

LONG ISLAND POWER AUTHORITY

MINUTES OF THE 314th MEETING

HELD ON MARCH 29, 2023

The Long Island Power Authority (“LIPA”) was convened for the three hundred and fourteenth time at 11:27 a.m. at LIPA’s Headquarters, Uniondale, NY, pursuant to legal notice given on March 24, 2023, and electronic notice posted on the LIPA’s website.

The following LIPA Trustees were present (all in-person):

**Mark Fischl, Acting Chair
Elkan Abramowitz
Valerie Anderson Campbell
Rev. Al Cockfield
Sheldon Cohen
Nancy Goroff
Laureen Harris
Dominick Macchia
Mili Makhijani**

Representing LIPA, in person, were Thomas Falcone, Chief Executive Officer; Bobbi O’Connor, General Counsel & Board Secretary; Mujib Lodhi, Chief Operating Officer; Donna Mongiardo, Vice President-Controller; Jen Hayen, Director of Communications; and Andrew Berger, Senior Communications Specialist. Participating via video conferencing were Jason Horowitz, Assistant General Counsel and Assistant Secretary to the Board; and Osman Ahmad, IT-Consultant.

Representing the Department of Public Service were Carrie Meek Gallagher, Director; and Nick Forst, Assistant Counsel.

Acting Chair Fischl welcomed everyone to the 314th meeting of the Long Island Power Authority Board of Trustees. In his opening remarks, Acting Chair Fischl acknowledged and congratulated the two new Trustees recently appointed to the Board of Trustees, Mili Makhijani and Dominick Macchia.

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 be heard, upon a motion duly made and seconded, the following resolutions were unanimously adopted by the Trustees based on the memoranda summarized below:

1780. APPROVAL OF MINUTES AND RATIFICATION OF ACTIONS TAKEN AT THE FEBRUARY 15, 2023 MEETING OF THE BOARD OF TRUSTEES OF THE LONG ISLAND POWER AUTHORITY

RESOLVED, that the Minutes of the meeting of the Authority held on February 15, 2023 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.

Requested Action

The Board of Trustees (the “Board”) is requested to adopt a resolution approving: (i) LIPA’s Annual Investment Report for 2022 in the form attached hereto as Exhibit “B”; and (ii) the 2023 Board Policy on Investments in the form attached hereto as Exhibit “C”.

Annual Investment Report for 2022

Section 2925 of the Public Authorities Law (“PAL”) requires that LIPA annually review and approve an investment report. LIPA’s investments are either: (i) managed by an investment manager in primarily short-term, highly liquid investments; or (ii) invested in broad-based, low-cost equity and fixed-income mutual funds. All investments of LIPA funds are governed by the Board Policy on Investments.

LIPA’s investments were compliant with the terms and conditions of the Policy for 2022 and performed consistently with Staff’s expectations given the nature of the investments.

2023 Board Policy on Investments

The Board is also required by Section 2925(6) of the PAL to annually review and approve the Board Policy on Investments, which detail the Board's operative instructions to LIPA Staff regarding the investing, monitoring, and reporting of LIPA funds. The Board Policy on Investments was last reviewed and approved on March 30, 2022.

LIPA Staff has reviewed the Board Policy on Investments and proposes to modify the investment allocations within the Nuclear Decommission Trust Fund ("NDTF") so as to increase the allocation to International Equity Mutual Funds from 20% to 25% and to decrease the allocation to Fixed Income Mutual Funds from 25% to 20%. This change reflects the multi-decade life of the NDTF and the expectation that equity securities will have higher expected returns than fixed-income securities over this period. Overall, the NDTF would be invested 35% in domestic equities, 25% in international equities, 20% in domestic fixed income, and 20% in domestic inflation-protected fixed-income securities. The amended Board Policy on Investments is provided as Exhibit "C"

Recommendation

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

1781. RESOLUTION APPROVING THE ANNUAL INVESTMENT REPORT FOR 2022 AND THE 2023 BOARD POLICY ON INVESTMENTS

RESOLVED, that the Board of Trustees hereby approves the Annual Investment Report for the period ended December 31, 2022, in the form presented at this meeting; and

BE IT FURTHER RESOLVED, that the Board of Trustees hereby approves and adopts the Board Policy on Investments in the form presented at this meeting to be effective immediately.

Requested Action

The Board of Trustees (the "Board") of the Long Island Power Authority ("LIPA") is requested to adopt a resolution authorizing the Chief Executive Officer or his designee to execute Amendment No. 6 to the Power Purchase Agreement ("PPA") between Hawkeye Energy Greenport, LLC and LIPA.

Background

Since 2003, LIPA has been purchasing power from a 55 MW combustion turbine generator located in Greenport, New York owned by Hawkeye Energy Greenport (the “Greenport Plant”).

The original PPA was set to expire in 2018, but its term was extended to June 30, 2023 with updated pricing. Similar to other plants of its vintage, the Greenport Plant is fueled by kerosene that LIPA supplies to enable electricity to be produced.

Discussion

The Greenport Plant is one of several peaking generators that serve peak loads and support system reliability on the east end of Long Island. In recognition of the need to achieve a zero-carbon electric grid by 2040, PSEG Long Island has been planning and implementing transmission projects to eliminate the need for fossil-fueled generation along the South Fork and North Fork.

Until such projects are completed, the Greenport Plant and other peaking units will continue to be needed to meet peak loads and to accommodate the intermittency of renewable generation. It should be noted that the 2018 PPA amendment contemplated that the Greenport Plant site could be considered for the installation of energy storage, among other technologies. Such options continue to be evaluated by PSEG Long Island, though the recent Bulk Energy Storage RFP did not yield proposals suitable for replacing the Greenport Plant.

The proposed Amendment No. 6 would establish pricing and procedures to enable the continued operation of this 20-year-old plant during the transition to clean energy resources. The term would be extended by 7 years until June 30, 2030, while LIPA and Hawkeye would have the ability to determine if significant capital repairs might be needed or whether the Greenport Plant should be closed prior to 2030. Amendment No. 6 would continue the current pricing formula in recognition of the ongoing cost to maintain the facility. With regard to fuel, the amendment would enable switching to alternative grades of distillate oil, such as ultra-low sulfur diesel fuel, which is more readily available from LIPA’s fuel suppliers.

The projected contract payments over the extended term are approximately \$67 Million.

Recommendation

For the foregoing reasons, I recommend that the Board authorize the Chief Executive Officer or his designee to take all actions, including, without limitation, execution of Amendment No. 6, and all other related arrangements and agreements, as may be necessary or convenient.

1782. AUTHORIZATION TO EXECUTE AMENDMENT NO. 6 TO POWER PURCHASE AGREEMENT BETWEEN HAWKEYE ENERGY GREENPORT, LLC AND LONG ISLAND POWER AUTHORITY

WHEREAS, on February 6, 2003, Buyer and Seller entered into that certain Power Purchase Agreement (“PPA”) pursuant to which Buyer agreed to purchase from Seller, and Seller agreed to sell to Buyer, all of the Contract Capacity, Energy and Ancillary Services (as hereinafter defined) from the Facility, which PPA was amended by a letter agreement dated March 25, 2003 (“Amendment No. 1”), and by a letter agreement dated April 5, 2004 (“Amendment No. 2”), and by a letter agreement dated as of October 18, 2004 (“Amendment No. 3”), and by amendment dated as of January 27, 2010 (“Amendment No. 4”), and by amendment dated as of May 23, 2018 (“Amendment No. 5”); and

WHEREAS, pursuant to the PPA, as amended, the term currently is scheduled to expire on June 30, 2023; and

WHEREAS, the Plant provides needed generating capability that contributes to system reliability; and

WHEREAS, the Parties wish to extend the Term (as defined in the PPA) by seven years to expire on June 30, 2030, and to modify certain payment and operational provisions of the PPA, as previously amended;

NOW, THEREFORE, BE IT RESOLVED, that the Chief Executive Officer and/or his designee be and hereby are authorized to execute Amendment No. 6 to the PPA and to perform such further acts and deeds as may be necessary, convenient, or appropriate, in the judgment of the Chief Executive Officer and/or his designee, to implement LIPA’s extension of the Greenport Purchase Power Agreement.

