

FOR CONSIDERATION

June 23, 2021

TO: The Board of Trustees
FROM: Thomas Falcone
SUBJECT: Approval of Tariff Changes

Requested Action

The Trustees are requested to approve changes to LIPA's Tariff for Electric Service, effective July 1, 2021, to increase the cap on LIPA customer participation in the New York State Energy Research and Development Authority ("NYSERDA") Loan Installment Program.

Background

On August 4, 2011, the Power NY Act of 2011 (the "Act") was enacted which amends the Public Service Law to address the establishment of the Green Jobs-Green New York Program administered by NYSERDA or its designated agent. The Act expanded the Green Jobs – Green New York program administered by NYSERDA to include a loan financing program that funds energy efficiency and distributed energy resource projects for qualifying residential and small commercial customers. The Act requires electric utilities in New York, including LIPA, to provide billing and collection services to NYSERDA for the repayment of these loans.

The NYSERDA program is currently providing low-cost loans for energy efficiency and distributed energy resources, targeted at customers that might not have access to independent financing, making it easier for customers to pay for these energy efficiency improvements. The NYSERDA Loan Installment program places the responsibility on NYSERDA to create and qualify the loans and to determine the appropriate monthly charge and payment period, and ultimately bear the financial risk and responsibility for nonpayment of the loan balances.

The responsibilities of LIPA (and all the electric utilities in the State), are to:

- provide NYSERDA with account usage and payment information prior to establishing the loan;
- place the NYSERDA Loan Installment charges on the monthly bill for each participating customer;
- accept payments from customers for the loan installment charges and remit those payments to NYSERDA; and
- undertake collection activities, up to and including termination of service, if the customer does not pay the NYSERDA loan installment charges.

The LIPA Tariff currently limits participation to 5,600 customers, which is 0.5% of LIPA's customer base as of December 31, 2011. The current cap was established for consistency with a provision of law applicable to New York's investor-owned utilities, Public Service Law § 66-m. Section 66-m further provides that the Public Service Commission shall lift the cap applicable to

the investor-owned utilities upon a finding that the program has not caused significant harm to the utility or its ratepayers. In Long Island, the relevant jurisdictional authority is the LIPA Board of Trustees. LIPA staff advises the Board that the program has been in effect since 2012, and during that time there has been no evidence of the program causing customer harm.

Proposed Action

LIPA staff requests that the Board approve Tariff changes raising the cap on LIPA customer participation in the NYSERDA Loan Installment Program to 10,000 customers. The proposed changes will also allow LIPA management to exercise discretion to implement further increases as needed, provided that LIPA management conducts a review each time participation increases by 5,000 customers, the review produces no evidence of significant customer harm, and the Board is advised of the results of any such review.

The program has significant benefits for both participating and non-participating LIPA customers. Participating customers benefit through access to low-cost financing for energy efficiency and beneficial electrification projects that provide home comfort and convenience benefits as well as energy bill savings. Participating customers are not harmed, as they receive the full protections of the Home Energy Fair Practices Act, which prescribes the conditions and circumstances of any collections activity resulting from non-payment. Non-participating customers benefit through lower emissions and potential deferral of infrastructure upgrades through lower system load. Non-participating customers are not harmed, as NYSERDA covers LIPA's administrative costs and bears the ultimate financial risk and responsibility for nonpayment of loan balances.

Meeting New York's nation-leading climate targets requires an "all hands on deck" strategy to deploy renewable resources, drive adoption of energy efficient technologies and solutions, and electrify heating and transportation, which will be fueled by electricity from New York's electric power industry, itself undergoing a rapid transition to carbon-free electricity. Given these necessities, the urgency of climate change mitigation and adaptation, the lack of any harm caused by the loan program, and the significant benefits to all customers, it is appropriate to raise the cap on NYSERDA financing of clean energy, energy efficiency, and beneficial electrification solutions for LIPA customers.

Financial Impacts

There is no LIPA financial impact associated with increasing the number of participants. The program is currently in operation, therefore no billing modifications or staffing changes would be required. As discussed above, administrative costs of the program are funded by NYSERDA. Additionally, customer's unpaid NYSERDA Loan Installments do not create any liabilities for LIPA or its customers.

