

STATE OF NEW YORK

8894

IN ASSEMBLY

January 26, 2024

Introduced by M. of A. THIELE, SOLAGES, RAMOS, J. A. GIGLIO -- read once
and referred to the Committee on Corporations, Authorities and Commis-
sions

AN ACT to amend the public authorities law, the executive law, the
public service law and the state finance law, in relation to powers
and duties of the department of public service and the Long Island
power authority

The People of the State of New York, represented in Senate and Assem-
bly, do enact as follows:

1 Section 1. Short title. This act shall be known and may be cited as
2 the "Long Island power authority public power act".

3 § 2. The purpose of this act is to facilitate transition of the Long
4 Island power authority ("LIPA") into a full public power model through
5 modifications of its authority to manage, operate and control utility
6 operations in its service area as well as to modify its statutory, fidu-
7 ciary, financial and related obligations, so that LIPA would fully oper-
8 ate the electric grid in its service area without the added expense and
9 lack of accountability that comes from contracting out the operations of
10 LIPA's grid to a private, investor-owned utility, and to give LIPA the
11 flexibility to use the PEO model as a secondary alternative to the LLC
12 model.

13 § 3. Title 2 of article 9 of the public authorities law governs the
14 roles and responsibilities of boards of public authorities. Through
15 adoption of the act and the amendments made by part A of chapter 173 of
16 the laws of 2013, the board's responsibilities were modified from those
17 afforded to the boards of other New York state public authorities. LIPA
18 is the only utility in the nation that is operated under a third-party
19 management model. This model has repeatedly failed its customers. There
20 has been a lack of transparency, oversight, and accountability. This
21 failure has been most dramatically evidenced in the unacceptable storm
22 response by LIPA and its third-party service contractors during Super-
23 storm Sandy in 2012 and Tropical Storm Isaias in 2020. In adopting
24 section 83-n of the legislative law, the legislature determined that a
25 better management alternative for LIPA must be implemented. The legisla-

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 ture proposed implementation of the original vision for LIPA intended by
2 chapter 517 of the laws of 1986, as a publicly owned power company.
3 Thus, amendment of title 1-A of article 9 of the public authorities law
4 is required to allow LIPA's board to function with full authority under
5 title 2 of article 9 of the public authorities law and as intended in
6 chapter 517 of the laws of 1986. LIPA's board must have the legislative
7 authority to effectively oversee LIPA's public power operations. Amend-
8 ment of the public authorities law, the public service law and the state
9 finance law are necessary to aid in the transition to a fully public
10 power model.

11 § 4. Section 1020-a of the public authorities law, as added by chapter
12 517 of the laws of 1986, is amended to read as follows:

13 § 1020-a. Declaration of legislative findings and declarations. The
14 legislature hereby finds and declares that:

15 ~~[Constantly escalating and excessive costs of electricity in the coun-~~
16 ~~ties of Suffolk and Nassau and that portion of the county of Queens~~
17 ~~served by the Long Island lighting company (hereinafter referred to as~~
18 ~~the "service area") pose a serious threat to the economic well-being,~~
19 ~~health and safety of the residents of and the commerce and industry in~~
20 ~~the service area.~~

21 ~~There is a lack of confidence that the needs of the residents and of~~
22 ~~commerce and industry in the service area for electricity can be~~
23 ~~supplied in a reliable, efficient and economic manner by the Long Island~~
24 ~~lighting company (hereinafter referred to as "LILCO").~~

25 ~~Such excessive costs and lack of confidence have deterred commerce and~~
26 ~~industry from locating in the service area and have caused existing~~
27 ~~commerce and industry to consider seriously moving out of the service~~
28 ~~area.~~

29 ~~The decisions by LILCO to commence construction of the Shoreham nucle-~~
30 ~~ar power plant and thereafter to continue such construction were impru-~~
31 ~~dent.~~

32 ~~The investment of LILCO in the Shoreham nuclear power plant has~~
33 ~~created significant rate increases, straining the economic capabilities~~
34 ~~of ratepayers in the service area, and likely will require further~~
35 ~~substantial rate increases if such plant is placed in service.~~

36 ~~It is uncertain whether the Shoreham nuclear plant ever will go into~~
37 ~~commercial service, or if it does whether its reliability, cost of~~
38 ~~construction, operation and maintenance will be such as to provide~~
39 ~~sufficient, reliable and economic electric service to ratepayers in the~~
40 ~~service area. The very substantial financial strain of the investment in~~
41 ~~the Shoreham nuclear plant has required LILCO to suspend dividends on~~
42 ~~its common and preferred stock, severely threatening the continued~~
43 ~~economic viability of LILCO.~~

44 ~~For all the above reasons, a situation threatening the economy, health~~
45 ~~and safety exists in the service area.~~

46 ~~Dealing with such a situation in an effective manner, assuring the~~
47 ~~provision of an adequate supply of electricity in a reliable, efficient~~
48 ~~and economic manner, and retaining existing commerce and industry in and~~
49 ~~attracting new commerce and industry to the service area, in which a~~
50 ~~substantial portion of the state's population resides and which encom-~~
51 ~~passes a substantial portion of the state's commerce and industry, are~~
52 ~~hereby expressly determined to be matters of state concern within the~~
53 ~~meaning of paragraph three of subdivision (a) of section three of arti-~~
54 ~~cle nine of the state constitution.~~

55 ~~Such matters of state concern best can be dealt with by replacing such~~
56 ~~investor owned utility with a publicly owned power authority. Such an]~~

1 LIPA was created by the Long Island power authority act in nineteen
2 hundred eighty-six ("LIPA act") in response to growing dissatisfaction
3 with the Long Island lighting company ("LILCO"), an investor-owned gas
4 and electric utility that provided service to Long Island and the Rocka-
5 ways. Deteriorating confidence in LILCO's ability to provide affordable
6 and reliable rates and the controversial decision to build the Shoreham
7 Nuclear Power Plant created a situation that threatened the economy,
8 health, and safety in LILCO's service area. As a result, LIPA was grant-
9 ed broad powers to operate as a publicly owned power authority to
10 provide safe and adequate electrical service at rates that would benefit
11 ratepayers in the service area.