Requested Action

The Board of Trustees (the “Board”) of the Long Island Power Authority (the “LIPA”) is requested to adopt a resolution approving the review of the Board Financial policies (i.e., Prompt Payment and Interest Rate Exchange Agreements).

Background

In accordance with the New York State Public Authorities Law (“PAL”) and governance best practices, the Board has adopted the Board Policy on Prompt Payment and the Board Policy on Interest Rate Exchange Agreements. LIPA Staff has reviewed these policies and recommends no changes to either policy.

Recommendation

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

1783. RESOLUTION APPROVING THE REVIEW OF THE FINANCIAL PACKAGE

WHEREAS, in accordance with the New York State Public Authorities Law (“PAL”) and governance best practices, the Board has adopted Board Policy on Prompt Payment and the Board Policy on Interest Rate Exchange Agreements; and

WHEREAS, LIPA Staff has reviewed these policies and recommends no changes to either policy at this time.

NOW, THEREFORE, BE IT RESOLVED, the Board of Trustees hereby approves the review of the Board Policy on Prompt Payment and the Board Policy on Interest Rate Exchange Agreements, as provided in the attached memorandum.

Requested Action

The Board of Trustees (the “Board”) of the Long Island Power Authority (“LIPA”) is requested to adopt a resolution authorizing the extension and amendment of the Letter of Credit issued by Bank of America, N.A. (the “BofA Letter of Credit”) supporting its outstanding General Revenue Notes, Series 2015 GR-3 (the “GR-3 Notes”) and the execution of an amendment or a new or amended reimbursement agreement in connection therewith.

Background

LIPA desires to maintain its overall liquidity levels, which are comprised of cash on hand, a revolving bank facility, and the General Revenue Notes program. These sources of liquidity mitigate LIPA’s varying cash flows from its seasonal business, provide for working capital, and provide extra financial support for unexpected events such as major storms.

The BofA Letter of Credit supporting LIPA’s outstanding GR-3 Notes will expire on May 5, 2023.

LIPA expects to enter into one or more new reimbursement agreements with a bank or group of banks based on the responses it receives to a Bank Facility Request for Proposals (“Bank RFP”). LIPA wishes to extend the existing BofA Letter of Credit for a period not exceeding one year to permit adequate time to select, negotiate, and issue the GR-3 Notes under the new Bank RFP facility. The amendment or extension of the BofA Letter of Credit will require the execution of an amendment or a new or amended reimbursement agreement or other disclosure documents and other instruments.

Recommendation

Based upon the foregoing and the recommendation of the Finance and Audit Committee, I recommend that the Board adopt the attached resolution.

**1784. RESOLUTION APPROVING THE EXTENSION OF A LETTER OF CREDIT
RELATED TO GENERAL REVENUE NOTES**

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 as special obligations of the Authority for any lawful purpose of the Authority; and

WHEREAS, pursuant to the General Resolution and the Twenty-Third Supplemental Resolution, the Authority has authorized the issuance of its Electric System General Revenue Notes, Series GR-3 (the “Revenue Notes”), in an amount not to exceed \$100,000,000; and

WHEREAS, Bank of America, N.A. previously issued a Letter of Credit (the “Letter of Credit”) to provide for payment of principal of and interest on its Revenue Notes, which Letter of Credit will expire on May 5, 2023; and

WHEREAS, the Bank of America, N.A. has agreed to extend the Letter of Credit and related reimbursement agreement;

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

- 1. The Trustees hereby authorize the extension of the Letter of the Credit for a period of up to one year and the negotiation and execution of an amendment to the related reimbursement agreement or an amended and restated reimbursement agreement in connection therewith.**
- 2. Each Authorized 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 amendments to the reimbursement agreement or an amended and restated reimbursement agreement, issuing and paying agency agreements, dealer agreements, and other instruments, and to do any and all acts necessary or proper for carrying out and implementing this resolution and each of the documents authorized hereby and each Authorized Officer shall be an Authorized Representative (as defined in the General Resolution) in connection with such matters.**
- 3. This resolution shall take effect immediately.**

Requested Action

The Board of Trustees (the “Board”) of the Long Island Power Authority (the “LIPA”) is requested to adopt a resolution approving the Authority’s 5-Year Strategic Roadmap (the “Roadmap”).

Background

The Board supervises, regulates, and sets policy for LIPA, and provides strategic direction through a set of **governance policies**. The Board’s policies define LIPA’s purpose and vision and set expectations for the strategic outcomes that LIPA will deliver in the areas of reliability, customer experience, information technology, clean energy, affordability, and fiscal sustainability, among other areas. The Board reviews each of its policies annually, and LIPA Staff reports on outcomes in reports to the Board for each policy.

In adherence with the Board’s policy on Strategic Planning and Performance Management, the Roadmap identifies end states and gaps to current capabilities and prioritizes those gaps to meet the expectations of the Board for service to our customers, as defined in the Board’s governance policies. The Roadmap is then translated by management into annual Work Plans, PSEG Long Island Performance Metrics, and Budgets for review and approval by the Board.

The Board was briefed by LIPA Staff on the Roadmap at the February 2023 Board meeting. The Roadmap, provided as Exhibit “B,” focuses on five foundational business areas – Transmission and Distribution; Customer Experience; Finance; Information Technology; and Performance Management – and draws upon internal and external perspectives to establish a guiding, long-term strategic vision for the utility. Additionally, during 2023, LIPA will complete an Integrated Resources Plan to establish the pathway to a carbon-free electric grid by 2040 and will evaluate opportunities and complete roadmaps for certain business service areas, such as human resources, legal, communications, procurement, external affairs, and other support functions.

The Roadmap will serve as a valuable guide but will not be a static document. LIPA Staff will revisit the plan annually to ensure that our priorities continue to reflect the Board’s policies, as they may be amended from time to time, as well as evolving customer needs, industry best practices, and changes to LIPA’s operating environment.

Recommendation

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

1785. RESOLUTION APPROVING THE 5-YEAR STRATEGIC ROADMAP

WHEREAS, the Board of Trustees (the “Board”) provides strategic direction through a set of governance policies that define LIPA’s purpose and vision and set expectations for the strategic outcomes that LIPA will deliver in the areas of reliability, customer experience, information technology, clean energy, affordability, and fiscal sustainability; and

WHEREAS, long-term strategic planning is foundational to meeting the objectives set by the Board and managing the pace of change in the electric utility industry; and

WHEREAS, the 5-Year Strategic Roadmap (the “Roadmap”) provided as Exhibit “B” in the accompanying memorandum, positions LIPA to better deliver on its core commitment to a customer-first utility for Long Island and the Rockaways *and* to respond to emerging opportunities and challenges; and

WHEREAS, the Roadmap set priorities for limited time and resources over the next five years (2023-2027) and sequences initiatives and activities for LIPA and PSEG Long Island to collaboratively address current challenges, leverage advancing technology, and respond to evolving customer needs; and

WHEREAS, the Roadmap focuses on five foundational business areas – Transmission and Distribution; Customer Experience; Finance; Information Technology; and Performance Management – and draws upon internal and external perspectives to establish a guiding, long-term strategic vision for the utility.

WHEREAS, the Board has reviewed the Roadmap provided as Exhibit “B” in the accompanying memorandum and agrees that its content is due and proper to provide for LIPA’s long-term strategic plan to meet the Board’s objectives and to manage the pace of change in the electric utility industry.

NOW, THEREFORE, BE IT RESOLVED, the Board of Trustees hereby approves the Roadmap as set forth in Exhibit “B” to the accompanying memorandum; and

BE IT FURTHER RESOLVED, LIPA Staff is directed to revisit the Roadmap annually to ensure that LIPA priorities continue to reflect the Board’s governance policies, as they may be amended from time to time, as well as evolving customer needs and industry best practices, and changes to LIPA’s operating environment.

Requested Action

The Board of Trustees (the “Board”) of the Long Island Power Authority (the “LIPA”) is requested to adopt a resolution, in the form of Exhibit A, approving amendments to the Board Policy on Procurement (the “Policy”).

Discussion

In accordance with the New York State Public Authorities Law (“PAL”) and governance best practices, the Board has adopted the Policy. Section 2879(1) of the PAL requires that the procurement guidelines be annually reviewed and approved by LIPA, which review last

took place at the February 2023 Board meeting. Notwithstanding, the Board can review and consider amendments to the Policy throughout the course of any given year, as the need arises.

