NEW YORK STATE OF OPPORTUNITY. Department of Public Service

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Rory M. Christian
Chair and
Chief Executive Officer

December 7, 2021

Via Email and U.S. Mail

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

Re: Matter 21-01355 – Recommendations Regarding Long Island Power Authority's Proposed Modifications to its Tariff for Electric Service

Dear Vice-Chairman Fischl:

I am pleased to provide the recommendations of the New York State Department of Public Service (DPS or the Department) regarding the Long Island Power Authority's (LIPA or the Authority) proposed modifications to its Tariff for Electric Service (Tariff), effective January 1, 2022. The LIPA Reform Act (LRA) authorizes the Department to make recommendations regarding the operations and terms and conditions of service provided by the Authority and its Service Provider. The Department recommends the adoption of the Authority's proposals in accordance with the discussion set forth herein.

LIPA proposes several modifications to its Tariff for Electric Service. These include tariff changes to: 1) Expand enrollment in the Low Income Household Assistance Rate; 2) Modify the Community Distributed Generation provisions associated with banking and community credits; 3) Implement remote crediting for Value Stack customers to bring LIPA's tariff in alignment with Public Service Commission (PSC or Commission) Orders; 4) Modify how Distributed Generation customers are assigned to Service classifications; 5) Implement a Customer Benefit Contribution (CBC) charge; 6) Enhance the Long Island Choice Program by adopting structural rate changes that are more consistent with Department Staff's recently issued Whitepaper and the programs of other electric utilities in New York State; 7) Implement reforms to how LIPA and PSEG LI interact with ESCOs and enhance existing consumer protections by adopting new Uniform Business Practices (UBPs); 8) Make various clarifications to Tariff; and 9) Align LIPA's prolonged outage provisions to be consistent with other utilities in New York State.

Low Income Household Assistance Rate

LIPA and PSEG LI propose to increase their Low-to-Moderate Income (LMI) Program budget from 17.6M in 2021 to 20.2M in 2022. LIPA states that the increase in the 2022 budget is attributable to increasing the total number of LMI participants receiving the LMI Bill Discount in 2022. LIPA projects the total number of LMI participants will increase to 55,000. LIPA's revised budget will not change their current LMI program discount rates. While DPS recommends adoption of an increase in budget to accommodate increased enrollment, LIPA and PSEG LI should work expeditiously to determine appropriate increases in the LMI Bill Discount. Staff recommends that LIPA and PSEG LI take expedient action to increase their proposed discounts and introduce a well-thought-out LMI program consistent with the Commission's August 12, 2021 EAP Order in 2022.

On May 20, 2016, the Commission issued an Order adopting an Energy Affordability Policy (EAP) that set a target energy burden at or below six percent of household income for all low-income households in New York State.[1] To advance this goal, new low-income bill discount programs were established for each of New York's Investor-Owned electric and gas utilities (IOUs). In September 2017, LIPA adopted its own LMI Bill Discount program aligning its program with the IOUs.

Due to the economic conditions and uncertainty regarding the impact of the COVID-19 pandemic, Staff issued a report on the status of the EAP, and the corresponding low-income discounts provided by utilities including LIPA.[2] Staff recommended that low-income program bill discounts not decrease in the next two program years (2021-2022 and 2022-2023).[3] In addition, Staff made recommendations, among others, that further adjustments be considered as part of the generic EAP proceeding, and that utility's program budget caps be adjusted to include scheduled delivery rate increases.[4] Further, the Staff EAP Whitepaper included proposed modifications to the bill discount methodology which would necessitate increases to LIPA and PSEG LI's LMI Program budget.[5] PSEG LI provided comments and reply comments to DPS Staff's Whitepaper.[6]

As discussed in the Commissions' August 12, 2021 Order, the PSC adopted the recommendations of Staff's EAP Whitepaper and encouraged PSEG LI and thereby LIPA to pursue commensurate changes to their programs. The Commission identified

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1 Case 14-M-0565, et al., Energy Affordability for Low Income Utility Customers, Order Adopting Low Income Program Modifications and Directing Utility Filings (issued May 20, 2016) (May 2016 Order).

2 Id., Staff Report on New York State's Energy Affordability Policy (issued February 4, 2021), Recommendation No. 10. (Staff EAP Whitepaper).