12 However, LIPA never established itself as a true "publicly owned power
13 authority" as originally envisioned by the legislature. Rather, since
14 nineteen hundred ninety-eight, LIPA has opted for a third-party manage-
15 ment model whereby LIPA contracts its responsibility to manage the util-
16 ity to a private, investor-owned utility company.

17 LIPA is the only utility in the nation that is operated under such a
18 third-party management model. The model's failures in efficiency, reli-
19 ability, transparency, oversight, and accountability have been well
20 documented over the years. In adopting section eighty-three-n of the
21 legislative law, establishing the commission on the future of LIPA and
22 charging it with the responsibility to present the legislature with "the
23 specific actions, legislation, and timeline necessary to restructure
24 LIPA into a true publicly owned power authority," the legislature deter-
25 mined that a better management alternative for LIPA must be implemented.

26 The legislature finds that a public power authority can best accom-
27 plish the purposes and objectives of this title by [implementing, if it
28 then appears appropriate, the results of negotiations between the state
29 and LILCO. In such circumstances, such an authority will provide]
30 providing safe and adequate service at rates which will be lower than
31 the rates which would otherwise result and will facilitate the shifting
32 of investment into more beneficial energy demand/energy supply manage-
33 ment alternatives, realizing savings for the ratepayers and taxpayers in
34 the service area and otherwise restoring the confidence and protecting
35 the interests of ratepayers and the economy in the service area. More-
36 over, [in such circumstances the replacement of such investor owned
37 utilities by such an authority will result in] a public power authority
38 will result in an improved system and reduction of future costs and a
39 safer, more efficient, reliable and economical supply of electric ener-
40 gy. The legislature further finds that such an authority shall utilize
41 to the fullest extent practicable, all economical means of conservation,
42 and technologies that rely on renewable energy resources, cogeneration
43 and improvements in energy efficiency which will benefit the interests
44 of the ratepayers of the service area.

45 § 5. Section 1020-b of the public authorities law, as added by chapter
46 517 of the laws of 1986, subdivision 11 as amended by chapter 381 of the
47 laws of 1987, subdivision 12-a as added by chapter 506 of the laws of
48 1995, and subdivisions 23 and 24 as added by section 3 of part A of
49 chapter 173 of the laws of 2013, is amended to read as follows:

50 § 1020-b. Definitions. As used or referred to in this title, unless a
51 different meaning clearly appears from the context:

52 1. "Acquire" means, with respect to any right, title or interest in or
53 to any property, the act of taking by the exercise of the power of
54 eminent domain, or acquisition by purchase or otherwise.

55 2. "Act" means the Long Island power authority act, being title one-A
56 of article five of the public authorities law, as added by [~~this title~~]

1 chapter five hundred seventeen of the laws of nineteen hundred eighty-
2 six, and as subsequently amended.

3 3. "Authority" means the Long Island power authority created by
4 section one thousand twenty-c of this title.

5 4. "Board" means the board of trustees of the authority.

6 5. "Bonds" or "notes" mean the bonds, notes or other obligations
7 issued by the authority pursuant to this title.

8 6. "Community stakeholder board" means a committee designed to supple-
9 ment the expertise and experience of the board to promote citizen
10 involvement and ensure balanced representation from its service area.

11 7. "Fair market value" means the value of property, real, personal or
12 mixed, which would be obtained in an arm's length transaction between an
13 informed and willing buyer under no compulsion to buy, and an informed
14 and willing seller under no compulsion to sell.

15 [~~7-~~] 8. "Federal government" means the United States of America and
16 any agency or instrumentality, corporate or otherwise, of the United
17 States of America.

18 [~~8-~~] 9. "Final determination" or "finally determined" means a judicial
19 decision (i) by the highest court of competent jurisdiction, or (ii) by
20 a court of competent jurisdiction from which no appeal has been taken
21 and the time within which to appeal has expired.

22 [~~9-~~] 10. "Governing body" means, with respect to any municipality, the
23 body having charge of the fiscal affairs of such municipality.

24 [~~10-~~] 11. "LILCO" means the Long Island lighting company, its subsid-
25 iaries and their successors and assigns, other than the authority.

26 [~~11-~~] 12. "Municipality" means any city, town, village, county, munic-
27 ipal corporation, district corporation, district or other political
28 subdivision of the state.

29 [~~12. "OCLD" means the original cost of assets, less depreciation.~~

30 [~~12-a-~~] 13. "Project" means an action undertaken by the authority that:
31 (i) Causes the authority to issue bonds, notes or other obligations,
32 or shares in any subsidiary corporation, or

33 (ii) Significantly modifies the use of an asset valued at more than
34 one million dollars owned by the authority or involves the sale, lease
35 or other disposition of such an asset, or

36 (iii) Commits the authority to a contract or agreement with a total
37 consideration of greater than one million dollars and does not involve
38 the day to day operations of the authority.

39 [~~13-~~] 14. "Prudent utility practices" at a particular time means any
40 of the practices, methods, and acts, which, in the exercise of reason-
41 able judgment in light of the facts (including but not limited to the
42 practices, methods and acts engaged in or approved by a significant
43 portion of the gas or the electrical utility industry, as the case may
44 be, prior thereto) known at the time the decision was made, would have
45 been expected to accomplish the desired result at the lowest reasonable
46 cost consistent with reliability, safety and expedition. Prudent utility
47 practice is not intended to be limited to the optimum practice, method
48 or act, to the exclusion of all others, but rather to be a spectrum of
49 possible practices, methods or acts. In evaluating whether any matter
50 conforms to prudent utility practice, the parties shall take into
51 account the fact that the authority is a corporate municipality of the
52 state with the statutory duties and responsibilities thereof.

53 [~~14-~~] 15. "Real property" means lands, structures, franchises and
54 interests in land, including lands under water and riparian rights, and
55 any and all other things and rights usually included within such term,
56 and includes also any and all interests in such property less than full

1 title, such as easements, rights of way, uses, leases, licenses and all
2 other incorporeal hereditaments and every estate, interest or right,
3 legal or equitable, including terms for years and liens thereon by way
4 of judgments, mortgages or otherwise, and also all claims for damages
5 for such real estate.