The amendments will allow LIPA Staff to expedite and better align the timing of its procurements and associated contract review by the Office of the New York State Attorney General (“AG”) and Office of the State Comptroller (“OSC”) with the expiration of contracts and procurement needs by permitting the Chief Executive Officer to authorize such contracts, subject to the Trustee’s approval at the next scheduled Trustee meeting. The proposed changes do not limit the Board’s ability to review and approve awards under LIPA Requests for Proposals and do not change the regulatory approval process LIPA’s procurements are subject to involving review and approval by the AG and OSC, which process begins after contract authorization. The AG and OSC review process typically takes up to ninety days after contract authorization. LIPA Staff has also proposed other minor revisions to the Policy. All changes to the Policy are set forth in Exhibit “B.”

Recommendation

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

1786. RESOLUTION APPROVING AMENDMENTS TO THE BOARD POLICY ON PROCUREMENT

WHEREAS, in accordance with the New York State Public Authorities Law (“PAL”) and governance best practices, the Board has adopted the Board Policy on Procurement (the “Policy”); and

WHEREAS, Section 2879(1) of the Public Authorities Law requires that the procurement guidelines be annually reviewed and approved by LIPA, which review took place at the February 2023 Board meeting; and

WHEREAS, LIPA Staff has proposed certain revisions to the Policy as set forth in Exhibit “B” to the accompanying memorandum, and the Board has reviewed those amendments and agrees that they are due and proper.

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

Acting Chair Fischl stated that the next item on the agenda was the Consideration of Resolution Honoring Service of Former Trustee Drew Biondo.

Acting Chair Fischl and Mr. Falcone conveyed their thoughts and appreciation regarding the service and dedication of Former Trustee Biondo. The following resolution was then approved by the Trustees.

**1787. BOARD OF TRUSTEES OF THE LONG ISLAND POWER AUTHORITY
RECOGNIZES THE DEDICATED SERVICE OF TRUSTEE DREW BIONDO**

WHEREAS, Trustee Drew Biondo has had a distinguished career in education and state and local government; and

WHEREAS, Trustee Biondo was appointed to the LIPA Board of Trustees in January 2018, during a critical time for New York State's transition to a carbon-free electric grid and during a period of significant investment in the reliability and resiliency of the Long Island electric grid, and was an advocate for those efforts during his service on the LIPA Board; and

WHEREAS, Trustee Biondo was a fierce advocate for LIPA's customers during his service on the Board and epitomized LIPA's purpose as a value-driven organization that puts our customers first in all our actions; and

WHEREAS, Trustee Biondo used his government and education background to play a leading role on the Board after Tropical Storm Isaias to ensure that our customers received and will continue to receive the high level of service and dedication they deserve; and

WHEREAS, Trustee Biondo diligently served the customers of Long Island and the Rockaways during his tenure on the LIPA Board and was a vocal proponent for a smarter, cleaner, and more affordable electric grid;

NOW, THEREFORE, BE IT RESOLVED, that the Board of Trustees hereby duly recognizes the friendship and faithful service of Trustee Drew Biondo.

Acting Chair Fischl stated that the next item on the agenda was the Chief Executive Officer's Report to be presented by Thomas Falcone.

Mr. Falcone presented the Chief Executive Officer's Report and took questions from the Trustees.

Acting Chair Fischl stated that the next item on the agenda was the Isaias Task Force Outage Management System Independent Verification and Validation Testing Update to be presented by Mujib Lodhi.

Mr. Lodhi presented the Isaias Task Force Outage Management System Independent Verification and Validation Testing Update and took questions from the Trustees.

Acting Chair Fischl stated that the next item on the agenda was the Consideration of Approval of the Annual Report and Amendments to the Board Policy on Diversity, Equity, and Inclusion to be presented by Bobbi O'Connor.

Ms. O'Connor 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 annual report on the Board Policy on Diversity, Equity, and Inclusion (the “Policy”) for the period since the last annual review; (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

In June 2020, the Board adopted the Policy. The last annual report on the Policy was in August 2021.

The 2021 Policy provides that LIPA is “committed to a diverse, equitable, and inclusive environment that respects and values employees, customers, and stakeholders for the variety of their backgrounds and personal characteristics, including, but not limited to, ethnicity, gender, gender identity, marital status, national origin, physical ability, political affiliation, race, religion, sexual orientation, veteran status, life experience, talent, thinking style, or any other characteristic protected by law.”

Compliance with the Policy

LIPA Staff recommends that, for the reasons set forth below, the Board find that LIPA has complied with the Policy since the last annual review. Compliance with each element of the Policy is set forth below.

The Policy provides that LIPA “will foster and promote a diverse, equitable, and inclusive workplace and society by:”

“attracting, retaining, and developing a diverse workforce representative of the electric customers we serve.”

- **LIPA’s Human Resources department’s recruiting efforts include posting job openings on diversity-focused job boards including the New York State Department of Labor, the Professional Diversity Network, the National Forum for Black Public Administrators, and other sites as appropriate. Through the Professional Diversity Network, LIPA’s job are posted with the International Association of Women (IAW), which is one of the largest, most recognized networking organizations of professional women in the country, spanning more than 200 industries and professions; and other online employee recruitment platforms that leverage affinity groups to identify and recruit experienced and talented women, minorities, veterans, LGBTQ and disabled persons.**

“maintaining a positive, trusting, and inclusive workplace culture, through training and development and by considering these skills in our hiring and promotion practices.”

- **LIPA’s employees have access to LinkedIn Learning, Percipio Learning, and Cornerstone Learning Management System. These programs provide education, training and development courses related to diversity, equity, belonging and inclusion and can be accessed by or assigned to employees as part of their professional development.**
- **LIPA’s monthly staff meetings include a diversity, equity, inclusion and belonging highlight to embed these in our culture and reinforce our commitment to all employees. In 2022, we used many of our all-staff meetings to provide a common language for employees by defining what certain words mean at LIPA and describing the behaviors associate with each word. Words included equity, diversity, inclusion, belonging, and more.**
- **The employee newsletter reinforced the Diversity, Equity, and Inclusion (DE&I) message presented at the staff meeting.**

“utilizing annual employee engagement surveys and related initiatives to measure and advance our diversity, equity, and inclusion practices.”

- **Each year, LIPA conducts an Employee Engagement Survey. These surveys are designed to measure and assess how motivated and engaged our employees are to perform their best at work each day.**

- **LIPA’s 2022 engagement remained among the top ten percent of companies with an overall score seven points above industry average benchmarks and one point above top company benchmarks (i.e. top 10%), although our score did drop from 85 to 79 between November/December 2020 and March/April 2022.**
- **LIPA’s engagement survey includes questions specifically related to DE&I. Employees are asked whether:**
 - **This organization encourages a climate in which diverse perspectives are valued.**
 - **I am encouraged to treat others with dignity and respect.**
 - **All employees are given a fair opportunity to succeed in this organization.**
 - **This organization values its employees.**
 - **People of all cultures, backgrounds, and identities are respected and valued at LIPA.**
 - **Diversity activities and learning opportunities offered by my organization have a positive impact on our culture.**
 - **My organization’s leadership demonstrates a commitment to and support of diversity and inclusion.**
 - **I can bring my authentic self to work.**
- **DE&I-related questions had an average score of 75, down from a previous average of 83. This is consistent with the overall score results.**
- **Results of the engagement survey are shared with management and LIPA Staff and management identifies opportunities for improvement.**

“overseeing the diversity, equity, and inclusion initiatives of LIPA’s service providers.”

- **PSEG Long Island conducted multiple DE&I events for their employees. These events included:**
 - **Cultural Awareness and Diversity Appreciation programs such as Diwali Cultural Celebration, Honoring our Veterans event, and Hispanic Heritage month activities.**
 - **PSEG Long Island encourage and supports employees to join any of their numerous Employee Business Resource Groups (EBRGs). These are voluntary groups of employees that help shape and drive their diverse and inclusive culture. EBRGs help build meaningful relationships through initiatives like community outreach and volunteerism, mentorship, and professional development. In addition, PSEG Long Island’s EBRGs serve as a platform to elevate diverse perspectives and help support key business goals and priorities.**

“promoting the participation of minority, women-owned, and service-disabled veteran-owned businesses in procurements by LIPA and its service providers, consistent with Article 15-A of the Executive Law.”