3 Id.

4 Id., Recommendations 12 and 13.

5 Id., p. 7.

6 Id., pp. 26, 28, 30-31, and 33.

that coming into conformance with the revised methodology proposed in Staff's EAP Whitepaper would require increasing their budget to $35.6M.[7]

In its original May 2016 Order, to minimize the impact on non-participating customers, the Commission established a program budget cap at two percent of total utility revenues, including delivery and commodity components.[8] LIPA and PSEG LI's proposed budget for 2022 represents approximately 0.52% of total utility revenues. In addition, in Staff's EAP Whitepaper, DPS Staff recognized that it did not prescribe a specific method in determining the calculation of revenues.[9] Recommendation 13 of Staff's EAP Whitepaper proposed that each utility's budget cap reflect scheduled delivery rate increases, and PSEG LI's comments supported Staff's position in the EAP Whitepaper including Recommendation 13. PSEG LI stated it would be "prudent to make low-income program decisions based on the upcoming budget," however, the Company identified other challenges and proposed solutions in the alternative to what Staff considered in its EAP Whitepaper.[10]

Department Staff acknowledges the unique structural aspects of LIPA and PSEG LI's provision of electric utility service to its customers and agrees that alternative approaches to serve the needs of LIPA's low-income electricity customers must be explored including implementing data-sharing solutions to automate enrollment of eligible customers and to explore additional discount levels, however, progress must be made to increase the available discount. More specifically, LIPA and PSEG LI's discount methodology must be revisited to address the zero-dollar bill for electric service. Further, DPS Staff recognizes the importance of coupling bill discounts with permanent usage reductions through energy efficiency programs (EE). DPS Staff recommends that PSEG LI continue their efforts to identify high usage LMI customers and improve the efficacy of their referral process to EE programs, e.g., the Residential Energy Affordability Partnership (REAP).

Overall, DPS Staff recommends increasing the LMI Budget to address increased enrollment, however, LIPA and PSEG LI's reluctance to pursue any increase in discounts should be redressed forthwith. To the extent further analysis is needed the Department recommends LIPA and PSEG LI diligently participate in the EAP working group to address the zero-dollar bill and other issues, to ultimately refine their methodology for setting LMI discount rates. Further, Staff recommends that LIPA and PSEG LI consider additional stratification if necessary, to create a minimum of higher discounts for low-income customers.

Staff recommends that LIPA and PSEG LI take expedient action to increase their proposed discounts and introduce a well-thought-out LMI program consistent with the Commission's August 12, 2021 EAP Order. LIPA and PSEG LI should provide a

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7 Id., Order Adopting Energy Affordability Policy Modifications and Directing Utility Filings (issued August 12, 2021), p. 35 and Appendix B.

8 Id., p.30

9 Staff EAP Whitepaper, p. 59.

10 Case 14-M-0565, et al., PSEG LI's Comments (filed April 19, 2021).

proposal to DPS Staff and the EAP working group for review in the first quarter of 2022 with the intention of implementing the necessary adjustments in 2022.

Community Distributed Generation

LIPA proposes to implement several changes to its Community Distributed Generation (CDG) Tariff effective January 1, 2022. These include changes to the following: (1) the CDG banking rules to allow a CDG Host[11] to retain unused credits from subscribers' closed accounts; (2) expand eligibility for Remote Crediting program to allow up to ten customers to share credits from a Remote Crediting Host; (3) modify the criteria of service classifications that are assigned to distributed generation (DG) customers; and (4) specify the size of the CDG installed capacity available for LIPA's current Community Credit. The Tariff amendments as proposed also serve as notice for a future transition from the Community Credit to an upfront Community Adder. Each of these changes support the continued development of DG in LIPA's service territory and align with Commission policy and statewide energy goals. The Department recommends the proposal be adopted as proposed.

On October 3, 2012, LIPA implemented the Remote Net Metering (RNM) program, which allows non-residential customers who install solar, wind, farm waste, micro-hydroelectric and fuel cell generating equipment to designate all, or a portion of the excess net metering credits generated by the DG equipment to any account, in any service classification, in the same name as the customer. In April of 2016, LIPA implemented the Community Distributed Generation (CDG) program which allows residential and commercial customers to collectively share in the benefits of a remotely sited DG project. A CDG project typically involves three parties including the CDG Host, CDG Satellites[12] (referred to as Subscribers), and the utility (referred to as LIPA/PSEG LI).[13] A CDG project must serve a minimum of ten subscribers which include a CDG Host and satellite accounts. If a CDG project's generation is not fully allocated in a particular billing period, unallocated credits are applied to the CDG credit bank of the owner or operator of the resource, called the CDG Sponsor.

In the Commission's Banking Rules Order, the PSC clarified and standardized banking rules under the CDG program.[14] Specifically, the Commission adopted a policy

[11] A CDG Host is defined as a Non-Residential Customer-Generator that owns or operates electric generating equipment eligible for net metering under this Tariff or stand-alone storage. It is responsible for coordinating the project's interconnection and operation with LIPA/PSEG LI as well as supervising and fostering cooperation among the project's Subscribers. Net energy produced by the DG generating equipment of a CDG Host is applied to CDG satellite accounts with which it has a contractual arrangement governing the disposition of net metering credits.

[12] CDG Satellites are the project subscribers (residential or commercial customers) who will own or contract for a proportion of the credits accumulated at the generation facility's meter, as percentage of the facility's net hourly export on the CDG Host's account.

[13] LIPA/PSEG LI is responsible for distributing the credits from the CDG Host's account to CDG Satellites in accordance with its CDG Operating Procedure and Tariff.