Department of Public Service Input

The DPS has provided a letter recommending adopting of these tariff modifications, which is attached as an exhibit.

Public Comments

LIPA held virtual public comment sessions on the proposed tariff changes on June 7, 2021 and solicited written comments. Approximately one-dozen people attended the virtual public comment sessions. No members of the public commented at the virtual sessions or submitted written comments. Transcripts of the virtual public comment sessions are available upon request.

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.

Attachments

- Exhibit "A"** Resolution Approving Tariff Changes
- Exhibit "B"** Original Tariff Proposal and Redline
- Exhibit "C"** DPS Letter of Recommendation

APPROVAL OF MODIFICATIONS TO LIPA’S TARIFF TO INCREASE THE CAP ON CUSTOMER PARTICIPATION IN NYSERDA’S LOAN INSTALLMENT PROGRAM

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 energy efficiency and distributed energy resources into the Authority’s electric transmission and distributions system, (the “Board Policy on Resource Planning”); and

WHEREAS, the Board of Trustees 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

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

WHEREAS, following the issuance of public notice in the State Register on April 7, 2021, public hearings were held on June 7, 2021, 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 July 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.

Dated: June 23, 2021

Proposal Concerning Modifications to LIPA's Tariff for Electric Service

Requested Action:

The Long Island Power Authority (the "Authority") staff ("Staff") proposes to modify the Authority's Tariff for Electric Service (the "Tariff") effective July 1, 2021 to increase the cap on LIPA customer participation in the NYSERDA Loan Installment Program.

Background:

On August 4, 2011, the Power NY Act of 2011 (the "Act") was enacted which amends the Public Service Law to address the establishment of the Green Jobs-Green New York Program administered by the New York State Energy Research and Development Authority ("NYSERDA") or its designated agent. The Act expanded the Green Jobs – Green New York program administered by NYSERDA to include a loan financing program that funds energy efficiency projects for qualifying residential and small commercial customers. The Act requires electric utilities in New York, including LIPA, to provide billing and collection services to NYSERDA for the repayment of these loans.

The NYSERDA program is currently providing low cost loans for energy efficiency targeted at customers that might not have access to independent financing, making it easier for customers to pay for these energy efficiency improvements. The NYSERDA Loan Installment program places the responsibility on NYSERDA to create and qualify the loans and to determine the appropriate monthly charge and payment period, and ultimately bear the financial risk and responsibility for nonpayment of the loan balances.

The responsibilities of LIPA (and all the electric utilities in the State), are to:

- provide NYSERDA with account usage and payment information prior to establishing the loan
- place the NYSERDA Loan Installment charges on the monthly bill for each participating customer
- accept payments from customers for the loan installment charges and remit those payments to NYSERDA; and
- undertake collection activities, up to and including termination of service, if the customer does not pay the NYSERDA loan installment charges.

The LIPA Tariff currently limits participation to 5,600 customers, which is 0.5% of LIPA's customer base as of December 31, 2011. The current cap was established for consistency with a provision of law applicable to New York's investor-owned utilities, Public Service Law § 66-m. Section 66-m further provides that the Public Service Commission shall lift the cap applicable to the investor-owned utilities upon a finding that the program has not caused significant harm to the utility or its ratepayers. In Long Island, the relevant jurisdictional authority is the LIPA Board of Trustees. By this proposal, the LIPA Board is advised that there is no evidence of the program causing customer harm, and the Board is asked to raise the cap in the LIPA Tariff to 10,000 customers. The proposal also requests that the Board provide discretion to LIPA management to implement further increases as needed, provided that LIPA management conducts a review each time participation increases by 5,000 customers, the review produces no evidence of significant customer harm, and the Board is advised of the results of any such review.

The program has significant benefits for both participating and non-participating LIPA customers. Participating customers benefit through access to low-cost financing for energy efficiency and beneficial electrification projects that provide home comfort and convenience benefits as well as energy bill savings. Participating customers are not harmed, as they receive the full protections of the Home Energy Fair Practices Act, which prescribes the conditions and circumstances of any collections activity resulting from non-payment. Non-participating customers benefit through lower emissions and potential deferral of infrastructure upgrades through lower system load. Non-participating customers are not harmed, as NYSERDA covers LIPA's administrative costs and bears the ultimate financial risk and responsibility for nonpayment of loan balances.