- The State of New York annually grades each state agency and authority’s MWBE procurement efforts. LIPA and its service provider were rated “A+” for 2022.
- PSEG Long Island increased its MWBE spend by 5% and continued to meet its 30% goal.
- The PSEG Long Island Supplier Diversity Team increased training for its procurement staff and provided informative sessions to its prime vendors and contractors. That team also hosted a virtual Supplier Diversity Procurement Fair in May of 2022 promoting a greater presence of MWBEs in our supply chain and procurement activities and attended and participated at several events in person and virtually including MWBE Expos, 2022 MWBE Forum, Competitive Edge Conference.
- PSEG Long Island established a proactive approach to connect MWBEs with internal decision makers and prime contractors.
- LIPA participated and accompanied PSEG Long Island in all outreach events listed above and served on the planning committee for the Competitive Edge Conference.

Additionally, the Policy provides that “in furtherance of the CLCPA and ECL Art 48, LIPA will participate in the community-based planning efforts of the State’s Climate Action Council, and create, pursue, and promote opportunities for, and eliminate barriers to, the achievement of environmental and climate justice.”

- Throughout 2021 and 2022, the State’s Climate Action Council has been at work on the State’s Scoping Plan to reach the goals set by the CLCPA, including making major strides toward achieving environmental and climate justice in the transition to a decarbonized economy. LIPA’s CEO holds a seat on the Council and LIPA’s staff have been participating in State staff working groups developing specific chapters of the Scoping Plan. Upon release of the Draft Scoping Plan in December 2021, the working groups, which met on a monthly basis, supported the Council’s outreach to a broad set of stakeholders and the public through public hearings and acceptance of comments on the Draft Scoping Plan, which lasted through the summer of 2022. In the Fall of 2022, LIPA staff continued to support the Council’s efforts by incorporating the learning from public outreach into the final Scoping Plan, which was adopted in December 2022 as required by CLCPA.
- In 2022, LIPA undertook several new initiatives to benefit social and environmental justice goals, including:
 - LIPA undertook a two-phase bill forgiveness program. Low-and-moderate income (LMI) customers received a credit of the entirety of past-due account balances through May 1, 2022, while all customers received up to \$2,000 for past-due balances.
 - LIPA announced a \$30,000 grant to the Shinnecock Nation to assist income-eligible residents in learning about and applying for our LMI assistance program,

- which provided bill forgiveness through year-end 2022, as well as a monthly bill credit and eligibility for enhanced energy efficiency and electrification program rebates.
- LIPA awarded a \$200,000 grant to the United Way of Long Island to support transforming their headquarters into a “net zero” building, with \$60,000 in annual energy savings that will be reinvested back into its core mission, including training for disadvantaged youth and veterans in clean energy construction.
 - LIPA funded a New York Clean Transportation Prize Award on Long Island at a cost of up to \$10 million for innovative projects expected to expand access to clean, electric transportation in historically disadvantaged communities.
 - LIPA created a community college scholarship program to support education and training in careers related to the electric industry for students from disadvantaged communities.
- LIPA engages with its stakeholders through its Community Advisory Board (CAB), among other methods. LIPA’s CAB was formed in 2017 to advise LIPA’s Chief Executive Officer on issues of importance to the Authority and our Long Island and Rockaways community. The CAB represents a diverse range of perspectives and has 19 members, including experts in energy, education, business, economic development, government, and finance. Members are appointed by LIPA’s CEO and participate in quarterly meetings, the last which was held in March 2023, that discuss regional issues, including energy efficiency, climate and green energy goals, and other topics important to members.
 - Energy Efficiency and Renewables Advisory Committee: An advisory committee comprised of stakeholders not affiliated with PSEG Long Island or LIPA advise LIPA Staff on clean and renewable energy programs and hold periodic meetings to provide input and recommendations on demand reduction goals, beneficial electrification program goals, and renewable program goals established under applicable laws or various state initiatives.

Annual Review of the Policy

The Board hired Leading Resources, Inc. to review the Board policies and facilitate discussion amongst the Trustees on amending certain policies. A working group of Trustees participated in various meetings to develop and draft amendments to the Policy, including renaming the Policy to the Board Policy on Social and Environmental Justice. The draft amendments to the Policy have been shared with the entire Board.

Pursuant to public comments received by the Board at its February 2023 meeting, the working group of Trustees reconvened prior to the March 2023 Board meeting to consider further amendments to the Policy. The final version of the amended Policy, as drafted by the Trustees, is attached hereto as Exhibit “B”. In drafting the final version of the Policy, the Board has considered all public comments made with respect to the proposed amendments 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.

After questions and a discussion by the Trustees, and the opportunity for the public to be heard, upon a motion duly made and seconded, the following resolution was approved by the Trustees.

1788. RESOLUTION APPROVING THE ANNUAL REPORT AND AMENDMENTS TO THE BOARD POLICY ON DIVERSITY AND INCLUSION

WHEREAS, the Board Policy on Diversity and Inclusion (the “Policy”) was originally approved by the Board of Trustees by Resolution No. 1542, dated June 24, 2020; and

WHEREAS, the Governance, Planning and Personnel Committee (the “Committee”) has conducted an annual review of the Policy on February 15, 2023 and recommended that the Board affirm that the Policy has been complied with and that 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 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 Exhibit “B” are hereby approved.

Acting Chair Fischl stated that the next item on the agenda was the Consideration of Approval of Tariff Changes to be presented by Thomas Falcone.

Mr. Falcone presented the following action item and took questions from the Trustees.

Requested Action

The Trustees are requested to approve a proposal to modify LIPA’s Tariff for Electric Service to authorize Time-of-Day (“TOD”) rates as the standard rate for residential customers starting in 2024. Offering a TOD rate as the standard residential rate provides

customers with an opportunity to save money and promotes the efficient use of the electric system, thereby reducing costs to all customers and carbon emissions.

LIPA's residential customers may opt out of the TOD rate at any time and remain on (or return to) a non-time-differentiated "flat" rate. Any customer who opts into or is transitioned into the new TOD rates from the existing Rate 180 flat rate during the proposed transition period will receive a rate "guarantee" for up to one year.

Residential Time-of-Day Rates: Background

LIPA has offered optional time-of-use rates to its residential customers since it acquired the Transmission and Distribution ("T&D") system from the Long Island Lighting Company in 1998.

Those legacy time-of-use rates reflected the thinking from the 1980s and 1990s and included a very long on-peak period from 10 a.m. to 8 p.m. (10 hours each weekday). These very long on-peak hours make it challenging for customers to shift their load to less expensive off-peak hours, thereby limiting customer participation and the benefit to both customers and the T&D system.

In 2018, LIPA began executing a long-term plan to modernize electric rates, enabled by the territory-wide deployment of advanced metering infrastructure ("AMI" or smart meters). Under the rate modernization program, LIPA's objective is to offer customers rate options that are simple to understand and easy to compare – creating opportunities for participating customers to save money on their electric bills and lowering costs for all customers by encouraging more efficient use of the electric grid. The smart meter program provides the functionality required to modernize LIPA's rates and provide customers with a wide variety of options and tools to control electric usage and make cost-effective choices with increased convenience.

TOD rates create benefits for participating customers and the electric grid as a whole. When customers respond to price signals under the TOD rate, energy consumption is shifted to cleaner and lower cost times, reducing peak-related costs for T&D infrastructure and power supply and supporting New York's transition to a zero carbon emissions electric grid. The proposed standard TOD rate will provide customers with savings opportunities because electricity will be priced lower than the flat rate for 88% of the hours in the year. Moreover, TOD rates increase the value customers can realize from efficiency measures, residential energy storage, load management devices (such as smart thermostats and smart electric vehicle ("EV") charging), and rooftop solar generation during peak periods. Finally, TOD rates can avoid or defer costly grid upgrades that would otherwise be required to support future economic growth, building electrification, and EV charging infrastructure in the absence of appropriate price signals.

