NEW YORK STATE | Department of Public Service

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Rory M. Christian
Chair and
Chief Executive Officer

June 15, 2023

Via E-mail and U.S. Mail

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

Re: Matter 22-00522 - In the Matter of Department of Public Service Evaluation of PSEG Long Island Performance and Incentive Compensation 2022.

Dear Vice Chair Fischl:

I am pleased to provide the recommendation of the New York State Department of Public Service (DPS or the Department) regarding PSEG Long Island's (PSEG LI or the Service Provider) annual incentive compensation for the 2022 contract year. The Department has reviewed the Long Island Power Authority (LIPA or the Authority) evaluation of PSEG LI's performance, submitted to DPS on May 15, 2023, relative to the metrics set forth in the Second Amended and Restated Operations Services Agreement (the New OSA), between LIPA and its Service Provider PSEG LI.

The LIPA Reform Act (LRA), signed into law on July 29, 2013, contains numerous provisions intended to improve electric utility service to customers on Long Island and the Rockaways. A long-term objective of the LRA is to provide customers with electric service consistent with that provided by investor-owned utilities in New York State. The LRA authorizes the Department to review the data, reports, and other pertinent information submitted to LIPA by PSEG LI related to its performance with respect to the New OSA metrics, as well as LIPA's evaluation of such data and reports, and make a recommendation to the LIPA Board of Trustees (LIPA Board or BoT) with respect to PSEG LI's annual incentive or variable based compensation.[1, 2]

1 Public Service Law §3-b(3)(h).
2 The terms "variable compensation" and "incentive compensation" are used interchangeably in this letter.

The New OSA provides PSEG LI the opportunity to earn incentive compensation, in addition to the annual fixed compensation specified in the A&R OSA, based on its level of performance against certain performance metrics.

For PSEG LI to be eligible to receive incentive compensation, it must meet certain thresholds. First, PSEG LI must not trigger any gating metrics including failing to meet one or both of the Cost Management metrics. Second, if PSEG LI meets this threshold, then the level of its incentive compensation is determined by its achievement of 96 performance metrics (for 2022) allocated among five categories: Electric Transmission & Distribution (T&D), Customer Service (CS), Information Technology (IT), Business Services (BS), and Power Supply & Clean Energy Programs (PS&CE). These categories are valued at 40 percent, 20 percent, 15 percent, 15 percent, and 10 percent of the total incentive compensation amount, respectively. For the 2022 contract year, PSEG LI is eligible to earn a maximum of $20 million dollars (expressed in 2021 dollars) of incentive compensation or a total of $21.03 million in today's dollars.

On March 31, 2023, PSEG LI submitted to LIPA and DPS for their review, its report containing PSEG LI's final position regarding 2022 metrics performance and anticipated compensation.[3] PSEG LI provided a restated report which included minor amendments on April 4, 2023.[4] PSEG LI determined that it met or exceeded target levels for 80 out of 96. As such, PSEG LI submitted an invoice for approximately $16.8 million of incentive compensation related to the performance metrics.

On May 15, 2023, LIPA submitted for DPS review, a report containing LIPA's findings regarding PSEG LI's 2022 metrics performance and the appropriate level of incentive compensation. On May 16, 2023, LIPA filed an amended report which addressed minor calculation errors.[5, 6] LIPA determined that for the 2022 contract year, PSEG LI achieved or exceeded target performance for 73 out of 96 performance metrics. As such, LIPA contends that PSEG LI qualifies for variable compensation in the amount of approximately $14.8 million.

LIPA disagrees with PSEG LI's assessment of performance for the following eight (8) metrics:

- BS-07 - Affiliate Cost Benefit Justification;
- BS-11 - Long Island Choice Reform;
- BS-12 - Advanced Metering Infrastructure (AMI) Opt-Out Fees;
- BS-17 - Project Outreach;
- IT-01 - Organizational Maturity Level – Doing;
- IT-02 - Organizational Maturity Level – Managing;
- PS&CE-08 - TOU Pricing Options – Space Heating & Large Commercial; and

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3 Matter 22-00522, In the Matter of the Department of Public Service Evaluation of PSEG Long Island Performance and Incentive Compensation 2022, 2022 PSEG Long Island 2022 Incentive Compensation Claim (filed March 31, 2023).

