

LBD12029-11-3

Section 1. Section 3 of the public service law, as amended by chapter 8 of the laws of 2012, is amended and a new section 3-b is added to read as follows:

S 3. Department of public service. [1.] There shall be in the state government a department of public service. The chairman of the public service commission shall be the chief executive officer of the department. He or she shall appoint and shall have the power to remove, subject to the provisions of the civil service law, all officers, clerks, inspectors, experts and employees of the department, and to approve all contracts for special service. The chairman shall designate one of the commissioners in the department or an officer of the department to act as deputy chairman during the absence or disability of the chairman and during such times such deputy chairman shall possess all the powers of the chairman as chief executive officer of the department.

[2. The department shall, upon notification to the Long Island power authority, undertake a comprehensive and regular management and operations audit of said authority pursuant to subdivision (bb) of section one thousand twenty-f of the public authorities law. The department shall have discretion to have such an audit performed by its staff, or by an independent contractor. In every case in which an audit is required pursuant to subdivision (bb) of section one thousand twenty-f of the public authorities law performed by an independent auditor, the department shall have the authority to select the auditor, and to require the Long Island power authority to enter into a contract with the auditor that is consistent with the contracting-related requirements specified in subdivision nineteen of section sixty-six of this chapter and the requirements of subdivision (bb) of section one thousand twenty-f of the public authorities law. Such contract shall provide further that the auditor shall work for and under the direction of the department according to such terms as the department may determine are necessary and reasonable.]

S 3-B. LONG ISLAND OFFICE OF THE DEPARTMENT. 1. THERE IS HEREBY ESTABLISHED IN THE DEPARTMENT AN OFFICE TO REVIEW AND MAKE RECOMMENDATIONS WITH RESPECT TO THE OPERATIONS AND TERMS AND CONDITIONS OF SERVICE OF, AND RATES AND BUDGETS ESTABLISHED BY, THE LONG ISLAND POWER AUTHORITY AND/OR ITS SERVICE PROVIDER.

2. DEFINITIONS. AS USED OR REFERRED TO IN THIS SECTION:

(A) "AUTHORITY" MEANS THE LONG ISLAND POWER AUTHORITY.

(B) "SERVICE PROVIDER" MEANS THE ENTITY UNDER CONTRACT WITH THE AUTHORITY TO PROVIDE MANAGEMENT AND OPERATION SERVICES ASSOCIATED WITH THE AUTHORITY'S ELECTRIC TRANSMISSION AND DISTRIBUTION SYSTEM AND ANY SUBSIDIARY OF SUCH ENTITY THAT PROVIDES SUCH SERVICES UNDER CONTRACT. HOWEVER, THE SERVICE PROVIDER AND ANY AFFILIATE OF THE SERVICE PROVIDER WITH WHOM THE AUTHORITY OR SERVICE PROVIDER CONTRACTS TO PROVIDE SERVICES ASSOCIATED WITH THE AUTHORITY'S ELECTRIC TRANSMISSION AND DISTRIBUTION SYSTEM SHALL NOT BE CONSIDERED AN ELECTRIC CORPORATION UNDER THIS CHAPTER.

(C) "OPERATIONS SERVICES AGREEMENT" MEANS AN AGREEMENT AND ANY AMENDMENTS THERETO BETWEEN THE LONG ISLAND LIGHTING COMPANY DBA LIPA OR THE LONG ISLAND POWER AUTHORITY AND THE SERVICE PROVIDER TO PROVIDE MANAGEMENT AND OPERATION SERVICES ASSOCIATED WITH THE AUTHORITY'S ELECTRIC TRANSMISSION AND DISTRIBUTION SYSTEM.

3. GENERAL POWERS. IN UNDERTAKING THE REQUIREMENTS OF THIS SECTION, SUBJECT TO SUBDIVISIONS (U) AND (BB) THROUGH (HH) OF SECTION ONE THOUSAND TWENTY-F OF THE PUBLIC AUTHORITIES LAW, THE DEPARTMENT SHALL BE EMPOWERED AND AUTHORIZED TO:

(A) REVIEW AND MAKE RECOMMENDATIONS TO THE BOARD OF THE LONG ISLAND POWER AUTHORITY WITH RESPECT TO THE RATES AND CHARGES, INCLUDING CHARGES RELATED TO ENERGY EFFICIENCY AND RENEWABLE ENERGY PROGRAMS, TO BE ESTABLISHED BY THE AUTHORITY AND BECOME APPLICABLE ON OR AFTER JANUARY FIRST, TWO THOUSAND SIXTEEN PURSUANT TO SUBDIVISION (U) OF SECTION ONE THOUSAND TWENTY-F OF THE PUBLIC AUTHORITIES LAW.

(I) THE PURPOSE OF SUCH REVIEW IS TO MAKE RECOMMENDATIONS DESIGNED TO ENSURE THAT THE AUTHORITY AND THE SERVICE PROVIDER PROVIDE SAFE AND ADEQUATE TRANSMISSION AND DISTRIBUTION SERVICE AT RATES SET AT THE LOWEST LEVEL CONSISTENT WITH SOUND FISCAL OPERATING PRACTICES.

(II) THE DEPARTMENT'S RECOMMENDATIONS SHALL BE DESIGNED TO BE CONSISTENT WITH ENSURING THAT THE REVENUE REQUIREMENTS RELATED TO SUCH RATE REVIEW ARE SUFFICIENT TO SATISFY THE AUTHORITY'S OBLIGATIONS WITH RESPECT TO ITS BONDS, NOTES AND ALL OTHER CONTRACTS.

(III) IN THE CONTEXT OF SUCH REVIEW, THE DEPARTMENT MAY NOT MAKE ANY RECOMMENDATION THAT WOULD MODIFY THE COMPENSATION OR FEE STRUCTURE INCLUDED WITHIN THE OPERATIONS SERVICES AGREEMENT.

(IV) IN UNDERTAKING SUCH REVIEW AND IN MAKING RECOMMENDATIONS RELATED TO THE PROPOSED RATES AND CHARGES, THE DEPARTMENT SHALL ESTABLISH STANDARDS, POLICIES AND PROCEDURES THAT, AT A MINIMUM, PROVIDE FOR PUBLIC STATEMENT AND EVIDENTIARY HEARINGS AND PARTICIPATION OF INTERVENORS AND OTHER PARTIES, AND ENSURE THAT ANY FINAL RECOMMENDATIONS RELATED TO THE PROPOSED RATES AND CHARGES ARE PROVIDED TO THE AUTHORITY WITHIN TWO HUNDRED FORTY DAYS OF THE FILING WITH THE DEPARTMENT OF SUCH PLAN.

(V) THE PARTIES TO ANY SUCH RATE REVIEW PROCEEDING SHALL INCLUDE, BUT NOT BE LIMITED TO, DEPARTMENT STAFF, THE AUTHORITY, THE SERVICE PROVIDER AND, TO THE EXTENT IT DEEMS NECESSARY OR APPROPRIATE, THE UTILITY INTERVENTION UNIT.

(B) REVIEW THE ANNUAL CAPITAL EXPENDITURES PROPOSED BY THE SERVICE PROVIDER AND RECOMMEND SUCH IMPROVEMENT IN THE MANUFACTURE, CONVEYING, TRANSPORTATION, DISTRIBUTION OR SUPPLY OF ELECTRICITY, OR IN THE METHODS EMPLOYED BY THE THE SERVICE PROVIDER AS IN THE DEPARTMENT'S JUDGMENT ALLOWS FOR SAFE AND ADEQUATE SERVICE.

(C) ANNUALLY REVIEW THE EMERGENCY RESPONSE PLAN OF THE AUTHORITY AND THE SERVICE PROVIDER IN ACCORDANCE WITH THE FOLLOWING REQUIREMENTS:

(I) EXAMINE AND DETERMINE WHETHER THE EMERGENCY RESPONSE PLAN IS CONSISTENT WITH THE REQUIREMENTS OF PARAGRAPH (A) OF SUBDIVISION TWENTY-ONE OF SECTION SIXTY-SIX OF THIS CHAPTER AND ANY REGULATIONS OR ORDERS PROMULGATED THERETO, AND TO RECOMMEND AMENDMENTS OF SAME; AND

(II) REVIEW AND MAKE RECOMMENDATIONS TO THE AUTHORITY WITH RESPECT TO THE PERFORMANCE OF THE SERVICE PROVIDER IN RESTORING SERVICE OR OTHERWISE MEETING THE REQUIREMENTS OF THE EMERGENCY RESPONSE PLAN DURING AN EMERGENCY EVENT, DEFINED FOR PURPOSES OF THIS SECTION AS AN EVENT WHERE WIDESPREAD OUTAGES HAVE OCCURRED IN THE AUTHORITY'S SERVICE TERRITORY DUE TO A STORM OR OTHER CAUSES BEYOND THE CONTROL OF THE AUTHORITY AND ITS SERVICE PROVIDER, INCLUDING MAKING DETERMINATIONS WITH RESPECT TO WHETHER THE SERVICE PROVIDER IS REASONABLY ABLE TO IMPLEMENT THE EMERGENCY RESPONSE PLAN, WHETHER THE LENGTH OF ANY OUTAGES RELATED TO SUCH EMERGENCY WERE MATERIALLY LONGER THAN THEY WOULD OTHERWISE HAVE BEEN BECAUSE THE SERVICE PROVIDER FAILED TO REASONABLY IMPLEMENT THE EMERGENCY RESPONSE PLAN, THE REASONABLENESS OF COSTS ASSOCIATED WITH SUCH EMERGENCY RESPONSE, THE COSTS, IF ANY, THAT WERE UNREASONABLY AND IMPRUDENTLY INCURRED BY THE SERVICE PROVIDER, AND WHETHER THE SERVICE PROVIDER WOULD BE LIABLE FOR ANY SUCH COSTS PURSUANT TO THE TERMS AND CONDITIONS OF THE OPERATIONS SERVICES AGREEMENT.

(D) UPON NOTIFICATION TO THE LONG ISLAND POWER AUTHORITY, UNDERTAKE A COMPREHENSIVE AND REGULAR MANAGEMENT AND OPERATIONS AUDIT OF THE AUTHORITY AND SERVICE PROVIDER PURSUANT TO SUBDIVISION (BB) OF SECTION ONE THOUSAND TWENTY-F OF THE PUBLIC AUTHORITIES LAW. THE DEPARTMENT SHALL HAVE DISCRETION TO HAVE SUCH AN AUDIT PERFORMED BY ITS STAFF, OR BY AN INDEPENDENT CONTRACTOR. IN EVERY CASE IN WHICH AN AUDIT IS REQUIRED PURSUANT TO SUBDIVISION (BB) OF SECTION ONE THOUSAND TWENTY-F OF THE PUBLIC AUTHORITIES LAW PERFORMED BY AN INDEPENDENT AUDITOR, THE DEPARTMENT SHALL HAVE THE AUTHORITY TO SELECT THE AUDITOR, AND TO REQUIRE THE AUTHORITY TO ENTER INTO A CONTRACT WITH THE AUDITOR THAT IS CONSISTENT WITH THE CONTRACTING-RELATED REQUIREMENTS SPECIFIED IN SUBDIVISION NINETEEN OF SECTION SIXTY-SIX OF THIS CHAPTER AND THE REQUIREMENTS OF SUBDIVISION (BB) OF SECTION ONE THOUSAND TWENTY-F OF THE PUBLIC AUTHORITIES LAW. SUCH CONTRACT SHALL PROVIDE FURTHER THAT THE AUDITOR SHALL WORK FOR AND UNDER THE DIRECTION OF THE DEPARTMENT ACCORDING TO SUCH TERMS AS THE DEPARTMENT MAY DETERMINE ARE NECESSARY AND REASONABLE.

(E) ACCEPT, INVESTIGATE, MEDIATE TO RESOLVE AND MAKE RECOMMENDATIONS TO THE LONG ISLAND POWER AUTHORITY AND/OR THE SERVICE PROVIDER REGARDING THE RESOLUTION OF COMPLAINTS FROM CONSUMERS IN THE AUTHORITY'S SERVICE TERRITORY RELATING TO, AMONG OTHER THINGS, THE PROVISION OF ELECTRIC SERVICE PROVIDED BY THE SERVICE PROVIDER AND/OR THE AUTHORITY.

(F) REVIEW THE NET METERING PROGRAM IMPLEMENTED UNDER SUBDIVISION (H) OF SECTION ONE THOUSAND TWENTY-G OF THE PUBLIC AUTHORITIES LAW AND MAKE RECOMMENDATIONS DESIGNED TO ENSURE CONSISTENCY WITH THE REQUIREMENTS OF SECTIONS SIXTY-SIX-J AND SIXTY-SIX-L OF THIS CHAPTER, AND ANY REGULATIONS AND ORDERS ADOPTED THERETO.

(G) REVIEW AND MAKE RECOMMENDATIONS WITH RESPECT TO ANY PROPOSED PLAN SUBMITTED BY THE LONG ISLAND POWER AUTHORITY AND/OR THE SERVICE PROVIDER RELATED TO IMPLEMENTATION OF ENERGY EFFICIENCY MEASURES, DISTRIBUTED GENERATION OR ADVANCED GRID TECHNOLOGY PROGRAMS HAVING THE PURPOSE OF PROVIDING CUSTOMERS WITH TOOLS TO MORE EFFICIENTLY AND EFFECTIVELY MANAGE THEIR ENERGY USAGE AND UTILITY BILLS, AND IMPROVING SYSTEM RELIABILITY AND POWER QUALITY.

(H) REVIEW THE DATA, INFORMATION AND REPORTS SUBMITTED PURSUANT TO SUBDIVISION (HH) OF SECTION ONE THOUSAND TWENTY-F OF THE PUBLIC AUTHORITIES LAW AND OTHER PERTINENT INFORMATION RELATED TO THE METRICS IN THE OPERATIONS SERVICES AGREEMENT, THE LONG ISLAND POWER AUTHORITY'S EVALUATION OF SUCH DATA, INFORMATION AND REPORTS, AND MAKE RECOMMENDATIONS TO THE AUTHORITY WITH RESPECT TO THE SERVICE PROVIDER'S ANNUAL INCENTIVE-BASED COMPENSATION WITHIN THIRTY DAYS OF RECEIPT OF SUCH EVALUATION AND INFORMATION.

4. REVIEW AND INSPECTION. TO UNDERTAKE THE REQUIREMENTS OF SUBDIVISION TWO OF THIS SECTION, THE DEPARTMENT SHALL BE AUTHORIZED TO INSPECT ALL PREMISES AND FACILITIES OWNED OR OPERATED BY THE AUTHORITY AND THE SERVICE PROVIDER, REVIEW ALL BOOKS AND RECORDS OF THE AUTHORITY AND THE SERVICE PROVIDER, INTERVIEW ALL APPROPRIATE PERSONNEL, AND REQUIRE ANNUAL REPORTING CONSISTENT WITH THE REQUIREMENTS OF SUBDIVISION SIX OF SECTION SIXTY-SIX OF THIS CHAPTER AND ANY REGULATIONS AND ORDERS ADOPTED THERETO; PROVIDED, HOWEVER, THAT THIS AUTHORITY SHALL NOT EXTEND TO AFFILIATES OF THE SERVICE PROVIDER.

S 2. Subdivision 2 and paragraph (b) of subdivision 6 of section 18-a of the public service law, subdivision 2 as amended by section 2 of part NN of chapter 59 of the laws of 2009 and paragraph (b) of subdivision 6 as amended by section 1 of part BB of chapter 59 of the laws of 2013, are amended and a new subdivision 1-a is added to read as follows:

1 1-A. ALL COSTS AND EXPENSES OF THE DEPARTMENT RELATED TO THE DEPART-  
2 MENT'S RESPONSIBILITIES UNDER SECTION THREE-B OF THIS CHAPTER SHALL BE  
3 PAID PURSUANT TO APPROPRIATION ON THE CERTIFICATION OF THE CHAIRMAN OF  
4 THE DEPARTMENT AND UPON THE AUDIT AND WARRANT OF THE COMPTROLLER. FOR  
5 THE STATE FISCAL YEAR BEGINNING ON APRIL FIRST, TWO THOUSAND FOURTEEN  
6 AND EACH STATE FISCAL YEAR THEREAFTER, PAYMENTS ARE TO BE MADE FROM ALL  
7 MONEYS COLLECTED FROM THE LONG ISLAND POWER AUTHORITY PURSUANT TO THIS  
8 SECTION. THE TOTAL OF SUCH COSTS AND EXPENSES SHALL BE ASSESSED ON SUCH  
9 AUTHORITY IN THE MANNER PROVIDED IN SUBDIVISIONS TWO, THREE AND FOUR OF  
10 THIS SECTION.