On December 16, 2020, the LIPA Board of Trustees approved four residential TOD rate options and one small business TOD rate option (the "V-TOU" rates), each featuring modern rate designs with short (three- or four-hour) peak periods. These rate periods provided

customers with the opportunity to reduce or shift demand more easily and manage their usage outside of the peak timeframe. All five of these existing TOD rate options went into effect on February 1, 2021.

These optional rates provided customers with greater choice and provided LIPA and its service provider with experience implementing modern TOD rates from a design, information technology, and customer experience perspective. However, the choices are too numerous and too similar to be easily understood by customers, and utility communication and tools need to be further enhanced as part of the transition to a standard TOD rate.

In December 2021, with the support of the Department of Public Service (“DPS”) and the New York State Solar Energy Industries Association (“NYSEIA”), LIPA announced its intention to make TOD rates the standard rate for electric customers on Long Island and the Rockaways.

Making TOD rates available to residential customers as the standard service offering is an effective way of achieving the benefits of time-differentiated rates, providing a greater opportunity for reducing costs and the emission of greenhouse gases and facilitating a campaign of broad customer education.

In 2022, LIPA engaged the Brattle Group to interview 9 electric utilities, including several California utilities with considerable experience in TOD deployment as part of that State’s transition to standard TOD rates. Brattle and LIPA solicited information related to TOD rate design; customer outreach, education, and marketing; and operational practices that will be key to a successful TOD roll-out. Brattle made recommendations based on the interviews and their professional rate design expertise and extensive experience with utilities in a variety of jurisdictions across North America. PSEG Long Island prepared a Fit-Gap Analysis on June 8, 2022. LIPA and PSEG Long Island began discussing the Brattle recommendations for TOD and PSEG Long Island’s Fit-Gap Analysis to develop the program proposal by the end of July 2022.

LIPA felt it was critical to obtain feedback from key stakeholders in New York. Stakeholder feedback sessions were held with DPS, the New York Energy Research and Development Authority (“NYSERDA”), the Public Utilities Law Project (“PULP”), and the New York State Utility Intervention Unit (“UIU”). LIPA also engaged with NY-BEST, NYSEIA, LIPA’s Community Advisory Board, and other key stakeholders.

By the fall of 2022, LIPA and PSEG Long Island gained agreement on core deliverables, the 2023 performance metric deliverables and targets, and decisions on the elements from the Brattle recommendations, PSEG Long Island Fit-Gap Analysis, and stakeholder feedback for the project.

LIPA agreed to defer other 2022 Information Technology (“IT”) metric initiatives to focus on this critical project and ensure success. PSEG Long Island also on-boarded Guidehouse to serve as their project management expert.

Residential Time-of-Day Rates: Proposal

LIPA proposes to introduce a TOD rate as the standard offer to full-service residential non-heating customers. Residential customers can opt out of the TOD rate for a non-TOD rate or other rate options that may be available to them. Both Delivery Rates and Power Supply Charges will be time-differentiated. The TOD rate will consist of two daily periods (on-peak and off-peak) and two seasons (June through September and October through May).

- On-peak hours are weekdays (excluding holidays) from 3 p.m. to 7 p.m.
- All other hours are off-peak (including all weekend and holiday hours)

The list of holidays is currently defined in the tariff and no changes to that list are proposed. The TOD standard rate offer will provide an off-peak/on-peak ratio of approximately 0.5x in each season, which means the off-peak rate in each season will be 50% of the peak rate. The Delivery Rates will be designed to be revenue-neutral at the class level starting in 2024. The revenues to be recovered by the 2-period TOD delivery rate will be reduced by approximately one percent, to reflect the cost of service differences between the TOD and non-TOD subclasses, as customers who choose to remain on the TOD rate are generally expected to have usage profiles that are less expensive to serve than those who opt-out. Pursuant to LIPA's annual budget and rate process, 2024 rates (including Residential TOD, Residential non-TOD, and other services classes) will be proposed in the Fall of 2023, based on LIPA's 2024 proposed budget and revenue requirements.

The TOD and non-TOD rates will be updated each year based on the latest available cost-of-service data and actual experience with the TOD proposal.

The Power Supply Rate is designed to be revenue-neutral to the non-TOD Power Supply Charge but will fluctuate each month with the non-TOD power supply charge at a fixed 0.5:1 ratio for the off-peak and on-peak periods, respectively. The percentage factors may be updated each year as more information about usage patterns becomes available. Expressing the Power Supply Charge for the TOD standard offer as a ratio to the non-TOD Power Supply Charge is similar to how the residential V-TOU rates are expressed currently.

A TOD rate is also being proposed on an opt-in (voluntary) basis that provides for 3 periods in both seasons: on-peak, off-peak, and super off-peak.

- The on-peak period is the same as the 2-period standard offer – 3 p.m. to 7 p.m. on weekdays (excluding holidays).
- The off-peak period will run from 6 a.m. to 3 p.m. and 7 p.m. to 10 p.m. on weekdays, and from 6 a.m. to 10 p.m. on weekends and holidays.
- The super off-peak period will run from 10 p.m. to 6 a.m. on all days (weekdays, weekends, and holidays).

The super off-peak rate provides additional savings opportunities for customers able to shift more of their load to the 10 p.m. to 6 a.m. window (e.g., EV charging, customers with residential battery storage). The 3-period option will be priced to result in essentially the same annual revenue as the non-TOD rate for a representative residential customer.

Customer Enrollment

LIPA proposes to provide the CEO or his designee(s) the authority to transition customers onto the TOD standard rate in waves to manage the impacts on the billing and customer support systems and permit refinement of the transition process based upon experience. There will be some exemptions to this transition, including: (1) customers who are on one of LIPA's recently approved V-TOU rates, (2) customers with metering limitations (a smart meter with advanced metering capabilities is required for the initial rollout), and (3) customers who are on low and moderate-income ("LMI") discounts or life-sustaining equipment ("LSE") and whose historical usage suggests they are unlikely to save money on the TOD rate. These customers may opt into the standard 2-period TOD rate but will not be automatically transitioned. Beginning in 2024, new residential customers and customers moving to a new location within the service territory will be placed on the TOD rate unless they affirmatively choose a different rate option when they apply for service. Customers who do not want to transition can affirmatively choose to opt out and customers may opt out of the TOD standard offer for a non-TOD rate at any time without penalty.

Bill Protection Guarantee and Opt-Out Elections

To provide a risk-free transition of residential customers enrolled in the new TOD rates, LIPA proposes to offer a first-year bill protection guarantee. After the first 12 monthly bills have been issued to a TOD enrollee who was transitioned by LIPA, if the amount billed under the customer's TOD rate exceeds the amount that would have been paid under the non-TOD rate, a bill credit will be included on the customer's next monthly bill and the customer will be reminded of the right to opt out of the TOD rate at any time. Customers that do not affirmatively opt out after the first 12 months will continue on the TOD rate and no further bill guarantees will be provided. For transitioned customers that opt out of the new TOD rates before their 12 months of participation have expired, the benefits of the bill protection guarantee will be calculated as of the next billing date and recognized on their subsequent bill. Having opted-out, the customer may not return to TOD for a period of one year.

Treatment of Legacy TOU Rates

Residential customers already on time-of-use rates will remain on their current rate unless they request a change to the new TOD standard rate. Certain legacy residential TOD rates (181, 182, 184, and 188) are already closed to new participants and scheduled to be closed to all participants on December 31, 2024. These customers will be transitioned to the 2-period TOD rate unless they elect a different option prior to the transition. LIPA proposes to close the V-TOU rates (190, 191, 192, and 193) to new customers in 2023 when the new TOD rates are available. Customer satisfaction and costs to support these V-TOU rates will be gauged

relative to the standard TOD and optional super off-peak TOD rate and a recommendation will be presented to the Board in the future.