4 Matter 22-00522, supra, PSEG Long Island 2022 OSA YE Incentive Compensation Claim – Restated 4-4-2023 (filed April 4, 2023). (PSEG LI Report)

5 Matter 22-00522, supra, LIPA Year-End Report on PSEG Long Island's 2022 Performance Metrics (filed May 15, 2023).

6 Matter 22-00522, supra, LIPA Year-End Report on PSEG Long Island's 2022 Performance Metrics (filed May 16, 2023. (LIPA Report).

- T&D-26 - Vegetation Management Work Plan – Hazard Tree Removal.

DPS Staff reviewed both PSEG LI and LIPA's reports, including the various supporting documentation and other deliverables provided to evidence completion or a failure to complete each metric. DPS' review includes continuous review of monthly and quarterly scorecard reports, and other reports or documentation submitted consistent with the requirements of each metric. Concerning the eight (8) metrics where PSEG LI and LIPA disagree, DPS Staff's determination is discussed below.

<u>BS-07 – Affiliate Cost Benefit Justification</u>:

BS-07 was designed to analyze PSEG LI's usage of affiliate services through the submission of cost benefit justification(s). The objective was to ensure the usage of affiliate services is cost effective and in the best interest of LIPA and PSEG LI's customers. The metric consists of four targets:

1. PSEG LI and LIPA must agree upon the specific affiliate services to be reviewed by March 31, 2022 (deliverable BS-7.1) LIPA and PSEG LI selected Human Resources (HR) and Information Technology (IT) to be reviewed for 2022;
2. PSEG LI must then submit a cost benefit justification regarding HR related affiliate services by June 30, 2022 (deliverable BS-7.2);
3. PSEG LI must submit a cost benefit justification regarding IT related affiliate services by September 30, 2022 (deliverable BS-7.3); and
4. Finally, PSEG LI must develop remediation plans for any services deemed deficient in cost or quality (deliverable BS-7.4).

Each cost benefit analysis is required to compare the cost and level of affiliate services with the alternative of providing the service by PSEG LI dedicated workforce and/or a third-party vendor using market data or other reasonable estimates of rates and costs readily available to PSEG.[7]

Further, as stated in the metric calculation criteria for BS-07, one of four outcomes will result from PSEG LI's analysis:

i. Agreement between PSEG and LIPA to continue delivering the Service via the existing Affiliate model
ii. Agreement between PSEG and LIPA to continue delivering the Service via a modified Affiliate model
iii. Transition to PSEG Long Island.
iv. PSEG develop plans to transition services to third parties where use of PSEG Long Island or other PSEG affiliates is not cost- or quality justified. Implementation of the plans is not part of the metric calculation.

In May of 2022, PSEG LI submitted a Project Implementation Plan (PIP) outlining the specific scope areas within IT and HR affiliate services to be reviewed. The PIP was reviewed

[7] 2022 OSA Performance Metrics, BS-7, p. 108.

and approved by LIPA.[8] PSEG LI then submitted a cost benefit analysis for HR related affiliate services on June 30, 2022. LIPA reviewed and approved the deliverable, concluding that LIPA would benefit from separating the affiliate services. A study will be conducted in 2023 to evaluate the structure of a standalone HR Department. LIPA did not require a remediation plan for any HR affiliate services currently provided by PSEG LI.

On September 28, 2022 PSEG LI submitted a cost benefit analysis for IT related affiliate services, in a format consistent with their earlier HR services analysis.[9] Taken together, PSEG LI reports that it has successfully met each target for BS-07.[10] On May 2, 2023, after a series of correspondence was issued between LIPA and PSEG LI, LIPA rejected PSEG LI's cost benefit justification for IT services (deliverable BS-7.3).