6 ~~[15. "RCNLD" means the reproduction cost of new assets, less depreci-~~
7 ~~ation.]~~

8 16. "Security" means any note, stock (whether common or preferred),
9 bond, debenture, evidence of indebtedness, transferable share, voting-
10 trust certificate or, in general, any interest or instrument commonly
11 known as a "security", or any certificate of interest or participation
12 in, temporary or interim certificate for, receipt for, or warrant or
13 right to subscribe to or purchase any of the foregoing.

14 17. "Service area" means the counties of Suffolk and Nassau and that
15 portion of the county of Queens ~~[constituting LILCO's franchise area]~~
16 known as the Rockaways served by the authority as of the effective date
17 of this title.

18 18. "ServCo" means the Long Island Electric Utility ServCo LLC and its
19 successors and assigns.

20 19. "Shoreham plant" means the nuclear powered facility designed to
21 generate electric power owned by LILCO and located in Shoreham, New
22 York.

23 ~~[19.]~~ 20. "State" means the state of New York.

24 ~~[20.]~~ 21. "State agency" means any board, authority, agency, depart-
25 ment, commission, public corporation, body politic or instrumentality of
26 the state.

27 ~~[21.]~~ 22. "Trustees" means the trustees of the authority appointed or
28 elected, as the case may be, pursuant to section one thousand twenty-d
29 of this title.

30 ~~[22. "Valuation date" means (i) the effective date of this title, (ii)~~
31 ~~the date of the taking of the stock or assets pursuant to this title or~~
32 ~~(iii) such earlier or later date or, in the case of equity or debt secu-~~
33 ~~rities, such period of trading days in the primary established market in~~
34 ~~which such securities are traded, as may be determined to be necessary~~
35 ~~to exclude from the determination of the market value thereof any~~
36 ~~enhancement or depreciation in value arising from the announcement,~~
37 ~~expectation or accomplishment of the taking by the exercise of the power~~
38 ~~of eminent domain or otherwise, or speculative market activity intended~~
39 ~~to cause or having the effect of causing an increase or decrease in such~~
40 ~~market value.]~~

41 23. "Service provider" means ~~[the]~~ any entity under contract with the
42 authority to provide management and operation services associated with
43 the authority's electric transmission and distribution system and any
44 subsidiary of such entity that provides such services under contract
45 prior to an acquisition of ServCo by the authority.

46 24. "Operations services agreement" means an agreement and any amend-
47 ments thereto between ~~[the Long Island lighting company dba LIPA or]~~ the
48 authority or a subsidiary of the authority pursuant to subdivision one
49 of section one thousand twenty-i of this title and ~~[the]~~ a service
50 provider to provide management and operation services associated with
51 the authority's electric transmission and distribution system.

52 25. "Contracts for emergency goods or services" shall mean contracts
53 entered into for procurement of goods, services or both goods and
54 services made to meet emergencies arising from unforeseen causes or to
55 effect repairs to critical infrastructure that are necessary to avoid

1 delay in the delivery of critical services that could compromise the
2 public welfare.

3 26. "Short-term public power purchase agreement" shall mean contracts
4 for the purchase, sale, or delivery of power or energy, fuel, costs and
5 services ancillary thereto, or financial products related thereto, with
6 a term of less than five years.

7 § 5-a. Section 1020-d of the public authorities law, as amended by
8 section 4 of part A of chapter 173 of the laws of 2013, is amended and a
9 new section 1020-d-1 is added to read as follows:

10 § 1020-d. Board of trustees. 1. Starting on January first, two thou-
11 sand [~~fourteen~~] twenty-six, the board of the authority shall be consti-
12 tuted and consist of [~~nine~~] thirteen trustees all of whom shall be resi-
13 dents of the service area, [~~five~~] two of whom shall be appointed by the
14 governor (trustees one and two), one of whom the governor shall desig-
15 nate as chair, and serve at his or her pleasure, two of whom shall be
16 appointed by the temporary president of the senate after consultation
17 with the state senator or senators representing the LIPA service area
18 (trustees three and four), [~~and~~] two of whom shall be appointed by the
19 speaker of the assembly after consultation with the state assembly
20 member or members representing the LIPA service area (trustees five and
21 six), two of whom shall be appointed by the Nassau county executive with
22 the consent of the Nassau county legislature (trustees seven and eight),
23 two of whom shall be appointed by the Suffolk county executive with the
24 consent of the Suffolk county legislature (trustees nine and ten), one
25 of whom shall be appointed by the mayor of the city of New York upon the
26 recommendation of the Queens borough president (trustee eleven), one of
27 whom shall be the LIPA community stakeholder board chair (trustee
28 twelve), and one of whom shall be the business manager of the Interna-
29 tional Brotherhood of Electrical Workers 1049 representing the union
30 employees of LIPA (trustee thirteen). Trustees one through eleven shall
31 serve staggered five-year terms, except during the first term of
32 appointments upon the effective date of the chapter of the laws of two
33 thousand twenty-four which amended this section. Trustees three and five
34 shall be appointed for one year, trustees seven and ten shall be
35 appointed for two years, trustees one and nine shall be appointed for
36 three years, trustees six and eight shall be appointed for four years,
37 and trustees two, four, and eleven shall be appointed for five years.
38 This will allow for staggered appointments of at least two members each
39 year after the first year, thus ensuring a degree of continuity of
40 committee membership. [~~One of the governor's appointees shall serve an~~
41 ~~initial term of two years; one of the governor's appointees shall serve~~
42 ~~an initial term of three years; and three of the governor's appointees~~
43 ~~shall serve an initial term of four years. One of the appointees of the~~
44 ~~temporary president of the senate and one of the appointees of the~~
45 ~~speaker of the assembly shall serve initial terms of two years; and one~~
46 ~~appointee of the temporary president of the senate and one appointee of~~
47 ~~the speaker of the assembly shall serve initial terms of three years.~~
48 ~~Thereafter, all terms shall be for a period of four years. In the event~~
49 ~~of a vacancy occurring in the office of trustee by death, resignation or~~
50 ~~otherwise, the respective appointing officer shall appoint a successor~~
51 ~~who shall hold office for the unexpired portion of the term.] An office
52 shall be deemed vacant upon the expiration of the term.~~

53 2. [~~No trustee shall receive a salary, but each shall be entitled to~~
54 ~~reimbursement for reasonable expenses in the performance of duties~~
55 ~~assigned hereunder.] Each member shall be entitled to receive a salary~~

1 of twenty-five thousand dollars per year plus the reimbursement of
2 reasonable expenses.