PSEG Long Island TOD Performance Metric and Board Reporting

The implementation of the proposed TOD tariff will be pursuant to the PSEG Long Island 2023 Performance Metric *PS&CE-08: Transition to New Standard Time-of-Day Residential and Small Business Rates on an Opt-Out Basis* (the “2023 TOD Performance Metric”) ([link](#)) that was adopted by the Board, as recommended by the DPS, in December 2022. The Performance Metric includes multiple specific deliverables in 2023 including:

- **First Quarter:** Establishment of key business, technical requirements, and information technology requirements, including a project implementation plan. The business requirements are dependent on the provisions of this tariff proposal.
- **Second Quarter:** Delivery of a comprehensive customer communications and marketing plan for transition to standard TOD that includes outreach, engagement, and advertising across multiple channels; and a change management plan that includes an operational readiness and impact analysis to address short-term and long-term staff impacts in contact center and billing, training plan, business processes/procedures, and customer satisfaction and awareness.
- **Fourth Quarter:** Satisfaction of go-live evaluation criteria, including IT test plans. The initiation of mass marketing and targeted communications programs will also begin if all the preceding requirements have been successfully achieved.

PSEG Long Island’s deliverables under this Performance Metric are subject to LIPA’s review and approval. LIPA Staff will report to the Board quarterly during 2023 on PSEG Long Island’s progress on this Performance Metric and readiness to begin the TOD transition.

Transition Schedule

At the CEO’s discretion, in the fourth quarter of 2023, the proposed TOD rate would be opened to voluntary participation in advance of the 2024 transition, and the transition of residential customers to the standard offer TOD rate will be implemented at LIPA’s sole discretion in waves until the migration is complete, commensurate with the customer service support and billing capabilities of PSEG Long Island.

An initial pilot wave of customers will transition to the standard offer TOD rate in the first quarter of 2024, with a second wave introduced in the second quarter. Further waves will be informed by LIPA’s experience with, and satisfactory resolution of, any issues that are uncovered in each preceding wave. The full migration of customers is expected to be completed in the first half of 2025.

Financial Impacts

Offering residential TOD as the standard rate is designed to have no impact on the revenues paid by residential customers in total in the first year. In other words, measured as a class, the Delivery and Power Supply rates are expected to produce the same revenues (i.e., be revenue-neutral) as the current rate design. However, in the longer term, shifting a significant share of the residential class to TOD will result in avoided peak-related generation and T&D costs. While future avoided peak-related costs will benefit all customers, participating customers will realize greater savings. Within the residential class, individual customer bills will vary depending on each customer's usage in the peak and off-peak periods, their efforts and ability to shift usage into the less expensive off-peak hours, and their decision whether to opt out of the TOD rate. Most customers are expected to choose the most economical rate for their current or prospective consumption patterns and the TOD and non-TOD rates are being set to account for this voluntary self-selection.

The impacts of the short-term revenue shifts will be reconciled through the Power Supply Charge calculations each month and the Revenue Decoupling Mechanism annually for power supply and delivery revenues, respectively. Over time, the allocation of class and subclass revenue to recover expenses in both the Power Supply Charge and the Delivery Charges would be adjusted to reflect the most current information then available.

Media Coverage and Public Outreach Efforts

To ensure customers and stakeholders were aware of LIPA's TOD proposal, LIPA conducted extensive outreach to stakeholders, elected officials, and news media outlets on the TOD proposal and ways the public could participate and provide comments. This outreach included e-mail campaigns, stakeholder and elected official briefings, and media interviews. LIPA also created a [TOD webpage](#) and informational [Fact Sheet](#).

Media placements encompassed all forms of earned media – television, print, online, podcasts, and radio – and included Newsday, News 12, the East Hampton Star, WSHU Public Radio, the American Public Power Association, the Long Island Herald, the Long Island Business News, the Long Island Advance, WCBS, Walk 97.5 Radio, the Energy Central Podcast, and the All Things DER podcast. Viewership and readership for these outlets total over 2 million, collectively. Media clips are attached as Exhibit C.

LIPA also placed a paid digital advertising campaign (<\$3,500) that included AdMessenger, tap-to-expand, and an over-the-top video. The goals of the campaign were to create awareness about the TOD proposal, reach audiences through a blended strategy, and increase traffic to our TOD webpage. Together, these campaigns earned over 269,000 impressions.

Stakeholder Comments

The project team consisting of members from LIPA, PSEG Long Island, and LIPA's consultant Brattle Consulting Group sought early input from experts and stakeholders such as DPS, NYSERDA, NYSEIA, the New York State Utility Intervention Unit, and the Public

Utilities Law Project. The proposed rate design and the rollout approach reflect the analyses and best practices assessments by the project team and stakeholder engagement efforts of all parties.

Public Comments

LIPA held two public comment hearings on February 21, 2023, in Hauppauge at 10 a.m. and in Uniondale at 6 p.m. – with both in-person and virtual participation options. Transcripts of the public comment sessions are attached as Exhibit D and the comments are summarized here, together with responses from LIPA Staff.

LIPA received comments from 13 individuals, NYSEIA, and Edgewise Energy (a firm that develops fuel-cell-powered Community Distributed Generation (“CDG”) projects under LIPA’s legacy Net Energy Metering (“NEM”) tariff). The public comment period ran through February 27, 2023. The comments are posted on LIPA’s website and available for public review.

- 2 customers and both industry stakeholders expressed support for the TOD rate proposal.
- 9 customers expressed concerns that they couldn’t shift energy out of the peak period. *Staff responds that LIPA’s [Fact Sheet](#) explains that most customers won’t see a bill increase even if they don’t change their usage and provides examples of simple ways that many customers can increase their savings from small changes in behavior.*
- 1 customer recommended that TOD be offered on an opt-in basis. *Staff responds that industry experience suggests that making TOD the standard rate will result in greater participation and benefits.*
- 1 customer recommended that any customer who installs a heat pump should be automatically enrolled in the space heating rate. *Staff responds that it will work with PSEG Long Island to act on this non-Tariff opportunity. The space heating rate is not part of the TOD proposal.*
- 1 customer suggested that LIPA cut its budgets instead of changing its rates and 1 customer suggested that LIPA rely more heavily on nuclear and fossil generation instead of renewable resources. *Staff responds that the proposed TOD rate supports the Board’s policy to provide clean, reliable, and affordable energy while transitioning to a zero-carbon electric grid and achieving industry-leading reliability, resiliency, and customer experience.*
- 3 customers and both industry stakeholders were concerned about how the TOD proposal would affect NEM. These comments are addressed below.

NYSEIA, Edgewise Energy, and 1 individual customer requested specific changes in the NEM rules:

- To allow carryover to the next year by grandfathered (pre-2018) NEM customers and annual cash-out by non-grandfathered (2018 or newer) NEM customers. *Staff responds that NEM rules were developed in a multi-year statewide process run by the DPS that concluded in 2017. Any changes should be addressed by that broader statewide group. The transition to TOD rates does not implicate the results of the prior statewide NEM proceeding.*
- To provide easier access to customers' 8760 load data. *Staff responds that LIPA already provides easy access to a customer's 8760 load data, so long as the customer authorizes it. LIPA is participating in the Statewide discussions run by the DPS on this issue.*
- To provide "one-bill net crediting" for CDG customers in the same manner as ordered by the Public Service Commission. *Staff responds that LIPA already offers one-bill net crediting for CDG customers in the manner ordered by the Commission for the regulated utilities. The Commission order is limited to CDG subject to the Value of Distributed Energy Resources ("VDER") tariff and does not include legacy NEM CDG hosts. Staff is willing to further research the technical billing issues, feasibility, and cost of one-bill crediting for legacy NEM CDG hosts, which affects fewer than 11,000 customers (i.e. less than 1% of LIPA's residential customers).*
- To exclude legacy NEM CDG participants from the optional super off-peak TOD rate. *Staff responds that NYSEIA and Edgewise Energy indicated in their comments that they are supportive of the proposed approach under the standard 2-period TOD rate. Staff recommends accommodating their request that CDG host facilities be allowed to restrict legacy NEM CDG participants from opting into the 3-period TOD rate. NEM CDG satellite customers that want to opt into the 3-period rate may be unenrolled from participation in CDG by the CDG host. This would not affect future CDG customers, which would be subject to the VDER tariff and do not have existing contracts with any CDG host. On March 17, Edgewise Energy verbally further indicated that in their analysis the fuel cell NEM CDG host may still be adversely affected by the transition to TOD rates even if the customers opt for a 2-period TOD rate. LIPA does not guarantee the financial returns to CDG hosts; however, NEM CDG customers will be among the last to transition to standard TOD rates (likely in 2025), and LIPA has indicated it will review any detailed financial analysis provided by Edgewise Energy and bring a recommendation back to the Board, if appropriate. LIPA has only approximately 11,000 legacy NEM CDG customers (less than 1% of LIPA's residential customers).*

The same three parties expressed their concern that present NEM customers on a flat rate can offset the energy produced at any time of the day with consumption at a different time of the day, whereas under the TOD rate, energy generated in one TOD period cannot be used to offset consumption in another period.