LIPA states that PSEG LI was unable to substantiate IT affiliate costs with the support provided and stated that LIPA disagreed with PSEG LI's cost method allocation for IT affiliate services.[11] LIPA states that it is unable to independently verify these affiliate costs without specific vendor contracts belonging to PSEG LI's affiliate in New Jersey, PSEG. LIPA specifically requested multiple documents from select vendors (Remini Street, SAP (Success Factors), and DXC Technologies) including vendor contracts, pricing information, scope of work, four months of monthly invoices, and a monthly report detailing the work performed. LIPA's stated purpose for requesting this information was to establish a baseline for review.[12] LIPA also states, "PSEG LI was expected to fully disclose Affiliate Services related to IT to LIPA… to independently verify the cost-benefit analysis"[13]

PSEG LI provided some but not all the requested information. LIPA indicated that it was the responsibility of PSEG LI to resolve any contractual conflicts to justify its use of these affiliate services. PSEG LI contends that with this request, LIPA is challenging allocated expenses for corporate level [PSEG in New Jersey] expenses, which is not within the scope of the metric.[14] In addition, in a letter to LIPA on March 23, 2023, PSEG LI contends that the requested contracts are not required in order to provide cost substantiation. PSEG LI's letter also states that LIPA has conducted frequent internal audits of affiliate services, citing a recent audit of PSEG LI IT and HR related affiliate costs which concluded that the transactions tested were supported by documentation provided.

PSEG LI's inability to substantiate the cost and scope of its IT affiliate services has prevented a thorough review of this metric. Furthermore, PSEG LI is contractually obligated under the New OSA to provide the documents requested by LIPA. Such documents will allow LIPA and DPS to review this metric and, importantly, help LIPA to determine whether customers are overpaying or paying for services they do not need. Without proper substantiation it remains unclear whether such services require remediation, or they can be effectively transitioned within PSEG LI at an advantageous cost to customers. Until such time as LIPA and

8 Id.
9 LIPA Report, p. 78.
10 PSEG LI Report, p. 19
11 LIPA Report, p. 79.
12 LIPA Report, p. 78.
13 Id.
14 PSEG LI Report, p. 19.

PSEG LI can resolve the issues regarding substantiation, DPS recommends that LIPA withhold awarding compensation to PSEG LI for this metric.

BS-11 – Long Island Choice Reform:

BS-11 was created to implement the reforms to the Long Island Choice program recommended by DPS Staff.[15] This metric requires the implementation of six specific recommendations before December 31, 2022, to be considered completed. PSEG LI states it met five of the six deliverables and that on-going collaboration with DPS is still underway concerning the final deliverable.[16]

LIPA states that only five of the six recommendations were implemented before December 31st.[17] The sixth recommendation regarded the establishment of a Community Choice Aggregation (CCA) opt-out business process consistent with the Public Service Commission's (PSC or the Commission) CCA framework, including review and recommendation by DPS of PSEG LI's form CCA Data Security Agreement (DSA).[18] The metric requires that for establishment of the CCA opt-out business process, PSEG LI must submit their process documents for review and recommendation by DPS and thereby receive DPS' positive or supportive recommendation that PSEG LI is consistent with the Commission's CCA framework for these processes to become effective.[19]

PSEG LI submitted their initial CCA data security agreement on December 28, 2022, without advanced coordination just days before the deliverable deadline, between the Christmas, Hannukah, and New Year holidays. As such, DPS Staff was unable to conduct the necessary analysis and issue its recommendations before December 31, 2022. PSEG LI requested an extension to January 31, 2023. LIPA granted this limited extension.

On January 27, 2023, DPS Staff issued a letter to PSEG LI formally notifying PSEG LI that additional information was required before DPS Staff could issue a recommendation as PSEG LI's Data Security Agreement was still inadequate. As stated in the DPS' January 27 letter, "based upon DPS current review of these draft CCA On-Boarding and DSA documents, additional work by PSEG LI is required to complete our review before any recommendations can be provided." The additional work included but was not limited to further enhancements to PSEG LI's CCA processes to be consistent with the PSC's CCA Framework in effect prior to January 2023, its January 2023 CCA Modification Order,[20] and its Statewide Data Access Framework Order.[21] PSEG LI requested of LIPA either an additional deadline extension or a shift of the outstanding deliverable into 2023. LIPA rejected PSEG LI's request, as the requested extension did not meet LIPA's criteria for an extension.

