



# BOARD POLICY ON TAXES AND PILOTS

May 19, 2021

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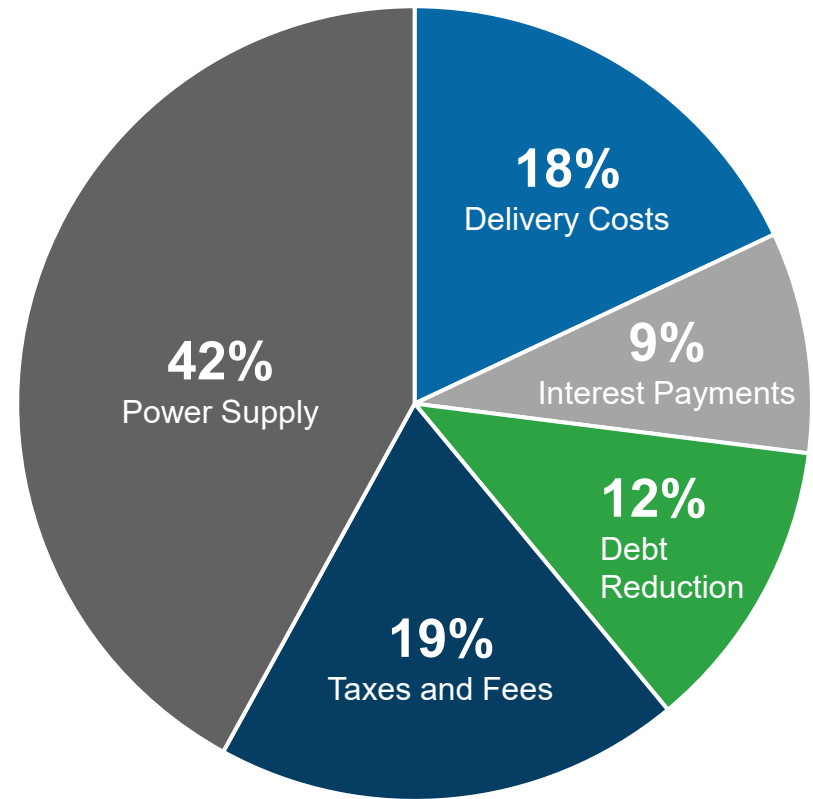
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- Pay only such taxes, payments in-lieu-of taxes (PILOTs), assessments, and fees as are required by law or by agreement to reduce excessive cost for customers;
- LIPA to avail itself of the lawful right to challenge excessive tax assessments and payment obligations to minimize the cross-subsidization of taxpayers in some taxing jurisdictions by LIPA's customer-owners in other jurisdictions; and
- Inform customers of the burden of taxes, PILOTs, assessments, and fees in their electric bills.

# YEARLY COST TO CUSTOMERS

In 2021, taxes, pilots and fees total 19% of customer bills (\$702 million), including:

- \$179 million for four power plants
- \$51 million for all other power plants
- \$302 million for transmission and distribution PILOT payments
- \$120 million for sales taxes
- \$37 million for revenue-based taxes
- \$11 million for State assessments