Staff responds that in reviewing existing NEM customer data, about 6,000 out of LIPA's 27,000 post-2018 NEM customers had a surplus in one TOD period and a deficit in

another period on an annual basis, suggesting a relatively limited number of customers that might be affected by this issue. Further, NEM customers may still opt for a flat rate and thereby avoid the potential issue.

Additionally, to address this concern, Staff has proposed an Excess Generation Exchange mechanism that would allow NEM customers with excess generation credits in one period (i.e., on-peak, off-peak) to change them into generation credits at the then-effective price ratio in another period. This would not alter the amount of energy the customer has already been billed for but would avoid a situation where the customer accumulates a large surplus in one bank over many years. Proposed Original Tariff leaf 188B and modified tariff leaf 34F-2 have been inserted into the proposal to authorize this proposed exchange process.

In discussing the Excess Generation Exchange with NYSEIA, NYSEIA verbally supported the proposal but requested (i) a monthly rather than annual exchange and (ii) that the Excess Generation Exchange be available to pre-2018 customers who are cashed out of banked NEM credits annually under statewide NEM rules. Staff accepts the proposal to allow monthly exchanges in the early days of the Excess Generation Exchange program, as experience is gained on how customers will react to and behave under the program. The CEO may direct limitations on the frequency of exchanges or limit the exchanges to a certain number per year, should the monthly exchange option prove too difficult or costly to manage as compared to customers' perceived benefit. LIPA will consult with NYSEIA on the operating procedures to implement the Excess Generation Exchange mechanism.

Staff does not recommend the extension of the exchange program to grandfathered (pre-2018) NEM customers because they would be receiving privileges that are not available to non-TOD customers under the statewide NEM rules that were developed in a multi-year proceeding by the DPS. Changes to such NEM rules would be more appropriately considered in that Statewide proceeding. The transition to TOD rates does not implicate that prior statewide NEM proceeding.

Department of Public Service Recommendation

The DPS provided its Recommendation Letter to the Board on March 28, 2023, which concludes:

“Department Staff has reviewed LIPA’s proposed Tariff modifications and the Department recommends that the LIPA Board of Trustees adopt LIPA’s Tariff proposal consistent with the discussion above.”

The discussion in the DPS’ Recommendation Letter includes commentary on the implementation of the TOD transition and the milestones that were established for the service provider in the DPS-recommended and Board-approved 2023 TOD Performance Metric *PS&CE-08* ([link](#)), discussed further above. LIPA and DPS both distinguish between the Board’s approval of the policy to adopt standard TOD rates and the migration of

customers onto that rate. The tariff, if approved, establishes the policy to adopt standard TOD rates and provides LIPA's CEO the authority to execute the transition, if and as PSEG Long Island has adequately demonstrated readiness, as defined in the deliverables of the 2023 TOD Performance Metric and independently verified and validated by LIPA staff and DPS. The Board further requires quarterly management reporting on the progress of all metrics and will be regularly apprised of TOD transition readiness through those and other reports. The tariff provides a stable starting place for implementing the tools and processes necessary to transition customers to TOD rates through mid-2025. LIPA Staff further addresses the DPS' commentary on implementation below.

DPS supports the proposed Bill Guarantee stating "[DPS] Staff finds the bill protection mechanism included in LIPA's proposal is aligned with the Commission's Order regarding ratemaking and utility revenue model policy." DPS also supports the modifications to the tariff regarding net energy metering ("NEM") and Community Distributed Generation ("CDG") that were the subject of comments by Edgewise Energy and one customer that allow for the exchange of energy between the separate rating periods and that allow CDG hosts to exclude customers that choose the 3-period rate from their projects. The DPS Recommendation Letter indicates that "Staff believes that LIPA's proposed revision will address these concerns from Distributed Energy Resource ("DER") developers" and further states that "[DPS] Staff recommends that the Board adopt the proposal including this update." DPS staff notes that LMI customers will be included in the transition. LIPA notes that LMI customers that are unlikely to benefit from TOD rates will not be migrated.

DPS notes that the TOD rate design includes a one percent volumetric delivery revenue discount for customers on the 2-period TOD Rate and notes that to maintain revenue neutrality on a service class level, the delivery revenue collected by the Flat Rate would need to increase by an estimated 4.5%, which would be approximately 1.9% of the overall customer bill. DPS Staff states it has "concerns regarding the uncertainty of the TOD rate impacts to revenue requirement and the lack of a precise timeframe for cost studies to be conducted."

LIPA Staff responds that the one percent revenue discount has already been justified in cost studies shared with the DPS and further that, as previously communicated and noted in the DPS Recommendation, "the TOD and non-TOD rates will be updated annually based on the latest cost of service data... the annual update to the ratio/adjustment factors should provide more accurate adjustment factors that represent customer usage." These updates will be based on the actual customers that adopt TOD rates and their cost to serve.

It is expected that 85% or more of customers will ultimately adopt TOD rates. For scenario analysis purposes, we have assumed that the 15% of customers that opt out of the TOD rate are the most expensive to serve and are making an economically rational choice. The ultimate opt-out pattern may or may not reflect this assumption and the actual discount to TOD Rate customers will be based on the annual updates using actual data.

As currently proposed, less than 100,000 (<10%) of LIPA's residential customers would migrate to the TOD rate before the summer of 2024, when the bulk of annual energy sales occur, based on the customer migration plan in the 2023 TOD Performance Metric. The revenue impacts in 2024, to be justified in a cost-of-service study that has already been discussed with the DPS, would be a small fraction of the 1.9% potential increase in the typical monthly bill for flat rate customers, with subsequent annual updates based on actual customer migration data and cost to serve. The lengthy migration plan itself provides the opportunity to refine the assumptions based on actual customer data. We expect more than 80% of customers will save money on the TOD Rate, even before any changes to their usage pattern.

DPS notes that “the total cost of the proposal needs to be assessed prior to the initial migration implementation phase of the transition. LIPA and PSEG LI have not realized (sic) the total cost associated with several important steps of the transition. First, the billing system will need to be upgraded and modernized to support these new rates. Second, a comprehensive customer education, outreach, and marketing plan is needed to help customers understand how TOD rates work and how they can adjust their usage behavior to save money.” DPS recommends that

“LIPA develop and include a budget forecast for the full-scale implementation of the TOD rate, including the various upgrades and outreach and marketing, and submit that forecast to the DPS and present it to the board by September 15, 2023.

LIPA Staff notes that the Project Implementation Plan (“PIP”), including key business, technical, and IT requirements and the comprehensive customer communications and marketing plan, are part of the 2023 TOD Performance Metric recommended by DPS and approved by the LIPA Board. The milestones for that plan are all prior to September 15, 2023.

Further, the IT investments to be implemented prior to the TOD transition were already budgeted for and authorized in the 2023 Capital Budget at the PSEG Long Island requested amount of \$4.8 million. Per the 2023 Performance Metric, these upgrades are to be completed, including passing IT test plans, in the fourth quarter of 2023. We recommend proceeding with the Board's previously approved 2023 Budget and 2023 TOD Performance Metric, as recommended by DPS in December 2022. Finally, pursuant to the 2023 TOD Performance Metric, the comprehensive customer education plan is due to LIPA and DPS by June 30, 2023, which provides adequate time to review the plan and for the Board to consider funding as part of the regular 2024 Budget process.

DPS recommends “LIPA should adopt the best practices of the utilities that have already begun the transition to TOD rates. Therefore, to guarantee the success of the TOD rates, DPS recommends that LIPA should develop a detailed transition plan, as well as a comprehensive communication and marketing plan, and submit them to DPS Staff for review, provide opportunities for external stakeholder engagement, and review by the LIPA Board prior to the implementation of TOD rates.”

LIPA has previously hired the Brattle Group to perform best practices research from other utilities, including the California utilities, and incorporated the findings in the TOD proposal (as further discussed in “Background” above). That research was shared with DPS and stakeholders during the development of the TOD proposal.

