

**LONG ISLAND POWER AUTHORITY**

**MINUTES OF THE FINANCE AND AUDIT COMMITTEE MEETING**

**HELD ON MAY 18, 2022**

*The Finance and Audit Committee of the Long Island Power Authority (“LIPA”) was convened at 9:07 a.m. at LIPA Headquarters, Uniondale, NY, pursuant to legal notice given on May 13, 2022 and electronic notice posted on LIPA’s website annually.*

*In compliance with New York State Open Meeting Law and in furtherance of COVID-19 public 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 May 18, 2022 Finance and Audit Committee meeting. Members of the public are encouraged to observe the live stream of the 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:*

**Sheldon Cohen, Committee Chair (in person)**  
**Elkan Abramowitz, Committee Member (in person)**  
**Mark Fischl, Committee Member (in person)**  
**Laureen Harris, Committee Member (in person)**  
**Valerie Anderson Campbell (in person)**  
**Drew Biondo (in person)**  
**Nancy Goroff (via video conferencing)**  
**Ali Mohammed (via video conferencing)**

**Representing LIPA, in person, were Thomas Falcone, Chief Executive Officer; Bobbi O’Connor, General Counsel & Board Secretary; Billy Raley, Senior Vice President of T&D Oversight; Joseph Wiener, Assistant General Counsel; Jen Hayen, Director of Communications; and Andrew Berger, Communications Assistant. Participating via video conferencing were Tamela Monroe, Chief Financial Officer; Donna Mongiardo, Vice President – Controller; Kenneth Kane, Senior Advisor to Operations Oversight; Rick**

**Shansky, Senior Vice President of Power Supply and Wholesale Markets; Tom Locascio, Director of External Affairs; Mark Smith; Senior Manager of Rates; and Jason Horowitz, Assistant General Counsel and Assistant Secretary to the Board.**

**Representing PSEG Long Island via video conferencing were Richard Tinelli, Manager of Regulatory Requirements; and Premal Patel, Manager of Accounting Services.**

**Representing PSEG ER&T via video was Steven Oster, Senior Director of Wholesale Energy Services.**

**Chair Cohen welcomed everyone to the Finance and Audit Committee meeting of the Long Island Power Authority Board of Trustees.**

*Chair Cohen stated that the first item on the agenda is the adoption of the minutes from the March 30, 2022 Committee meeting.*

*Upon motion duly made and seconded, the minutes of the March 30, 2022 meeting were approved unanimously.*

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*Chair Cohen stated that next item on the agenda is the Overview of Financial Results to be presented by Donna Mongiardo, Rich Tinelli and Prem Patel of PSEG LI.*

*Ms. Mongiardo and Mr. Tinelli and Mr. Patel presented the Overview of Financial Results and then took questions from the Trustees.*

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*Chair Cohen stated that the next item on the agenda is the Review of Quarterly Financials Ended March 31 to be presented by Donna Mongiardo.*

*Ms. Mongiardo presented the Review of Quarterly Financials Ended March 31 and then took questions from the Trustees.*

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*Chair Cohen stated that the next item on the agenda is Consideration of Recommendation to Approve UDSA Financing Orders to be presented by Tamela Monroe.*

*Ms. Monroe presented the following action item and took questions from the Trustees:*

### **Requested Action**

The Finance and Audit Committee (the “Committee”) is requested to adopt a resolution, attached hereto as Exhibit “A”, recommending adoption of four Utility Debt Securitization Authority (“UDSA”) Financing Orders (numbered 6 through 9) attached hereto as Exhibit “B”.

### **Background**

The LIPA Reform Act, Part B of Chapter 173, as amended, authorizes the issuance and sale of restructuring bonds by UDSA. Securitized restructuring bonds issued by a bankruptcy-remote entity pursuant to appropriate legislation receive higher credit ratings from the rating agencies than the credit ratings carried by LIPA’s debt, resulting in a lower cost of funds. Lowering associated debt service will be beneficial to the economic well-being of the residents of Long Island and promote commerce and industry in LIPA’s service area.