[14] Case 15-E-0751, In the Matter of the Value of Distributed Energy Resources, Order Clarifying Banking Rules Under the Community Distributed Generation Program (issued May 17, 2021) (Banking Rules Order).

that allows banked credits to be moved to the Sponsor's bank in instances where the subscriber cancels the associated utility account or terminates the subscription to the CDG project. The Banking Rules Order also allows subscriptions to be altered on a monthly, rather than yearly, basis.[15]

LIPA has proposed to adopt the directives of the Banking Rules Order. Under LIPA's proposal, banked energy credits will be reallocated to the CDG Sponsor's "bank" in instances where a CDG subscriber closes their utility account or terminates their CDG project subscription. CDG Hosts will be required to refund these subscribers any amount that the subscriber paid for credits. A customer will not be allowed to subscribe to a new CDG project until all banked credits are returned to the original project's Sponsor. Additionally, the proposal would require subscribers to wait two months before they are permitted to join another host if the subscriber had banked energy credits. This would avoid overbilling and account for remaining credits before the ex-subscriber potentially enrolls with another CDG project.

In 2018, the Commission adopted the January and September VDER Orders which modified the Value Stack under VDER and changed the compensation of CDG, RNM and other large projects[16]. The Value Stack provides compensation based on the value of electricity exported to the grid, measured in specific value components that include Energy Value (LBMP), Capacity Value (ICAP), Environmental Value (E), Demand Reduction Value (DRV), and Location System Relief Value (LSRV).[17] In 2019, LIPA adopted a Community Credit. The Community Credit was developed to encourage CDG development in the LIPA territory, by adding an additional payment to the Value Stack. The current Community Credit is $0.05 per kilowatt-hour (kWh).

New York States' other IOUs, excluding Consolidated Edison of New York, Inc, have ceased offering a Community Credit, which has been replaced by an upfront Community Adder. Applying the same methodology adopted by the Commission to determine an appropriate limit on ratepayer impacts for the IOUs, LIPA's maximum allowable annual cost shift from CDG is approximately $12 million. On the one hand, if LIPA were to allocate all $12 million to a 5-cent Community Credit, LIPA would be able to incentivize approximately 200 megawatts of CDG. A higher Community Credit would allow LIPA to incent fewer megawatts, and a lower Community Credit would allow LIPA to potentially incent more megawatts. Similarly, feed-in-tariffs that result in auction clearing prices at or below 15 cents would allow LIPA to incent more community-sized solar projects with the same total cost shift as the 5-cent Community Credit. A Community Adder, on the other hand, would cause a larger cost shift in the year it was paid, but would have a lower net present cost than a similarly beneficial Community

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[15] Case 19-E-0735, New York State Energy Research and Development Authority Requesting Additional NY-Sun Program Funding and Extension of Program Through 2025, Order Authorizing Changes to the Remote Crediting Program (issued July 15, 2021). (Remote Crediting Order).

[16] Case 15-E-0751, supra, Order Regarding Compensation of Community Distributed Generation Project (issued January 18, 2018) (January VDER Order); Case 15-E-0751, supra, Order on Value Stack Eligibility Expansion and other Matters (issued September 12, 2018) (September VDER Order).

[17] https://www.nyserda.ny.gov/all-programs/programs/ny-sun/contractors/value-of-distributed-energy-resources

Credit, and therefore would allow LIPA to incentivize more megawatts of CDG going forward.

All these factors need to be balanced to maximize the deployment of CDG within the allowable $12 million annual cost shift. LIPA proposes that the current block of 5-cent Community Credit be capped at 100 megawatts (the halfway point to 200 megawatts). LIPA states there is only a total of 57 megawatts of CDG currently in service or in the interconnection queue, meaning their proposal supports 43 megawatts of new infrastructure before the 5-cent Community Credit is exhausted. Once the system reaches 100 megawatts of CDG or upon December 31, 2022, LIPA anticipates that it will announce a new block of Community Credit, the institution of a Community Adder, or a combination of the two in cooperation with the DPS, industry partners, and external stakeholders. DPS anticipates that LIPA will bring these changes before its Board in 2022. LIPA justifies their proposed changes to the Community Credit as a means to maximize the megawatts of CDG deployed.

The Department recommends the proposal be adopted as proposed since LIPA's Tariff modifications will increase consistency with the New York's other IOUs. In addition, these modifications further LIPA and New York State's progress toward meeting the State's energy goals and those of the CLCPA.

Remote Crediting – Value Stack

On July 15, 2021, Commission issued the Remote Crediting Order which made two changes to the remote net metering (RNM) programs of the IOUs.[18] Specifically, the Remote Crediting Order authorized residential customers to participate as satellites and allowed Hosts to submit changes adding or removing satellites on a monthly, rather than annual, basis.