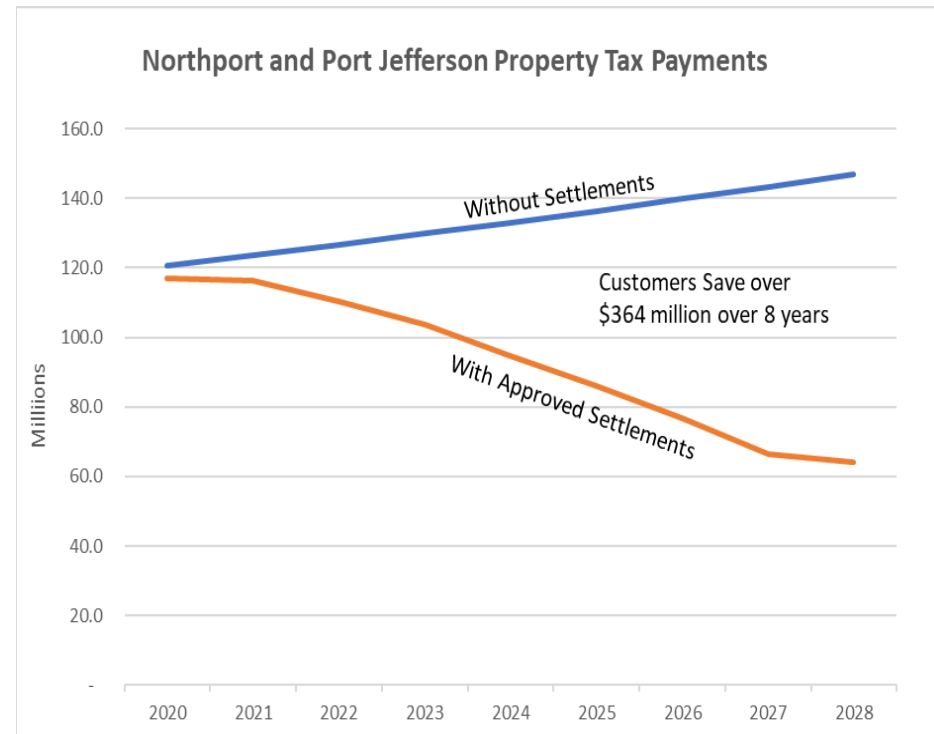


Taxes are 19% of Customer Bills –  
3x National Average

# REACHING A FAIR COMPROMISE

## Northport and Port Jefferson Powerplant Settlements

- Settlements have been reached and approved on two steam power plants
- LIPA waived \$875+ million tax refund liabilities owed by the Towns of Huntington & Brookhaven
- All customers will save \$364 million in property tax payments for these two facilities over the next eight years
- While tax payments remain in excess of that required by law, the settlements continue to support host communities as they adjust to lower taxes from the facilities



# WORKING TOWARDS A FAIR COMPROMISE

## Ongoing efforts on the Barrett and Glenwood Landing Powerplants

- In November 2019, LIPA and Nassau County had reached a tentative settlement on the E.F. Barrett and Glenwood Landing powerplant facilities that was contingent on approval of the PILOT by the Nassau County Legislature
- By March 31, 2021, the PILOT agreement was not approved by the Nassau County Legislature and LIPA's offer was accordingly withdrawn
- LIPA anticipates a trial relating to the Barrett and Glenwood Landing power stations in late 2021 to early 2022



E.F. Barrett Power Station



Glenwood Landing Generating Station

# PLANNED ACTIVITIES IN 2021

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- Work with Town of Brookhaven to revise approved settlement for the Port Jefferson Power Station relative to that of the Northport Power Station settlement
- Defend against certain municipalities' refusal to comply with the legislative cap on LIPA's PILOT payments and respond to a Judge's decision ordering LIPA to make additional payments
- Continue to monitor tax bills for overassessments of LIPA substations and take appropriate actions to seek fair tax bills, where appropriate

## **FOR CONSIDERATION**

May 19, 2021

**TO:** The Finance and Audit Committee of the Board of Trustees

**FROM:** Thomas Falcone

**SUBJECT:** Approval of the Annual Report on the Board Policy on Taxes and PILOTs

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### **Requested Action**

The Finance and Audit Committee (the “Committee”) of the Board of Trustees (the “Board”) of the Long Island Power Authority is requested to adopt a resolution recommending that the Board: (i) find that the Long Island Power Authority and its subsidiary, the Long Island Lighting Company d/b/a LIPA (collectively “LIPA”) have complied with the Board Policy on Taxes and PILOTs<sup>1</sup> (the “Policy”); and (ii) approve the annual report for the Policy.

### **Background**

By Resolution No. 1320, dated September 21, 2016, the Board adopted the Policy. The Board adopted the last annual review of the Policy by Resolution No. 1525, dated May 20, 2020. Additionally, from 2016 to 2020, LIPA published an annual tax report to update the Board and the public on LIPA’s efforts to reduce the tax burden and lower energy costs for all 1.1 million customers.

### **Compliance with the Policy**

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

The Policy provides that LIPA should “Pay only such taxes, PILOTs, assessments, and fees as are required by law or by agreement.”

