

Proposal Concerning Modifications to LIPA’s Tariff for Electric Service

Requested Action:

The Long Island Power Authority (“LIPA” or the “Authority”) Staff (“Staff”) proposes to modify LIPA’s Tariff for Electric Service (the “Tariff”) effective January 1, 2023, to adopt policies concerning bill credits and food and medicine spoilage reimbursements for residential and small business customers following widespread prolonged outages.

Background:

In 2012, LIPA instituted several temporary billing and collection policies with respect to the recovery efforts resulting from Superstorm Sandy, some of which included waiving the daily service and meter charges for all customers for fourteen days, to reflect the period when service was being restored throughout the system.

On November 19, 2013, the New York Public Service Commission (“PSC” or “Commission”) issued an order setting forth policies regarding prolonged outages applicable to the State’s investor-owned utilities.¹ In the 2013 order, the Commission defined a “Prolonged Outage” as an outage resulting from an emergency in which electricity customers are out of service for a continuous period exceeding three days and for which the 16 NYCRR Part 105 regulations governing utility outage preparation and system restoration apply. The Commission ordered that, for any event resulting from an emergency in which electric customers are out of service for a period exceeding three days, the regulated utilities must credit customer charges incurred during the period of the outage.

LIPA adopted conforming changes to its Tariff on December 15, 2021.² Pursuant to the 2021 changes, credits for daily service charges will apply for any customer LIPA knows or reasonably believes was out of service for a period exceeding three days, or upon request from any customer that contacts LIPA and credibly claims they experienced an outage of such duration. LIPA will suspend all collection-related activities including terminations of service for non-payment for at least 7 days.

In addition, for outages exceeding three days following an emergency, any residential or non-residential customer who notifies LIPA and provides evidence that their financial circumstances have changed because of the event will have all collection-related activities, including terminations of service for non-payment, suspended for at least 14 days.

In July 2022, the Commission issued an order in Case 22-M-0159 implementing the provisions of Public Service Law § 73, which requires utilities to provide customers with bill credits of \$25 per day and reimbursement for food and medicine reimbursement in the event of a widespread

¹ Case 13-M-0061 – In the Matter of Customer Outage Credit Policies and Other Consumer Protection Policies Relating to Prolonged Electric or Natural Gas Service Outages, Order Establishing Policies (November 18, 2013) (the “2013 Order”).

² <https://www.lipower.org/wp-content/uploads/2022/01/2021-12-15-Approval-of-Tariff-Changes.pdf>

prolonged outage.³ The July 2022 Order directed the investor-owned utilities in the State to make tariff amendments necessary to implement the terms of Public Service Law § 73.

Pursuant to Public Service Law § 73 and the July 2022 Order, the regulated investor-owned utilities may petition the Commission for a waiver of the credit/reimbursement requirements and the Commission may grant the waiver if doing so is “fair, reasonable, and in the public interest.”

Proposal:

LIPA Staff proposes to modify the Tariff such that, in the event of a Widespread Prolonged Outage,⁴ customers will be provided with bill credits and reimbursement for spoiled food and/or prescription medication on the same terms as customers of the investor-owned utilities.⁵

In the event of a Widespread Prolonged Outage, LIPA Staff’s proposal would provide: (1) a bill credit of \$25 to eligible residential customers for each calendar day of service outage that occurs after the first three days of the Widespread Prolonged Outage; (2) reimbursement to eligible residential customers, up to \$235, for any food that spoils due to lack of refrigeration resulting from a Widespread Prolonged Outage if the residential customer provides an itemized list, or up to \$540 if the customer provides proof of loss; (3) reimbursement to eligible residential customers, up to the amount of the actual loss, for prescription medications that have spoiled due to lack of refrigeration resulting from a Widespread Prolonged Outage if the residential customer provides an itemized list and proof of loss; and (4) reimbursement to eligible small business customers, up to \$540, for any food that spoils due to lack of refrigeration resulting from a Widespread Prolonged Outage, if the small business customer provides an itemized list and proof of loss.

To receive reimbursement for spoiled food and/or prescription medication, residential and small business customers⁶ are required to provide LIPA with itemized lists and/or proof of loss within 14 days following the end of the Widespread Prolonged Outage.