3 3. Notwithstanding the provisions of any other law, no trustee, offi-
4 cer or employee of the state, any state agency or municipality appointed
5 a trustee shall be deemed to have forfeited or shall forfeit his or her
6 office or employment by reason of his or her acceptance of a trusteeship
7 on the authority, his or her service thereon or his or her employment
8 therewith.

9 4. All trustees appointed under this section shall have relevant util-
10 ity, engineering, energy, information technology, construction, law,
11 human resources, procurement, customer service, management, corporate
12 board or financial experience.

13 § 1020-d-1. Community stakeholder board. 1. Starting on January first,
14 two thousand twenty-six, there shall be established a community stake-
15 holder board ("CSB").

16 2. The CSB shall be composed of twenty-six members, five of whom shall
17 reside in Nassau county and be appointed by the speaker of the assembly
18 in consultation with the Nassau county delegation, five of whom shall
19 reside in Suffolk county and be appointed by the speaker of the assembly
20 in consultation with the Suffolk county delegation, three of whom shall
21 reside in the Rockaways and be appointed by the speaker of the assembly
22 in consultation with the New York state legislative delegation repres-
23 enting the Rockaways, five of whom shall reside in Nassau county and be
24 appointed by the temporary president of the senate in consultation with
25 the Nassau county delegation, five of whom shall reside in Suffolk coun-
26 ty and be appointed by the temporary president of the senate in consul-
27 tation with the Suffolk county delegation, and three of whom shall
28 reside in the Rockaways and be appointed by the temporary president of
29 the senate in consultation with the New York state legislative deleg-
30 ation representing the Rockaways. The CSB shall be composed of ratepay-
31 ers and made up of members from diverse sectors and backgrounds with
32 proper geographic diversity and stakeholder representation including
33 social justice, environmental, indigenous nations, business, faith-
34 based, labor, local government, economic development, energy, low and
35 fixed income, members of disadvantaged communities, consumer, civic and
36 school districts.

37 3. a. The term of appointment of the members of the CSB shall, in
38 general, be two years. Members of the CSB may be appointed for more than
39 one term.

40 b. CSB member terms shall end on December thirty-first, two years
41 after the commencement of the term and each position shall be vacant
42 upon expiration.

43 c. Upon three consecutive unexcused absences, a CSB member shall be
44 dismissed and his or her seat shall be considered vacant by operation of
45 law.

46 d. CSB members shall be paid two hundred fifty dollars per diem for
47 meetings and shall be reimbursed for reasonable expenses for attending
48 meetings.

49 4. The community stakeholder board shall:

50 a. review and assess the authority's and board of trustees' opera-
51 tional plans and provide an opinion on the merits of the plan and future
52 revisions to it to the authority. The CSB anticipates that the opera-
53 tional plans will at a minimum consider long term strategies to rehabil-
54 itate and maintain the authority's infrastructure, provide for labor-
55 force continuity, maintain a portfolio of adequate resources to meet the
56 needs of its customers, and ensure continued regulatory compliance. The

1 CSB will advise the authority and board of trustees to include other
 2 issues that should be part of the authority's planning framework;

3 b. consult DPS-LI to set appropriate metrics for monitoring LIPA;

4 c. assist the authority and board of trustees in engaging ratepayers
 5 in discussions of the merits and implications of the operation plans and
 6 revisions thereto;

7 d. provide an assessment to the authority and board of trustees of the
 8 adequacy of financial policies to protect the financial integrity of the
 9 utility and the sufficiency of the policies to support implementation of
 10 the adopted strategic plan;

11 e. review changes to the authority's rates not already authorized by
 12 this chapter and provide an opinion to the authority on the adequacy and
 13 prudence of such rate changes in light of adopted planning assumptions
 14 and financial policies;

15 f. after the adoption of each update to the strategic plan, work
 16 closely with authority staff designated by the authority to propose, in
 17 writing, a biennial work program to the authority, which may focus on
 18 issues including, but not limited to, financial policies, cost allo-
 19 cation, rate design, operational efficiency, issues requested by the
 20 authority, and issues the CSB believes the authority should consider;
 21 and

22 g. provide the authority and board of trustees with analyses and
 23 recommendations on significant elements of the operational plans includ-
 24 ing, but not limited to, financial policies, cost allocation, rate
 25 design, operational efficiency, and to submit its recommendations to the
 26 authority or, if a collective recommendation cannot be reached, a recom-
 27 mendation indicating the majority and minority positions and the ration-
 28 ales for those positions.

29 5. a. The CSB shall establish its own by-laws and rules for election
 30 of chairs and officers, quorum, meeting frequency, sub-committees, etc.,
 31 except that the CSB shall meet at least four times in any twelve-month
 32 period. Meetings shall be subject to the open meetings law.

33 b. The minutes of CSB meetings and proceedings and CSB findings and
 34 recommendations shall be made public, subject to the freedom of informa-
 35 tion law.

36 c. There shall be two dedicated LIPA staff members hired with the
 37 consent of the CSB to provide the CSB with administrative, research, and
 38 other support necessary for the CSB to fulfill its responsibilities.

39 d. LIPA shall provide the CSB with information and data as requested
 40 within a reasonable amount of time.