Meeting New York's nation-leading climate targets requires an "all hands on deck" strategy to deploy renewable resources, drive adoption of energy efficient technologies and solutions, and electrify heating and transportation, which will be fueled by electricity from New York's electric power industry, itself undergoing a rapid transition to

carbon-free electricity. Given these necessities, the urgency of climate change mitigation and adaptation, the lack of any harm caused by the loan program, and the significant benefits to all customers, it is appropriate to raise the cap on NYSERDA financing of clean energy, energy efficiency, and beneficial electrification solutions for LIPA customers.

Proposal:

Staff is proposing to modify the Tariff for Electric Service to increase the participation cap from 5,600 customers to 10,000 customers, per the request of NYSERDA. LIPA currently has over 4,900 customers enrolled in the program, and therefore has almost reached the current cap. By removing the maximum number of participants, this program may continue to benefit customers and promote further development of energy efficient improvements for residential and small commercial customers. The proposal also requests that the Board provide discretion to LIPA management to implement further increases as needed, provided that no evidence of customer harm is found and the Board is advised of any further increases.

Financial Impacts:

There is no LIPA financial impact for associated with increasing the number of participants. The program is currently in operation; therefore no billing modifications or staffing changes would be required. As discussed above, administrative costs of the program are funded by NYSERDA. Additionally, customer's unpaid NYSERDA Loan Installments do not create any liabilities for LIPA or its customers.

Affected Tariff Leaves: 322

Summary of Proposed Changes:

Staff is proposing to increase the cap of maximum participants in the NYSERDA Loan Installment Program.

X. NYSERDA Loan Installment Program

A. General Provisions

1. Program Description

On August 4, 2011, the Power NY Act of 2011 was enacted which amends the Public Service Law to establish the Green Jobs-Green New York Program administered by New York State Energy Research and Development Authority ("NYSERDA") or its designated agent. This program provides for an on-bill recovery mechanism for certain qualified residential and non-residential customers to pay back loans for energy efficiency improvements approved and obtained through NYSERDA ("NYSERDA Loan Installment Program"). As set forth in this law, the Authority will bill and collect NYSERDA Loan Installment Charges on the Authority's bills to Customers when notified by NYSERDA that these NYSERDA Loan Installment Charges apply to the Customer's account. The Authority will include the monthly NYSERDA Loan Installment Charge until the NYSERDA Loan Installment obligation is satisfied or the account is closed.

2. Obligations of the Authority

In order to comply with the requirements set forth in the Power NY Act of 2011, the Authority will provide NYSERDA, or its agents, certain customer information and take other actions for purposes of administering the NYSERDA Loan Installment Program, subject to the following limitations:

- a) The Authority will implement the NYSERDA Loan Installment Program by June 1, 2012.
- b) The Authority will not be responsible to any party for any NYSERDA Loan Installment Charges billed but not collected and such charges are not obligations of the Authority.

The number of Customers that may participate in the NYSERDA Loan Installment Program under this section is initially limited to ~~5,600-10,000~~ accounts, ~~which is one-half of one percent of the Authority's total Customer population, as of December 31, 2014,~~ on a first-come, first-served basis based on the date on which NYSERDA notifies the Authority of enrollment. When participation nears 10,000 accounts, and subsequently each time participation increases by 5,000 accounts, the Authority will conduct a review of the Program's impact on participating and non-participating Customers. Provided the Program is found to cause no significant harm to Customers and the Board is advised of this finding, the Authority staff may allow further increases in Program participation in increments of 5,000.

- c) The responsibility of the Authority is limited to providing billing and collections services for NYSERDA. Such billing and collection services shall be available regardless of whether the electricity delivered by the Authority is the customer's primary energy source.
- d) Unless otherwise precluded by law, participation in the NYSERDA Loan Installment program shall not affect a customer's eligibility for any rebate or incentive offered by the Authority.
- e) At least annually, the Authority will provide customers participating in the NYSERDA Loan Installment Program the following information, incorporating the most recent information that has been provided by NYSERDA prior to the preparation of the notice:
 - (1) The amount and duration of remaining installments under the NYSERDA Loan Installment Program.