Pursuant to Public Service Law § 73 and the July 2022 Order, the regulated investor-owned utilities may petition the Commission for a waiver of the credit/reimbursement requirements and the Commission may grant the waiver if doing so is “fair, reasonable, and in the public interest.”⁷ Because LIPA is not subject to Commission jurisdiction, Staff proposes an alternative approach to apply the same standard: Following a Widespread Prolonged Outage, LIPA will issue the applicable credits/reimbursements; *provided that* the LIPA CEO, upon recommendation of the Department of Public Service, determines that issuance of the credits/reimbursements is “fair, reasonable, and in the public interest.”

³ Case 22-M-0159 – Proceeding to Implement Customer Credits and Reimbursements Pursuant to Public Service Law Section 73, Order Implementing Public Service Law Section 73 (July 14, 2022) (“July 2022 Order”).

⁴ A Prolonged Outage would occur when a customer experiences an electric power outage for more than three (3) calendar days resulting from a “Major Storm” as defined in 16 NYCRR § 97.1 (c).

⁵ A Widespread Prolonged Outage in the July 2022 Order means an electric outage event impacting at least 20,000 customers at the same time and having one or more customers who remain without power for 72 hours or more due to utility-owned equipment unable to provide power.

⁶ Small business customers are only eligible for reimbursement for spoiled food.

⁷ Public Service Law § 73; July 2022 Order, at 3.

Financial Impacts:

In the event of a Widespread Prolonged Outage that, for example, impacts 100,000 residential customers for an average of four days, the resulting credits would be \$2.5 million for the \$25 credit for the subsequent calendar day of service outage occurring after the initial three days of the outage, and \$23.5 million for reimbursement of \$235 for food spoilage. However, the proposal will have no financial impact on LIPA because the lost revenues will be recovered in the Revenue Decoupling Mechanism (“RDM”). The actual amount of the bill credits applied to affected customers would depend on a number of factors such as: the total number and type of customers affected by the outage, duration of the outage, whether an itemized list or receipts are provided, and whether the loss involves spoiled food or medication.

Affected Tariff Leaves:

Revised Leaves: 20, 105A

Original Leaves: 105B

Summary of Proposed Changes:

LIPA Staff is proposing changes to LIPA’s Tariff to offer bill credits and food and medicine spoilage reimbursements consistent with Commission policy for residential and small business customers affected by a Widespread Prolonged Outage. These proposed changes will better align LIPA’s Tariff with other electric utilities in the State.

I. General Information (continued):**B. Abbreviations and Definitions (continued):
Power (Electric) (continued):**

3. Peak Power is the greatest demand which occurred in a specific period of time.
4. Reactive Power is that part of Apparent Power that is not useful, but is required by some types of electricity-consuming devices such as motors.
1. Real Power is the useful part of Apparent Power. It is measured by averaging the instantaneous power over a 15-minute period and expressed in kilowatts (KW).

Power Supply Charge: Provisions made in electric rates schedules for the automatic adjustment of rates due to changes in cost of fuel and purchased power.

Primary Residence: A service address at which a Customer-generator resides the majority of the time during the year, and which has been given by the Customer-generator and exists in the voter registration catalogues or used by the Customer-generator to determine his/her school district code number as he/she identifies the same on his/her New York State Income Tax Returns

Power Factor: The Real Power (KW) divided by the Apparent Power (kVA) at any given point and time in an electrical circuit. It is expressed as a percentage. (See *Power*)

Private Property Agreement: An Agreement between the Authority and a property owner regarding the right to pass over, occupy, or use land for the placement and access of Authority facilities. The Agreement is kept on file at the Authority. (See *Right-of-Way*)

~~**Prolonged Outage:** An electric power outage for more than three (3) calendar days due to a "Major Storm" as defined in 16 CRR-NY 97.1 (c).~~

PSEG Long Island Holiday: New Year's Day, Martin Luther King, Jr. Day, Presidents' Day, Good Friday, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving Day, Day After Thanksgiving, Christmas Eve and Christmas Day.

Prorate: To divide, distribute, or assess proportionately.