On June 8, 2021, the New York State Assembly and Senate adopted Chapter 369 of the laws of New York 2021 (“Chapter 369”), which amended the LIPA Reform Act to permit, among other things, the adoption by LIPA of additional financing orders and the issuance by UDSA of additional restructuring bonds in an aggregate principal amount not to exceed \$8 billion less any previously issued restructuring bonds of approximately \$4.5 billion. On August 2, 2021, the Governor signed such Chapter 369 into law. Chapter 369 also amended the LIPA Reform Act to permit UDSA to issue restructuring bonds to refund both LIPA and UDSA Bonds and to finance “System Resiliency Costs,” which are defined as the costs of rebuilding, improving or constructing transmission and distribution system assets to increase resiliency of such assets, better withstand changes in climate, absorb impacts from outage-inducing events, and recover quickly from outages including but not limited to, improvements to and replacement of poles and wires, moving power lines underground, raising substations, constructing flood barriers, and system automation and costs of purchasing, redeeming or defeasing LIPA debt incurred to finance such costs or reimbursing the Authority for amounts already spent on such costs. Such costs are as reflected in the LIPA’s capital budgets.

Consistent with the LIPA Reform Act as amended by Chapter 369, LIPA has provided copies of the proposed orders to the Department of Public Service (“DPS”) and consulted with DPS on the orders.

The LIPA 2022 Plan of Finance anticipated the issuance of UDSA bonds as a method to reduce debt costs for customers on a net present value basis.

LIPA staff continually monitors the debt portfolio of LIPA and UDSA bonds for market opportunities to reduce the costs of debt for our customers. Financing Orders are the first

step in the process of issuing additional UDSA restructuring bonds and LIPA is considering issuing them to (i) refund certain outstanding bonds issued by the Authority and UDSA, (ii) finance System Resiliency Costs and (iii) pay upfront financing costs.

### **Financing Orders**

Four Financing Orders are presented for consideration, each identical in content but for the number thereof, which will be available for use by LIPA, based on market conditions, through December 31, 2025. The Financing Orders give LIPA the options stated above to (i) purchase, redeem, repay or defease the debt issued by the Authority and UDSA, which may require the payment of certain costs incurred or paid pursuant to agreements by the Authority or the Securitization Authority with tender agents, escrow agents and others for related activities.

Further, in connection with such purchases, redemptions, repayments or defeasances, interest rate swap contracts or other financial contracts relating to LIPA's debt may be terminated, novated or amended pursuant to agreements between the parties or, in the case of novation, additional parties, (ii) issue restructuring bonds to finance System Resiliency Costs and (iii) pay upfront financing costs as described in Section 3 of each Financing Order.

The issuance of UDSA Restructuring Bonds, depending on the specific Plan of Finance, will be for the purpose of optimizing the debt portfolio for our customers, creating debt service savings and/or lowering costs to consumers of electric transmission and distribution services in the service area on a net present value basis. These savings could be hundreds of millions of dollars for our customers depending on market conditions.

In order to facilitate the issuance of the Restructuring Bonds, the New Financing Orders each create a separate Restructuring Property as defined therein, which is the right to bill and collect from customers the non-bypassable Charge necessary to pay the series of New Bonds secured by such Restructuring Property and other Ongoing Financing Costs (as defined in the each New Financing Order) including the costs required to service such New Bonds, collect the Charge, administer the Securitization Authority, and pay other expenses associated with such New Bonds.

In order to provide for timely payment of principal and interest on the New Bonds and payment of other Ongoing Financing Costs, each New Financing Order establishes a true-up adjustment mechanism to adjust the level of the Charge established thereunder to correct for any overcollection or under-collection. Each New Financing Order authorizes the sale of the Restructuring Property created thereby to UDSA pursuant to a sale agreement (each a "Sale Agreement") in exchange for the net proceeds from the sale of the New Bonds issued pursuant to such New Financing Order less the costs required to issue such New Bonds (collectively, as defined in such New Financing Order, the "Upfront Financing Costs"). A draft form of a Sale Agreement is attached hereto as Exhibit "C".