LIPA proposes to implement a Remote Crediting Program for Value Stack customers in alignment with the Remote Crediting Order. Similar to the IOUs, LIPA proposes that all RNM projects will be converted to Remote Crediting Projects. LIPA's Remote Crediting Program would permit residential customers to participate as satellites and allow Hosts to allocate banked credits by a percentage basis to participating satellites on a monthly basis. Unallocated credits will be banked on the Host account. The Department recommends that this proposal be adopted as proposed.

Under Remote Crediting billing, project Sponsors have the option for consolidated billing. Under consolidated billing, the utility charges the developer a portion of the total credits generated by the Host, and in return, credits each of the satellite customers their share of the project's generation so that a satellite customer only receives a single utility bill. Prior to Remote Crediting billing a satellite customer received two separate bills – one for utility service and the other bill from the developer for their share of the CDG project's subscription fee (and credits). Remote crediting

[18] Remote Crediting Order.

should eliminate some of the costs associated with developers billing and obtaining customers.

Through LIPA's new program, a Remote Crediting Host may have up to ten satellites per project, including but not limited to any satellites that are in the Host's account name. Each satellite may have an unlimited number of utility billing accounts under the same name. The Remote Crediting Host must allocate the Value Stack Credits on a percentage basis to each of the project's satellites. The Remote Crediting Host may make modifications to the allocations on a monthly basis, including allocation of any banked credits. Any unallocated credits will remain in the Remote Crediting Host account's bank. Satellite accounts can participate in multiple Remote Crediting projects and will be permitted to have on-site generation with up to 5 MW of installed capacity.

In response to a request for clarification, the PSC authorized monthly satellite credit allocation changes and residential participation as a host in Remote Crediting in order to encourage wider participation in these programs.[19] Further, Remote Crediting Hosts must be a commercial customer or a residential farm customer with wind, farm waste, micro-hydroelectric and fuel cell generators, or residential customers who will use the service as specified in section 76 of the Public Service Law, for religious purposes, a Community Residence, or post or hall owned or leased by a not-for-profit corporation that is a Veteran's Organization.[20]

Commercial Hosts must have DG that is sourced from farm waste, wind, solar, micro-hydroelectric, or fuel cell electric generating equipment or Stand-alone or Hybrid Electric Energy Storage. Under this program, LIPA and PSEG LI will apply the savings rate provided by the CDG host to all the CDG Satellite accounts proportionally in the project based on the percent of installed capacity allocated to each satellite account. This may result in a net credit being applied to the CDG Satellites' electric bills.

LIPA's Tariff modifications, and adoption of a Remote Crediting program align with the Commission's Order and the programs and modifications contained therein. As such, DPS Staff recommends that this tariff modification be adopted as proposed.

Distributed Generation (DG)– Customer Assignment

LIPA proposes to modify its Tariff to align with Commission policy, to assign DG customers to a service classification (SC) based on the maximum on-site load, without regard to export capabilities. The Department recommends the proposal be adopted as proposed.

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[19] Case 15-E-0751, supra, Order Adopting Net Metering Successor Tariff Filings with Modifications (issued August 13, 2021).

[20] Eligibility for residential accounts is limited to Farm Operations; religious organizations; Community Residences; or posts or halls owned or leased by a non-for-profit corporation that is a Veterans' Organization.

LIPA's Tariff currently assigns DG customers to an SC based on the higher of the facility's load or the output of their generator. For example, a commercial customer with 100 kW of load and a 200 kW generator capable of providing community net metering or remote net metering would be assigned to SC No. 2-MRP (mandatory time of use). This SC includes all accounts with demand in excess of 145 kW and requires mandatory time of use, instead of SC No. 2-L which does not require mandatory time of use.

Pursuant to Commission Order, the IOUs assign DG customers to an SC based on the maximum on-site load, without regard to export capabilities. Each SC has its own eligibility criteria and metering requirements, including maximum load.[21] When a customer installs DG, the customer is responsible for paying interconnection costs in accordance with the interconnection requirements. In addition, a utility's customer SC assignment is based on the maximum load, irrespective of whether that customer is consuming or exporting energy onto the grid and what the customer paid for interconnection costs.[22] Assignment to the applicable SC for the maximum on-site load should provide savings to CDG projects and participants and promote greater customer adoption of distributed renewable resources.[23]

The proposed modification to assign DG customers to a service classification (SC) based on the maximum on-site load, without regard to export capabilities is consistent with PSC policy and the practices of New York State's other IOUs.[24] As such, the Department recommends the proposal be adopted as proposed.

Customer Benefit Contribution Charge

LIPA proposes to modify its Tariff to implement a Customer Benefit Contribution (CBC) Charge for all mass market customers who interconnect on-site DG using net energy metering-eligible technology on or after January 1, 2022. The CBC Charge will be a monthly charge calculated by rate class, the DG technology, and the size of the installed system. The purpose of the CBC Charge is for DG customers to equitably contribute to LIPA's low-income and energy efficiency and electrification programs. LIPA's CBC proposal adopts Tariff modifications to align with the Commission's Orders in Case 15-E-0751.[25] The Department recommends the proposal be adopted as proposed, and DPS recommends LIPA and PSEG LI commence with an appropriate level of outreach and education to address stakeholder concerns.