Public Highway: Any street, avenue, road, or way that is maintained for and used by the public. It is authorized and controlled by the legislative body of a village, town, city, county, or the State of New York.

Public Holiday: As defined in the General Construction Law Section 24, Public Holidays; half-holidays.

Public Right-of-Way: The area within a Public Highway which may be used for the placement of and access to Authority facilities.

Pull Box: An underground connection between either the Authority's and the Customer's underground facilities, or the Authority's overhead, terminating at the base of a pole, and the Customer's underground facilities.

Q

Qualifying Low Income Customer: A customer who provides documentation of current enrollment in at least one of the following programs: Home Energy Assistance Program (HEAP); Medicaid; Supplemental Nutrition Assistance Program (SNAP); Supplemental Security Income (SSI); Temporary Assistance – Family Assistance (FA); Temporary Assistance-Safety Net Assistance (SNA); United States Veterans Administration – Veteran's Pension or Veteran's Surviving Spouse Pension.

R

Reactive Power: (See *Power*)

Real Power: (See *Power*)

Residence: A permanent dwelling place.

IV. Billing Process and Payment of Bills (continued):**B. Computing a Customer's Bill (continued):**~~5. Customer Policies Related to Prolonged Outages~~

~~a) A Prolonged Outage occurs when a Customer has experienced an electric power outage spanning more than three (3) calendar days resulting from a "Major Storm" as defined in 16-CRR-NY 97.1.~~

~~(1) The Authority will credit affected Customers for the Service Charge per day and Meter Charge per day contained in SC1, SC1-VMRP(L), SC-1VMRP(S), SC1-VTOU, SC2, SC-2VMRP, SC2-L, SC-2LVMRP, SC2-MRP and SC-16.~~

~~(2) Credits will apply to any Customer the Authority knows or reasonably believes was out of service for a period exceeding three calendar days, and upon request from any Customer that contacts the company and credibly claims they experienced an outage of such duration.~~

~~(3) The credit will be equal to the Service Charge per day plus the Meter Charge per day according to the Customer's assigned Service Classification identified in the Tariff, multiplied by the number of calendar days the Customer experienced an outage.~~

~~(4) The credit will be applied to a Customer's account no later than 75 days after electric service is restored.~~

~~b) Collection Related Activities~~

~~(1) All collection-related activities including terminations of service for non-payment, with the exception of the issuance of service termination notices and assessment of security deposits, will be suspended for Customers the Authority knows or reasonably believes to have experienced a Prolonged Outage. The suspension will last for a minimum of seven (7) calendar days from the beginning of a Prolonged Outage.~~

~~(2)(1) All collection-related activities including terminations of service for non-payment with the exception of the issuance of service termination notices and assessment of security deposits, will be suspended for a minimum of fourteen (14) calendar days from the beginning of a Prolonged Outage. This will apply for any residential or non-residential Customer who notifies the Authority and provides evidence that his/her financial circumstances have changed because of the Prolonged Outage.~~

~~5. Customer Policies Related to Prolonged Outages~~~~a) Definitions Applicable Under this Rule Only:~~

~~(1) Prolonged Outage occurs when a customer has experienced an electric power outage resulting from a Widespread Prolonged Outage Event (c) spanning more than three (3) calendar days or more due to Authority-owned equipment unable to provide service.~~

~~(2) Widespread Prolonged Outage Event means an electric power outage event meeting the following criteria: (a) The event impacts at least 20,000 customers at the same time; (b) The event involves one or more customers who remain without power for 72 Hours or more due to Authority-owned equipment unable to provide power; and (c)~~

LIPA's CEO, upon recommendation of the Department of Public Service, determines that application of credits and reimbursements as provided in subsections b)(2) to b)(6) below is "fair, reasonable, and in the public interest".