In addition to a Sale Agreement, various other agreements relating to the Restructuring Property and the Charge will be entered into by the Authority or Long Island Lighting Company d/b/a LIPA pursuant to each New Financing Order, including a Servicing Agreement and an Administration Agreement, all as described in such New Financing

**Order.** A draft form of a Servicing Agreement is attached hereto as Exhibit “D” and a draft form of the Administration Agreement is attached hereto as Exhibit “E”.

Each New Financing Order approves the issuance and sale of New Bonds, in one or more series or tranches, to be sold at one or more times pursuant to one or more bond purchase agreements and further approves the costs of purchasing, redeeming, repaying or defeasing a portion of the Target Debt as described in such New Financing Order (“Debt Retirement Costs”), System Resiliency Costs and Upfront Financing Costs relating to the New Bonds issued pursuant to such New Financing Order.

Each New Financing Order authorizes one or more LIPA officers (each an “Authorized Designee”) to review and approve the pricing and terms of the related New Bonds and various related documents and to confirm in a notice to UDSA that the pricing of the New Bonds issued under any New Financing Order complies with such New Financing Order.

As provided in Part B of the LIPA Reform Act, the State of New York has pledged and agreed that the State will not in any way take or permit any action that limits, alters or impairs the value of Restructuring Property created by Restructuring Cost Financing orders previously adopted and by each New Financing Order or, except as required by the adjustment mechanism described in the related restructuring cost financing order, reduce, alter or impair the Charge established by such restructuring cost financing order that is imposed, collected and remitted for the benefit of the owners of the restructuring bonds secured by restructuring property, any assignee, and all financing entities, until any principal, interest and redemption premium in respect of such restructuring bonds, all ongoing financing costs and all amounts to be paid to an assignee or financing party under an ancillary agreement are paid or performed in full.

#### **Public Comment on the Financing Orders**

As discussed above, the Financing Orders reflect opportunities to save debt service costs and improve system resiliency. Two public comment periods were held on April 14, 2022, at 10:00 a.m. and at 6:00 p.m., with an additional 30 days for written public comments. To date, no public comments have been received.

#### **Recommendations**

Based upon the foregoing, I recommend that the Finance and Audit Committee recommend that the Board adopt the resolutions attached hereto authorizing the four UDSA Financing Orders, to be effective through December 31, 2025, which permit the issuance of restructuring bonds in a principal amount not to exceed \$8.0 billion less any previously issued restructuring bonds and permitting the issuance of such restructuring bonds to (i) purchase, redeem, repay or defease the debt issued by LIPA and UDSA (ii) finance System Resiliency Costs and (iii) pay upfront financing costs as described in Section 3 of each Financing Order.

*A motion was made and seconded, and the Trustees unanimously adopted the following resolution:*

## **RECOMMENDATION TO ADOPT FINANCING ORDERS**

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**RESOLVED**, that the Finance and Audit Committee recommends that the Board adopt the resolutions attached hereto authorizing the four UDSA Financing Orders, to be effective through December 31, 2025, which permit the issuance of restructuring bonds in a principal amount not to exceed \$8.0 billion less any previously issued restructuring bonds and permitting the issuance of such restructuring bonds to (i) purchase, redeem, repay or defease the debt issued by LIPA and UDSA (ii) finance System Resiliency Costs and (iii) pay upfront financing costs as described in Section 3 of each Financing Order.

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*Chair Cohen stated that the next item on the agenda is Consideration of Recommendation to Approve the Annual Report on the Board Policy on Taxes and PILOTs to be presented by Joseph Wiener and Mark Smith.*

*Mr. Wiener and Mr. Smith presented the following action item and took questions from the Trustees:*

### **Requested Action**

The Finance and Audit Committee is requested to adopt a resolution recommending that the Board of Trustees adopt a resolution: (i) finding 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 (the “Policy”); and (ii) approving the annual report for the Policy.

### **Background**

The Board originally adopted the Policy in September 2016, and the last annual review of the Policy was adopted by the Board in May 2021.