41 § 6. Section 1020-e of the public authorities law, as added by chapter
 42 517 of the laws of 1986, is amended to read as follows:

43 § 1020-e. Officers and employees; expenses. The board, or the [~~chair-~~
 44 ~~man~~] chairperson pursuant to authority duly delegated to him or her,
 45 from time to time shall hire, without regard to any personnel or civil
 46 service law, rule or regulation of the state [~~and in accordance with~~
 47 ~~guidelines adopted by the authority~~], such employees and consultants,
 48 including without limitation those in the areas of engineering, market-
 49 ing, finance, appraisal, accounting [~~and~~], law, construction, trans-
 50 mission and distribution, energy management, information technology,
 51 cyber security, power supply, human resources, procurement, treasury,
 52 energy efficiency, customer service and any other area of utility oper-
 53 ations, as it may require for the performance of its duties and shall
 54 prescribe the duties and compensation of each officer and employee,
 55 provided, however, that [~~if~~] any such employees [~~are~~] hired, leased, or
 56 otherwise retained by the authority or any of its subsidiaries as a

1 consequence of an acquisition of all the [~~stock or assets of LILCO~~]
2 membership interests in, or assets of, ServCo, or any authority subsidi-
3 ary [~~they~~] shall be hired subject to, and be entitled to, all applica-
4 ble provisions of (i) any existing contract or contracts with labor
5 unions representing ServCo employees, and (ii) all existing pension,
6 retirement, or other [~~retirement plans~~] benefits provided to ServCo
7 employees under any existing collective bargaining agreement. ServCo
8 employees shall not be public employees or eligible to become members of
9 the New York state and local employees' retirement system. [~~Notwith-~~
10 ~~standing the provisions of any general, special or local law, the board~~
11 ~~may determine that, if any pension or retirement plan becomes inapplica-~~
12 ~~ble or is terminated, all or such class or classes of employees of the~~
13 ~~authority as the board may determine may elect to become members of the~~
14 ~~New York state employees' retirement system on the basis of compensation~~
15 ~~payable to them by the authority.~~]

16 § 7. Subdivisions (c), (h), (o), (s), (u), (bb), (cc), (dd), (ee),
17 (ff), (gg), (hh) and (ii) of section 1020-f of the public authorities
18 law, subdivisions (c) and (bb) as amended and subdivisions (u), (cc),
19 (dd), (ee), (ff), (gg) and (hh) as added by section 7 of part A of chap-
20 ter 173 of the laws of 2013, subdivisions (h), (o) and (s) as added by
21 chapter 517 of the laws of 1986, paragraph 2-a of subdivision (u) as
22 added by chapter 471 of the laws of 2014, paragraph 5 of subdivision
23 (bb) as added by chapter 358 of the laws of 2020, paragraph 1 of subdi-
24 vision (cc) as separately amended by chapter 395 of the laws of 2022 and
25 chapter 38 of the laws of 2023, and subdivision (ii) as amended by chap-
26 ter 121 of the laws of 2022, are amended to read as follows:

27 (c) To appoint officers, agents and employees[~~7~~] of the authority or
28 any subsidiary without regard to any personnel or civil service law,
29 rule or regulation of the state, including but not limited to the New
30 York state public employees fair employment act, and in accordance with
31 guidelines adopted by the authority, prescribe their duties and quali-
32 fications and fix and pay their compensation[~~. By January first, two~~
33 ~~thousand fourteen, the authority, through its governance committee,~~
34 ~~shall amend such guidelines to require that staffing at the authority is~~
35 ~~kept at levels only necessary to ensure that the authority is able to~~
36 ~~meet obligations with respect to its bonds and notes and all applicable~~
37 ~~statutes and contracts, and oversee the activities of the service~~
38 ~~provider~~];

39 (h) To make and execute agreements, contracts and other instruments
40 necessary or convenient in the exercise of the powers and functions of
41 the authority under this title, including contracts with any person,
42 firm, corporation, municipality, state agency or other entity in accord-
43 ance with the provisions of section one hundred three of the general
44 municipal law, and all state agencies and all municipalities are hereby
45 authorized to enter into and do all things necessary to perform any such
46 agreement, contract or other instrument with the authority, except that
47 (i) the authority's contracts, other than as specified in paragraph (ii)
48 of this subdivision, shall only be subject to bidding requirements and
49 pre-audit requirements whenever such contract exceeds an amount estab-
50 lished by the comptroller in consultation with the authority, and (ii)
51 the authority's contracts entered into for categories described in para-
52 graphs (c) through (e) of subdivision three of section twenty-eight
53 hundred seventy nine-a of this chapter, shall not be subject to the
54 bidding requirements or pre-audit requirements of the comptroller pursu-
55 ant to section one thousand twenty-~~mm~~ of this title, but must be entered
56 into pursuant to guidelines and thresholds established by the comp-

1 troller in consultation with the authority. Any such contracts must be
2 filed with the comptroller within sixty days after their execution;

3 (o) To create or acquire one or more wholly owned subsidiaries or
4 membership interests in subsidiaries in accordance with section one
5 thousand twenty-i of this title to carry out all or any part of the
6 purposes of this title;

7 (s) To enter into [~~management~~] agreements for the operation of all or
8 any of the property or facilities owned by the authority;

9 (u) Rate plans. Subject to subdivision six of section one thousand
10 twenty-k of this title to fix rates and charges for the furnishing or
11 rendition of gas or electric power or of any related service at the
12 lowest level consistent with sound fiscal and operating practices of the
13 authority and which provide for safe and adequate service. In implement-
14 ing this power:

15 1. [~~The authority and the service provider shall, on or before Febru-~~
16 ~~ary first, two thousand fifteen, submit for review to the department of~~
17 ~~public service a three-year rate proposal for rates and charges to take~~
18 ~~effect on or after January first, two thousand sixteen.~~

19 ~~2.]~~ (i) The authority [~~and the service provider~~] shall [~~thereafter~~]
20 submit for review to the department of public service any rate proposal
21 that would increase the rates and charges and thus increase the aggre-
22 gate revenues of the authority by more than two and one-half percent to
23 be measured on an annual basis; provided, however, that the authority
24 may place such rates and charges into effect on an interim basis,
25 subject to prospective rate adjustment; provided, further, that a final
26 rate plan issued by the authority that would not so increase such rates
27 and charges shall not be subject to the requirements of paragraph [~~four~~]
28 three of this subdivision and shall be considered final for the purposes
29 of review under article seventy-eight of the civil practice law and
30 rules. The authority [~~and/or the service provider~~] may otherwise submit
31 for review to such department any rate proposal irrespective of its
32 effect on revenues.

33 [~~2-a.]~~ (ii) The authority [~~and the service provider~~] shall not submit
34 any rate proposal that shall assess any fee, penalty or other charge of
35 any kind for the voluntary termination of electric service to any resi-
36 dential customer for the purpose of utilizing alternative sources of
37 electric generation in excess of that charged to customers who terminate
38 their electric service for any other reason.