The CBC Charge recovers revenues to support low-income programs, utility energy efficiency and electrification (EEE) programs, and the cost of contracted renewable energy, all of which are programs that net metered on-site mass-market

[21] Case 15-E-0751, supra, Order Adopting Net Metering Successor Tariff Filings with Modifications (issued August 13, 2021).
[22] Id.
[23] Id.
[24] Id.
[25] Id.

customers would otherwise avoid. The total cost to fund these programs is approximately $147 million per year.[26] LIPA projects the CBC Charge will collect revenues to support these programs approximately in the amount of $0.272M in 2022, $0.815M in 2023, $1.36M in 2024, $1.90 in 2025, and $2.45 M in 2026.

On-site DG customers will be billed the CBC charge monthly, calculated by multiplying the daily CBC charge applicable to that customer's rate class by the nameplate capacity rating (in kW DC) of the customer's electric generating equipment. The customer-specific CBC charge will then be applied to each customer bill by multiplying the customer-specific daily CBC charge by the number of days in that bill. The CBC rate per day will be published on the Statement of Customer Benefit Contribution and will be updated annually on January 1 of each year to account for approved changes in public benefit program costs.[27]

The CBC will not increase the total revenues recovered by LIPA, however, the revenues collected through the CBC charge will reduce the revenues recovered through base rates. In the absence of the CBC charge, the affected costs are recovered through higher base rates from all customers.[28] In addition, LIPA's proposed CBC Charge is not duplicative of the existing DER rider since customers with DG pay lower delivery costs due to decreased usage.

Once the CBC charge is adopted, on-site DG connected customers will no longer contribute to the O&M costs of Utility 2.0 programs which are collected through the DER rider. LIPA estimates the CBC Charge will collect $272,000 in 2022. This estimation assumes approximately 51,000 kW of DC capacity for mass market installations spread equally through the 12 months of the year. In 2023, the CBC charge is estimated to collect $815,000, which consists of the 51,000 kW installed in 2022 ($544,000) plus the additional 51,000 kW added equally through the 12 months of 2023 ($272,000).[29] Comparatively, LIPA's CBC Charge is among the lowest of the major electric utilities in New York State at $0.89 per month for every kW of solar generation installed.[30] Further, LIPA calculates that adoption of the CBC Charge will only increase the simple payback period of an average solar project in LIPA's service territory from 7.3 years to 7.6 years. DPS recommends LIPA adopt the CBC Tariff proposal to ensure the customer benefit programs are adequately funded and fairly paid by both on-site DG and non-DG customers.

In addition, taking into consideration the public comments received from external stakeholders at the LIPA Board meeting on Friday October 29th, 2021 as well as

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26 Customer Benefit Contribution Charge Fact Sheet, p. 2. https://www.flipsnack.com/lipower/lipa-cbc-charge-fact-sheet/full-view.html (Customer Benefit Contribution Charge Fact Sheet)

27 LIPA's Proposal Concerning Modifications to LIPA's Tariff for Electric Service, Customer Benefits Charge, p. 2. https://www.lipower.org/wp-content/uploads/2021/09/Customer-Benefits-Contribution-Charge-2021-09-21.pdf

28 Id., p. 3.

29 Id.

30 Customer Benefit Contribution Charge Fact Sheet, p. 2.

comments received by LIPA referenced in an October 28, 2021 Newsday article,[31] the Department recommends an appropriate level of outreach and education be made available for DG installers, customers, and other stakeholders via the company website, presentations, written correspondence to stakeholders, or other means, to address stakeholder concerns.

Long Island Choice

LIPA proposes to make certain changes to its Long Island Choice program. LIPA's modifications will improve price transparency and help eliminate inefficiencies in the ESCO billing and collections processes, while continuing to fairly allocate costs for customers served by ESCOs and for non-participating full-service customers. These modifications also reflect certain changes proposed in Staff's LI Choice Whitepaper.[32] The Department recommends the proposal be adopted; however, Staff also recommends additional modifications be adopted going forward as discussed in the DPS Staff LI Choice Whitepaper and included herein.

LIPA's proposal will restructure its Power Supply Charge into a "Local Supply" charge that is non-bypassable, and a "Market Supply Charge." The non-bypassable Local Supply charge will recover the estimated above or below market price of supply costs, and an avoidable "Market Supply Charge." The Market Supply Charge would not be paid by customers served by ESCOs, or by ESCOs themselves to recover the market value of supply, from full-service customers. LIPA also proposes to eliminate its Bill Credit Adjustment (BCA) because it will no longer be needed with these modifications to the Power Supply Charge. LIPA also proposes to remove the Long Island Choice (LIC) factor from the calculation of applicable taxes calculated on all customers' bills, as this adjustment factor is also no longer necessary due to the preceding modifications.