- Long Island power plants are nationally recognized as among the highest taxed commercial properties in the United States. The excessive tax burden on power plants results in higher operational costs that disadvantage Long Island plants compared to the competitive prices of power in the regional electric markets. As such, LIPA has availed itself of the lawful right to challenge excessive payment obligations on four legacy power plants for each year beginning in 2010.
- In November 2020, LIPA entered into a settlement with the Town of Huntington and the Northport-East Northport School District for the Northport Power Station. The settlement will reduce LIPA’s annual property tax payments to 47% of 2020 levels by 2027. If the taxing jurisdictions fulfill the terms of the settlement, LIPA will waive a refund for back

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<sup>1</sup> The term “PILOT” is the abbreviation for Payment In Lieu of Taxes.

tax years estimated at over \$650 million, plus interest. In addition, LIPA will also make a total of \$3 million and \$14.5 million in payments over the next seven years to the Town and school district, respectively, in exchange for their discontinuing appeals of the court's ruling that LIPA is entitled to challenge its tax assessments.

- As previously reported to the Board, in 2018 LIPA entered into settlement agreements with the Town of Brookhaven and the Village of Port Jefferson to gradually reduce the taxes on the Port Jefferson power plant, by 50 percent through 2027. If the taxing jurisdictions fulfill the terms of the settlement, LIPA will waive a refund for back tax years estimated at over \$225 million, plus interest. LIPA has now revised its agreement with the Village of Port Jefferson to reduce its taxes by 47% by 2027 consistent with the agreement reached for the Northport Power Station, as discussed above.
- In November 2019, LIPA entered into a tentative settlement with Nassau County for the E.F. Barrett and Glenwood Landing generating stations. The settlement was contingent on the approval of a PILOT agreement by the Nassau County Legislature. By March 31, 2021, the PILOT agreement was not approved by the Nassau County Legislature and LIPA's offer was accordingly withdrawn. LIPA anticipates a trial relating to the Barrett and Glenwood Landing power stations in late 2021 to early 2022.
- LIPA and PSEG Long Island have implemented procedures to ensure that PILOTs on each annual bill related to transmission and distribution equipment owned by LIPA do not exceed 102% of the prior calendar year's payment, consistent with the provisions of the LIPA Reform Act.
- LIPA continues to defend itself in litigation challenging the 2% PILOT cap on transmission and distribution property in certain jurisdictions on Long Island. A court in Suffolk County recently ruled that (1) LIPA's properties acquired from LILCO are not exempt from real-property taxation for tax years 2014/15 through 2019/20 by reason of the LIPA's failure to timely challenge their unlawful assessment as non-exempt, taxable properties by the Town Assessors during those tax years; and (2) compelling LIPA to pay over to Suffolk County the unpaid real property taxes levied against the transmission and distribution properties for tax years 2014/15 through 2019/20, with interest and penalties in the amount of approximately \$66.7 million. LIPA intends to appeal the April 1, 2021 Decision and Order. LIPA does not believe that this litigation will have a material adverse impact on its business.
- As previously reported to the Board, LIPA undertook a review of selected substations across the service territory. The review found several substations that were assessed in excess of their value. Accordingly, LIPA filed challenges on several over-assessed substations, and will continue to monitor assessed valuations of substations.

The Policy provides that LIPA should "Avail itself of the lawful right to challenge excessive tax assessments and payment obligations to minimize the cross-subsidization of taxpayers in some taxing jurisdictions by the Authority's customer-owners in other jurisdictions.

- LIPA has sought to achieve this objective by the actions stated above.



The Policy provides that LIPA should “Inform customers of the burden of taxes, PILOTs, assessments, and fees in their electric bills”.

- LIPA issued a Property Tax Report during 2020, which is available on its website, and was provided to community leaders, stakeholders, elected officials, media, and investors in response to inquiries related to the burden of taxes on LIPA’s customers.
- LIPA Staff regularly meets with media, stakeholders, and local leaders to discuss the impact of taxes on energy bills.

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

LIPA Staff proposes no amendments to the Policy 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.

### **Attachments**

**Exhibit “A”** Resolution

**RESOLUTION RECOMMENDING APPROVAL OF THE REPORT TO THE BOARD OF TRUSTEES ON THE BOARD POLICY ON TAXES AND PILOTS**

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**WHEREAS**, the Board Policy on Taxes and PILOTs (the “Policy”) was originally approved by the Board of Trustees by Resolution No. 1320, dated September 21, 2016; and

**WHEREAS**, the Board adopted the last annual review of the Policy by Resolution No. 1525, dated May 20, 2020; and

**NOW, THEREFORE, BE IT RESOLVED**, that consistent with the accompanying memorandum, the Finance and Audit Committee hereby recommends that the Board of Trustees find that LIPA has complied with Policy for the period since the last annual review and approve the annual report to the Board.

Dated: May 19, 2021