- (2) NYSERDA's contact information and procedures for resolving customer complaints regarding the NYSERDA Loan Installment Program.



John B. Howard
Interim Chair and
Interim Chief Executive Officer

125 East Bethpage Road, Plainview, NY 11803
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June 18, 2021

Via Email and U.S. Mail

Honorable Mark Fischl, Vice Chair
Board of Trustees
Long Island Power Authority
333 Earle Ovington Blvd.
Uniondale, New York 11553
boardoftrustees@lipower.org

Re: Matter 21-01355 - Proposal Concerning Modifications to LIPA's Tariff for Electric Service to Increase Participant Cap in the NYSERDA Loan Installment Program

Dear Vice Chair Fischl:

I am pleased to provide the recommendations of the New York State Department of Public Service (DPS or the Department) regarding the Long Island Power Authority's (LIPA or the Authority) proposed modifications to its Tariff for Electric Service (Tariff), effective July 1, 2021. The LIPA Reform Act (LRA) authorizes the Department to make recommendations regarding the operations and terms and conditions of service provided by the Authority and its Service Provider. The Department supports the Authority's proposals in accordance with the discussion set forth herein.

LIPA proposes to modify its Tariff for Electric Service to increase the participant cap in the NYSERDA Loan Installment program under the Green Jobs-Green New York Program to 10,000 customers and to allow LIPA's management to pursue further increases as needed at 5,000 participant intervals. Under LIPA's current Tariff, participation in the NYSERDA On-bill financing program is capped at 5,600 customers, or approximately 0.5% of LIPA's customers.¹ Limiting the number of participants is consistent with conditions placed on New York's other Investor-Owned Utilities (IOUs), under Public Service Law (PSL) § 66-m, which is used to limit arrears and provide customer protections. However, PSL § 66-m also provides that "the Commission shall lift the cap applicable to the investor-owned utilities upon a finding that the program has not caused significant harm to the utility or its ratepayers."² The relevant jurisdictional authority on Long Island is the LIPA Board of Trustees.

¹ Participant number reflects customer base calculated as of 2011.

² PSL §66-m(1)(b).

LIPA reports that participation on Long Island nears the 5,600-participant cap and that NYSERDA requested that the cap be increased. Participating customers benefit by being able to pursue energy efficiency and renewable energy improvements for their homes with low cost financing while reducing or eliminating upfront costs. LIPA states that participating customers receive the full protections of the Home Energy Fair Practices Act (HEFPA), which prescribes the conditions and circumstances of any collections activity resulting from non-payment.³ LIPA asserts that non-participating customers benefit through lower emissions and potential deferral of infrastructure upgrades through lower system load. Under the terms of the program, NYSERDA is responsible for LIPA's administrative costs and bears the ultimate financial risk and responsibility for nonpayment of loan balances, which protects non-participating customers from harm. Finally, LIPA reports that there is no evidence of customer harm and there is no financial impact to LIPA associated with increasing the number of participants.

In addition, should the Public Service Commission consider additional requirements or standards of review in any future petition from NYSERDA to amend the participation caps pursuant to PSL § 66-m, DPS recommends that LIPA consider adoption of consistent additional requirements or standards of review.

Conclusion

The Department reviewed LIPA's proposed modifications and finds the proposed update to the Authority's Tariff to be consistent with the State's clean energy policies including the Climate Leadership and Community Protection Act, which sets ambitious targets for efficiency and renewable energy. DPS recommends approval of the proposed tariff modification.

Respectfully submitted,



John Howard
Interim Chair and CEO

Cc: Thomas Falcone, LIPA Chief Executive Officer
Anna Chacko, LIPA General Counsel
Bobbi O'Connor, LIPA Secretary to the LIPA Board of Trustees
Justin Bell, LIPA VP of Public Policy and Regulatory Affairs
Daniel Eichhorn, PSEG LI President and Chief Operating Officer
Guy Mazza, DPS LI Director

³ Public Authorities Law (PAL) §1020-CC.