11 2. (a) The chairman of the department shall estimate prior to the  
12 start of each state fiscal year the total costs and expenses, including  
13 the compensation and expenses of the commission and the department,  
14 their officers, agents and employees, and including the cost of retire-  
15 ment contributions, social security, health and dental insurance, survi-  
16 vor's benefits, workers' compensation, unemployment insurance and other  
17 fringe benefits required to be paid by the state for the personnel of  
18 the commission and the department, and including all other items of  
19 maintenance and operation expenses, and all other direct and indirect  
20 costs. Based on such estimates, the chairman shall determine the amount  
21 to be paid by each assessed public utility company AND THE LONG ISLAND  
22 POWER AUTHORITY and a bill shall be rendered to each such public utility  
23 company AND AUTHORITY.

24 (b) The bill for each public utility company AND THE LONG ISLAND POWER  
25 AUTHORITY shall be rendered on or before February first preceding each  
26 fiscal year, and shall be for the amount equal to the product of the  
27 aforesaid estimated costs and expenses of conducting the department's  
28 and commission's total operations during the fiscal year for which bill-  
29 ing is being made multiplied by the proportion which compares:

30 (1) the gross operating revenues, over and above five hundred thousand  
31 dollars, for that utility company OR THE AUTHORITY derived from intra-  
32 state utility operations in the last preceding calendar year, or other  
33 twelve month period as determined by the chairman, to:

34 (2) the total of the gross operating revenues, derived from intrastate  
35 utility operations for all utility companies AND THE AUTHORITY in the  
36 state which revenues are included under subparagraph one of this para-  
37 graph.

38 For the purposes of calculating the commodity cost component of its  
39 gross operating revenue, where the utility delivers to end-use customers  
40 electricity and/or natural gas commodities that are sold to such custom-  
41 ers by a third party, such utility shall include in its revenues an  
42 estimate of the sales revenue for the electric and/or natural gas  
43 commodities that it delivers, including all such commodities sold to  
44 end-use customers by third parties, in such manner as to assure that all  
45 end-use delivery customers, regardless of the entity from which they  
46 purchase their electric and/or natural gas commodities, bear a fair and  
47 proportionate share of the assessment imposed herein, as the commission  
48 may determine.

49 (c) The minimum assessment for any utility company, AS WELL AS THE  
50 LONG ISLAND POWER AUTHORITY, whose gross revenues from intrastate utili-  
51 ty operations are in excess of five hundred thousand dollars in the  
52 preceding calendar year shall be two hundred dollars.

53 (d) The amount of such bill for fiscal years beginning on or after  
54 April first, nineteen hundred eighty-three so rendered shall be paid by  
55 such public utility company AND SUCH AUTHORITY to the department on or  
56 before April first; provided, however, that [a] ANY SUCH utility company

1 OR SUCH AUTHORITY may elect to make partial payments for such costs and  
2 expenses on March tenth of the preceding fiscal year and on September  
3 tenth of such fiscal year. Each such partial payment shall be a sum  
4 equal to fifty percentum of the estimate of costs and expenses to be  
5 assessed against such utility company OR AUTHORITY under the provisions  
6 of this subdivision and shall not be less than two hundred dollars.

7 (e) During the course of any state fiscal year, the chairman may  
8 increase or decrease the estimate of costs and expenses. In such case,  
9 revised bills shall be sent to each public utility company AND SUCH  
10 AUTHORITY, and such increase or decrease shall be equally apportioned  
11 against the remaining payments for such fiscal year.

12 (f) On or before October tenth of each year, the chairman shall  
13 compute the actual costs and expenses of the department and the commis-  
14 sion and adjustments or other corrections as needed for the preceding  
15 state fiscal year and, after deducting the amounts recovered pursuant to  
16 subdivisions three and four of this section, shall, on or before October  
17 twentieth, send to each public utility company AND/OR THE AUTHORITY  
18 affected thereby a statement setting forth the amount due and payable  
19 by, or the amount standing to the credit of, such public utility company  
20 AND/OR THE AUTHORITY. Any amount owing by any public utility company  
21 AND/OR THE AUTHORITY shall be paid not later than thirty days following  
22 the date such statement is received. Any such amount standing to the  
23 credit of any public utility company shall be refunded by the commission  
24 or, at the option of such utility company, shall be applied as a credit  
25 against any succeeding payment due.

26 (g) The total amount which may be charged to any public utility compa-  
27 ny AND THE LONG ISLAND POWER AUTHORITY under authority of this subdivi-  
28 sion for any state fiscal year shall not exceed one per centum of such  
29 public utility company's OR AUTHORITY'S gross operating revenues derived  
30 from intrastate utility operations in the last preceding calendar year,  
31 or other twelve month period as determined by the chairman; provided,  
32 however, that no corporation or person that is subject to the jurisdic-  
33 tion of the commission only with respect to safety, or the power author-  
34 ity of the state of New York, shall be subject to the general assessment  
35 provided for under this subdivision.

36 Notwithstanding the provisions of subdivision one of this section, for  
37 telephone corporations as defined in subdivision seventeen of section  
38 two of this article, the total amount which may be charged such corpo-  
39 rations for department expenses under the authority of subdivision one  
40 of this section for any state fiscal year shall not exceed one-third of  
41 one percentum of such corporation's gross operating revenue, over and  
42 above five hundred thousand dollars, derived from intrastate utility  
43 operations in the last preceding calendar year, or other twelve month  
44 period as determined by the chairman.

45 (h) On-bill recovery charges billed pursuant to section sixty-six-m of  
46 this chapter shall be excluded from any determination of an entity's  
47 gross operating revenues derived from intrastate utility operations for  
48 purposes of this section.

49 (b) The temporary state energy and utility service conservation  
50 assessment shall be based upon the following percentum of the utility  
51 entity's gross operating revenues derived from intrastate utility oper-  
52 ations in the last preceding calendar year, minus the amount, if any,  
53 that such utility entity is assessed pursuant to subdivisions one and  
54 two of this section for the corresponding state fiscal year period: (1)  
55 two percentum for the state fiscal year beginning April first, two thou-  
56 sand thirteen and the state fiscal year beginning April first, two thou-

1 sand fourteen; (2) one and three-quarters percentum for the state fiscal  
2 year beginning April first, two thousand fifteen; and (3) one and one-  
3 half percentum for the state fiscal year beginning April first, two  
4 thousand sixteen. With respect to the temporary state energy and utility  
5 service conservation assessment to be paid for the state fiscal year  
6 beginning April first, two thousand seventeen and notwithstanding clause  
7 (i) of paragraph (d) of this subdivision, on or before March tenth, two  
8 thousand seventeen, utility entities shall make a payment equal to one-  
9 half of the assessment paid by such entities pursuant to this paragraph  
10 for the state fiscal year beginning on April first, two thousand  
11 sixteen. With respect to the Long Island power authority, the temporary  
12 state energy and utility service conservation assessment shall be based  
13 upon the following percentum of such authority's gross operating reven-  
14 ues derived from intrastate utility operations in the last preceding  
15 calendar year, MINUS THE AMOUNT, IF ANY, THAT SUCH AUTHORITY IS ASSESSED  
16 PURSUANT TO SUBDIVISIONS ONE-A AND TWO OF THIS SECTION FOR THE CORRE-  
17 SPONDING STATE FISCAL YEAR PERIOD: (1) one percentum for the state  
18 fiscal year beginning April first, two thousand thirteen and the state  
19 fiscal year beginning April first, two thousand fourteen; (2) three-  
20 quarters of one percentum for the state fiscal year beginning April  
21 first, two thousand fifteen; and (3) one-half percentum for the state  
22 fiscal year beginning April first, two thousand sixteen; PROVIDED,  
23 HOWEVER, THAT SHOULD THE AMOUNT ASSESSED BY THE DEPARTMENT FOR COSTS AND  
24 EXPENSES PURSUANT TO SUCH SUBDIVISIONS EQUAL OR EXCEED SUCH AUTHORITY'S  
25 TEMPORARY STATE ENERGY AND UTILITY SERVICE CONSERVATION ASSESSMENT FOR A  
26 PARTICULAR FISCAL YEAR, THE AMOUNT TO BE PAID UNDER THIS SUBDIVISION BY  
27 SUCH AUTHORITY SHALL BE ZERO. With respect to the temporary state ener-  
28 gy and utility service conservation assessment to be paid for the state  
29 fiscal year beginning April first, two thousand seventeen and notwith-  
30 standing clause (i) of paragraph (d) of this subdivision, on or before  
31 March tenth, two thousand seventeen, the Long Island power authority  
32 shall make a payment equal to one-half of the assessment it paid for the  
33 state fiscal year beginning on April first, two thousand sixteen. No  
34 corporation or person subject to the jurisdiction of the commission only  
35 with respect to safety, or the power authority of the state of New York,  
36 shall be subject to the temporary state energy and utility service  
37 conservation assessment provided for under this subdivision. Utility  
38 entities whose gross operating revenues from intrastate utility oper-  
39 ations are five hundred thousand dollars or less in the preceding calen-  
40 dar year shall not be subject to the temporary state energy and utility  
41 service conservation assessment. The minimum temporary state energy and  
42 utility service conservation assessment to be billed to any utility  
43 entity whose gross revenues from intrastate utility operations are in  
44 excess of five hundred thousand dollars in the preceding calendar year  
45 shall be two hundred dollars.

46 S 3. Section 1020-b of the public authorities law is amended by adding  
47 two new subdivisions 23 and 24 to read as follows:

48 23. "SERVICE PROVIDER" MEANS THE ENTITY UNDER CONTRACT WITH THE  
49 AUTHORITY TO PROVIDE MANAGEMENT AND OPERATION SERVICES ASSOCIATED WITH  
50 THE AUTHORITY'S ELECTRIC TRANSMISSION AND DISTRIBUTION SYSTEM AND ANY  
51 SUBSIDIARY OF SUCH ENTITY THAT PROVIDES SUCH SERVICES UNDER CONTRACT.

52 24. "OPERATIONS SERVICES AGREEMENT" MEANS AN AGREEMENT AND ANY AMEND-  
53 MENTS THERETO BETWEEN THE LONG ISLAND LIGHTING COMPANY DBA LIPA OR THE  
54 AUTHORITY AND THE SERVICE PROVIDER TO PROVIDE MANAGEMENT AND OPERATION  
55 SERVICES ASSOCIATED WITH THE AUTHORITY'S ELECTRIC TRANSMISSION AND  
56 DISTRIBUTION SYSTEM.

1 S 4. Section 1020-d of the public authorities law, as added by chapter  
2 506 of the laws of 1995, is amended to read as follows:

3 S 1020-d. [Trustees] BOARD OF TRUSTEES. 1. [The] STARTING ON JANUARY  
4 FIRST, TWO THOUSAND FOURTEEN, THE BOARD OF THE authority shall BE  
5 CONSTITUTED AND consist of [fifteen] NINE trustees all of whom shall be  
6 residents of the service area, [nine] FIVE of whom shall be appointed by  
7 the governor, one of whom the governor shall designate as [chairman]  
8 CHAIR, and serve at his OR HER pleasure, [three] TWO of whom shall be  
9 appointed by the temporary president of the senate, and [three] TWO of  
10 whom shall be appointed by the speaker of the assembly. [Two] ONE of  
11 the governor's appointees shall serve an initial term of [one year] TWO  
12 YEARS; [two] ONE of the governor's appointees shall serve an initial  
13 term of [two] THREE years; [two] AND THREE of the governor's appointees  
14 shall serve an initial term of [three] FOUR years[; and three of the  
15 governor's appointees shall serve an initial term of four years]. [Two]  
16 ONE of the appointees of the temporary president of the senate and [two]  
17 ONE of the appointees of the speaker of the assembly shall serve initial  
18 terms of [one year] TWO YEARS; and one appointee of the temporary presi-  
19 dent of the senate and one appointee of the speaker of the assembly  
20 shall serve initial terms of [two] THREE years. Thereafter, all terms  
21 shall be for a period of four years. In the event of a vacancy occurring  
22 in the office of trustee by death, resignation or otherwise, the respec-  
23 tive appointing officer shall appoint a successor who shall hold office  
24 for the unexpired portion of the term.

25 2. No trustee shall receive a salary, but each shall be entitled to  
26 reimbursement for reasonable expenses in the performance of duties  
27 assigned hereunder.

28 3. Notwithstanding the provisions of any other law, no trustee, offi-  
29 cer or employee of the state, any state agency or municipality appointed  
30 a trustee shall be deemed to have forfeited or shall forfeit his or her  
31 office or employment by reason of his or her acceptance of a trusteeship  
32 on the authority, his or her service thereon or his or her employment  
33 therewith.

34 4. ALL TRUSTEES APPOINTED UNDER THIS SECTION SHALL HAVE RELEVANT UTIL-  
35 ITY, CORPORATE BOARD OR FINANCIAL EXPERIENCE.

36 S 5. On or before December 1, 2013 the governor, the temporary presi-  
37 dent of the senate and the speaker of the assembly shall choose and  
38 announce their appointments to the board of the Long Island power  
39 authority to be made pursuant to section 1020-d of the public authori-  
40 ties law, as amended by section four of this act, giving due consider-  
41 ation to continuity of business. The board of trustees of the Long  
42 Island power authority in existence on December 31, 2013, shall be abol-  
43 ished on such date and be constituted on January 1, 2014 pursuant to  
44 section 1020-d of the public authorities law, as amended by section four  
45 of this act.

46 S 6. Subdivision (u) of section 1020-f of the public authorities law  
47 is REPEALED.

48 S 7. Subdivisions (c) and (bb) of section 1020-f of the public author-  
49 ities law, subdivision (c) as amended by chapter 506 of the laws of 2009  
50 and subdivision (bb) as added by chapter 8 of the laws of 2012, are  
51 amended and seven new subdivisions (u), (cc), (dd), (ee), (ff), (gg) and  
52 (hh) are added to read as follows:

53 (c) To appoint officers, agents and employees, without regard to any  
54 personnel or civil service law, rule or regulation of the state and in  
55 accordance with guidelines adopted by the authority, prescribe their  
56 duties and qualifications and fix and pay their compensation[, provided,



1 however, that the appointment of the chief executive officer shall be  
2 subject to confirmation by the senate in accordance with section twen-  
3 ty-eight hundred fifty-two of this chapter;]. BY JANUARY FIRST, TWO  
4 THOUSAND FOURTEEN, THE AUTHORITY, THROUGH ITS GOVERNANCE COMMITTEE,  
5 SHALL AMEND SUCH GUIDELINES TO REQUIRE THAT STAFFING AT THE AUTHORITY IS  
6 KEPT AT LEVELS ONLY NECESSARY TO ENSURE THAT THE AUTHORITY IS ABLE TO  
7 MEET OBLIGATIONS WITH RESPECT TO ITS BONDS AND NOTES AND ALL APPLICABLE  
8 STATUTES AND CONTRACTS, AND OVERSEE THE ACTIVITIES OF THE SERVICE  
9 PROVIDER;

10 (U) RATE PLANS. SUBJECT TO SUBDIVISION SIX OF SECTION ONE THOUSAND  
11 TWENTY-K OF THIS TITLE TO FIX RATES AND CHARGES FOR THE FURNISHING OR  
12 RENDITION OF GAS OR ELECTRIC POWER OR OF ANY RELATED SERVICE AT THE  
13 LOWEST LEVEL CONSISTENT WITH SOUND FISCAL AND OPERATING PRACTICES OF THE  
14 AUTHORITY AND WHICH PROVIDE FOR SAFE AND ADEQUATE SERVICE. IN IMPLEMENT-  
15 ING THIS POWER:

16 1. THE AUTHORITY AND THE SERVICE PROVIDER SHALL, ON OR BEFORE FEBRUARY  
17 FIRST, TWO THOUSAND FIFTEEN, SUBMIT FOR REVIEW TO THE DEPARTMENT OF  
18 PUBLIC SERVICE A THREE-YEAR RATE PROPOSAL FOR RATES AND CHARGES TO TAKE  
19 EFFECT ON OR AFTER JANUARY FIRST, TWO THOUSAND SIXTEEN.