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15 https://www.lipower.org/wp-content/uploads/2022/01/2021-12-15-Approval-of-Tariff-Changes.pdf
16 PSEG LI Report, p. 23.
17 LIPA Report, pp. 80-81.
18 https://dps.ny.gov/community-choice-aggregation.
19 2022 OSA Performance Metrics, BS-7, p. 113.
20 Case 14-M-0224, Community Choice Aggregation Programs, Order Modifying Community Choice Aggregation Programs and Establishing Further Process (issued January 19, 2023). (CCA Modification Order).
21 Case 20-M-0082, Proceeding on Motion of the Commission Regarding Strategic Use of Energy Related Data, Order Adopting a Data Access Framework, (issued April 15, 2021).

To-date PSEG LI continues to work with DPS Staff to bring their CCA process documents into compliance with Commission Orders whereupon a DPS recommendation to adopt this process can be issued. As such, LIPA determined that PSEG LI failed to achieve the sixth deliverable for BS-11. PSEG LI, in its report, contends that an extension is needed and appropriate in order to facilitate further discussions with DPS Staff.[22]

PSEG LI had ample time during 2022 to provide DPS the documents necessary to receive adequate review. Further, the additional delay further complicated DPS' review as the timeline for completion was extended into 2023 at which time the PSC adopted enhanced guidance and requirements. Work remains for PSEG LI to develop a compliant CCA program. Therefore, DPS Staff agrees with LIPA that PSEG LI failed to meet BS-11.

<u>BS-12 – Advanced Metering Infrastructure Opt Out Fees</u>:

BS-12 was designed to implement daily fees for customers who chose to opt-out of receiving an AMI smart meter. The metric consists of one target: PSEG LI must implement all AMI fees accurately by July 31, 2022 (deliverable BS-12.1).

In July 2022, the LIPA Board adopted a Tariff modification, upon DPS' recommendation, which authorized the AMI opt-out fee to become effective August 1, 2022.[23] PSEG LI successfully integrated the AMI opt out fee bill surcharge into their billing system before July 31, 2022, however, PSEG LI billed daily charges for days prior to the Tariffed effective date of August 1, 2022.

LIPA contends that PSEG LI failed to meet BS-12, because PSEG LI violated the provisions of Tariff Leaf No. 100, section IV(B)(3), which states "[i]f a rate change becomes effective during a billing period (and unless the Authority determines otherwise), the Authority will average the old and new rates, weighted by the number of days in the billing period before and after the effective date of the rate change."

The Tariff modifications adopted by the LIPA Board clearly stated that AMI opt-out fee charges will begin August 1, 2022. PSEG LI contends in its report that collection prior to August 1 was necessary to prevent meter reading costs from being charged to non-opt-out customers within the first month. LIPA contends that billing fees prior to the board approved date of August 1, 2022 is an inaccurate implementation of the AMI fee.

DPS Staff recognizes that implementing fees beginning August 1 would likely prevent PSEG LI from fully recovering meter reading costs for the month of August via the opt-out fee, however the provisions of Tariff Leaf No. 100 provide for a method to accommodate the implementation of the new fee during a billing period. In addition, the Tariff proposal as adopted by the LIPA Board did not include any waiver or inclusion of specific terms to address pre-collection of the fee in advance of the August 1, 2022 date. Moreover, recovering meter

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22 PSEG LI Report, p. 23.
23 Matter 22-00945, <u>Tariff Filing of Long Island Power Authority to Modify its Tariff for Electric Service 2022</u>, DPS Recommendation Letter Regarding LIPA's Proposed Modifications to Its Tariff (issued July 18, 2022).

reading services cost from the residential service class, including non-opt-out customers, was considered a standard business practice prior to August 2022. As such, DPS Staff agrees with LIPA and concludes that PSEG LI has failed to meet BS-12.

<u>BS-17 – Project Outreach</u>:

BS-17 was designed to monitor the effectiveness of T&D project outreach. The target for BS-17 is to achieve 100 percent performance on delivering 5 targets which were inclusive of monthly status report requirements thus producing multiple sub-deliverables:

1. By February 1, 2022, modify and finalize a survey tool (17.1);
2. By February 1, 2022, develop and submit to LIPA a plan to increase awareness and participation in the survey (17.2);
3. Beginning March 15, 2022 and continuing on the 15th of each month thereafter provide to LIPA and DPS details of all survey responses received up to the 1st of the month (BS-17.3-BS-17.9);
4. By September 30, 2023, develop and share with LIPA and DPS recommendations of outreach improvements (17.10);
5. By December 31, 2022, implement recommendations for outreach improvements for the following year (BS 17.14).