While DPS Staff recommends these modifications be adopted, Staff further recommends the following additional modifications, that if made, will improve consistency with New York State's other IOUs, and are included in the DPS Staff LI Choice Whitepaper.

In 2015, DPS initiated Matter 15-02754 to explore the potential benefits to customers of retail competition in the Long Island electricity market, however, soliciting comments in the proceeding was held in abeyance until the Commission could address certain issues regarding retail access and consumer protections in Cases 15-M-0127, 12-M-0476, and 98-M-01343.[33] On October 16, 2020, the Department filed a Notice Requesting Comments (Notice) to resume the solicitation of comments to address the

31 Mark Harrington, *LIPA weighing a 'solar tax' on new home installations*, Newsday October 27, 2021. https://www.newsday.com/long-island/politics/solar-lipa-pseg-psc-1.50402545?utm_source=appshare (accessed November 23, 2021).

32 Matter 15-02754, In the Matter of Examining the Potential Benefits of Retail Competition for Long Island Electric Customers, DPS Staff Whitepaper on LI Choice Program and Energy Service Companies on Long Island (issued October 22, 2021) (DPS Staff LI Choice Whitepaper).

33 Id., Notice Extending Comment Period (issued May 18, 2016)

potential benefits of retail competition in the LIPA service territory.[34] Comments and reply comments were submitted by LIPA, PSEG LI and other external stakeholders. PSEG LI, in its comments, tentatively proposed among other suggestions, to enhance the Power Supply Charge, by establishing a Local Supply and Market Supply Charge, while also eliminating the BCA.

Several technical conferences were hosted by DPS, from April 2021 to June 2021, in which participants met to discuss various issues and refine their respective proposals. Multiple parties described the LI Choice Program, including the present mechanisms by which LIPA recovers its power supply costs, as well as LIPA's interactions with ESCOs for billing and reconciling power supply costs as overly complicated thereby reducing ESCO competition.

As a result of the public comment and technical conference process, on October 22, 2021, DPS Staff issued a Whitepaper discussing the LI Choice Program and the issues with the present Power Supply Charge.[35] The DPS Staff LI Choice Whitepaper supported modifications concerning the Power Supply Charge, and the BCA, however it also proposed additional modifications to further align LIPA and PSEG LI's programs with Commission Orders and policies, and the IOUs. Staff recommends that LIPA and PSEG LI implement the recommendations contained in Staff's LI Choice Whitepaper, as identified below.

The first of such modifications, is the establishment of a Merchant Function Charge (MFC). The MFC should be designed to recover LIPAs administrative costs (e.g., Fuel and Power Supply Mgt. Services) related to hedging and procurement of avoidable supply; working capital; supply-related credit and collections; and supply-related uncollectibles.

The second modification Staff recommends is that LIPA should recover any capacity value and avoided ancillary service costs associated with any supply purchases treated as load modifiers (e.g., PPAs, renewable power purchases, etc.) through the proposed Local Supply Charge. Doing so will align LIPA with New York State's other IOUs and will appropriately reflect and attribute the value of load modifiers.

Third, Staff recommends that all new supply contracts, or extensions of existing supply contracts that are not necessary for system reliability, be included in LIPA's full-service portfolio, recovered from full-service customers only as a form of hedging. If the primary purpose of the contracts is for the continued reliability of the system, the above or below market costs should be recovered from all LIPA customers, through its Local Supply Charge. Further, Staff recommends that LIPA investigate its ability to ramp down existing power purchase agreements, and to the extent these contracts are not needed for reliability purposes, LIPA should consider ramping the contracts down if it finds there would be no undue harm (financial or otherwise) to its customers. Absent an analysis showing no harm, Staff would not recommend any accelerated ramp down.

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[34] Id., Notice Requesting Comments (issued October 16, 2020).
[35] DPS Staff LI Choice Whitepaper.

Finally, Staff recommends that all market and local supply costs be forecast monthly to reflect the proper price signals in each month and be fully reconciled on a two or three month lagged basis. Forecasting and reconciling both the market and local supply costs monthly will stabilize supply prices to an extent, as higher market prices would result in a lower local price, and vice versa. Again, this modification would align LIPA with the IOUs. Staff recommends that LIPA and PSEG LI implement the recommendations contained in Staff's LI Choice Whitepaper, as discussed above.

Consumer Protections and ESCO Reforms

ESCO Requirements

As discussed more fully in the DPS Staff LI Choice Whitepaper, DPS proposes that LIPA make certain amendments to its LI Choice program to enhance ESCO eligibility requirements.[36] LIPA's proposal to modify its Tariff amends the LI Choice Program to require ESCOs serving mass market customers in the LIPA territory to receive a Finding of Eligibility from DPS. ESCOs will be required to provide transparent pricing information about guaranteed savings, a fixed rate product with a price limit, or green energy. ESCOs are also precluded from the use of misleading marketing materials or offering non-energy related value-added products and services, consistent with the State's Uniform Business Practice (UBP) for IOUs.[37] In addition, LIPA proposes to create a Long Island-specific UBP with minor modifications specific to LIPA's service territory.