20 2. THE AUTHORITY AND THE SERVICE PROVIDER SHALL THEREAFTER SUBMIT FOR  
21 REVIEW TO THE DEPARTMENT OF PUBLIC SERVICE ANY RATE PROPOSAL THAT WOULD  
22 INCREASE THE RATES AND CHARGES AND THUS INCREASE THE AGGREGATE REVENUES  
23 OF THE AUTHORITY BY MORE THAN TWO AND ONE-HALF PERCENT TO BE MEASURED ON  
24 AN ANNUAL BASIS; PROVIDED, HOWEVER, THAT THE AUTHORITY MAY PLACE SUCH  
25 RATES AND CHARGES INTO EFFECT ON AN INTERIM BASIS, SUBJECT TO PROSPEC-  
26 TIVE RATE ADJUSTMENT; PROVIDED, FURTHER, THAT A FINAL RATE PLAN ISSUED  
27 BY THE AUTHORITY THAT WOULD NOT SO INCREASE SUCH RATES AND CHARGES SHALL  
28 NOT BE SUBJECT TO THE REQUIREMENTS OF PARAGRAPH FOUR OF THIS SUBDIVISION  
29 AND SHALL BE CONSIDERED FINAL FOR THE PURPOSES OF REVIEW UNDER ARTICLE  
30 SEVENTY-EIGHT OF THE CIVIL PRACTICE LAW AND RULES. THE AUTHORITY AND/OR  
31 THE SERVICE PROVIDER MAY OTHERWISE SUBMIT FOR REVIEW TO SUCH DEPARTMENT  
32 ANY RATE PROPOSAL IRRESPECTIVE OF ITS EFFECT ON REVENUES.

33 3. THE AUTHORITY SHALL NOT FIX ANY FINAL RATES AND CHARGES PROPOSED  
34 THAT WOULD NOT BE SUBJECT TO REVIEW BY THE DEPARTMENT OF PUBLIC SERVICE  
35 PURSUANT TO PARAGRAPHS ONE AND TWO OF THIS SUBDIVISION UNTIL AFTER HOLD-  
36 ING PUBLIC HEARINGS THEREON UPON REASONABLE PUBLIC NOTICE, WITH AT LEAST  
37 ONE SUCH HEARING TO BE HELD EACH IN THE COUNTY OF SUFFOLK AND THE COUNTY  
38 OF NASSAU.

39 4. ANY RECOMMENDATIONS ASSOCIATED WITH A RATE PROPOSAL SUBMITTED  
40 PURSUANT TO PARAGRAPHS ONE AND TWO OF THIS SUBDIVISION SHALL BE PROVIDED  
41 BY THE DEPARTMENT OF PUBLIC SERVICE TO THE BOARD OF THE AUTHORITY IMME-  
42 DIATELY UPON THEIR FINALIZATION BY THE DEPARTMENT. UNLESS THE BOARD OF  
43 THE AUTHORITY MAKES A PRELIMINARY DETERMINATION IN ITS DISCRETION THAT  
44 ANY PARTICULAR RECOMMENDATION IS INCONSISTENT WITH THE AUTHORITY'S SOUND  
45 FISCAL OPERATING PRACTICES, ANY EXISTING CONTRACTUAL OR OPERATING OBLI-  
46 GATIONS, OR THE PROVISION OF SAFE AND ADEQUATE SERVICE, THE BOARD SHALL  
47 IMPLEMENT SUCH RECOMMENDATIONS AS PART OF ITS FINAL RATE PLAN AND SUCH  
48 FINAL DETERMINATION SHALL BE DEEMED TO SATISFY THE REQUIREMENTS OF THIS  
49 SUBDIVISION AND BE CONSIDERED FINAL FOR THE PURPOSES OF REVIEW UNDER  
50 ARTICLE SEVENTY-EIGHT OF THE CIVIL PRACTICE LAW AND RULES. THE BOARD  
51 SHALL MAKE ANY SUCH PRELIMINARY DETERMINATION OF INCONSISTENCY WITHIN  
52 THIRTY DAYS OF RECEIPT OF SUCH RECOMMENDATIONS, WITH NOTICE AND THE  
53 BASIS OF SUCH DETERMINATION BEING PROVIDED TO THE DEPARTMENT OF PUBLIC  
54 SERVICE, AND CONTEMPORANEOUSLY POSTED ON THE WEBSITES OF THE AUTHORITY  
55 AND ITS SERVICE PROVIDER. THE BOARD SHALL THEREAFTER, WITHIN THIRTY DAYS  
56 OF SUCH POSTING AND WITH DUE ADVANCE NOTICE TO THE PUBLIC, HOLD A PUBLIC

1 HEARING WITH RESPECT TO ITS PRELIMINARY DETERMINATION OF INCONSISTENCY.  
2 AT SUCH HEARING, THE DEPARTMENT OF PUBLIC SERVICE SHALL PRESENT THE  
3 BASIS FOR ITS RECOMMENDATIONS, THE BOARD SHALL PRESENT THE BASIS FOR ITS  
4 DETERMINATION OF INCONSISTENCY AND THE SERVICE PROVIDER MAY PRESENT ITS  
5 POSITION. THE AUTHORITY AND THE SERVICE PROVIDER MAY, DURING THE TIME  
6 PERIOD BEFORE SUCH PUBLIC HEARING REACH AGREEMENT WITH THE DEPARTMENT ON  
7 DISPUTED ISSUES. WITHIN THIRTY DAYS AFTER SUCH PUBLIC HEARING, THE  
8 BOARD OF THE AUTHORITY SHALL ANNOUNCE ITS FINAL DETERMINATION AND  
9 PLANNED IMPLEMENTATION WITH RESPECT TO ANY SUCH RECOMMENDATIONS. THE  
10 AUTHORITY'S FINAL DETERMINATION OF INCONSISTENCY SHALL BE SUBJECT TO ANY  
11 APPLICABLE JUDICIAL REVIEW PROCEEDING, INCLUDING REVIEW AVAILABLE UNDER  
12 ARTICLE SEVENTY-EIGHT OF THE CIVIL PRACTICE LAW AND RULES.

13 (bb) Comprehensive and regular management and operations audits. 1.  
14 The authority AND THE SERVICE PROVIDER shall cooperate in the undertak-  
15 ing and completion of a regular and comprehensive management and oper-  
16 ations audit conducted pursuant to the requirements of this subdivision  
17 and [subdivision two of section three] PARAGRAPH (D) OF SUBDIVISION  
18 THREE OF SECTION THREE-B of the public service law. Such audit shall  
19 review and evaluate the [authority's] overall operations and management  
20 OF THE AUTHORITY AND SERVICE PROVIDER, including [the authority's] SUCH  
21 operations and management in the context of [its] THE AUTHORITY'S duty  
22 to set rates at the lowest level consistent with standards and proce-  
23 dures provided in subdivision (u) of this section, and include, but not  
24 be limited to: (i) the [authority's] SERVICE PROVIDER'S construction and  
25 capital program planning in relation to the needs of [its] customers for  
26 reliable service; (ii) the overall efficiency of the authority's AND  
27 SERVICE PROVIDER'S operations; (iii) the manner in which the authority  
28 is meeting its debt service obligations; (iv) the authority's Fuel and  
29 Purchased Power Cost Adjustment clause and recovery of costs associated  
30 with such clause; (v) the authority's AND SERVICE PROVIDER'S annual  
31 budgeting procedures and process; (VI) THE APPLICATION, IF ANY, OF THE  
32 PERFORMANCE METRICS DESIGNATED IN THE OPERATIONS SERVICES AGREEMENT AND  
33 THE ACCURACY OF THE DATA RELIED UPON WITH RESPECT TO SUCH APPLICATION;  
34 and [(vi)] (VII) the authority's compliance with debt covenants.

35 2. The department of public service shall notify the authority that  
36 said department is in the process of initiating a comprehensive manage-  
37 ment and operations audit as described in paragraph one of this subdivi-  
38 sion in a manner that ensures the timeliness of such audit, and in  
39 accordance with the following timeframe: the first comprehensive manage-  
40 ment and operations audit shall be initiated as of the effective date of  
41 [this subdivision] CHAPTER EIGHT OF THE LAWS OF TWO THOUSAND TWELVE and  
42 undertaken in a manner and to an extent that is practicable in the  
43 context of the authority's transition to a new management service struc-  
44 ture; the second comprehensive management and operations audit shall be  
45 initiated no later than December fifteenth, two thousand [fifteen]  
46 SIXTEEN; and all additional comprehensive management and operations  
47 audits shall be initiated at least once every five years thereafter.  
48 Within a reasonable time after such notification to the authority, said  
49 department or the independent auditor retained by the authority to  
50 undertake such audit shall hold public statement hearings, with proper  
51 notice, in both Nassau and Suffolk counties for the purpose of receiving  
52 both oral and written comments from the public on matters related to  
53 such audit as described in paragraph one of this subdivision.

54 3. Each such audit shall be completed within eighteen months of initi-  
55 ation absent an extension for good cause shown by the department of  
56 public service or the independent auditor under contract with the

1 authority with notice of such extension to the governor, the temporary  
2 president of the senate, the speaker of the assembly, and the chairs of  
3 the authority and the department of public service. Such audit shall be  
4 provided to the board of the authority immediately upon its completion.  
5 The department of public service shall provide notice of completion of  
6 such audit to the governor, the temporary president of the senate, the  
7 speaker of the assembly, and the minority leaders of the senate and  
8 assembly, and the authority, upon receipt of such audit, shall post a  
9 copy of such audit, including findings and recommendations, on its  
10 website AND THE WEBSITE OF THE SERVICE PROVIDER. Unless the board of the  
11 authority makes a preliminary determination that any particular finding  
12 or recommendation contained in such audit is inconsistent with the  
13 authority's sound fiscal operating practices, any existing contractual  
14 or operating obligation, or the provision for safe and adequate service,  
15 the board shall implement OR CAUSE ITS SERVICE PROVIDER TO IMPLEMENT  
16 such findings and recommendations in accordance with the timeframe spec-  
17 ified under such audit.

18 4. The board of the authority shall make any preliminary determination  
19 of inconsistency with respect to any such finding or recommendation  
20 within thirty days of receipt of the audit, with notice and the basis of  
21 such determination being provided to the department of public service.  
22 Such notice and basis shall be posted contemporaneously on the authori-  
23 ty's website AND THE WEBSITE OF THE SERVICE PROVIDER and the board  
24 shall, within thirty days of such posting and with due advance notice to  
25 the public, hold a public hearing with respect to its preliminary deter-  
26 mination of inconsistency. At such hearing the department of public  
27 service or the independent auditor responsible for undertaking such  
28 audit shall present the basis for its findings and recommendations and  
29 the board shall present the basis for its determination of inconsistency  
30 AND THE SERVICE PROVIDER MAY PRESENT IS POSITION. The authority, SERVICE  
31 PROVIDER and auditor may during the time period prior to such public  
32 hearing reach agreement on disputed issues. Within thirty days after  
33 such public hearing, the board of the authority shall announce its final  
34 determination and planned implementations with respect to any such find-  
35 ings and/or recommendations. The [board's] AUTHORITY'S final determi-  
36 nation of inconsistency shall be subject to any applicable judicial  
37 review proceeding, including review available under article seventy-  
38 eight of the civil practice law and rules.

39 (CC) TO PREPARE AN EMERGENCY RESPONSE PLAN PURSUANT TO THIS SUBDIVI-  
40 SION. 1. THE SERVICE PROVIDER SHALL, IN CONSULTATION WITH THE AUTHORITY,  
41 PREPARE AND MAINTAIN AN EMERGENCY RESPONSE PLAN (I) TO ASSURE THE  
42 REASONABLY PROMPT RESTORATION OF SERVICE IN THE CASE OF AN EMERGENCY  
43 EVENT, DEFINED FOR PURPOSES OF THIS SUBDIVISION AS AN EVENT WHERE WIDE-  
44 SPREAD OUTAGES HAVE OCCURRED IN THE AUTHORITY'S SERVICE TERRITORY DUE TO  
45 A STORM OR OTHER CAUSES BEYOND THE CONTROL OF THE AUTHORITY AND THE  
46 SERVICE PROVIDER, (II) CONSISTENT WITH THE REQUIREMENTS OF PARAGRAPH (A)  
47 OF SUBDIVISION TWENTY-ONE OF SECTION SIXTY-SIX OF THE PUBLIC SERVICE LAW  
48 AND ANY REGULATIONS AND ORDERS ADOPTED THERETO, AND (III) ESTABLISHING  
49 THE SEPARATE RESPONSIBILITIES OF THE AUTHORITY AND SERVICE PROVIDER.

50 2. ON OR BEFORE FEBRUARY THIRD, TWO THOUSAND FOURTEEN, THE AUTHORITY  
51 AND SERVICE PROVIDER SHALL SUBMIT AN EMERGENCY RESPONSE PLAN TO THE  
52 DEPARTMENT OF PUBLIC SERVICE FOR REVIEW. CONTEMPORANEOUSLY WITH SUCH  
53 SUBMISSION, THE AUTHORITY SHALL PROVIDE NOTICE OF SUCH PROPOSED PLAN TO  
54 THE SECRETARY OF STATE FOR PUBLICATION IN THE STATE REGISTER, THE  
55 AUTHORITY AND SERVICE PROVIDER EACH SHALL POST SUCH PLAN ON THEIR  
56 WEBSITES AND OTHERWISE MAKE SUCH PLAN AVAILABLE FOR REVIEW IN-PERSON,

1 AND AFFORD MEMBERS OF THE PUBLIC AN OPPORTUNITY TO SUBMIT WRITTEN  
2 COMMENTS AND ORAL COMMENTS PURSUANT TO AT LEAST ONE HEARING TO BE HELD  
3 EACH IN THE COUNTY OF SUFFOLK AND THE COUNTY OF NASSAU. SUCH WRITTEN  
4 COMMENTS MUST BE SUBMITTED BY MARCH FOURTEENTH, TWO THOUSAND FOURTEEN.  
5 THE AUTHORITY AND SERVICE PROVIDER SHALL PROVIDE A COPY OF ALL WRITTEN  
6 COMMENTS THEY RECEIVE AND A TRANSCRIPT OF SUCH PUBLIC HEARINGS TO THE  
7 DEPARTMENT OF PUBLIC SERVICE FOR ITS CONSIDERATION IN REVIEWING THE  
8 EMERGENCY RESPONSE PLAN. THE DEPARTMENT SHALL PROVIDE ANY RECOMMENDA-  
9 TIONS TO THE AUTHORITY AND SERVICE PROVIDER WITH RESPECT TO SUCH PLAN ON  
10 OR BEFORE APRIL FIFTEENTH, TWO THOUSAND FOURTEEN. SUCH PLAN MUST BE MADE  
11 FINAL BY JUNE SECOND, TWO THOUSAND FOURTEEN. FOR EACH YEAR THEREAFTER,  
12 THE SERVICE PROVIDER SHALL SUBMIT AN EMERGENCY RESPONSE PLAN TO THE  
13 DEPARTMENT OF PUBLIC SERVICE, AND SUCH DEPARTMENT SHALL PROVIDE ITS  
14 RECOMMENDATIONS, IN ACCORDANCE WITH A SCHEDULE TO BE ESTABLISHED BY SUCH  
15 DEPARTMENT AND THAT IS CONSISTENT WITH THE SCHEDULE ASSOCIATED WITH SUCH  
16 DEPARTMENT'S REVIEW OF SIMILAR SUCH PLANS PROVIDED BY ELECTRIC CORPO-  
17 RATIONS PURSUANT TO SUBDIVISION TWENTY-ONE OF SECTION SIXTY-SIX OF THE  
18 PUBLIC SERVICE LAW.

