

Proposal Concerning Modifications to LIPA's Tariff for Electric Service

Requested Action:

Long Island Power Authority ("LIPA" or the "Authority") staff ("Staff") proposes to modify LIPA's Tariff for Electric Service (the "Tariff"), effective June 1, 2024, to implement changes to its Long Island Choice Program consistent with recent New York State Public Service Commission (the "Commission") orders.

Background:

On April 21, 2016, the Commission issued an Order Authorizing Framework for Community Choice Aggregation ("CCA") Opt-Out Program, known as the CCA Framework Order.¹ On August 26, 2019, the Department of Public Service ("DPS") issued the CCA Guidance Document "to assist and inform CCA administrators, participating utilities, Energy Service Companies ("ESCOs"), Distributed Energy Resource ("DER") developers, and other stakeholders on the existing rules and regulations of New York State's CCA program."²

Several municipalities within LIPA's service territory have expressed interest in exploring the adoption of CCA within their communities.³ In response to the interest in CCA, LIPA's Board of Trustees adopted a Tariff amendment that established a CCA program on Long Island effective June 1, 2020, in alignment with the requirements of the Commission's CCA Framework Order and the 2019 DPS Guidance Document.

On April 14, 2021, DPS Staff filed the CCA Whitepaper,⁴ which described the status of the State's CCA programs, detailing successes and challenges, and recommending program improvements. Identified improvements include standardization of CCA program filing requirements, streamlining of the filing process, modification of existing requirements, and adoption of additional requirements.

On November 18, 2021, the Commission issued its Order Denying Rehearing, Providing Clarification and Confirming Tariff Modifications in Case 20-M-0082 ("CCA Data Fee Order") which, in relevant part, directed the regulated utilities to modify their respective tariffs to remove fees associated with the release of customer data, except for cost-based fees associated with requests for historical energy usage data in excess of 24 months.

On March 21, 2022, Section 74-b of the New York State Public Service Law ("PSL") became effective which established CCA programs in Long Island (the "Long Island CCA Statute").

¹ Case 14-M-0224, Community Choice Aggregation, Order Authorizing Framework for Community Choice Aggregation Opt-Out Program (issued April 21, 2016) (CCA Framework Order).

² Case 14-M-224, Community Choice Aggregation, CCA Guidance Document (issued August 26, 2019) (DPS Guidance Document).

³ Mark Harrington, *Brookhaven wants to be able [to] seek cheaper supplier of Electricity*, NEWSDAY, December 11, 2019. <https://www.newsday.com/long-island/suffolk/lipa-brookhaven-1.39450624>.

⁴ Case 14-M-0224, Department of Public Service Staff Whitepaper on Community Choice Aggregation Programs, dated April 14, 2021.

Specifically, PSL § 74-b required, in relevant part, that by no later than January 1, 2022, the Commission, in consultation with the New York State Energy Research and Development Authority and the Authority, establish “by order, rules, and regulations a Long Island community choice aggregation program.”⁵

On January 19, 2023, the Commission adopted the CCA Whitepaper recommendations with modifications (the “CCA Modification Order”). The CCA Modification Order, in relevant part, directed DPS to update the 2019 DPS Guidance Document. DPS accordingly issued its Community Choice Aggregation Program Rules on March 20, 2023 (“DPS CCA Program Rules”).

On December 13, 2023, the LIPA Board of Trustees adopted Tariff amendments to align, in part with the DPS CCA Program Rules.

This proposal seeks to implement additional changes to the Tariff to be consistent with the DPS CCA Program Rules, the CCA Data Fee Order, and similar changes made by other utilities in New York State.

Proposal:

Staff is proposing to modify the following aspects of the Tariff:

- (1) To make clear that CCA Administrators must be authorized by the Commission;
- (2) To clarify that CCA Administrators must provide proof that the municipality exercised its Municipal Home Rule Law and enacted a Local Law to implement a CCA program, or submission of the agreement or Memoranda of Understanding between the Administrator and municipality;
- (3) To clarify that fees shall not be charged for the release of customer data, except for any cost-based fees consistent with Section IV.C.10.a) of the Tariff;
- (4) To refine the types of data to be disclosed to a municipality or its designee; and
- (5) To establish a dispute resolution process for disputes between LIPA, CCA Administrators and Energy Services Entities.

Financial Impacts:

There are no expected revenue impacts for LIPA.

Affected Tariff Leaves: 297A, 297B, 297C

Affected Tariff Statements: LIPA Statement of Community Choice Aggregation (CCA) Fees

Summary of Proposed Changes:

Staff is proposing to implement changes to the Tariff to be consistent with the CCA Modification Order and similar changes made by other utilities in New York State.

⁵ The New York State Public Authorities Law was also amended to refer to the new Long Island CCA Statute. *See* N.Y. Pub. Auth. Law § 1020-s(1)(f) (West).