39 [~~3-]~~ 2. The authority shall not fix any final rates and charges
40 proposed that would not be subject to review by the department of public
41 service pursuant to [~~paragraphs~~] paragraph one [~~and two~~] of this subdivi-
42 sion until after holding public hearings thereon upon reasonable
43 public notice, with at least one such hearing to be held each in the
44 county of Suffolk [~~and~~], the county of Nassau, and the county of Queens.

45 [~~4-]~~ 3. Any recommendations associated with a rate proposal submitted
46 pursuant to [~~paragraphs~~] paragraph one [~~and two~~] of this subdivision
47 shall be provided by the department of public service to the board of
48 the authority immediately upon their finalization by the department.
49 Unless the board of the authority makes a preliminary determination in
50 its discretion that any particular recommendation is inconsistent with
51 the authority's sound fiscal operating practices, any existing contrac-
52 tual or operating obligations, or the provision of safe and adequate
53 service, the board shall implement such recommendations as part of its
54 final rate plan and such final determination shall be deemed to satisfy
55 the requirements of this subdivision and be considered final for the
56 purposes of review under article seventy-eight of the civil practice law

1 and rules. The board shall make any such preliminary determination of
2 inconsistency within thirty days of receipt of such recommendations,
3 with notice and the basis of such determination being provided to the
4 department of public service, and contemporaneously posted on the
5 [~~websites~~] website of the authority [~~and its service provider~~]. The
6 board shall thereafter, within thirty days of such posting and with due
7 advance notice to the public, hold a public hearing with respect to its
8 preliminary determination of inconsistency. At such hearing, the depart-
9 ment of public service shall present the basis for its recommenda-
10 tions[~~r~~] and the board shall present the basis for its determination of
11 inconsistency [~~and the service provider may present its position~~]. The
12 authority [~~and the service provider~~] may, during the time period before
13 such public hearing reach agreement with the department on disputed
14 issues. Within thirty days after such public hearing, the board of the
15 authority shall announce its final determination and planned implementa-
16 tion with respect to any such recommendations. The authority's final
17 determination of inconsistency shall be subject to any applicable judi-
18 cial review proceeding, including review available under article seven-
19 ty-eight of the civil practice law and rules.

20 (bb) Comprehensive and regular management and operations audits. 1.
21 The authority, and [~~the~~] if necessary, any service provider who provided
22 service during the period of time covered by the audit shall cooperate
23 in the undertaking and completion of a regular and comprehensive manage-
24 ment and operations audit conducted pursuant to the requirements of this
25 subdivision and paragraph (d) of subdivision three of section three-b of
26 the public service law. Such audit shall review and evaluate the overall
27 operations and management of the authority and service provider, includ-
28 ing such operations and management in the context of the authority's
29 duty to set rates at the lowest level consistent with standards and
30 procedures provided in subdivision (u) of this section, and include, but
31 not be limited to: (i) the authority's or the service provider's
32 construction and capital program planning in relation to the needs of
33 customers for reliable service; (ii) the overall efficiency of the
34 authority's and service provider's operations; (iii) the manner in which
35 the authority is meeting its debt service obligations; (iv) the authori-
36 ty's [~~Fuel and Purchased Power Cost Adjustment clause~~] Power Supply
37 Charge and recovery of costs associated with such clause; (v) the
38 authority's [~~and service provider's~~] annual budgeting procedures and
39 process; (vi) the application, if any, of [~~the~~] performance metrics
40 [~~designated in the operations services agreement~~] and the accuracy of
41 the data relied upon with respect to such application; and (vii) the
42 authority's compliance with debt covenants.

43 2. The department of public service shall notify the authority that
44 said department is in the process of initiating a comprehensive manage-
45 ment and operations audit as described in paragraph one of this subdivi-
46 sion in a manner that ensures the timeliness of such audit, and [~~in~~
47 ~~accordance with the following timeframe: the first comprehensive manage-~~
48 ~~ment and operations audit shall be initiated as of the effective date of~~
49 ~~chapter eight of the laws of two thousand twelve and undertaken in a~~
50 ~~manner and to an extent that is practicable in the context of the~~
51 ~~authority's transition to a new management service structure; the second~~
52 ~~comprehensive management and operations audit shall be initiated no~~
53 ~~later than December fifteenth, two thousand sixteen; and all additional~~
54 such comprehensive management and operations audits shall be initiated
55 at least once every five years [~~thereafter~~]. Within a reasonable time
56 after such notification to the authority, said department or the inde-

1 pendent auditor retained by the authority to undertake such audit shall
2 hold public statement hearings, with proper notice, in both Nassau and
3 Suffolk counties for the purpose of receiving both oral and written
4 comments from the public on matters related to such audit as described
5 in paragraph one of this subdivision.

6 3. Each such audit shall be completed within eighteen months of initi-
7 ation absent an extension for good cause shown by the department of
8 public service or the independent auditor under contract with the
9 authority with notice of such extension to the governor, the temporary
10 president of the senate, the speaker of the assembly, and the chairs of
11 the authority and the department of public service. Such audit shall be
12 provided to the board of the authority immediately upon its completion.
13 The department of public service shall provide notice of completion of
14 such audit to the governor, the temporary president of the senate, the
15 speaker of the assembly, and the minority leaders of the senate and
16 assembly, and the authority, upon receipt of such audit, shall post a
17 copy of such audit, including findings and recommendations, on its
18 website [~~and the website of the service provider~~]. Unless the board of
19 the authority makes a preliminary determination that any particular
20 finding or recommendation contained in such audit is inconsistent with
21 the authority's sound fiscal operating practices, any existing contrac-
22 tual or operating obligation, or the provision for safe and adequate
23 service, the board shall implement [~~or cause its service provider to~~
24 ~~implement~~] such findings and recommendations in accordance with the
25 timeframe specified under such audit.