19 3. BY JUNE SECOND, TWO THOUSAND FOURTEEN, AND BY JUNE FIRST ANNUALLY  
20 THEREAFTER, THE AUTHORITY AND SERVICE PROVIDER SHALL JOINTLY CERTIFY TO  
21 THE DEPARTMENT OF HOMELAND SECURITY AND EMERGENCY SERVICES THAT THE  
22 EMERGENCY RESPONSE PLAN ENSURES, TO THE GREATEST EXTENT FEASIBLE, THE  
23 TIMELY AND SAFE RESTORATION OF ENERGY SERVICES AFTER AN EMERGENCY  
24 CONSISTENT WITH THE REQUIREMENTS OF PARAGRAPH (A) OF SUBDIVISION TWEN-  
25 TY-ONE OF THE PUBLIC SERVICE LAW AND THE DEPARTMENT'S RECOMMENDATIONS.  
26 THE FILING OF SUCH EMERGENCY RESPONSE PLAN SHALL ALSO INCLUDE A COPY OF  
27 ALL WRITTEN MUTUAL ASSISTANCE AGREEMENTS AMONG UTILITIES. THE AUTHORITY  
28 AND SERVICE PROVIDER SHALL FILE WITH THE COUNTY EXECUTIVES OF NASSAU AND  
29 SUFFOLK COUNTY AND THE MAYOR OF THE CITY OF NEW YORK THE MOST RECENT  
30 VERSION OF THE EMERGENCY RESPONSE PLAN, AND MAKE SURE THAT SUCH AMENDED  
31 VERSIONS ARE TIMELY FILED.

32 4. STARTING IN CALENDAR YEAR TWO THOUSAND FOURTEEN, THE SERVICE  
33 PROVIDER ANNUALLY SHALL UNDERTAKE AT LEAST ONE DRILL TO IMPLEMENT PROCE-  
34 DURES TO PRACTICE ITS EMERGENCY RESPONSE PLAN. THE SERVICE PROVIDER  
35 SHALL NOTIFY AND ALLOW PARTICIPATION IN SUCH DRILL OF ALL APPROPRIATE  
36 MUNICIPAL EMERGENCY RESPONDERS AND OFFICIALS.

37 5. IF, DURING AN EMERGENCY EVENT, ELECTRIC SERVICE IS NOT RESTORED IN  
38 THREE DAYS, THE SERVICE PROVIDER SHALL WITHIN SIXTY DAYS FROM THE DATE  
39 OF FULL RESTORATION FILE WITH THE DEPARTMENT A REPORT CONSTITUTING A  
40 REVIEW OF ALL ASPECTS OF THE PREPARATION AND SYSTEM RESTORATION PERFORM-  
41 ANCE DURING THE EVENT, AND SHALL THEREAFTER TAKE INTO CONSIDERATION ANY  
42 RECOMMENDATIONS MADE BY THE DEPARTMENT ASSOCIATED WITH SUCH REVIEW.

43 (DD) ON OR BEFORE JANUARY FIRST, TWO THOUSAND FIFTEEN, AND BY JANUARY  
44 FIRST OF EACH CALENDAR YEAR THEREAFTER, TO SUBMIT FOR REVIEW TO THE  
45 DEPARTMENT OF PUBLIC SERVICE A REPORT DETAILING THE SERVICE PROVIDER'S  
46 PLANNED CAPITAL EXPENDITURES.

47 (EE) ON OR BEFORE JULY FIRST, TWO THOUSAND FOURTEEN, AND ANNUALLY  
48 THEREAFTER, TO SUBMIT FOR REVIEW TO THE DEPARTMENT OF PUBLIC SERVICE ANY  
49 PROPOSED PLAN RELATED TO IMPLEMENTING ENERGY EFFICIENCY MEASURES,  
50 DISTRIBUTED GENERATION OR ADVANCED GRID TECHNOLOGY PROGRAMS FOR THE  
51 PURPOSE PROVIDED PURSUANT TO PARAGRAPH (G) OF SUBDIVISION THREE OF  
52 SECTION THREE-B OF THE PUBLIC SERVICE LAW.

53 (FF) TO ASSIST AND COOPERATE WITH THE DEPARTMENT OF PUBLIC SERVICE  
54 WITH RESPECT TO ANY REVIEW UNDERTAKEN PURSUANT TO SECTION THREE-B OF THE  
55 PUBLIC SERVICE LAW, INCLUDING PROVIDING THE DEPARTMENT WITH REASONABLE  
56 ACCESS TO ALL FACILITIES AND PREMISES OWNED OR OPERATED BY THE AUTHORITY

OR ITS SERVICE PROVIDER, ALLOWING REVIEW OF ALL BOOKS AND RECORDS OF THE AUTHORITY AND ITS SERVICE PROVIDER, PROVIDING COPIES OF REQUESTED DOCUMENTS, ALLOWING INTERVIEWS OF ALL APPROPRIATE PERSONNEL, AND RESPONDING IN A REASONABLE AND TIMELY MANNER TO ANY INQUIRIES OR REPORTING REQUESTS MADE BY THE DEPARTMENT; PROVIDED, HOWEVER, THAT THE OBLIGATIONS SET FORTH IN THIS SUBDIVISION SHALL NOT EXTEND TO AFFILIATES OF THE SERVICE PROVIDER.

(GG) RENEWABLE GENERATION AND ENERGY EFFICIENCY PROGRAMS. 1. THE AUTHORITY IN COORDINATION WITH THE SERVICE PROVIDER, THE POWER AUTHORITY OF THE STATE OF NEW YORK AND THE NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY SHALL, TO THE EXTENT THE AUTHORITY'S RATES ARE SUFFICIENT TO PROVIDE SAFE AND ADEQUATE TRANSMISSION AND DISTRIBUTION SERVICE, AND THE MEASURES HEREIN, UNDERTAKE ACTIONS TO DESIGN AND ADMINISTER RENEWABLE ENERGY AND ENERGY EFFICIENCY MEASURES IN THE SERVICE AREA, WITH THE GOAL OF CONTINUING AND EXPANDING SUCH MEASURES THAT COST-EFFECTIVELY REDUCE SYSTEM-WIDE PEAK DEMAND, MINIMIZE LONG-TERM FUEL PRICE RISK TO RATE PAYERS, LOWER EMISSIONS, IMPROVE ENVIRONMENTAL QUALITY, AND SEEK TO MEET NEW YORK STATE CLIMATE CHANGE AND ENVIRONMENTAL GOALS. SUCH ACTIONS SHALL ALSO INCLUDE IMPLEMENTATION OF ANY RENEWABLE ENERGY COMPETITIVE PROCUREMENT OR FEED-IN-TARIFF PROGRAMS THAT WERE APPROVED BY THE AUTHORITY AS OF THE EFFECTIVE DATE OF THE CHAPTER OF THE LAWS OF TWO THOUSAND THIRTEEN WHICH ADDED THIS SUBDIVISION.

2. THE SERVICE PROVIDER SHALL CONSIDER, CONSISTENT WITH MAINTAINING SYSTEM RELIABILITY, RENEWABLE GENERATION AND ENERGY EFFICIENCY PROGRAM RESULTS AND OPTIONS IN ESTABLISHING CAPITAL PLANS.

(HH) STARTING IN CALENDAR YEAR TWO THOUSAND FIFTEEN, THE AUTHORITY AND THE SERVICE PROVIDER SHALL SUBMIT TO THE DEPARTMENT OF PUBLIC SERVICE FOR REVIEW, ANY AND ALL DATA, INFORMATION AND REPORTS WHICH SET FORTH THE SERVICE PROVIDER'S ACTUAL PERFORMANCE RELATED TO THE METRICS IN THE OPERATIONS SERVICES AGREEMENT, INCLUDING THE AUTHORITY'S EVALUATION THEREOF, NO LESS THAN FORTY-FIVE DAYS PRIOR TO THE AUTHORITY'S DETERMINATION OF THE SERVICE PROVIDER'S ANNUAL INCENTIVE COMPENSATION.

S 8. Section 1020-q of the public authorities law, as added by chapter 517 of the laws of 1986 and subdivision 2 as amended by section 19 of part Y of chapter 63 of the laws of 2000, is amended to read as follows:

S 1020-q. Payments in lieu of taxes. 1. Each year after property theretofore owned by LILCO is acquired by the authority by any means authorized by this title and, as a consequence, is removed from the tax rolls, the authority shall make payments in lieu of taxes to municipalities and school districts equal to the taxes and assessments which would have been received from year to year by each such jurisdiction if such acquisition had not occurred, [except for such taxing jurisdictions which tax the Shoreham plant, in which case the in lieu of tax payments shall in the first year after the acquisition be equal to one hundred percent of the taxes and assessments which would have been received by such taxing jurisdictions. In each succeeding year such in lieu of tax payments shall be decreased by ten percent until such time as such payments equal taxes and assessments which would have been levied on such plant in a nonoperative state] PROVIDED, HOWEVER, THAT FOR THE CALENDAR YEAR STARTING ON JANUARY FIRST, TWO THOUSAND FIFTEEN, AND FOR EACH CALENDAR YEAR THEREAFTER, SUCH PAYMENTS IN LIEU OF TAXES SHALL NOT EXCEED THE IN LIEU OF TAX PAYMENTS MADE TO SUCH MUNICIPALITIES AND SCHOOL DISTRICTS IN THE IMMEDIATELY PRECEDING YEAR BY MORE THAN TWO PERCENT.

2. The authority shall also make payments in lieu of taxes for those taxes which would otherwise be imposed [upon LILCO, if LILCO were to continue in operation,] pursuant to sections one hundred eighty-six-a

1 and one hundred eighty-six-c of the tax law, and to former [sections one  
2 hundred eighty-six and] SECTION one hundred eighty-six-b of the tax law  
3 as such [sections one hundred eighty-six and one hundred eighty-six-b  
4 were] SECTION WAS in effect on December thirty-first, nineteen hundred  
5 ninety-nine, [paragraph (b) of subdivision four of section one hundred  
6 seventy-four of the navigation law,] and any taxes imposed by a city  
7 pursuant to the authorization granted by section twenty-b of the general  
8 city law.

9 3. No municipality or governmental subdivision, including a school  
10 district or special district, shall be liable to the authority or any  
11 other entity for a refund of property taxes originally assessed against  
12 the Shoreham plant. Any judicial determination that the Shoreham plant  
13 assessment was excessive, unequal or unlawful for any of the years from  
14 nineteen hundred seventy-six to the effective date of this title shall  
15 not result in a refund by any taxing jurisdiction of taxes previously  
16 paid by LILCO pursuant to such Shoreham plant assessment. The authority  
17 shall discontinue and abandon all proceedings, brought by its predeces-  
18 sor in interest, which seek the repayment of all or part of the taxes  
19 assessed against the Shoreham plant.

20 S 9. Subdivision 1 of section 1020-s of the public authorities law, as  
21 amended by chapter 388 of the laws of 2011, is amended to read as  
22 follows:

23 1. The rates, services and practices relating to the electricity  
24 generated by facilities owned or operated by the authority shall not be  
25 subject to the provisions of the public service law or to regulation by,  
26 or the jurisdiction of, the public service commission, except to the  
27 extent (a) article seven of the public service law applies to the siting  
28 and operation of a major utility transmission facility as defined there-  
29 in, (b) article ten of such law applies to the siting of a generating  
30 facility as defined therein, [and] (c) section eighteen-a of such law  
31 provides for assessment for certain costs, property or operations, AND  
32 (D) TO THE EXTENT THAT THE DEPARTMENT OF PUBLIC SERVICE REVIEWS AND  
33 MAKES RECOMMENDATIONS WITH RESPECT TO THE OPERATIONS AND PROVISION OF  
34 SERVICES OF, AND RATES AND BUDGETS ESTABLISHED BY, THE AUTHORITY PURSU-  
35 ANT TO SECTION THREE-B OF SUCH LAW.

36 S 10. Section 1020-w of the public authorities law, as added by chap-  
37 ter 517 of the laws of 1986, is amended to read as follows:

38 S 1020-w. Audit and annual reports. The accounts of the authority  
39 shall be subject to the supervision of the state comptroller and an  
40 annual audit shall be performed by an independent certified accountant  
41 selected by the [state division of the budget] AUTHORITY, UPON RECOMMEN-  
42 DATION OF ITS FINANCE AND AUDIT COMMITTEE. The authority shall submit  
43 annually to the governor, the state comptroller, the temporary president  
44 of the senate, the speaker of the assembly and the county executives and  
45 governing bodies of the counties of Suffolk and Nassau, a detailed  
46 report pursuant to the provisions of section two thousand eight hundred  
47 of [title one of article nine of] this chapter, which report shall be  
48 verified by the chairman of the authority. The authority shall comply  
49 with the provisions of sections two thousand eight hundred one, two  
50 thousand eight hundred two and two thousand eight hundred three of  
51 [title one of article nine of] this chapter.

52 S 11. Section 1020-cc of the public authorities law, as amended by  
53 chapter 413 of the laws of 2011, is amended to read as follows:

54 S 1020-cc. Authority subject to certain provisions contained in the  
55 state finance law, the public service law, the social services law and  
56 the general municipal law. 1. All contracts of the authority shall be

1 subject to the provisions of the state finance law relating to contracts  
2 made by the state. The authority shall also establish rules and regu-  
3 lations with respect to providing to its residential gas, electric and  
4 steam utility customers those rights and protections provided in article  
5 two and sections one hundred seventeen and one hundred eighteen of the  
6 public service law and section one hundred thirty-one-s of the social  
7 services law. The authority shall conform to any safety standards  
8 regarding manual lockable disconnect switches for solar electric gener-  
9 ating equipment established by the public service commission pursuant to  
10 subparagraph (ii) of paragraph (a) of subdivision five and subparagraph  
11 (ii) of paragraph (a) of subdivision five-a of section sixty-six-j of  
12 the public service law. The authority shall let contracts for  
13 construction or purchase of supplies, materials, or equipment pursuant  
14 to section one hundred three and paragraph (e) of subdivision four of  
15 section one hundred twenty-w of the general municipal law.

16 2. THE AUTHORITY AND SERVICE PROVIDER SHALL PROVIDE TO THE STATE COMP-  
17 TROLLER ON MARCH THIRTY-FIRST AND SEPTEMBER THIRTIETH OF EACH YEAR A  
18 REPORT DOCUMENTING EACH CONTRACT IN EXCESS OF TWO HUNDRED FIFTY THOUSAND  
19 DOLLARS PER YEAR ENTERED INTO WITH A THIRD PARTY AND RELATED TO MANAGE-  
20 MENT AND OPERATION SERVICES ASSOCIATED WITH THE AUTHORITY'S ELECTRIC  
21 TRANSMISSION AND DISTRIBUTION SYSTEM, INCLUDING THE NAME OF THE THIRD  
22 PARTY, THE CONTRACT TERM AND A DESCRIPTION OF SERVICES OR GOODS TO BE  
23 PROCURED, AND POST SUCH REPORT ON EACH OF THEIR WEBSITES. ALL CONTRACTS  
24 ENTERED INTO BETWEEN THE SERVICE PROVIDER AND THIRD PARTIES ARE NOT  
25 SUBJECT TO THE REQUIREMENTS OF SUBDIVISION ONE OF THIS SECTION.

26 S 12. Paragraph (b) of subdivision 4 of section 94-a of the executive  
27 law, as amended by chapter 8 of the laws of 2012, is amended to read as  
28 follows:

29 (b) The utility intervention unit shall have the power and duty to:

30 (i) on behalf of the secretary, initiate, intervene in, or participate  
31 in any proceedings before the public service commission OR THE DEPART-  
32 MENT OF PUBLIC SERVICE, to the extent authorized by sections THREE-B,  
33 twenty-four-a, seventy-one, eighty-four or ninety-six of the public  
34 service law or any other applicable provision of law, where he or she  
35 deems such initiation, intervention or participation to be necessary or  
36 appropriate;

37 (ii) represent the interests of consumers of the state before federal,  
38 state and local administrative and regulatory agencies engaged in the  
39 regulation of energy services; [and]

40 (iii) accept and investigate complaints of any kind from Long Island  
41 power authority consumers, attempt to mediate such complaints where  
42 appropriate directly with such authority and refer complaints to the  
43 appropriate state or local agency authorized by law to take action with  
44 respect to such complaints[.]; AND

45 (IV) HOLD REGULAR FORUMS IN EACH OF THE SERVICE TERRITORIES OF THE  
46 COMBINATION GAS AND ELECTRIC CORPORATIONS, AS DEFINED UNDER SECTION TWO  
47 OF THE PUBLIC SERVICE LAW, AND THE LONG ISLAND POWER AUTHORITY TO  
48 EDUCATE CONSUMERS ABOUT UTILITY-RELATED MATTERS AND THE REGULATORY PROC-  
49 ESS, OPPORTUNITIES TO LOWER ENERGY COSTS, INCLUDING THROUGH ENERGY EFFI-  
50 CIENCY AND DISTRIBUTED GENERATION, AND OTHER MATTERS AFFECTING CONSUM-  
51 ERS.