IX. Long Island Choice Program (continued):**B. Community Choice Aggregation (“CCA”) Program:**

1. A CCA Program allows municipalities (villages, towns, and cities) to aggregate the usage of eligible Mass Market customers within a defined jurisdiction in order to secure an alternative energy supply contract on a community-wide basis.
 - a) Before requesting customer data from the utility for participation in a CCA Program, the municipality or their designee (CCA Administrator or ESCO):
 - (1) Must sign a Data Security Agreement acceptable to the Manager, and
 - (2) CCA Administrators must be authorized by the New York State Public Service Commission; ~~Must have certification of local authorization approved by the Long Island Office of the Department of Public Service~~and
 - (3) Proof that the municipality exercised its Municipal Home Rule Law and enacted a Local Law to implement a CCA program, or submission of the agreement or Memoranda of Understanding between the Administrator and municipality.
 - b) Upon fulfilling the requirements in ~~XIX~~.B.1.a), the Manager will provide the following information to the municipality or their designee in accordance with the terms and fee(s) stated herein. Fees shall not be charged for the release of customer data, except for any cost-based fees identified in Section IV.C.10.a).
 - (1) Aggregated customer data, by billing cycle, including the number of customers by service class and the electric kWh by month for the past 12 months by service class. This information will be provided to the municipality or CCA Administrator within twenty days of a request.
 - (2) After each municipality has entered into a CCA contract with an ESCO, the Manager shall transfer customer-specific data to the municipality or CCA Administrator within five days of receipt of a request to support the mailing of opt-out notices. The data shall include all customers in the municipality eligible for opt-out treatment based on the CCA and the requirements of the Department of Public Service. The data should include:
 - (i) Customer of record's name
 - (ii) Proxy ID
 - (iii) Mailing Address
 - (iv) Primary Language (if available from the Company's billing system)
 - (v) Any customer-specific alternate billing name and address (if available from the Company's billing system)
 - (vi) Billing cycle and bill period code indicating the month of the customer's interim estimate, if applicable
 - (vii) Tax exempt status;
 - (viii) Net metered/VDER/solar account indicator.
 - (3) After the opt-out process has been completed, the Manager shall transfer account numbers for eligible customers that did not opt-out to the ESCO providing service within five days of receipt of a list of customers that opted out. These account numbers may be transmitted via electronic mail in secured, encrypted spreadsheets, through access to a secure website, or through other secure methods of transfer.

IX. Long Island Choice Program (continued):**B. Community Choice Aggregation (“CCA”) Program (continued):**

- (4) Upon request by the municipality or CCA Administrator, the Manager will transfer updated customer data as specified in b)(2) for CCA eligible customers that became customers of the Manager since the last eligible customer list was provided and were not on a previous eligible for opt-out list. The data will be provided to the requestor within five days of the request. After the opt-out process is complete for those customers, the Manager will provide account numbers for customers that did not opt-out as described in (b) (3). The updated eligible customer lists will be provided without charge.

2. Rules and Governance

- a) All CCAs will be created and governed in accordance with the Laws of New York State and the guidance of the Department of Public Service.
- b) LIPA, municipalities participating in the CCA, and CCA administrators will follow the Community Choice Aggregation Program Rules issued by Department of Public Service with the exception that all disputes between LIPA, CCA Administrators and/or Energy Service Entities (i.e., any entity seeking access to energy related data, and can include, among other entities, ESCOs and DER providers) shall follow the procedures set forth in section (IX.B.2.d)) below, regarding CCA will be referred to the Department of Public Service for resolution with the Service Provider as specified under Section VI of this Tariff.
- c) ESCOs participating in the Community Aggregation Program must follow all applicable rules for ESCOs provided in the Long Island Choice section of this tariff, except such items specified in the Community Choice Aggregation Program Rules, such as:
 - (1) Customer enrollment rules
 - (2) Provisions of customer data to the CCA/ESCO
- d) The dispute resolution for disputes between LIPA, CCA Administrators and/or Energy Service Entities (“ESEs”) is as follows:
 - (1) Standard Process. The parties shall use a method to send documents described in this paragraph that will verify the date of receipt. Any CCA Administrator, ESE or the Manager may initiate a formal dispute resolution process by providing written notice to the opposing party and New York State Department of Public Service Staff. Such notice shall include a statement that the CCA dispute resolution process is initiated, a description of the dispute, and a proposed resolution with supporting rationale. The Department of Public Service Staff may participate in the process at this or any later point to facilitate the parties' discussions and to assist the parties in reaching a mutually acceptable resolution.
 - (a) No later than ten calendar days following receipt of the dispute description, if no mutually acceptable resolution is reached, the opposing party shall provide a written response containing an alternative proposal for resolution with supporting rationale and send a copy to Department of Public Service Staff.
 - (b) No later than ten days after receipt of the response, if no mutually acceptable resolution is reached, any party or Department of Public Service Staff may request that the parties schedule a meeting for further discussions. The parties shall meet no later than 15 calendar days following such request, upon advance notice to Department of Public Service Staff, unless the parties and Department

of Public Service Staff agree upon another date.

IX. Long Island Choice Program (continued):**B. Community Choice Aggregation ("CCA") Program (continued):****2. Rules and Governance (continued)**

(c) If no mutually acceptable resolution is reached within 40 calendar days after receipt of the written description of the dispute, any party may request an initial decision from the Department of Public Service. A party to the dispute may appeal the initial decision to the Authority's President and Chief Executive Officer.

(d) If the parties reach a mutually acceptable resolution of the dispute, they shall provide to Department Staff a description of the general terms of the resolution.

(2) Expedited Process: In the event that an emergency situation arises to justify immediate resolution of a dispute, any party may file a formal dispute resolution request with the Secretary to the Public Service Commission asking for expedited resolution. An emergency situation includes, but is not limited to, a threat to public safety or system reliability or a significant financial risk to the parties or the public. The filing party shall provide a copy of the request to other involved parties and the Department Staff designated to receive information related to dispute resolution under this Section. The request shall describe in detail the emergency situation requiring expedited resolution, state in detail the facts of the dispute, and, to the extent known, set forth the positions of the parties.

Long Island Power Authority

Statement of Community Choice Aggregation (CCA) Fees

Type of Data:	Fee Per Account Provided
Aggregated Customer Information	\$0.16
Customer Specific Information	\$0.64

CANCELLED