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 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 agreements with the Village of Port Jefferson and the Town of Brookhaven, consistent with the agreement reached for the Northport Power Station, as discussed below.**
- **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 by 47% of 2020 levels by 2027. If the taxing jurisdictions fulfill the terms of the settlement, LIPA will waive a refund for back tax years estimated at over \$650 million, plus interest. In addition, LIPA will make a total of \$3 million and \$14.5 million in payments 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.**
- **In February 2022, LIPA entered into a settlement agreement with Nassau County for the E.F. Barrett and Glenwood Landing generating stations to gradually reduce taxes on those plants by 47% through 2027. That settlement was approved by the Nassau County Legislature on April 25, 2022. If the taxing jurisdictions fulfill the terms of the settlement, LIPA will waive a refund for back tax years estimated at over \$700 million, plus interest. In addition, LIPA has proposed settlements with the Island Park and Northshore school districts in exchange for their discontinuing appeals of the court's ruling that LIPA is entitled to challenge its tax assessments.**
- **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 Suffolk County jurisdictions. On April 1, 2021, a court in Suffolk County 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. In October, 2021, a judgment was entered for the 2014/15 through 2020/21 tax years. LIPA has appealed that judgment. In addition, LIPA filed petitions to the towns in Suffolk County to mark LIPA's properties as exempt. Certain towns have marked the properties exempt, but have not issued bills that conform to the 2% cap on LIPA PILOT increases. Other towns have not acted on LIPA's petitions. LIPA does not believe that this litigation will have a material adverse impact on its business.

- As previously reported to the Board, LIPA has undertaken a review of substations across the service territory. The review found several substations that were assessed in excess of their value. Accordingly, LIPA began filing challenges on several over-assessed substations, and it will continue to monitor and challenge, where appropriate, 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 Staff regularly meets with media, stakeholders, and local leaders to discuss the impact of taxes on energy bills.
- LIPA Staff also provides a quarterly update to LIPA's Community Advisory Board that includes a standing item on tax reduction efforts across the service territory.

### 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.

*A motion was made and seconded, and the Trustees unanimously adopted the following resolution:*

### RESOLUTION RECOMMENDING APPROVAL OF THE REPORT TO THE BOARD OF TRUSTEES ON THE BOARD POLICY ON TAXES AND PILOTs

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 in May 2021.

NOW, THEREFORE, BE IT RESOLVED, that consistent with the accompanying memorandum, the Finance and Audit Committee hereby recommends that the Board adopt a resolution finding that LIPA has complied with Policy for the period since the last annual review and approving the annual report to the Board.

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*Chair Cohen stated that the next item on the agenda is the Discussion of Internal Audit Activities to be presented by Billy Raley.*

*Mr. Raley presented the Discussion of Internal Audit Activities and then took questions from the Trustees.*

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*Chair Cohen stated that the next item on the agenda is Annual Review of the Confirmation of Independence and Code of Ethics, and the Board Policy on Audit Relationships and Internal Audit Charter to be presented by Billy Raley.*

*Mr. Raley presented the Annual Review of the Confirmation of Independence and Code of Ethics, and presented the following action items and took questions from the Trustees:*

#### **Requested Action**

The Finance and Audit Committee (the “Committee”) of the Board of Trustees (the “Board”) of the Long Island Power Authority (“LIPA”) is requested to adopt a resolution recommending approval of an amended Board Policy on Audit Relationships, as further described below.

#### **Board Policy on Audit Relationships**

The Finance and Audit Committee of LIPA’s Board of Trustees, in its Charter, was delegated the responsibility of reviewing LIPA’s policies regarding Audit Relationships.