52 S 13. Notwithstanding section 112 of the state finance law and  
53 notwithstanding any other provision of law to the contrary, including  
54 but not limited to any provision of law related to rebidding, letting or  
55 amending contracts of any amount, the Long Island Lighting Company dba  
56 LIPA is authorized to amend the operations services agreement, dated

December 28, 2011, entered into with PSEG Long Island LLC, including Amendment Nos. 1 and 2 thereto, approved on June 27, 2012, solely by the following: (1) upon review and written recommendations made by the department of public service to the board of trustees of the Long Island power authority ("authority"), setting forth the reasons for and findings underlying such recommendations; and (2) adoption of a resolution by a majority of the authority's board of trustees.

S 14. This act shall supersede the fifth project condition established in Resolution No. 97-LI-1 of the public authorities control board, dated July 16, 1997, related to the implementation of certain rate increases.

S 15. Subdivision 1 of section 7208 of the education law, as amended by chapter 994 of the laws of 1971, is amended to read as follows:

1. The practice of engineering or land surveying, or using the title "engineer" or "surveyor" (I) exclusively as an officer or employee of a public service corporation by rendering to such corporation such services in connection with its lines and property which are subject to supervision with respect to the safety and security thereof by the public service commission of this state, the interstate commerce commission or other federal regulatory body and so long as such person is thus actually and exclusively employed and no longer, OR (II) EXCLUSIVELY AS AN OFFICER OR EMPLOYEE OF THE LONG ISLAND POWER AUTHORITY OR ITS SERVICE PROVIDER, AS DEFINED UNDER SECTION THREE-B OF THE PUBLIC SERVICE LAW, BY RENDERING TO SUCH AUTHORITY OR PROVIDER SUCH SERVICES IN CONNECTION WITH ITS LINES AND PROPERTY WHICH ARE LOCATED IN SUCH AUTHORITY'S SERVICE AREA AND SO LONG AS SUCH PERSON IS THUS ACTUALLY AND EXCLUSIVELY EMPLOYED AND NO LONGER;

S 16. Repowering. If after the Long Island power authority, or its successor, determines, in accordance with the terms and conditions contained in the amended and restated power supply agreement ("A&R PSA"), dated October 10, 2012, between the authority and the owner of the legacy LILCO power generating facilities, that repowering any such generating facility is in the best interests of its ratepayers and will enhance the authority's ability to provide a more efficient, reliable and economical supply of electric energy in its service territory, consistent with the goal of improving environmental quality, the authority will exercise its rights under the A&R PSA related to repowering such facility, and shall enter into an agreement related to payments in lieu-of-taxes for a term commensurate with any power purchase agreement entered into related to such repowered facility, consistent with other such agreements related to generating facilities under contract to the authority in the service territory.

S 17. This act shall take effect January 1, 2014; provided, however, that section twelve of this act shall take effect April 1, 2014, sections five, ten, eleven, thirteen, fourteen, fifteen and sixteen of this act shall take effect immediately; provided further that section thirteen of this act shall expire and be deemed repealed January 1, 2015; and provided further that the amendments to subdivision 6 of section 18-a of the public service law made by section two of this act shall not affect the repeal of such subdivision and shall be deemed repealed therewith.

## PART B

Section 1. Legislative findings. The legislature hereby finds and determines:



1 1. On May 28, 1998, Long Island Power Authority (the authority)  
2 acquired all the capital stock and associated assets, including trans-  
3 mission and distribution (T&D) system assets of Long Island Lighting  
4 Company (LILCO) which does business as the retail electric utility on  
5 Long Island, New York under the name of LIPA. In connection with that  
6 acquisition, the authority took over ultimate responsibility for provid-  
7 ing electric utility service to residential, commercial, industrial,  
8 nonprofit and governmental customers in the counties of Suffolk and  
9 Nassau and a portion of the county of Queens (hereinafter referred to as  
10 the "service area"). Such acquisition effectively converted LILCO from  
11 an investor-owned utility that was comprehensively regulated by the New  
12 York Public Service Commission (PSC) and the United States Federal Ener-  
13 gy Regulatory Commission (FERC), to a municipal utility that is not  
14 comprehensively regulated either by the PSC or FERC.

15 2. Since May 28, 1998, neither the authority nor LIPA has directly  
16 operated or maintained the T&D system assets, provided electric service  
17 or billed and collected T&D rates from LIPA's customers; instead, the  
18 authority and LIPA have contracted out virtually all of these activities  
19 to other companies. Most of these operations and service responsibil-  
20 ities have been contracted out to affiliates of a company now known as  
21 National Grid plc (National Grid), a multi-national electric and gas  
22 utility company organized under the laws of England and Wales pursuant  
23 to a management services agreement. Thus, while the LIPA name appears on  
24 customer bills as well as on service trucks and other equipment used in  
25 the service area, affiliates of National Grid have been principally in  
26 charge of management and operation of the T&D system assets and provid-  
27 ing electricity to consumers in the service area. The authority and  
28 LIPA have now contracted with affiliates of Public Service Enterprise  
29 Group and Lockheed Martin Services Inc. (PSEG-Lockheed) to provide oper-  
30 ation and maintenance services for the T&D system assets for ten years  
31 starting January 1, 2014, when the National Grid contract expires.

32 3. High costs of electric utility service poses a serious threat to  
33 the economic well-being, health and safety of the residents of and the  
34 commerce and industry in the service area. High costs of electric util-  
35 ity service deter commerce and industry from locating in the service  
36 area and have caused existing commerce and industry to consider serious-  
37 ly moving out of the service area.

38 4. High debt and associated debt service contribute to the authority's  
39 high electric rates. The authority has approximately seven billion  
40 dollars in outstanding debt, a substantial portion of which was issued  
41 to refinance debt associated with construction of the now abandoned  
42 Shoreham nuclear power plant. The annual debt service associated with  
43 such bonds puts pressure on the authority's customer rates.

44 5. As of December 31, 2012, the three major rating agencies generally  
45 rated the authority's debt in the single-A range, though Moody's Inves-  
46 tors Services assigns approximately seven hundred million dollars of the  
47 authority's debt slightly lower ratings of Baal and Baa2.

48 6. If securitized restructuring bonds were issued by a bankruptcy-re-  
49 mote entity with a AAA or equivalent rating in current market conditions  
50 to finance a portion of the costs of purchasing, redeeming or defeasing  
51 outstanding debt of the authority, and other associated costs, the debt  
52 service on the authority's debt could be reduced and the costs of elec-  
53 tric utility service could be lowered.

54 7. Securitized restructuring bonds are likely to be most attractive to  
55 the investing public and result in the lowest possible yields if they

are issued by a newly organized, special purpose public benefit corporation or other corporate municipal instrumentality of the state.

8. The purpose of this act is to provide a legislative foundation for the issuance of securitized restructuring bonds to refinance outstanding debt of the authority, a significant portion of which relates to LILCO's costs of constructing and financing the now abandoned Shoreham nuclear power plant, including the creation of restructuring property by the authority to provide for the redemption or defeasance of a portion of the outstanding debt of the authority. It is the intent of the legislature to authorize, for the purpose of reducing electric utility costs to consumers in the service area, the following: (a) the organization of a restructuring bond issuer as a special purpose corporate municipal instrumentality of the state, created for the limited purpose of issuing securitized restructuring bonds to purchase restructuring property to finance the cost of purchasing, redeeming or defeasing a portion of the outstanding debt of the authority and associated costs, which securitized restructuring bonds create no new financial obligations or liabilities for the authority or for the state; and (b) implementation of contracts with owners of the securitized restructuring bonds through a statutory pledge and agreement that the state will not in any way take or permit any action to revoke, modify, impair, postpone, terminate or amend this act in any manner that is materially adverse to the owners of the restructuring bonds until those bonds are no longer outstanding and all amounts due and owing under the related transaction documents have been paid in full.

9. Accordingly, the issuance of securitized restructuring bonds is expected to result in lower aggregate distribution and transmission charges and transition charges, compared to other available alternatives.

S 2. Definitions. As used or referred to in this act, unless a differing meaning clearly appears from the context:

1. "Ancillary agreement" means any bond insurance policy, letter of credit, reserve account, surety bond, swap arrangement, hedging arrangement, liquidity or credit support arrangement or other similar agreement or arrangement entered into in connection with the issuance of restructuring bonds that is designed to promote the credit quality and marketability of such restructuring bonds or to mitigate the risk of an increase in interest rates.

2. "Approved restructuring costs" means, to the extent approved as such under a restructuring cost financing order, (a) costs of purchasing, redeeming or defeasing a portion of outstanding debt of the authority, including bonds and notes issued by the authority, debt issued by the New York state energy research and development authority for the benefit of the LILCO; (b) costs of terminating interest rate swap contracts and other financial contracts entered into by or for the benefit of the authority and related to debt obligations of the authority; (c) rebate, yield reduction payments and any other amounts payable to the United States Treasury or to the Internal Revenue Service to preserve or protect the federal tax-exempt status of outstanding debt obligations of the authority; and (d) upfront financing costs associated with restructuring bonds.

3. "Assignee" means any individual, corporation, limited liability company, partnership or limited partnership, trust or other legally-recognized entity to which an interest in restructuring property is assigned, sold or transferred, other than as security, including any assignee of that party.

1 4. "Authority" means Long Island Power Authority, a corporate municipi-  
2 pal instrumentality and political subdivision of the state.

3 5. "Consumer" means any individual, governmental body, trust, business  
4 entity, nonprofit organization or other legally-recognized entity that  
5 takes electric delivery service within the service area by means of  
6 electric transmission or distribution facilities, whether those electric  
7 transmission or distribution facilities are owned by LIPA or any other  
8 entity.

9 6. "Financing cost" means the costs to issue, service, or repay  
10 restructuring bonds, whether incurred upon issuance of such restructur-  
11 ing bonds or over the life of the restructuring bonds, and approved for  
12 recovery in a restructuring cost financing order. Without limitation,  
13 "financing cost" may include, as applicable, any of the following:

14 (a) principal, interest and redemption premiums payable on restructur-  
15 ing bonds;

16 (b) any payment required under an ancillary agreement and any amount  
17 required to fund or replenish a debt service reserve account or other  
18 account established under any indenture, ancillary agreement or other  
19 financing document relating to the restructuring bonds;

20 (c) any federal, state or local taxes, payments in lieu of taxes,  
21 franchise fees or license fees imposed on transition charge revenues;  
22 and

23 (d) any cost related to issuing restructuring bonds, administering the  
24 restructuring bond issuer and servicing restructuring property and  
25 restructuring bonds, or related to the efforts to prepare or obtain  
26 approval of a restructuring cost financing order, including, without  
27 limitation, costs of calculating adjustments of transition charges,  
28 servicing fees and expenses, trustee fees and expenses, legal fees and  
29 expenses, accounting fees and expenses, administrative fees and  
30 expenses, placement fees, underwriting fees, fees and expenses of the  
31 authority's advisors and outside counsel, if any, rating agency fees and  
32 any other related cost that is approved for recovery in the restructur-  
33 ing cost financing order.

34 7. "Financing entity" means the restructuring bond issuer, the author-  
35 ity or any servicer, trustee, collateral agent, and other person or  
36 entity acting for the benefit of owners of the restructuring bonds, the  
37 restructuring bond issuer or the authority that may own restructuring  
38 property or have rights to receive proceeds of restructuring bonds or to  
39 receive proceeds from the sale of restructuring property.

40 8. "LIPA" means Long Island Lighting Company, currently doing business  
41 under the name of LIPA.

42 9. "Ongoing financing costs" means financing costs that are not  
43 upfront financing costs. Ongoing financing costs include: (a) principal,  
44 interest and redemption premiums payable on restructuring bonds; (b) any  
45 payment required under an ancillary agreement and any amount required to  
46 replenish a debt service reserve account or other account established  
47 under any indenture, ancillary agreement or other financing document  
48 relating to restructuring bonds; (c) any federal, state or local taxes,  
49 payments in lieu of taxes, franchise fees or license fees imposed on  
50 transition charge revenues; and (d) any cost related to administering  
51 the restructuring bond issuer and servicing restructuring property or  
52 restructuring bonds, including, without limitation, costs of calculating  
53 adjustments of transition charges, servicing fees and expenses, adminis-  
54 trative fees and expenses, trustee fees and expenses, and legal fees and  
55 expenses, accounting fees and expenses, and rating agency fees, approved  
56 for recovery in the restructuring cost financing order. Ongoing financ-

ing costs shall include any excess of actual upfront financing costs over the estimate of upfront financing costs included in the principal amount of the restructuring bonds.

10. "Restructuring bond issuer" means the corporate municipal instrumentality of the state created under section four of this act.

11. "Restructuring bonds" means bonds or other evidences of indebtedness that are issued pursuant to an indenture or other agreement of the restructuring bond issuer under a restructuring cost financing order (a) the proceeds of which are used, directly or indirectly, to recover, finance, or refinance approved restructuring costs, (b) that are directly or indirectly secured by, or payable from, restructuring property, and (c) that have a term no longer than thirty years.

12. "Restructuring cost financing order" means an order by the authority, adopted in accordance with this act, which approves the imposition and collection of transition charges, and the financing of approved restructuring costs and upfront financing costs through the sale of restructuring property and the issuance of restructuring bonds, and which includes a procedure to require periodic adjustments to transition charges to ensure the collection of transition charges sufficient to provide for the timely payment of scheduled debt service on the restructuring bonds and all other ongoing financing costs contemplated by the restructuring cost financing order.

13. "Restructuring property" means the property rights and interests created pursuant to this act, including, without limitation, the right, title, and interest: (a) in and to the transition charges established pursuant to a restructuring cost financing order, as adjusted from time to time in accordance with the restructuring cost financing order; (b) in and to all revenues, collections, claims, payments, money, or proceeds of or arising from the transition charges or constituting transition charges that are the subject of a restructuring cost financing order, regardless of whether such revenues, collections, claims, payments, money, or proceeds are imposed, billed, received, collected or maintained together with or commingled with other revenues, collections, claims, payments, money or proceeds; and (c) in and to all rights to obtain adjustments to the transition charges pursuant to the terms of the restructuring cost financing order. Restructuring property shall constitute a vested, presently existing property right notwithstanding the fact that the value of the property right will depend on further acts that have not yet occurred, including but not limited to, consumers remaining or becoming connected to the T&D system assets and taking electric delivery service, the imposition and billing of transition charges, or, in those instances where consumers are customers of LIPA or any successor owner of the T&D system assets, such owner performing certain services.

14. "Service area" means the geographical area within which LIPA provided electric distribution services as of the implementation date of this act.

15. "Servicer" means an entity authorized and required, by contract or otherwise, to impose, bill and collect transition charges, to prepare periodic reports regarding billings and collections of transition charges, to remit collections to the appropriate financing entity, and to provide other services contemplated by the restructuring cost financing order, which may include calculation of periodic adjustments to the transition charges or providing other services related to the restructuring property. Without limitation, LIPA or any successor owner of the

1 T&D system assets, their agents or subcontractors, or any entity author-  
2 ized to bill and collect T&D rates may be a servicer.

3 16. "Servicing fee" means, except to the extent otherwise specified in  
4 a restructuring cost financing order, the periodic amount paid pursuant  
5 to a servicing agreement, indenture or other such document to a servicer  
6 of restructuring property which amount shall approximate the estimated  
7 incremental cost of imposing, billing and collecting transition charges,  
8 preparing servicing reports and performing other customary servicing  
9 services required in connection with securitized bonds. A restructuring  
10 cost financing order may authorize a smaller fee payable to a successor  
11 servicer that is affiliated with a successor owner of the T&D system  
12 assets if the incremental cost of providing servicing services is less  
13 than LIPA's incremental costs. A restructuring cost financing order may  
14 authorize a larger fee payable to a successor servicer that is not  
15 affiliated with the owner of the T&D system assets or is not performing  
16 similar services with respect to the base rates of the owner of the T&D  
17 system assets if such larger fee is reasonably necessary to employ a  
18 reliable successor servicer.