LIPA initially approved PSEG LI’s Survey Outreach Awareness Plan (Awareness Plan) in February 2022. In July 2022, LIPA advised PSEG LI that the survey was flawed and subsequently rejected completion of the Awareness Plan under BS 17.2. LIPA’s rejection was premised on the basis that out of 276,978 mailers, PSEG LI received only 50 survey responses, a 0.0001 percent response rate.[24]

LIPA engaged with PSEG LI, providing additional time and opportunity to discuss making changes to the Awareness Plan, however, PSEG LI did not respond and made no changes to its Awareness Plan to increase customer awareness and/or participation in the survey.

Additionally, PSEG LI did not submit an exception request to revise the methodology contained in the Awareness Plan and consequently missed two further deadlines to submit deliverables BS-17.10 and BS-17.14, citing the minimal response to the surveys and that the survey submissions did not provide meaningful customer insight regarding capital projects.

Most responses did not provide insight into capital project outreach improvements. Responses included comments about other completed work, vegetation management, property damage, and other general criticisms of PSEG LI. PSEG LI also noted that outreach surveys have not been widely utilized, and in the rare instances where they have been, a common customer behavior is to voice general complaints in their response.

Despite recognizing the lack of meaningful customer responses, PSEG LI continued with its survey process as originally approved by LIPA, however, by not making nor implementing any recommendations as outlined in BS-17.10 and BS-17.14 PSEG LI failed to achieve all aspects of BS-17. Thus, DPS Staff agrees with LIPA that PSEG LI failed to meet BS-17.

[24] LIPA Report, p. 83.

<u>IT-01 – Organizational Maturity Level – Doing & IT-02 – Organizational Maturity Level - Managing</u>:

Metrics IT-01 and 02 were designed to measure PSEG LI's organizational maturity level using the Capability Maturity Model Integration (CMMI) model. Under the terms of these two metrics, PSEG LI must achieve level 3 organizational maturity in two categories, "Doing," IT-01 and "Managing," IT-02, respectively. As part of the analysis to determine whether level 3 maturity was reached, LIPA and PSEG LI selected 10 projects to be evaluated.

The analysis evaluated CMMI model measures, specifically, "Doing" (which is comprised of seven Practice Areas) and "Managing" (which is comprised of five Practice Areas). For IT-01 and IT-02 PSEG LI may earn partial compensation awards if level 3 maturity is met in some but not all Practice Areas.

In 2022, a CMMI Benchmark Appraisal of PSEG LI's IT Department was conducted by a mutually agreed upon LIPA hired consultant, Layermark. Layermark submitted several reports, including its final report dated May 11, 2023. Layermark states that since the review evaluated a specific subset of Practice Areas, their review is not a complete CMMI model evaluation, however, Layermark found that PSEG LI achieved Level 2 and 3 in the practice groups measured.[25] As stated in LIPA's report Layermark determined as per their November 2022 appraisal that PSEG LI obtained level 3 maturity in five of the seven Practice Areas for "Doing" and zero of the five Practice Areas for "Managing."[26]

Additionally, a key aspect of CMMI maturity and evaluation is to measure the capacity of an organization to perform at this level repeatedly overtime, thus making improvements in processes and creating behaviors that reduce risk and defaults in project development. Therefore, it is necessary to evaluate staff that will be "managing" and "doing" for future projects. LIPA's report specifically acknowledges the challenges Layermark encountered in finalizing its review including conducting additional interviews with PSEG LI personnel.[27] Evaluating permanent staff through interviews in these areas is part of the CMMI appraisal.

Layermark's report shows PSEG LI has come very close to reaching Level 3, however, PSEG LI has not succeeded in fully meeting the targets set forth in IT-01 and IT-02. DPS Staff agrees with LIPA, that PSEG LI achieved Level 3 in five out of seven Practice Areas for IT-01, partially meeting the metric target. As such, DPS Staff agrees with LIPA and recommends that PSEG LI receive partial compensation of 60 percent for IT-01. Concerning IT-02, DPS Staff agrees with LIPA that PSEG LI did not achieve level 3 in any practice area, thus failing to meet IT-02, resulting in no award of incentive compensation.