DPS recommends LIPA work in collaboration with DPS to develop its Long Island-specific UBP to conform as closely as possible to the UBP used throughout New York State.

LI Choice Operating Procedures

LIPA proposes to modify its LI Choice Operating Procedures Manual to align with the State's UBP. Amendments to the manual include setting new eligibility requirements to operate in LIPA's service territory. As discussed in the DPS Staff LI Choice Whitepaper, DPS Staff agrees with PSEG LI and LIPA that DPS should provide oversight for ESCO eligibility. ESCO applications will be reviewed by DPS staff and deemed eligible to serve in the LIPA territory.[38] In addition, these modifications establish new procedures and requirements for all parties involved (the utility, ESCO, and customers) regarding enrollment, billing and payments, customer protections, and scheduling the delivery of electric generation service to retail load requirements.

36 DPS Staff LI Choice Whitepaper, pp. 19-20.

37 Cases 15-M-0127, et al., Order on Rehearing, Reconsideration and Providing Clarification (issued September 18, 2020) Uniform Business Practices.

38 DPS Staff LI Choice Whitepaper, p .18.

The DPS LI Choice Whitepaper also proposes that ESCOs serving in the LIPA territory that have not received eligibility from the DPS must apply to DPS for review.[39] DPS Staff proposes that DPS handle dispute resolution between ESCOs and LIPA, however, unlike IOUs, the appeal process would be handled by LIPA's Board or its designee for final resolution.[40]

DPS Staff recommends that LIPA adopt the proposed modifications to the LI Choice Operating Procedures Manual to further align it with the State's UBP, as well as to adopt these important consumer protection processes as retail competition expands on Long Island.

Consolidated Bill Option with Purchase of Receivables

To be consistent with IOUs, LIPA proposes to offer the Consolidated Bill Option (Option) with Purchase of Receivables (POR).[41] LIPA states more work is needed, including information technology development, and further defining other parameters of the Option, before LIPA can finalize a plan for implementation of the Option with POR. As such, LIPA proposes that implementation will occur once that work has been completed, in consultation with DPS. DPS Staff recommends that LIPA offer the Consolidated Bill Option with POR to be consistent with New York State's IOU's.

By choosing the Consolidated Bill Option, customers will receive one bill from PSEG LI which includes the ESCO power supply charges and LIPA's delivery service and other non-by passable charges. Since this single-bill option will only be available with POR, LIPA proposes performing collection services for the ESCO charges on a consolidated bill. LIPA states that they have very few mass-market customers on LI Choice and their bills will not be affected by this new proposal.

To implement POR and to be consistent the IOUs, LIPA intends to develop a percentage factor that reflects the amount of Market Supply Charges which will not be paid for by customers in using the Option, and an estimated 5% administrative cost for collection services. While LIPA is still developing the parameters of the percentage factor, the IOUs purchase receivables due to ESCOs at a Commission-approved discount rate and without recourse. Without recourse meaning that the utility may not pursue a collection action against the ESCO if the utility is ultimately unable to collect from the ESCO customer.

Moreover, the discount rate is determined by various factors including the level of uncollectible accounts associated with each ESCO.[42] Under the contracts between PSEG LI and the ESCOs, the utility would remit approximately 95% of the ESCO charges and collect as much of the revenue from participants. Staff recommends that

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39 Id.

40 Id.

41 See, Cases 99-M-0631, et al., In the Matter of Customer Billing Arrangements, Order Establishing Uniform Retail Access Billing and Payment Processing Practices (issued May 18, 2001) , p. 92.

42 DPS Staff LI Choice Whitepaper, p. 9.

LIPA continue to provide more information about the terms of the ESCO contracts and how they will serve an overall benefit to customers. In addition, LIPA should provide more information about how it will maintain HEFPA compliance in terms of recovering "as much" of the revenue as possible. Going forward, LIPA also proposes to adjust factors to ensure that the amount remitted to ESCOs captures LIPA's actual recovery of the charges.

LIPA expects an estimated $150,000 in capital IT costs to implement changes to the billing system, and an estimated $1.8M to implement the Consolidated Billing Option with Purchase of Receivables. DPS Staff recommends that LIPA offer the Consolidated Bill Option with POR to be consistent with the IOU's.[43]

Clarifying Tariff Modifications

LIPA proposes several modifications to its Tariff for Electric Service, specifically 1) clarifying the pole attachment fee associated with equipment served under SC-10; 2) clarifying the applicability of the Service Initiation Charge to landlords that assume responsibility of the electric service in a commercial space previously occupied by a tenant; 3) modifying the Tariff to preclude customers in designated areas from SC-7A at the request of a local government(s); and 4) modifying the Delivery Service Adjustment Storm Reconciliation component so that revenues recovered from customers are reduced by estimated anticipated reimbursements. DPS Staff has reviewed these tariff changes and find that they are generally reasonable, remove ambiguity, or prevent undesired volatility in customer surcharges. As such, the Department recommends these proposals be adopted as proposed.