19 17. "Successor regulator" means a regulatory department, commission or  
20 other instrumentality or subdivision of the state with jurisdiction to  
21 regulate the T&D rates of LIPA or its successor as owner of the T&D  
22 system assets.

23 18. "Third-party biller" means any person or entity authorized,  
24 required or entitled to bill or collect transition charges or T&D rates  
25 other than the authority, LIPA or a successor owner of the T&D system  
26 assets, or a servicer.

27 19. "T&D rates" means rates and charges for electric transmission and  
28 distribution services in the service area. "T&D rates" shall not include  
29 charges for the generation or resale of electricity or any charges  
30 imposed to fund public purpose programs.

31 20. "T&D system assets" means the physically integrated system of  
32 electric transmission and distribution facilities (and other general  
33 property and equipment used in connection therewith) owned by LIPA as of  
34 the effective date of this act or thereafter acquired for use by LIPA or  
35 its successors in providing retail electric utility service to consumers  
36 in the service area.

37 21. "Transition charges" means those rates and charges relating to the  
38 T&D system assets that are separate and apart from base rates of LIPA or  
39 any successor owner of the T&D system assets and that are authorized in  
40 a restructuring cost financing order to recover from consumers the prin-  
41 cipal, interest and premium payable on restructuring bonds and the other  
42 ongoing financing costs associated with the restructuring bonds. As  
43 provided in paragraph (c) of subdivision 5 of section five of this act,  
44 transition charges shall be imposed on all consumers in the service area  
45 and collected by LIPA or any successor owner of the T&D system assets,  
46 their agents, subcontractors, assignees, collection agents or any other  
47 entity designated under the restructuring cost financing order.

48 22. "Upfront financing costs" means the fees and expenses to issue  
49 restructuring bonds, including, without limitation, expenses associated  
50 with the efforts to prepare or obtain approval of a restructuring cost  
51 financing order, as well as the fees and expenses associated with the  
52 structuring, marketing, and issuance of restructuring bonds, including,  
53 without limitation, counsel fees, structural advisory fees, underwriting  
54 fees and original issue discount, rating agency and trustee fees  
55 (including fees of trustee's counsel), accounting and auditing fees,  
56 printing and marketing expenses, stock exchange listing fees and compli-

1   ance fees, filing fees, any applicable taxes, payments in lieu of taxes,  
2   the amount required to fund a debt service reserve account or other  
3   account established under any indenture, ancillary agreement or other  
4   financing document relating to the restructuring bonds, and fees and  
5   expenses of the authority's advisors and outside counsel, if any.  
6   Upfront financing costs include reimbursement to any person of amounts  
7   advanced for payment of such costs. Upfront financing costs do not  
8   include scheduled debt service or other ongoing financing costs, to the  
9   extent such ongoing financing costs are payable from transition charge  
10   revenues. If any upfront financing costs cannot be reasonably determined  
11   before the principal amount of restructuring bonds is fixed, such  
12   financing costs shall be estimated and the aggregate of such estimates  
13   shall be included as an upfront financing cost for purposes of determin-  
14   ing the principal amount of restructuring bonds to be issued. If the  
15   actual upfront financing costs are greater than the estimated upfront  
16   financing costs, the difference shall be deemed to be an ongoing financ-  
17   ing cost; if the actual upfront financing costs are less than the esti-  
18   mated upfront financing costs, the proceeds corresponding to such  
19   difference shall be used to pay ongoing financing costs.

20   S 3. Procedure; judicial review.   1. Standard. The authority may  
21   prepare a restructuring cost financing order for the purpose of issuing  
22   restructuring bonds to refinance outstanding debt of the authority based  
23   on a finding that such bond issuance is expected to result in savings to  
24   consumers of electric transmission and distribution services in the  
25   service area on a net present value basis.

26   2. Public hearings. Notwithstanding any other provision of law to the  
27   contrary, at any time after the effective date of this act, after making  
28   such finding, the authority shall schedule and hold one or more expe-  
29   dited public statement hearings on the proposed restructuring cost  
30   financing order. After the conclusion of such hearings and its review of  
31   any comments received, the authority shall finalize the restructuring  
32   cost financing order for submission to the board of trustees of the  
33   authority and to the public authorities control board ("PACB"). The  
34   PACB shall have the power and it shall be its duty to, upon receiving an  
35   application for approval of a restructuring cost financing order, within  
36   thirty days after receipt of such order, either approve, absent any  
37   conditions of approval, or disapprove such order based solely on the  
38   assumptions and conditions set forth in the restructuring cost financing  
39   order and whether such order complies with the standards set forth in  
40   this act. If the public authorities control board fails to approve or  
41   disapprove such restructuring cost financing order within such thirty  
42   day period, the PACB shall be deemed to have approved the restructuring  
43   cost financing order. If the board of trustees of the authority approves  
44   such restructuring cost financing order and the PACB approves or is  
45   deemed to have approved such restructuring cost financing order, the  
46   restructuring cost financing order shall become a final rate order by  
47   the authority.

48   3. Appeals. Because delay in the final determination of the petition  
49   will delay the issuance of restructuring bonds, thereby diminishing  
50   savings to consumers that might be achieved if the restructuring bonds  
51   were issued promptly after the issuance of the restructuring cost  
52   financing order, notwithstanding any other law to the contrary, any  
53   action, suit or proceeding to which the authority or the restructuring  
54   bond issuer may be a party, in which any question arises as to the  
55   validity of this act or any restructuring cost financing order, shall be  
56   preferred over all other civil causes in all courts of the state, except

election matters, and shall be heard and determined in preference to all other civil business pending therein, except election matters, irrespective of position on the calendar. Such preference shall also be granted upon application of counsel to the authority in any action or proceeding questioning the validity of this act or any restructuring cost financing order in which such counsel may be allowed to intervene. Notwithstanding any other provision of law to the contrary, the validity of this act may only be challenged by an aggrieved party pursuant to an action, suit or proceeding filed within thirty days of the effective date of this act, and the validity of any restructuring cost financing order may only be challenged by an aggrieved party pursuant to an action, suit or proceeding filed within thirty days after such restructuring cost financing order becomes a final rate order by the authority; provided, however, that any such action, suit or proceeding and all supporting papers shall be filed directly to the Supreme Court, Appellate Division, Second Judicial Department.

4. Expiration of appeals. The authority shall provide written notification to the restructuring bond issuer upon the authority's determination that any and all actions, suits and proceedings challenging this act and the final restructuring cost financing order have been denied or dismissed or the timing associated with the filing of such actions, suits and proceedings has lapsed or expired, and any related appeals have been exhausted or the timing related to such appeals has lapsed or expired.

5. Agreement to sell restructuring bonds. Within the time specified in the restructuring cost financing order, after receiving notice from the authority that the time for petitions and appeals has lapsed or expired, the restructuring bond issuer shall enter into an agreement with one or more underwriters or purchasers satisfactory to the authority to sell the restructuring bonds in compliance with the restructuring cost financing order. No later than the third business day after the pricing of the restructuring bonds in accordance with such agreement, the initial servicer shall determine the initial transition charges and the expected savings to consumers in accordance with the restructuring cost financing order and shall file an issuance advice letter with the authority and the restructuring bond issuer setting forth the principal amount of restructuring bonds to be issued, the pricing, the net proceeds, the initial transition charges, the expected savings to consumers and any other information required by the restructuring cost financing order. No later than the end of the third business day after the filing of such issuance advice letter, the authority shall confirm in a notice to the restructuring bond issuer that such pricing complies with the restructuring cost financing order.

6. Issuance of restructuring bonds. Within ninety days after receiving notice of confirmation from the authority, the restructuring bond issuer shall issue the restructuring bonds, in one or more series or tranches and at one or more times, pursuant to the agreement to sell the restructuring bonds. The restructuring bond issuer shall purchase the restructuring property from the authority for a purchase price equal to the net proceeds from the sale of the restructuring bonds less any amounts of such proceeds required to fund or pay upfront financing costs.

7. Irrevocability. Upon the issuance of the restructuring bonds, the transition charges, including any adjustments thereof as provided in the restructuring cost financing order, shall be deemed established by the authority as irrevocable, final and effective without further action by the authority, or any other entity. The state, including the authority

1 or any successor regulator, thereafter may not in any way take or permit  
2 any action to reduce, impair, postpone or terminate the transition  
3 charges approved in the restructuring cost financing order, as the same  
4 may be adjusted from time to time pursuant to subdivision 3 of section  
5 five of this act, or impair the restructuring property or the collection  
6 or recovery of transition charge revenues, including, but not limited  
7 to, either directly or indirectly by taking transition charges into  
8 account when setting other rates for any owner of the T&D system assets;  
9 nor shall the amount of revenues arising with respect to restructuring  
10 property be subject in any way to reduction, impairment, postponement,  
11 or termination.

12 8. Application of proceeds. The restructuring bond issuer shall cause  
13 the proceeds from its issuance of the restructuring bonds to be placed  
14 in one or more separate accounts and used only to pay or fund upfront  
15 financing costs and to purchase the restructuring property from the  
16 authority. The authority shall cause the proceeds from its sale of  
17 restructuring property to be placed in one or more separate accounts and  
18 used only to pay approved restructuring costs, and if funds remain in  
19 those accounts after the payment of all approved restructuring costs, to  
20 make a refund or credit to consumers on the same basis that transition  
21 charges are then being imposed, to the extent such a refund or credit is  
22 practical.

23 S 4. Creation of restructuring bond issuer. 1. Creation of restruc-  
24 turing bond issuer. For the purpose of effectuating the purposes  
25 declared in section one of this act, there is hereby created a special  
26 purpose corporate municipal instrumentality of the state to be known as  
27 "utility debt securitization authority", which shall be a body corporate  
28 and politic, a political subdivision of the state, and a public benefit  
29 corporation, exercising essential governmental and public powers for the  
30 good of the public. The restructuring bond issuer shall not be created  
31 or organized, and its operations shall not be conducted, for the purpose  
32 of making a profit. No part of the revenues or assets of the restruc-  
33 turing bond issuer shall inure to the benefit of or be distributable to its  
34 trustees or officers or any other private persons, except as herein  
35 provided for actual services rendered.

36 2. Activities limited to issuing restructuring bonds and related  
37 activities.

38 (a) The restructuring bond issuer is hereby authorized to:

39 (i) issue the restructuring bonds contemplated by a restructuring cost  
40 financing order, and use the proceeds thereof to purchase or acquire,  
41 and to own, hold and use restructuring property or to pay or fund  
42 upfront financing costs provided, however, that the restructuring bond  
43 issuer shall only issue and sell restructuring bonds once;

44 (ii) contract for servicing of restructuring property and restruc-  
45 turing bonds and for administrative services; and

46 (iii) pledge the restructuring property to secure the restructuring  
47 bonds and the payment of ongoing financing costs, all pursuant to  
48 section seven of this act.

49 (b) So long as any restructuring bonds remain outstanding, the  
50 restructuring bond issuer shall not be authorized to merge or consol-  
51 idate, directly or indirectly, with any person or entity. Additionally,  
52 the restructuring bond issuer shall not have the power or authority to  
53 incur, guarantee or otherwise become obligated to pay any debt or other  
54 obligations other than the restructuring bonds and financing costs  
55 unless otherwise permitted by the restructuring cost financing order.



1 The restructuring bond issuer shall keep its assets and liabilities  
2 separate and distinct from those of any other entity.

3 (c) The restructuring bond issuer shall have no additional authority  
4 to engage in other business activities; provided, however, that in  
5 connection with the powers specified in paragraph (a) of subdivision 2  
6 of this section, as a financing entity, the restructuring bond issuer  
7 shall have the power to:

8 (i) sue and be sued;

9 (ii) have a seal and alter the same at pleasure;

10 (iii) make and alter by-laws for its organization and internal manage-  
11 ment and make rules and regulations governing the use of its property;

12 (iv) make and execute contracts and all other instruments necessary or  
13 convenient for the exercise of its powers and functions under this act  
14 and to commence any action to protect or enforce any right conferred  
15 upon it by any law, contract or other agreement, including, without  
16 limitation, make and execute contracts with the authority, LIPA or any  
17 successor owner of the T&D system assets, any servicers, any financing  
18 entity or any other public or private entities to service restructuring  
19 property owned by restructuring bond issuer, to service restructuring  
20 bonds issued by restructuring bond issuer, and to provide services in  
21 administering the restructuring bond issuer, and to pay compensation for  
22 such services;

23 (v) appoint officers, agents and employees, prescribe their duties and  
24 qualifications, fix their compensation and engage the services of  
25 private consultants, accountants, counsel and others on a contract basis  
26 for rendering professional and technical assistance and advice;

27 (vi) pay its operating expenses, scheduled debt service on the  
28 restructuring bonds and other ongoing financing costs;

29 (vii) issue restructuring bonds and provide for the rights of the  
30 holders thereof;

31 (viii) procure insurance against any loss in connection with its  
32 activities, properties and assets in such amount and from such insurers  
33 as it deems desirable;

34 (ix) invest any funds or other moneys under its custody and control in  
35 investment securities or under any ancillary agreement;

36 (x) establish and maintain such reserves, special funds and accounts,  
37 to be held in trust or otherwise, as may be required by agreements made  
38 in connection with the restructuring bonds, or any agreement between  
39 itself and third parties;

40 (xi) as security for the payment of the principal of and interest on  
41 any restructuring bonds issued by it pursuant to this act, and any  
42 agreement made in connection therewith, pledge all or any part of its  
43 revenues or assets, including, without limitation, restructuring proper-  
44 ty, unspent proceeds of its restructuring bonds, transition charge  
45 revenues, and earnings from the investment and reinvestment of unspent  
46 proceeds of its restructuring bonds and transition charge revenues; and

47 (xii) do any and all things necessary or convenient to carry out its  
48 purposes and exercise the powers expressly given and granted in this  
49 section.

50 3. No authority to file for bankruptcy protection. The restructuring  
51 bond issuer shall not be authorized to be a debtor under chapter 9 of  
52 the United States Bankruptcy Code or any other provision of the United  
53 States Bankruptcy Code. No governmental officer or organization is  
54 empowered to authorize, whether by executive order or otherwise,  
55 restructuring bond issuer to be a debtor under chapter 9 of the United  
56 States Bankruptcy Code or any other provision of the United States Bank-

1 ruptcy Code. Until at least one year and one day after all restructuring  
2 bonds issued by restructuring bond issuer have ceased to be outstanding  
3 and all unpaid financing costs have been paid, the state hereby pledges,  
4 contracts and agrees with owners of restructuring bonds issued by  
5 restructuring bond issuer that the state will not limit or alter the  
6 denial of authority to the restructuring bond issuer to be a debtor  
7 under chapter 9 of the United States Bankruptcy Code or any other  
8 provision of the United States Bankruptcy Code.

9 4. Governance. The restructuring bond issuer shall be governed by a  
10 board consisting of three trustees appointed by the governor. The trus-  
11 tees shall not be trustees, directors, officers, or employees of the  
12 authority, LIPA or any successor owner of the T&D system assets.

13 (a) One of the trustees first appointed shall serve for a term ending  
14 four years from January first next succeeding his appointment; one of  
15 such trustees shall serve for a term ending five years from such date;  
16 and one of such trustees shall serve for a term ending six years from  
17 such date. Their successors shall serve for terms of six years each.  
18 Trustees shall continue in office until their successors have been  
19 appointed and qualified and the provisions of section 39 of the public  
20 officers law shall apply. In the event of a vacancy occurring in the  
21 office of a trustee by death, removal, resignation or otherwise, the  
22 Governor shall appoint a successor to serve for the balance of the unex-  
23 pired term.

24 (b) Trustees shall serve without salary or other compensation, but  
25 each trustee shall be entitled to reimbursement for actual and necessary  
26 expenses incurred in the performance of his or her official duties.

27 (c) A majority of the trustees shall constitute a quorum for the tran-  
28 saction of any business or the exercise of any power or function of  
29 restructuring bond issuer. Any one or more trustees may participate in a  
30 meeting of the board by means of a conference telephone or similar  
31 communications equipment allowing all persons participating in the meet-  
32 ing to hear each other at the same time. Participation by such means  
33 shall constitute presence in person at a meeting. The board may delegate  
34 to one or more of its trustees, or officers, agents and employees, such  
35 powers and duties as the board may deem proper.

36 (d) Such trustees may engage in private employment, or in a profession  
37 or business. Restructuring bond issuer, its trustees, officers and  
38 employees shall be subject to the provisions of sections 73 and 74 of  
39 the public officers law.