LIPA will work with DPS Staff to understand the additional requirements of the newly proposed “transition plan” over that of the other planning requirements of the 2023 TOD Performance Metric previously recommended by DPS. The 2023 TOD Performance Metric includes detailed planning for customer outreach, billing, and IT readiness, among other components. DPS is provided real-time access and the opportunity to comment on all the planning documents produced by PSEG Long Island as part of the 2023 TOD Performance Metric, and we would be happy to arrange stakeholder engagement as part of LIPA and DPS’ review of these deliverables. The Board is provided quarterly updates on all Performance Metrics, and LIPA Staff regularly briefs the Board on subjects in detail at each Board of Trustees meeting.

DPS recommends “LIPA conduct a thorough review of the first migration wave to assess its success and deliver a progress report to the Board, DPS, and stakeholders.” This assessment would include “1) off-peak electricity usage; 2) benefits/costs; 3) revenue stability; and 4) customer satisfaction.” DPS further suggests that “a well-developed pilot program with a statistically significant number of customer participants preceding TOD implementation, has allowed utilities in California to assess various aspects of residential TOD rates, including but not limited to customer adoptions and retention rates, effective communication methodologies, transition plan, the costs associated with IT upgrades, marketing and education, and study usage shifts” and recommends such a pilot as part of the implementation plan before a full transition to TOD rates.

LIPA advised PSEG Long Island (with a copy to DPS) on February 10, 2022 as part of the 2023 TOD Performance Metric that an evaluation must be performed of the customer and operational experience during the pauses between TOD migration phases, with associated fixes to systems and/or processes to improve outcomes for subsequent waves. LIPA expects to regularly brief its Board and stakeholders on the TOD transition. Certain components like off-peak electricity usage require at least a year of data to evaluate, whereas other components like customer experience can be readily evaluated between phases. There has been substantial research from other utilities that have implemented TOD rates around the world, and there is no reason to believe the Long Island customer base would react significantly differently than other studies; however, load research can be valuable for other New York utilities in planning their TOD transitions and will be part of the assessments.

Further, LIPA notes that it has already implemented VTOU rates, which provided experience with many aspects of the California pilot programs mentioned above. Additionally, the phased implementation plan with multiple waves and time for feedback contemplates the lessons learned by the California TOD pilots. As described above, the tariff proposal permits LIPA to determine the transition schedule based on readiness. As

California utilities have already shown in adopting statewide TOD rates, the policy decision to implement TOD rates is sound. LIPA will work with DPS Staff in their ongoing review of the 2023 TOD Performance Metric deliverables. LIPA Staff suggests that the intent of the intended pilot and extensive first-wave reporting can be met more efficiently within the transition framework already established and recommended by DPS for approval by the LIPA Board in December 2022, without causing a multi-year delay to the TOD rate implementation.

DPS recommends “LIPA should use all available AMI data to perform a full segmentation analysis of its residential customers” using data for both 2021 and 2022.

LIPA notes that a full segmentation analysis using AMI or smart meter data was already conducted using 2021 AMI data, which was shared with DPS and stakeholders and used to develop the TOD proposal over the last 15 months. The 2022 data would not yield materially different conclusions than the 2021 data already provided. Additionally, as noted above, LIPA intends to update the cost of service for TOD and non-TOD customers annually, thereby regularly incorporating the best and most up-to-date data available. DPS notes implementation concerns labeled “Other Obstacles” in the Recommendation Letter. These other obstacles discuss known performance issues that PSEG Long Island is having in meeting LIPA’s expectations in the call center and with its IT resources.

PSEG Long Island’s performance issues are a legitimate concern. The way to address inadequate performance by the service provider is to establish clear performance expectations, provide suitable financial resources to meet those expectations, and to place appropriate amounts of compensation at risk in the Performance Metrics to motivate PSEG Long Island to achieve expectations. DPS staff made such recommendations, which the LIPA Board adopted, to achieve these improved outcomes as part of the 2023 Performance Metrics. As stated previously, the migration to TOD rates will occur based on operational readiness. If PSEG Long Island fails to achieve that operational readiness, as independently verified and validated by LIPA and DPS, the TOD migration will be delayed.

Additionally, as noted above, the IT plan was budgeted for in 2023 and is expected to be concluded by year-end, prior to the implementation of the TOD transition.

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.

After questions and a discussion by the Trustees, and the opportunity for the public to be heard, upon a motion duly made and seconded, the following resolution was approved by the Trustees.

1789. APPROVAL OF MODIFICATIONS TO LIPA’S TARIFF RELATED TO RESIDENTIAL TIME-OF-DAY RATE

WHEREAS, the Board of Trustees of the Long Island Power Authority (“LIPA”) has adopted a Board Policy on Customer Value, Affordability, and Rate Design, which sets forth the Board’s commitment to establishing rates and tariffs that equitably allocate costs, provide customers with the opportunity to save money, employ innovative rate designs, and encourage conservation, efficient use of energy resources, and the transition to a carbon-free economy; and

WHEREAS, the Board has reviewed the proposal and determined that the proposal is consistent with LIPA’s mission and values, including as set forth in the Board Policy on Customer Value, Affordability, and Rate Design; and

WHEREAS, LIPA staff conducted extensive outreach to stakeholders, elected officials, and news media outlets on the TOD proposal and ways the public could participate and provide comments; and

WHEREAS, following the issuance of public notice in the State Register on December 21, 2022, public hearings were held on February 21, 2023, in person and by video conference accessible to participants in Nassau and Suffolk County and the Rockaways, 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 April 1, 2023; 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 Consideration of Approval of the 2022 Financial Report to be presented by Donna Mongiardo.

Ms. Mongiardo presented the following action item and took questions from the Trustees.

Requested Action

The Board of Trustees (the “Board”) is being requested to approve the 2022 Financial Report (the “Financial Report”) prepared in accordance with Section 2800(1) of the Public Authorities Law (“PAL”), in the form attached as Exhibit “B.”

2022 Financial Report

Section 2800(1) of the PAL requires LIPA to submit an annual report to the Governor, the Chairman and ranking minority member of the Senate Finance Committee, the Chairman and ranking minority member of the Assembly Committee on Ways and Means, the State Comptroller, and the Authorities Budget Office, within ninety days after the end of LIPA’s fiscal year. Under Section 2800(1)(a)(2) of the PAL, the Financial Report shall include the following: audited financials; grant and subsidy programs; operating and financial risks; current bond ratings; and long-term liabilities. Section 2800(3) of the PAL requires the Financial Report to be approved by the Board.

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 be heard, upon a motion duly made and seconded, the following resolution was approved by the Trustees.

1790. RESOLUTION APPROVING THE 2022 FINANCIAL REPORT OF THE LONG ISLAND POWER AUTHORITY

WHEREAS, Section 2800(1) of the Public Authorities Law (“PAL”) requires public authorities such as the Long Island Power Authority (“LIPA”) to prepare an annual report; and

WHEREAS, LIPA’s annual report includes, among other things, a financial report, as defined under Section 2800(1)(a)(2) of the PAL (the “Financial Report”); and

WHEREAS, LIPA has prepared its Financial Report, which, pursuant to Section 2800(3) of the PAL, is subject to the approval of the Board of Trustees.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Trustees hereby approves the 2022 Financial Report of the Long Island Power Authority, in the form presented at this meeting.

Acting Chair Fischl then stated that the final agenda item, Secretary's Report on Board Policies and Communications, would be in written submission only.

Acting Chair Fischl then announced that the next Board meeting is scheduled for Wednesday, May 10, 2023.

Acting Chair Fischl then asked for a motion to adjourn to Executive Session to discuss litigation matters and announced that no votes would be taken and that the Board would not be returning to Open Session. The motion was duly made and seconded, and the following resolution was adopted:

1791. EXECUTIVE SESSION – PURSUANT TO SECTION 105 OF THE PUBLIC OFFICERS LAW

RESOLVED, that pursuant to Section 105 of the Public Officers Law, the Trustees of the Long Island Power Authority shall convene in Executive Session for the purpose of discussing litigation matters.

At approximately 12:27 p.m. the Open Session of the Board of Trustees was adjourned on a motion to enter into Executive Session.