- (3) Itemized List means a list of perishable food and/or prescription medication spoilage, including the name of the items and the price of the items.
 - (4) Proof of Loss means verifiable proof of perishable food and/or prescription medication spoilage. To verify spoilage, the customer must provide an itemized list of perishable food and/or prescription medication spoilage and a depiction (photographic evidence) of food and/or prescription medication spoilage. To determine the reimbursement amount of an impacted customer's food and/or prescription medication spoilage, the customer must provide at least one of the following: itemized receipts, itemized cash register receipts, itemized credit card receipts, photographs of replacement goods that also indicate the price of the item, or other verifiable documentation of the market value of the item. In appropriate circumstances, an interview with the claimant to ascertain the above information may satisfy the need to provide Proof of Loss.
- b) Bill Credits:
- (1) In case that the LIPA system experiences a Widespread Prolonged Outage Event, the Authority will credit customers' in SC1, SC1-VMRP(L), SC1-VMRP(S), SC1-VTOU, SC2, SC-2VMRP, SC2-L, and SC-2LVMRP, that experienced a Prolonged Outage, for their Service Charge per day. Credits will apply to any customer the Authority knows or reasonably believes was out of service for a period exceeding three calendar days and upon request from any customer that contacts the company and credibly claims they experienced an outage of such duration. The credit will be equal to the Service Charge per day according to the customer's assigned Service Classification identified in the Tariff, multiplied by the number of calendar days the customer experienced a Prolonged Outage.
 - (2) In case that the LIPA system experiences a Widespread Prolonged Outage Event, the Authority will credit customers' in SC1, SC1-VMRP(L), SC1-VMRP(S), and SC1-VTOU, that experienced a Prolonged Outage, \$25 for each subsequent calendar day of service outage that occurs after the initial three calendar days of that customer's outage (i.e. the credit will be applied per calendar day, starting on day four of the customer's outage).

IV. Billing Process and Payment of Bills (continued):**B. Computing a Customer's Bill (continued):****Bill Credits (continued)**

- (3) In case that the LIPA system experiences a Widespread Prolonged Outage Event, the Authority will credit customers' in SC1, SC1-VMRP(L), SC-1VMRP(S), and SC1-VTOU, that experienced a Prolonged Outage, for spoiled food up to \$235 if the customer provides an Itemized List, or up to \$540 if the customer provides Proof of Loss for any food spoiled due to lack of refrigeration resulting from an outage exceeding three (3) calendar days.
 - (4) In case that the LIPA system experiences a Widespread Prolonged Outage Event, the Authority will credit customers' in SC1, SC1-VMRP(L), SC-1VMRP(S), and SC1-VTOU, that experienced a Prolonged Outage, for spoiled prescription medication up to the amount of the actual loss if the customer provides an Itemized List and Proof of Loss for any prescription medication spoiled due to lack of refrigeration resulting from an outage exceeding three (3) calendar days.
 - (5) In case that the LIPA system experiences a Widespread Prolonged Outage Event, the Authority will credit customers' in SC2, SC-2VMRP, SC2-L with maximum recorded demands of 40kW or less that experienced a Prolonged Outage, for spoiled food up to \$540 if they provide an Itemized List and Proof of Loss for any food spoiled due to lack of refrigeration resulting from an outage exceeding three (3) calendar days.
 - (6) To receive reimbursement for food spoilage and prescription medication spoilage pursuant to this section, customers are to provide the Authority with Itemized Lists and/or Proof of Loss within fourteen (14) days following the end of the Widespread Prolonged Outage Event. The Authority will provide reimbursement as a bill credit within forty-four (44) days from the ending of the Widespread Prolonged Outage Event. For any bill credits that exceed the customer's bill, any remaining credit will be carried over into future bills.
- c) Collection-Related Activities
- (1) All collection-related activities including terminations of service for non-payment, with the exception of the issuance of service termination notices and assessment of security deposits, will be suspended for customers the Authority knows or reasonably believes to have experienced an outage exceeding three (3) calendar days during a Widespread Prolonged Outage Event. The suspension will last for a minimum of seven (7) calendar days from the beginning of the Widespread Prolonged Outage Event.
 - (2) All collection-related activities including terminations of service for non-payment, with the exception of the issuance of service termination notices and assessment of security deposits, will be suspended for a minimum of fourteen (14) calendar days from the beginning of a Widespread Prolonged Outage Event for any residential or non-residential customer who notifies the Authority and provides evidence that their financial circumstances have changed because of the Widespread Prolonged Outage.