40 (e) Notwithstanding any inconsistent provision of law to the contrary,  
41 general, special or local, no officer of the state or of any civil divi-  
42 sion thereof shall be deemed to have forfeited or shall forfeit his or  
43 her office or employment by reason of his or her acceptance of an  
44 appointment as trustee of restructuring bond issuer.

45 (f) The governor may remove any trustee for inefficiency, neglect of  
46 duty or misconduct in office after giving him or her a copy of the  
47 charges against him or her and an opportunity to be heard, in person or  
48 by counsel, in his or her defense, upon not less than ten days notice.  
49 If any trustee shall be so removed, the governor shall file in the  
50 office of the department of state a complete statement of the charges  
51 made against such trustee and his or her findings thereon, together with  
52 a complete record of the proceedings.

53 (g) Each trustee shall have a fiduciary duty to act in the best inter-  
54 ests of the restructuring bond issuer, including its creditors, the  
55 owners of the restructuring bonds, and such other duties as may be spec-

ified in the organizational documents or other agreements of the restructuring bond issuer.

(h) The restructuring bond issuer and its corporate existence shall continue until one year and one day after all restructuring bonds and ongoing financing costs and other indebtedness of restructuring bond issuer have been actually paid and all its other liabilities and obligations have been paid, met or otherwise discharged. Upon termination of the existence of restructuring bond issuer, all of its rights and property shall pass to and be vested in the state.

S 5. Restructuring cost financing orders. 1. Content of restructuring cost financing orders. The restructuring cost financing order shall include the following: (i) a description of the approved restructuring costs; (ii) the amount of approved restructuring costs that the authority proposes to pay through the sale of the restructuring property and the issuance of the restructuring bonds; (iii) designation of the authority as the entity in which initial ownership of restructuring property will vest; (iv) an estimate of the date on which restructuring bonds will be issued and the expected scheduled term to maturity of the restructuring bonds; (v) a description of the estimated debt service on the restructuring bonds and other ongoing financing costs that may be recovered through transition charges; as part of this description, the restructuring cost financing order may include qualitative or quantitative limitations on financing costs approved to be recovered provided that no such limitation on financing costs shall impair the ability of the restructuring bond issuer to pay and service the restructuring bonds in accordance with their terms; (vi) a proposed methodology for allocating transition charges on an equal percentage basis among customer service classifications and among volumetric (kWh) and demand (kW) charges within those customer service classifications, along with an associated bill impact analysis of the proposed methodology; (vii) a description of the proposed adjustment mechanism to reconcile actual collections with forecasted collection on at least an annual basis and a finding that the adjustment mechanism is just and reasonable; (viii) a description of the benefits to consumers in the service area that are expected to result from the sale of the restructuring property and the issuance of restructuring bonds as opposed to traditional alternative financing mechanisms; (ix) specifying the entity that will contract to act as servicer with respect to the restructuring property and the restructuring bonds on terms and conditions mutually acceptable to such servicer and the restructuring bond issuer; (x) specifying the entity or entities that will contract to provide administrative or other services to the restructuring bond issuer; (xi) specifying when the restructuring property will be created and vest and addressing such other matters as may be necessary or desirable for the marketing or servicing of the restructuring bonds or the servicing of the restructuring property; (xii) authorizing the imposition, billing and collection of transition charges to pay debt service on the restructuring bonds and other ongoing financing costs; (xiii) a description of the restructuring property that will be created and that may be used to pay and secure the payment of the restructuring bonds approved to be issued in the restructuring cost financing order; (xiv) a requirement that the amounts in the debt service reserve accounts or other accounts funded with the proceeds of restructuring bonds or transition charges be fully used, to the extent practical, to make the final payments of principal and interest on the restructuring bonds and other ongoing financing costs or to make refunds to consumers on the same basis as such consumers would have then been

obligated to pay transition costs; and (xv) the finding required by subdivision 1 of section 3 of this act.

2. Periodic reports. A restructuring cost financing order shall require the restructuring bond issuer or the servicer to file at least annually with the authority and the appropriate financing entity a periodic report showing the billing and collection of transition charges, the application of transition charge revenues to debt service on the restructuring bonds and other ongoing financing costs, and the balances in any debt service reserve accounts or other accounts required by the restructuring cost financing order.

3. Adjustment mechanism.

(a) Each restructuring cost financing order shall include a mathematical formula for making periodic adjustments to the transition charges. The mathematical formula shall apply the following principles:

(i) The transition charges will be adjusted at least annually to ensure that the collections of transition charges are adequate to pay principal and interest on the associated restructuring bonds when due pursuant to the expected amortization schedule, to fund all debt service reserve accounts to the required levels and to pay when due all other expected ongoing financing costs.

(ii) The adjustments of transition charges will take into account historical and reasonably foreseeable differences between amounts billed and amounts collected due to applicable taxes, consumer defaults and delays, billing lags, write-offs and other factors.

(iii) The adjustments of transition charges will take into account historical and reasonably foreseeable variations in billings due to variations in electricity consumption associated with the seasons, storms and other weather conditions, outages, gain or loss of consumers, efficiencies, electric vehicles, economic conditions or other factors.

(iv) The adjustments of transition charges will take into account any over-collection or under-collection of transition charges so that, to the extent practical, the outstanding balance of restructuring bonds is equal to the scheduled balance on the expected amortization schedule, the amounts in the debt service reserve accounts are equal to the required reserve level, and all ongoing financing costs are paid when due.

(v) The adjustments of transition charges will be applied ratably to the transition charges for each customer service classification.

(b) Once restructuring bonds have been issued, the adjustment mechanism specified in the restructuring cost financing order shall be applied to correct for any over-collection or under-collection of transition charges and to provide for timely payment of scheduled principal of and interest on the restructuring bonds and the payment and recovery of other ongoing financing costs in accordance with the restructuring cost financing order. Application of the adjustment mechanism shall occur at least annually or more frequently as provided in the restructuring cost financing order. A notice of such periodic adjustment of transition charges shall be filed with the authority by or on behalf of the owner of restructuring property and a copy shall be provided to the owner of the T&D system assets at least sixty days before the adjustment is to take effect, provided that the restructuring bond issuer may request an earlier effective date.

(c) Each adjustment to the transition charge, in amounts as calculated by or on behalf of the owner of restructuring property, shall automatically become effective sixty days following the date on which the notice of periodic adjustment is filed with the authority unless the

1 authority approves an earlier effective date requested by the restruc-  
2 turing bond issuer.

3 (d) Notwithstanding any other provision of law to the contrary, the  
4 authority shall allow interested parties thirty days from the date of  
5 filing of the notice for adjustment within which to make comments. Such  
6 comments shall be limited to the mathematical accuracy of the calcu-  
7 lations of the amount of the adjustments. If the authority determines  
8 that the calculation of the transition charge adjustment in the notice  
9 was mathematically inaccurate, the transition charge adjustment shall be  
10 changed as soon as it is reasonably practical to do so, but estimated  
11 overcollections or undercollections resulting from the mathematical  
12 error shall be taken into account in the next succeeding periodic  
13 adjustment.

14 (e) No adjustment pursuant to this section shall in any way affect the  
15 irrevocability of the restructuring cost financing order as specified in  
16 subdivision 4 of section five of this act. No adjustment pursuant to  
17 this section shall require any approvals or action under any other law  
18 or shall be deemed to be the establishment of a new charge, fee or rate  
19 under any law.

20 4. Irrevocability of restructuring cost financing orders.

21 (a) A restructuring cost financing order shall be an irrevocable final  
22 rate order when the time for any actions, suits, proceedings and appeals  
23 challenging such final restructuring cost financing order has lapsed or  
24 expired as provided in subdivision 3 of section three of this act.

25 (b) A restructuring cost financing order may be amended on or after  
26 the date of issuance of restructuring bonds approved thereunder only:

27 (i) at the request of the authority; (ii) in accordance with any  
28 restrictions and limitations on amendment set forth in the restructuring  
29 cost financing order; (iii) subject to the limitations set forth in  
30 subdivision 7 of section three of this act; and (iv) upon approval by  
31 the PACB within thirty days of receipt of such amendment; provided,  
32 however, that if no approval or disapproval is made within such time,  
33 the amendment shall be deemed approved.

34 (c) This act, and any restructuring cost financing order made pursuant  
35 to this act, shall not be interpreted to alter or limit the rights vest-  
36 ed in the authority to establish sufficient T&D rates to pay and perform  
37 all of its obligations and contracts with the authority's bondholders  
38 and others when due.

39 5. Effect of restructuring cost financing order.

40 (a) A restructuring cost financing order shall remain in effect and  
41 unabated until the restructuring bonds issued pursuant to the restruc-  
42 turing cost financing order have been paid in full and all ongoing  
43 financing and all amounts to be paid to an assignee or financing party  
44 under an ancillary agreement are paid or performed in full.

45 (b) A restructuring cost financing order shall remain in effect and  
46 unabated notwithstanding the bankruptcy, reorganization or insolvency of  
47 the authority, the restructuring bond issuer, LIPA or any successor  
48 owner of the T&D system assets, or any affiliate of the aforementioned,  
49 or the commencement of any judicial or nonjudicial proceeding therefor.

50 (c) For so long as restructuring bonds issued pursuant to a restruc-  
51 turing cost financing order are outstanding, and the related approved  
52 restructuring costs have not been paid in full, the transition charges  
53 authorized in the restructuring cost financing order shall be non-by-  
54 passable and shall apply to all consumers connected to the T&D system  
55 assets and taking electric delivery service located within the service  
56 area, whether or not the consumers produce their own electricity or

1 purchase electric generation services from a provider of electric gener-  
2 ation services other than the owner of the T&D system assets and whether  
3 or not the T&D system assets continue to be owned by LIPA.

4 S 6. Restructuring bonds. 1. No recourse. Restructuring bonds shall  
5 be without recourse to the credit or any assets of the authority, LIPA  
6 and the restructuring bond issuer, other than the restructuring property  
7 and other assets and revenues of restructuring bond issuer as specified  
8 in the pertinent restructuring cost financing order.

9 2. Exemption from taxation.

10 (a) It is hereby found and declared that the activities of the  
11 restructuring bond issuer are primarily for the benefit of the people of  
12 the state of New York, for the improvement of their welfare and prosper-  
13 ity, and is a public purpose, and the restructuring bond issuer shall be  
14 regarded as performing an essential governmental function in carrying  
15 out the provisions of this act.

16 (b) The restructuring bond issuer shall not be required to pay taxes  
17 or assessments upon any of the property acquired or controlled by it or  
18 upon its activities in the use thereof or upon income derived therefrom.

19 (c) Restructuring bonds, their transfer and the income therefrom  
20 shall, at all times, be free from taxation by the state or any munici-  
21 pality, except for estate and gift taxes.

22 3. Restructuring bonds not debt of the state. Restructuring bonds  
23 issued pursuant to a restructuring cost financing order and the  
24 provisions of this act shall not constitute a debt, general obligation  
25 or a pledge of the faith and credit or taxing power of the state or of  
26 any county, municipality or any other political subdivision, agency or  
27 instrumentality of the state. Holders of restructuring bonds shall not  
28 be taxed by the legislature or the taxing authority of any county, muni-  
29 cipality or any other political subdivision, agency or instrumentality  
30 of this state for the payment of the principal thereof or interest ther-  
31 eon. The issuance of restructuring bonds does not obligate the state or  
32 any county, municipality or any other political subdivision, agency or  
33 instrumentality of the state to levy any tax or make any appropriation  
34 for payment of the principal of or interest on the restructuring bonds.  
35 All restructuring bonds must contain a statement to the following  
36 effect: "Neither the full faith and credit nor the taxing power of the  
37 state of New York is pledged to the payment of the principal of, or  
38 interest on, this bond."

39 4. Restructuring bonds as legal investments. Any restructuring bonds  
40 issued by the restructuring bond issuer are hereby made securities in  
41 which all public officers and bodies of this state and all munici-  
42 palities, all insurance companies and associations and other persons  
43 carrying on an insurance business, all banks, bankers, trust companies,  
44 savings banks and savings associations, including savings and loan asso-  
45 ciations, building and loan associations, investment companies and other  
46 persons carrying on a banking business, all trusts, estates and guardi-  
47 anships and all other persons whatsoever, who are now or may hereafter  
48 be authorized to invest in bonds or other obligations of this state, may  
49 properly and legally invest funds, including capital in their control or  
50 belonging to them. The restructuring bonds are also hereby made securi-  
51 ties which may be deposited with and shall be received by all public  
52 officers and bodies of the state and all municipalities for any purpose  
53 for which the deposit of bonds or other obligations of the state is now  
54 or may hereafter be authorized.

55 S 7. Restructuring property. 1. (a) Restructuring property that is  
56 created pursuant to a restructuring cost financing order shall consti-

1 tute an existing, present property right, notwithstanding the fact that  
2 the imposition and collection of transition charges will depend on  
3 further acts that have not yet occurred, including but not limited to:  
4 (i) LIPA or any successor owner of the T&D system assets delivering  
5 electric energy or related services, (ii) a servicer performing servic-  
6 ing functions relating to the collection of transition charges, or (iii)  
7 the level of future consumption of electric energy. Restructuring prop-  
8 erty shall exist whether or not transition charges have been imposed,  
9 billed, accrued or collected and notwithstanding the fact that the value  
10 or amount of the restructuring property is dependent on the future  
11 provision of service to customers by LIPA or any successor owner of the  
12 T&D system assets.

13 (b) All restructuring property created pursuant to a restructuring  
14 cost financing order shall continue to exist until the restructuring  
15 bonds issued pursuant to such restructuring cost financing order are  
16 paid in full and all ongoing financing costs relating to the restructur-  
17 ing bonds have been paid in full.

18 (c) The restructuring property may be transferred, sold, conveyed or  
19 assigned to the restructuring bond issuer. All or any portion of  
20 restructuring property may be pledged to secure the payment of restruc-  
21 turing bonds, amounts payable to financing parties, amounts payable to  
22 holders of restructuring bonds, amounts payable under any ancillary  
23 agreement and other ongoing financing costs. So long as the restructur-  
24 ing property remains pledged to secure the restructuring bonds, revenues  
25 from the collection of transition charges shall be applied solely to the  
26 repayment of restructuring bonds and other ongoing financing costs.  
27 After the occurrence of an event of default with respect to the restruc-  
28 turing bonds, all or any portion of restructuring property may be trans-  
29 ferred, sold, conveyed or assigned to any person or entity. Any trans-  
30 fer, sale, conveyance, assignment, grant of a security interest in or  
31 pledge of restructuring property by the authority, the restructuring  
32 bond issuer, or other financing entity, to the extent previously  
33 approved in a restructuring cost financing order, does not require the  
34 prior consent and approval of any other person or entity under the  
35 public service law or any other law.

36 (d) If the owner of the T&D system assets, servicer, third-party  
37 biller, or any other person or entity authorized to collect transition  
38 charges, defaults on any required remittance of transition charge reven-  
39 ues, any court in the state, upon application by an interested party and  
40 without limiting any other remedies available to the applying party,  
41 shall order the sequestration and payment of the transition charge  
42 revenues for the benefit of the owners or pledgees of restructuring  
43 property. The order shall remain in full force and effect notwithstand-  
44 ing any bankruptcy, reorganization, or other insolvency proceedings with  
45 respect to a servicer, authority, LIPA or any successor owner of the T&D  
46 system assets or any affiliate thereof or of any other person or entity.

47 (e) Restructuring property, transition charges, transition charge  
48 revenues, and the interests of an assignee, bondholder, financing party  
49 or any other person in restructuring property or in transition charge  
50 revenues, are not subject to setoff, counterclaim, surcharge or defense  
51 by a servicer, any consumer, the authority, LIPA or any successor owner  
52 of the T&D system assets or any other person or in connection with any  
53 default, bankruptcy, reorganization or other insolvency proceeding of  
54 the authority, LIPA or any successor owner of the T&D system assets, any  
55 affiliate thereof or any other entity or otherwise. To the extent that  
56 any consumer makes a partial payment of a bill containing both transi-

tion charges and any other charges, such payment shall be allocated pro rata between the transition charges and the other charges unless the consumer specifies that a greater proportion of such payment is to be allocated to the transition charges, except that the other charges shall be reduced by the amount of any claims of setoff, counterclaim, surcharge or defense for purposes of such allocation.

