintain an outline of the core competencies required for an effective Chairperson and Committee Chairs (see, Appendix A of the Policy); and establish and maintain a list of Trustee expectations to ensure that all Trustees have a common understanding of the requirements for a productive and engaged Board member (see, Appendix B of the Policy).”**

- **The Board has adopted both a set of core competencies and a list of expectations for all Trustees and specifically for the Chairperson and Committee Chairs, which are reviewed annually.**

**The Policy provides that the Board “Systematically monitor the performance of the Chief Executive Officer and service provider relative to the policies of the Board relating to its mission and values and any limitations established by Board policy. To do so, the Board will adopt a schedule developed as part of the annual Board agenda planning process...”**

- **Annually, the Governance Committee reviews the performance of the Chief Executive Officer relative to the policies of the Board.**
- **Annually, LIPA Staff provides the Board with the proposed agenda for all Board meetings for the Boards review and comment. Likewise, the Secretary to the Board provides periodic reports relating to compliance with each policy, as appropriate.**

- **LIPA’s Service Provider, typically at each Board meeting, provides the Trustees with information relating to the Service Provider’s performance under the Amended and Restated Operations Services Agreement. Similarly, for those Board policies relating to LIPA’s mission, the Service Provider and LIPA Staff report annually to the Board on progress relative to that stated policy.**

**Proposed Changes to the Board Policy**

**LIPA Staff has completed its annual review of the Policy and has no suggested amendments at this time.**

**Recommendation**

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

*After questions and a discussion by the Trustees, and the opportunity for the public to submit comments, upon a motion duly made and seconded, the following resolutions were approved by the Trustees.*

**1588. RESOLUTION APPROVING THE REPORT TO THE BOARD OF TRUSTEES ON THE BOARD GOVERNANCE AND AGENDA PLANNING POLICY**

**WHEREAS, the Board Governance and Agenda Planning Policy (the “Policy”) was originally approved by the Board of Trustees by Resolution No. 1323, dated September 21, 2016; and**

**WHEREAS, the Policy was last amended by the Board pursuant to Resolution No. 1505, dated December 18, 2019; and**

**WHEREAS, the Board has conducted an annual review of the Policy and affirms that the Policy has been complied with.**

**NOW, THEREFORE, BE IT RESOLVED, that consistent with the accompanying memorandum, the Board hereby finds that LIPA has complied with the Policy for the period since the last annual review and approves the annual report to the Board.**

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*Acting Chair Fischl then stated that the final agenda item, PSEG Long Island Operating Report, would be in written submission only, and available at the Long Island Power Authority website for viewing.*

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*Acting Chair Fischl then announced that the next Board meeting is scheduled for Wednesday, January 20, 2021 at 11:00 a.m. in Uniondale.*

*Acting Chair Fischl then asked for a motion to adjourn. The motion was duly made and seconded, and the meeting concluded at approximately 1:16 p.m.*

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