The Board Policy on Audit Relationships defines the expectations of the Board regarding the existing authority granted to the Finance and Audit Committee for:

- **Selecting an independent certified public accounting firm to conduct annual audits of LIPA.**
- **The annual review of the audit plan as well as the Charter, activities, staffing, budget, and organizational structure of Internal Audit, and confirming the independence of the internal auditors.**
- **Monitoring, in consultation with the –Interim Chief Audit Executive, the significant findings of internal audit reports and the status of the implementation of management’s action plans in response to such audit findings.**
- **Setting forth the procedures for the Board of Trustee’s receipt, review and implementation of any recommendations in a Management and Operations Audit conducted by the New York State Department of Public Service (“DPS”).**

### **Proposed Changes to Board Policy**

**The proposed change to the Board Policy includes the change in reporting relationship. The Chief Audit Executive reports administratively to the Senior Vice President of Transmission and Distribution. The proposed changes to the Policy are more specifically set forth in Exhibit “B”.**

### **Recommendation**

**Based upon the foregoing, I recommend the approval of the adoption of the resolution in the form attached hereto as Exhibit “A”.**

*A motion was made and seconded, and the Trustees unanimously adopted the following resolution:*

### **RESOLUTION RECOMMENDING APPROVAL OF AMENDMENTS TO THE LONG ISLAND POWER AUTHORITY BOARD POLICY ON AUDIT RELATIONSHIPS**

**WHEREAS, the Board of Trustees of Long Island Power Authority (“LIPA”) oversees the management of the Authority, the contractual relationship with LIPA’s Service Provider, and fulfillment of LIPA’s mission; and**

**WHEREAS, as stewards of LIPA, the Trustees are responsible for setting LIPA’s audit relationship policy and overseeing its fulfillment; and**

**WHEREAS, the Finance & Audit Committee of LIPA’s Board of Trustees, in its Charter, was delegated the responsibility of reviewing LIPA’s policies regarding Audit Relationships;**

**WHEREAS, in LIPA’s By-Laws, LIPA’s Board of Trustees delegated certain responsibilities to the Chief Executive Officer for managing and directing the staff of LIPA; and**

**WHEREAS, policies addressing audit relationships have been recommended by the Finance & Audit Committee for adoption by the Board.**

**NOW, THEREFORE, BE IT IS RESOLVED, that the Finance and Audit Committee hereby recommends approval and adoption of the amended Policy on Audit Relationships, in accordance with the accompanying memorandum; and**

**BE IT FURTHER RESOLVED, that the Policy on Audit Relationships be subject to annual review and evaluation by the Finance & Audit Committee in accordance with the accompanying memorandum.**

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### **Requested Action**

**The Finance and Audit Committee (the “Committee”) is requested to adopt a resolution recommending revisions to the Long Island Power Authority (the “LIPA”) Internal Audit Charter (the “Charter”) in the form attached hereto.**

### **Background**

**The Charter, which was most recently adopted by the Committee on May 19, 2021, establishes the purpose, authority and responsibilities of Internal Audit.**

### **Proposed Changes**

**Consistent with the Charter, the Committee has undertaken a thorough annual review of the Charter’s adequacy. Suggested revisions:**

- **update the reference that the individual serving as chief audit executive reports administratively to the Senior Vice President of Transmission and Distribution**

### **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.**

*A motion was made and seconded, and the Trustees unanimously adopted the following resolution:*

**RECOMMENDATION FOR APPROVAL OF REVISED LONG ISLAND POWER AUTHORITY INTERNAL AUDIT CHARTER**

**WHEREAS, the Trustees adopted on May 19, 2021, an Internal Audit (“Charter”) which establishes, among other things, the purpose, authority and responsibilities of Internal Audit; and**

**WHEREAS, the Trustees have reviewed the proposed revised Internal Audit Charter and believes it is reasonable and appropriate to approve it for the reasons set forth in the accompanying memorandum:**

**NOW, THEREFORE, BE IT RESOLVED, that the Trustees hereby adopt the Long Island Power Authority’s “Internal Audit Charter” in the form presented at this meeting.**

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*Chair Cohen stated that last item on the agenda is the Presentation from PSEG ER&T on Power and Fuel Supply Management to be presented by Steven Oster.*

*Mr. Oster presented the PSEG ER&T Presentation on Power and Fuel Supply Management presentation and then took questions from the Trustees.*

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*Chair Cohen then entertained a motion to adjourn, which was duly made and seconded, after which the meeting concluded at approximately 10:12 a.m.*

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