(f) Any successor owner of the T&D system assets and any successor servicer shall be bound by the requirements of this act and shall perform and satisfy all obligations of a servicer in the same manner and to the same extent under a restructuring cost financing order as did LIPA and the initial servicer, including, without limitation, the obligation to impose, bill and collect the transition charges and to pay such collections to the person entitled to receive the transition charge revenues.

2. Security interests. Any pledge of restructuring property or proceeds thereof, including any moneys, revenues or property or of a revenue producing contract or contracts constituting part of the restructuring property, made by the owner of restructuring property, shall be perfected, valid and binding from the time when the pledge is made. The proceeds, moneys, revenues or proceeds so pledged and thereafter received by the owner of restructuring property shall immediately be subject to the lien of such pledge, and such lien shall be perfected, without any physical delivery thereof or further act. The lien of any such pledge shall be perfected, valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the owner of restructuring property irrespective of whether such parties have notice thereof and shall be superior to any judicial liens or other liens obtained by such claimants or transferees. The description of the restructuring property in a pledge or security agreement and any financing statement is sufficient if and only if the description refers to this Act and the restructuring cost financing order creating such restructuring property. No instrument by which a pledge or lien is created pursuant to this subdivision need be recorded in order to perfect such pledge or lien. However, the restructuring bond issuer shall cause a financing statement describing the pledge and referring to the restructuring cost financing order and the restructuring property described therein to be filed for informational purposes only under article 9 of the uniform commercial code. The secretary of state shall maintain any financing statement filed under this section in the same manner that the secretary maintains financing statements filed by transmitting utilities under section 9-501 of the uniform commercial code until a termination statement is filed. A pledge of restructuring property is a continuously perfected security interest and has priority over any other lien, created by operation of law or otherwise, that may subsequently attach to that restructuring property or proceeds thereof unless the holder of any such lien has agreed in writing otherwise. Any pledgee of restructuring property shall have a perfected security interest in the amount of all restructuring property revenues or other proceeds that are deposited in any deposit account or other account of the servicer or other entity in which restructuring property revenues or other proceeds have been commingled with other funds. Any other security interest that may apply to restructuring revenues or other proceeds shall be terminated when such revenues or proceeds are transferred to a segregated account for an assignee or a financing party. No application of the adjustment mechanism as described in this act shall affect the



1 validity, perfection, or priority of a pledge of, security interest in  
2 or the sale or transfer of restructuring property.

3 3. Sales of restructuring property.

4 (a) A transfer of all or any portion of restructuring property, which  
5 the parties in the governing documentation have expressly stated to be a  
6 sale or other absolute transfer, in a transaction approved in a restruc-  
7 turing cost financing order, shall be treated as an absolute transfer of  
8 all of the transferor's right, title, and interest (as in a true sale),  
9 and not as a pledge or other financing, of the restructuring property,  
10 other than for federal, state and local income and franchise tax  
11 purposes.

12 (b) Any transfer of an interest in restructuring property shall be  
13 perfected, vested, valid and binding from the time when the transfer is  
14 made. Such transfer shall be perfected, vested, valid and binding as  
15 against the transferor, all parties having claims of any kind in tort,  
16 contract or otherwise against the transferor, and all other transferees  
17 of the transferor, irrespective of whether such parties have notice  
18 thereof and shall be superior to any judicial liens or other liens  
19 obtained by such claimants or transferees. The description of the  
20 restructuring property in a sale or transfer agreement and any financing  
21 statement is sufficient if and only if the description refers to this  
22 act and the restructuring cost financing order creating such restruc-  
23 turing property. No instrument by which a transfer is created pursuant to  
24 this section need be recorded in order to perfect such transfer. Howev-  
25 er, the restructuring bond issuer shall cause a financing statement  
26 describing the pledge and referring to the restructuring cost financing  
27 order and the restructuring property described therein to be filed for  
28 informational purposes only under article nine of the uniform commercial  
29 code. The secretary of state shall maintain any financing statement  
30 filed under this section in the same manner that such secretary main-  
31 tains financing statements filed by transmitting utilities under section  
32 9-501 of the uniform commercial code until a termination statement is  
33 filed.

34 (c) The characterization of the sale, assignment or transfer as an  
35 absolute transfer and true sale and the corresponding characterization  
36 of the property interest of the purchaser, shall not adversely be  
37 affected or impaired by, among other things, the occurrence of any of  
38 the following factors: (i) commingling of revenues or other proceeds  
39 from transition charges with other amounts; (ii) the retention by the  
40 seller of: (A) a partial or residual interest, including an equity  
41 interest, in the restructuring property, whether direct or indirect, or  
42 whether subordinate or otherwise; or (B) the right to recover costs  
43 associated with taxes, payments in lieu of taxes, franchise fees or  
44 license fees imposed on the collection of transition charges; (iii) any  
45 recourse that the purchaser may have against the seller; (iv) any indem-  
46 nification rights, obligations or repurchase rights made or provided by  
47 the seller; (v) the obligation of the seller to collect transition  
48 charges on behalf of an assignee, including but not limited to, any  
49 retention by the seller to bare legal title for the purpose of collect-  
50 ing transition charges; (vi) the treatment of the sale, assignment or  
51 transfer for tax, financial reporting or other purposes; (vii) any  
52 subsequent order of the authority amending a restructuring cost financ-  
53 ing order pursuant to paragraph (b) of subdivision 4 of section five of  
54 this act; or (viii) any application of the adjustment mechanism as  
55 provided in subdivision 3 of section five of this act.

(d) An assignee or financing party shall not be considered to be a public utility or person providing electric service solely by virtue of the transactions described in this act.

S 8. Rights and duties while restructuring bonds are outstanding. 1. Responsibilities of the authority. (a) For the purpose of investigating compliance with the provisions of this act and the applicable restructuring cost financing order, the authority shall have the right, jurisdiction, power and authority to examine the books and records of LIPA or any successor owner of the T&D system assets, the restructuring bond issuer, any other financing entity, any servicer, any third-party biller and any other person or entity that owns restructuring property or has the right to impose, bill or collect transition charges until the restructuring bonds issued pursuant to the restructuring cost financing order have been paid in full and all financing costs relating to such restructuring bonds have been paid in full.

(b) Neither the authority nor any successor regulator may, in exercising its powers and carrying out its duties regarding regulation and ratemaking, consider restructuring bonds issued pursuant to the restructuring cost financing order to be the debt of any owner of the T&D system assets, consider transition charges paid under the restructuring cost financing order to be revenue of any owner of the T&D system assets, or consider the approved restructuring costs or ongoing financing costs specified in the restructuring cost financing order to be costs of any owner of the T&D system assets or any affiliate, nor may the authority or any successor regulator determine that any action taken by any owner of the T&D system assets that is consistent with the restructuring cost financing order is unjust or unreasonable from a regulatory or ratemaking perspective; provided that, subject to the limitations set forth in subdivision 4 of section five of this act and the state pledge in section nine of this act, nothing in this subdivision shall (i) affect the authority to apply the adjustment mechanism as provided in subdivision 3 of section five of this act; (ii) prevent or preclude the authority from investigating the compliance of any owner of the T&D system assets and of any financing entity with the terms and conditions of a restructuring cost financing order and requiring compliance therewith; or (iii) prevent or preclude the authority or any successor regulator from imposing regulatory sanctions against any owner of the T&D system assets for failure to comply with the terms and conditions of a restructuring cost financing order or the requirements of this act. When setting other rates for any owner of the T&D system assets, nothing in this act shall prevent the authority or any successor regulator from taking into account the collection by such owner of servicing fees in excess of incremental costs of providing servicing services, or the collection by such owner of administration fees in excess of incremental costs of providing administration services; provided that this would not result in a recharacterization of the tax, accounting, and other intended characteristics of the financing, including, but not limited to, either of the following: (i) treating restructuring bonds as debt for federal income tax purposes; or (ii) treating any transfer of the restructuring property to the restructuring bond issuer or to any other financing entity as a true sale for bankruptcy purposes.

2. Duties of financing entities and any owner of T&D system assets.

(a) Any failure of any financing entity to apply the proceeds of restructuring bonds, or proceeds from the sale of restructuring property, in a reasonable, prudent and appropriate manner or otherwise comply

1 with any provision of this act shall not invalidate, impair or affect  
2 any restructuring cost financing order, restructuring property, transi-  
3 tion charge, or restructuring bonds.

4 (b) Any owner of T&D system assets, any servicer, any third-party  
5 biller and any other entity that bills or collects T&D rates shall  
6 simultaneously impose, bill and collect any transition charges applica-  
7 ble to consumers in the service area, including all consumers connected  
8 to the T&D system assets and taking electric delivery service located  
9 within the service area, shall allocate partial payments by consumers as  
10 provided in this act, shall terminate service to non-paying consumers on  
11 the same basis as termination of service is permitted for non-payment of  
12 T&D rates, shall exercise all enforcement rights of the owner or pledgee  
13 of the restructuring property for the benefit of such owner or pledgee,  
14 and shall remit any transition charge revenue to the owner or pledgee of  
15 the restructuring property.

16 S 9. State pledge. (a) The state pledges to and agrees with the hold-  
17 ers of restructuring bonds, any assignee and all financing entities that  
18 the state will not in any way take or permit any action that limits,  
19 alters or impairs the value of restructuring property or, except as  
20 required by the adjustment mechanism described in the restructuring cost  
21 financing order, reduce, alter or impair transition charges that are  
22 imposed, collected and remitted for the benefit of the owners of  
23 restructuring bonds, any assignee, and all financing entities, until any  
24 principal, interest and redemption premium in respect of restructuring  
25 bonds, all ongoing financing costs and all amounts to be paid to an  
26 assignee or financing party under an ancillary agreement are paid or  
27 performed in full.

28 (b) Any person who issues restructuring bonds is permitted to include  
29 the pledge specified in subdivision (a) of this section in the restruc-  
30 turing bonds, ancillary agreements and documentation related to the  
31 issuance and marketing of the restructuring bonds.

32 S 10. Choice of law. The law governing, as applicable, the validity,  
33 enforceability, attachment, perfection, priority and exercise of reme-  
34 dies with respect to the transfer of an interest or right or creation of  
35 a security interest in any restructuring property, transition charge or  
36 restructuring cost financing order, shall be the laws of the state of  
37 New York.

38 S 11. Conflicts. In the event of conflict between this act and any  
39 other law regarding the attachment, assignment or perfection, or the  
40 effect of perfection, or priority of any pledge of, security interest in  
41 or transfer of restructuring property, this act shall govern to the  
42 extent of the conflict. In the event of conflict between this act and  
43 the public service law, the Long Island power authority act or any other  
44 law, this act shall govern to the extent of the conflict. Notwithstand-  
45 ing any provisions of law to the contrary, no approvals, notices or  
46 authorizations other than those specified in this act shall be required  
47 with respect to any restructuring cost financing order, and the trans-  
48 actions and contracts authorized in or contemplated by this act or any  
49 restructuring cost financing order, including but not limited to the  
50 incurrence and payment of any financing costs, the incurrence or payment  
51 of any approved restructuring costs, the issuance of restructuring  
52 bonds, the sale or other transfer of restructuring property, and any  
53 contracts and expenses incurred to facilitate the preparation of any  
54 restructuring cost financing order.

55 S 12. Effect of invalidity on actions. Effective on the date that  
56 restructuring bonds are first issued under this act, if any provision of

1 this act is held to be invalid or is invalidated, superseded, replaced,  
2 repealed or expires for any reason, that occurrence shall not affect any  
3 action allowed under this act that is taken by the authority, LIPA, the  
4 restructuring bond issuer, any owner of T&D system assets, an assignee,  
5 a collection agent, a financing party, a holder of restructuring bonds  
6 or a party to an ancillary agreement and any such action shall remain in  
7 full force and effect.

8 S 13. Effectiveness of the act. The authority may not adopt its first  
9 restructuring cost financing order after the five year period after the  
10 effective date of this act.

11 S 14. Severability. If any section, subdivision, paragraph or subpara-  
12 graph of this act or the application thereof to any person, circumstance  
13 or transaction is held by a court of competent jurisdiction to be uncon-  
14 constitutional or invalid, the unconstitutionality or invalidity shall not  
15 affect the constitutionality or validity of any other section, subdivi-  
16 sion, paragraph or subparagraph of this act or its application or valid-  
17 ity to any person, circumstance or transaction, including, without limi-  
18 tation, the irrevocability of a restructuring cost financing order  
19 issued pursuant to this act, the validity of the issuance of restructur-  
20 ing bonds, the imposition of transition charges, the transfer or assign-  
21 ment of restructuring property or the collection and recovery of reven-  
22 ues from transition charges. To these ends, the legislature hereby  
23 declares that the provisions of this act are intended to be severable  
24 and that the legislature would have enacted this act even if any  
25 section, subdivision, paragraph or subparagraph of this act held to be  
26 unconstitutional or invalid had not been included in this act.

27 S 15. Standing. (a) The owner of restructuring property, or the trus-  
28 tee representing holders of restructuring bonds, shall be expressly  
29 permitted hereby to bring actions against any owner of the T&D system  
30 assets, any third-party biller, or any other entity authorized to bill  
31 or collect T&D rates, any consumers in the service area or any other  
32 person or entity for failure to impose, bill, pay or collect any transi-  
33 tion charges constituting part of the restructuring property then held  
34 pledged as security for such restructuring bonds or for enforcement of  
35 any other provision of this act or the applicable restructuring cost  
36 financing order.

37 (b) Except as provided in section three of this act, any court and the  
38 authority shall have jurisdiction over any actions for failure to  
39 impose, bill, pay or collect any transition charges or for enforcement  
40 of other provision of this act or any restructuring cost financing  
41 order.

42 S 16. Third-party billing. If and to the extent that third parties are  
43 allowed to bill and/or collect any transition charges, the authority,  
44 any successor regulator, and any owner of the T&D system assets will  
45 take steps to ensure non-bypassability and minimize the likelihood of  
46 default by third-party billers, which generally would include (i) opera-  
47 tional standards and minimum credit requirements for any such third-par-  
48 ty biller, or require a cash deposit, letter of credit or other credit  
49 mitigant in lieu thereof, to minimize the likelihood that defaults by a  
50 third-party biller would result in an increase in transition charges  
51 thereafter billed to consumers, (ii) a finding that, regardless of who  
52 is responsible for billing, consumers shall continue to be responsible  
53 for transition charges, (iii) if a third party meters and bills for the  
54 transition charges, that the owner of the T&D system assets and any  
55 servicer must have access to information on billing and usage by consum-  
56 ers to provide for proper reporting to the restructuring bond issuer and

1 to perform its obligations as servicer, (iv) in the case of a default by  
2 a third-party biller, billing responsibilities must be promptly trans-  
3 ferred to another party to minimize potential losses, and (v) the fail-  
4 ure of consumers to pay transition charges shall allow service termi-  
5 nation by the owner of the T&D system assets on behalf of the  
6 restructuring bond issuer of the consumers failing to pay transition  
7 charges in accordance with service termination rules and orders applica-  
8 ble to T&D rates. Any costs associated with such third-party billing  
9 and/or collection shall be included as part of the recoverable ongoing  
10 financing costs or other rates or charges, as appropriate. Further, the  
11 authority and any successor regulator shall not permit implementation of  
12 any third-party billing or collection that would result in a reduction  
13 or withdrawal of the then current ratings on any tranche or series of  
14 the restructuring bonds by any nationally recognized statistical rating  
15 organization designated by the restructuring bond issuer.

16 S 17. This act shall take effect immediately.

17 S 2. Severability clause. If any clause, sentence, paragraph, subdivi-  
18 sion, section or part of this act shall be adjudged by any court of  
19 competent jurisdiction to be invalid, such judgment shall not take  
20 affect, impair, or invalidate the remainder thereof, but shall be  
21 confined in its operation to the clause, sentence, paragraph, subdivi-  
22 sion, section or part thereof directly involved in the controversy in  
23 which such judgment shall have been rendered. It is hereby declared to  
24 be the intent of the legislature that this act would have been enacted  
25 even if such invalid provisions had not been included herein.

26 S 3. This act shall take effect immediately; provided, however, that  
27 the applicable effective date of Parts A through B of this act shall be  
28 as specifically set forth in the last section of such Parts.