Pole Attachment Fees

The proposed change to the Pole Attachment Fee will clarify that the fee for municipally owned equipment served under SC-10 that attach to LIPA-owned poles is $7.04 per year and will remove a distinction between communications equipment and other types of equipment. Municipally owned equipment under SC-10 was previously billed under specific contracts. The contracted rates were lower than the annual charge of $7.04 for decorative, festival, and holiday attachments. The clarification would align the annual charge for municipally owned equipment with the annual fee of decorative, festival, and holiday attachments. This would increase annual revenue by approximately $79,000.

Service Initiation Charge

The proposed change to the Service Initiation Charge will clarify that the Charge will be applied to a non-residential account that is transferred to a landlord if the energy usage exceeds six kWh per day after the termination of the account by the prior tenant

[43] DPS LI Choice Staff Whitepaper, p. 8.

and before the establishment of a new account. The six kWh represents a level of electric consumption consistent with a minimal amount of load for lighting or security devices. Changing the Service Initiation Charge removes potential ambiguity and will have insignificant financial impact due to the relative rarity of the relevant situation.

SC-7A Eligibility

The proposed change to SC-7A allows LIPA to preclude customers in designated areas from eligibility under SC-7A if a local government makes a request to remove the light fixtures which are provided by LIPA and PSEG LI. Specifically, the Town of Southampton has requested, to further its local dark sky initiative, LIPA preclude customers in unincorporated areas within the Town from having lights offered under SC-7A. Any precluded areas will be listed on LIPA's new Statement of Outdoor Area Lighting. LIPA proposes to stop billing customers under SC-7A and to remove all existing lights in the precluded areas by March 31, 2022, which will result in a loss of approximately $58,000 in annual revenue.

Delivery Service Adjustment Storm Event Reserve

The proposed change to the Delivery Service Adjustment, "Storm Event Reserve Funding" language, will reduce the revenues collected from customers by estimating the anticipated reimbursements (e.g., FEMA), which will be later reconciled once the reimbursements are finalized. With this tariff modification, LIPA is authorized to include an estimate of the FEMA recovery as an offset to the DSA storm account, thereby reducing the amount collected from customers in the first year following the storm event. This change will prevent LIPA from over collecting funds from customers which it has a reasonable expectation to refund. There is no financial impact to this change, as it only affects the timing of the amounts, and the revenues are ultimately reconciled based on the actual collection and reimbursement amounts.

DPS Staff has reviewed these tariff changes and find that they are generally reasonable, remove ambiguity or prevent undesired volatility in customer surcharges. As such, the Department recommends these proposals be adopted as proposed.

Prolonged Outages

LIPA proposes to modify its Tariff to suspend daily service charge for customers affected by prolonged outage due to major storms and other emergency events. This modification to LIPA's tariff is aligned with the Commission Order in Case 13-M-0061 issued on November 18, 2013.[44] The November 18, 2013 Order set forth the new Statewide Policies regarding Customer Outage Credits and Other Consumer Protections Relating to Prolonged Outage. In the Order, a Prolonged Outage is defined as an outage resulting from an emergency causing customers to be without power for a

[44] Case 13-M-0061, Customer Outage Credit Policies and Other Consumer Protection Policies Relating to Prolonged Electric or Natural Gas Service Outages, Order Establishing Policies (issued November 18, 2013).

continuous period exceeding three days (72 hours). For any outage event meeting the definition of the Prolonged Outage, utilities were directed to credit customer charges incurred during the period of outage. This Tariff modification will align LIPA with the November 18, 2013 Commission Order, and as such Staff recommends the modification be adopted as proposed.

Policies on Collections

In addition to Prolonged Outage service credits, LIPA proposes to adopt additional policies related to collection activities resulting from any Prolonged Outage. These policies include a 7-calendar day suspension (from the beginning of the Prolonged Outage) of all collection-related activities including terminations of service for non-payment for customers who LIPA confirms have experienced a Prolonged Outage, or a 14-day suspension (from the beginning of the Prolonged Outage) for any customer who notifies LIPA and provides evidence that their financial circumstances have changed due to a Major Storm. Consistent with the November Order, issuance of service termination notices and assessment of security deposits will be permissible during the suspension periods. LIPA's modifications will further align their practices with those contained in the November Order, and as such, Staff recommends the proposal be adopted as proposed.

Conclusion

The Department reviewed LIPA's proposed modifications and finds the proposed update to the Authority's Tariff to be consistent with Commission Orders, DPS staff Whitepapers, and New York IOU Tariffs. The Department therefore recommends that, in accordance with the foregoing discussion and recommended changes, the Tariff modifications be adopted by the LIPA Board of Trustees.

Respectfully submitted,

Rory M. Christian
Chief Executive Officer

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