26 4. The board of the authority shall make any preliminary determination
27 of inconsistency with respect to any such finding or recommendation
28 within thirty days of receipt of the audit, with notice and the basis of
29 such determination being provided to the department of public service.
30 Such notice and basis shall be posted contemporaneously on the authori-
31 ty's website [~~and the website of the service provider~~] and the board
32 shall, within thirty days of such posting and with due advance notice to
33 the public, hold a public hearing with respect to its preliminary deter-
34 mination of inconsistency. At such hearing the department of public
35 service or the independent auditor responsible for undertaking such
36 audit shall present the basis for its findings and recommendations and
37 the board shall present the basis for its determination of inconsistency
38 [~~and the service provider may present its position~~]. The authority[~~r~~
39 ~~service provider~~] and auditor may during the time period prior to such
40 public hearing reach agreement on disputed issues. Within thirty days
41 after such public hearing, the board of the authority shall announce its
42 final determination and planned implementations with respect to any such
43 findings and/or recommendations. The authority's final determination of
44 inconsistency shall be subject to any applicable judicial review
45 proceeding, including review available under article seventy-eight of
46 the civil practice law and rules.

47 5. Notwithstanding the foregoing, in the event that a comprehensive
48 and regular management and operations audit as conducted in accordance
49 with this subdivision indicates a finding of fraud, abuse or mismanage-
50 ment by a former service provider of the authority, and upon a finding
51 by the public service commission that reasonable cause exists for the
52 basis of such indication, the public service commission may order that
53 any recommendations contained in the regular management and operations
54 audit be implemented. The public service commission may also provide in
55 their order, the date in which the recommendations be fully implemented.
56 Failure to comply with any such order can result in the imposition of a

1 civil penalty by the public service commission against the former
2 service provider.

3 (cc) To prepare an emergency response plan pursuant to this subdivi-
4 sion. 1. The [~~service provider~~] authority shall[~~, in consultation with~~
5 ~~the authority,~~] prepare and maintain an emergency response plan (i) to
6 assure the reasonably prompt restoration of service in the case of an
7 emergency event, defined for purposes of this subdivision as an event
8 where widespread outages have occurred in the authority's service terri-
9 tory due to a storm or other causes beyond the control of the authority
10 [~~and the service provider~~], (ii) consistent with the requirements of
11 paragraph (a) of subdivision twenty-one of section sixty-six of the
12 public service law and any regulations and orders adopted thereto, and
13 (iii) establishing the separate responsibilities of the authority [~~and~~
14 ~~service provider~~]. Such emergency response plan shall include plans
15 setting forth how the communication and coordination of efforts between
16 the authority, [~~service provider,~~] authority employees, [~~service provid-~~
17 ~~er employees,~~] authority company crews, [~~service provider company~~
18 ~~crews,~~] mutual aid crews, other utilities, local governments and any
19 [~~service provider or~~] other entity performing services to assist the
20 authority shall occur. Such emergency response plan shall include iden-
21 tification of and outreach plans for customers who have documented their
22 need for essential electricity for medical needs, which shall include
23 but not be limited to, apnea monitors for infants, cuirass respirators,
24 hemodialysis machines, intravenous feeding machines, intravenous medical
25 infusion machines, oxygen concentrators, positive pressure respirators,
26 respirators/ventilators, rocking bed respirators, suction machines, and
27 tank type respirators.

28 2. [~~On or before February third, two thousand fourteen, the authority~~
29 ~~and service provider shall submit an emergency response plan to the~~
30 ~~department of public service for review. Contemporaneously with such~~
31 ~~submission, the authority shall provide notice of such proposed plan to~~
32 ~~the secretary of state for publication in the state register, the~~
33 ~~authority and service provider each shall post such plan on their~~
34 ~~websites and otherwise make such plan available for review in person,~~
35 ~~and afford members of the public an opportunity to submit written~~
36 ~~comments and oral comments pursuant to at least one hearing to be held~~
37 ~~each in the county of Suffolk and the county of Nassau. Such written~~
38 ~~comments must be submitted by March fourteenth, two thousand fourteen.~~
39 ~~The authority and service provider shall provide a copy of all written~~
40 ~~comments they receive and a transcript of such public hearings to the~~
41 ~~department of public service for its consideration in reviewing the~~
42 ~~emergency response plan. The department shall provide any recommenda-~~
43 ~~tions to the authority and service provider with respect to such plan on~~
44 ~~or before April fifteenth, two thousand fourteen. Such plan must be made~~
45 ~~final by June second, two thousand fourteen. For each year thereafter,~~
46 ~~the service provider]~~ The authority shall submit an annual emergency
47 response plan to the department of public service, and such department
48 shall provide its recommendations, in accordance with a schedule to be
49 established by such department and that is consistent with the schedule
50 associated with such department's review of similar such plans provided
51 by electric corporations pursuant to subdivision twenty-one of section
52 sixty-six of the public service law.

53 3. By [~~June second, two thousand fourteen, and by~~] June first annually
54 [~~thereafter~~], the authority [~~and service provider~~] shall [~~jointly~~]
55 certify to the department of homeland security and emergency services
56 that the emergency response plan ensures, to the greatest extent feasi-

1 ble, the timely and safe restoration of energy services after an emer-
2 gency consistent with the requirements of paragraph (a) of subdivision
3 twenty-one of section sixty-six of the public service law and the
4 department's recommendations. The filing of such emergency response plan
5 shall also include a copy of all written mutual assistance agreements
6 among utilities. The authority [~~and service provider~~] shall file with
7 the county executives of Nassau and Suffolk county and the mayor of the
8 city of New York the most recent version of the emergency response plan,
9 and make sure that such amended versions are timely filed.

10 4. [~~Starting in calendar year two thousand fourteen, the service~~
11 ~~provider annually~~] The authority shall annually undertake at least one
12 drill to implement procedures to practice its emergency response plan.
13 The [~~service provider~~] authority shall notify and allow participation in
14 such drill of all appropriate municipal emergency responders and offi-
15 cials.

16 5. If, during an emergency event, electric service is not restored in
17 three days, the [~~service provider~~] authority shall within sixty days
18 from the date of full restoration file with the department a report
19 constituting a review of all aspects of the preparation and system
20 restoration performance during the event, and shall thereafter take into
21 consideration any recommendations made by the department associated with
22 such review.