25 PSEG LI Report, pp. 78-79.
26 LIPA Report, pp. 37-38.
27 <u>Id</u>.

<u>T&D-26 – Vegetation Management Work Plan – Hazard Tree Removal:</u>

T&D 26 (Vegetation Management Work Plan) required PSEG LI to develop a Vegetation Management work plan and budget for 2022 and 2023, and measured PSEG LI's performance in removing at least 12,000 hazard trees identified in the work plan.

PSEG LI reported that it has achieved the hazard tree removal target for 2022.[28] LIPA contends in its report that tree limbs, toppings, and Trim to Sky overhang removals, which are typically considered tree trimming, were improperly counted towards the total number of Hazard Tree removals and thus LIPA contends PSEG LI failed to meet T&D-26.[29]

PSEG LI provided the revised year-end numbers on April 25, 2023, which excluded tree limbs, toppings, and Trim to Sky overhang removals, resulting in 9,261 hazard trees removed. Based on PSEG LI's revised year-end results, the 9,261 removals do not meet the 12,000-target requirement and therefore, DPS agrees with LIPA that PSEG LI failed to meet T&D-26.

<u>PS&CE-08 – Time of Use Pricing Options – Space Heating & Large Commercial</u>:

PS&CE-8 required PSEG LI to complete the development of TOU pricing options for residential space heating and large commercial customers. To earn the allocated incentive compensation for this metric, PSEG LI was required to complete all the billing changes, enrollment processes, accounting processes, and customer service requirements to enable enrollment and billing of the new rates on or before January 1, 2023. PSEG LI claimed that they have met the requirements of this metric, stating that Rate 294 was operationalized on or before the target date and all support processes were developed and operationalized.[30]

As PSEG LI was developing its report, LIPA disputed PSEG LI's claim, asserting that PSEG LI did not provide any artifacts demonstrating the completion of deliverables until February 6, 2023.[31] Following the rejection of PS&CE-8 deliverables on February 1, 2023, PSEG LI engaged in discussions with LIPA to determine the necessary artifacts, whereupon PSEG LI subsequently submitted certain artifacts on February 6, 2023.

On March 15, 2023, LIPA requested additional support and corrections to submitted artifacts after their initial review, which PSEG LI provided on March 30, 2023. By May 2, 2023, LIPA identified various issues including discrepancies in test results related to the rates used, validation of billed data against meter data, and a potential sales tax miscalculation.

DPS Staff acknowledges the validity of the issues highlighted in LIPA's review and agrees that these concerns should be addressed by PSEG LI to ensure a satisfactory customer experience in the normal course of operations.

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28 PSEG LI Report, pp. 162-163.
29 LIPA Report, p. 24.
30 PSEG LI Report, p. 130.
31 LIPA Report, p. 59.

Operationalizing new rates requires that not only are those rates fully operational but that they produce accurate bills for customers. It is the responsibility of all utilities to ensure their customers are adequately protected from the unintended consequences of implementing new rates. Billing errors and other miscalculations should be resolved before rates are put into effect.

As such, DPS concludes that PSEG LI has failed to adequately implement the commercial TOU rate to a satisfactory degree to enable enrollment and billing on or before the target date and thus DPS agrees with LIPA and recommends PSEG LI not receive compensation for PS&CE-08.

Conclusion

Staff determined PSEG LI met or exceeded the target levels for 73 out of the total 96 metrics. Based on DPS's review of the information provided by PSEG LI and the evaluation performed and provided by LIPA, DPS recommends that LIPA award PSEG LI approximately $14.8m in incentive-based compensation.

Respectfully submitted,

Rory M. Christian
Chief Executive Officer

cc: Thomas Falcone, LIPA Chief Executive Officer
Bobbi O'Connor, LIPA General Counsel and Secretary to the Board of Trustees
Mujib Lodhi, LIPA Chief Operating Officer
Ricky de Aragon, LIPA Vice President of Strategy and Performance Management
David Lyons, PSEG LI Interim President and Chief Operating Officer
Andrea Elder-Howell, PSEG LI Vice President Legal Services
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