23 (dd) [~~On or before January first, two thousand fifteen, and by~~] By
24 January first of each calendar year [~~thereafter~~], [~~to~~] the authority
25 shall submit for review to the department of public service a report
26 detailing the [~~service provider's~~] authority's planned capital expendi-
27 tures.

28 (ee) On or before July first[~~, two thousand fourteen, and annually~~
29 ~~thereafter, to~~] of each calendar year the authority shall submit for
30 review to the department of public service any proposed plan related to
31 implementing energy efficiency measures, distributed generation or
32 advanced grid technology programs for the purpose provided pursuant to
33 paragraph (g) of subdivision three of section three-b of the public
34 service law.

35 (ff) To assist and cooperate with the department of public service
36 with respect to any review undertaken pursuant to section three-b of the
37 public service law, including providing the department with reasonable
38 access to all facilities and premises owned or operated by the authority
39 [~~or its service provider~~], allowing review of all books and records of
40 the authority [~~and its service provider~~], providing copies of requested
41 documents, allowing interviews of all appropriate personnel, and
42 responding in a reasonable and timely manner to any inquiries or report-
43 ing requests made by the department; provided, however, that the obli-
44 gations set forth in this subdivision shall not extend to affiliates of
45 the [~~service provider~~] authority.

46 (gg) Renewable generation and energy efficiency programs. 1. The
47 authority in coordination with [~~the service provider~~], the power author-
48 ity of the state of New York and the New York state energy research and
49 development authority shall, to the extent the authority's rates are
50 sufficient to provide safe and adequate transmission and distribution
51 service, and the measures herein, undertake actions to design and admin-
52 ister renewable energy and energy efficiency measures in the service
53 area, with the goal of continuing and expanding such measures that cost-
54 effectively reduce system-wide peak demand, minimize long-term fuel
55 price risk to rate payers, lower emissions, improve environmental quali-
56 ty, and seek to meet New York state climate change and environmental

1 goals as set forth in the climate leadership and community protection
2 act enacted in chapter one hundred six of the laws of two thousand nine-
3 teen. Such actions shall also include implementation of any renewable
4 energy competitive procurement or feed-in-tariff programs that were
5 approved by the authority as of the effective date of the chapter of the
6 laws of two thousand thirteen which added this subdivision.

7 2. The [~~service provider~~] authority shall consider, consistent with
8 maintaining system reliability, renewable generation and energy effi-
9 ciency program results and options in establishing capital plans.

10 (hh) [~~Starting in calendar year two thousand fifteen~~] For the period
11 of time necessary to determine compliance with all performance metrics
12 for purposes of calculating annual incentive compensation pursuant to
13 any operation services agreement of any former service provider, the
14 authority and the service provider shall submit to the department of
15 public service for review, any and all data, information and reports
16 which set forth the service provider's actual performance related to the
17 metrics in the operations services agreement, including the authority's
18 evaluation thereof, no less than forty-five days prior to the authori-
19 ty's determination of the service provider's annual incentive compen-
20 sation.

21 (ii) [~~The~~] For the period of time necessary to determine compliance
22 with all performance metrics for purposes of calculating annual incen-
23 tive compensation pursuant to any operation services agreement of any
24 former service provider, the service provider shall assist and cooperate
25 with the department of public service with respect to providing any data
26 or information necessary for the department to post a compensation
27 statement for the service provider in accordance with subdivision three
28 of section one hundred eleven-a of the public service law.

29 § 8. Section 1020-i of the public authorities law, as added by chapter
30 517 of the laws of 1986, is amended to read as follows:

31 § 1020-i. Subsidiaries. 1. The authority shall have the right to exer-
32 cise and perform all or part of its powers and functions through one or
33 more wholly owned subsidiaries by operating as the sole member thereof,
34 acquiring the voting shares or membership interests thereof or by resol-
35 ution of the board directing any of its trustees, officers or employees
36 to organize a subsidiary [~~corporation~~] pursuant to the business corpo-
37 ration law, the not-for-profit corporation law, the limited liability
38 company law or the transportation corporations law. Such resolution
39 shall prescribe the purpose for which such subsidiary [~~corporation~~] is
40 to be formed.

41 2. The authority may transfer to any subsidiary [~~corporation~~] any
42 moneys, property (real, personal or mixed) or facilities in order to
43 carry out the purposes of this title. Each such subsidiary [~~corporation~~]
44 shall have all the privileges, immunities, tax exemptions and other
45 exemptions of the authority to the extent the same are not inconsistent
46 with the statute or statutes pursuant to which such subsidiary was
47 [~~incorporated~~] established provided, however, that in any event any such
48 subsidiary [~~corporation~~] shall be entitled to exemptions from the state
49 public service law and any regulation by, or the jurisdiction of, the
50 public service commission, and the state environmental quality review
51 act to the extent provided in subdivision two of section one thousand
52 twenty-s of this title.

53 3. When the authority acquires either directly or through a subsidiary
54 the private entity known as Long Island Electric Utility ServCo LLC, the
55 authority shall maintain the employment of the ServCo employees who are
56 subject to the terms of any existing contract or contracts with any

1 labor union, and shall assume such labor contracts. Upon acquisition of
 2 ServCo by the authority, such employees shall: (a) continue to be
 3 treated as private sector employees subject to the national labor
 4 relations act and exempt from the New York state public employees fair
 5 employment act; (b) not acquire civil service status; (c) be entitled to
 6 continue to receive such salary and benefits as said employees receive
 7 as provided in the existing labor union contracts as of the date of the
 8 authority's acquisition of any membership interest in ServCo; (d) be
 9 entitled to all provisions of any existing contract or contracts with
 10 labor unions; and (e) have their pension and other benefits, including
 11 retirement benefits, continued in plans that are operated and adminis-
 12 tered in compliance with the employee retirement income security act of
 13 1974, as amended (hereinafter "ERISA"), and the internal revenue code,
 14 to the fullest extent allowed by law. After acquisition of ServCo by
 15 the authority, the authority shall have an obligation to bargain in good
 16 faith with the collective bargaining representative of such employees
 17 pursuant to the national labor relations act. The authority may, in its
 18 discretion, utilize the services of a professional employer organization
 19 (PEO) as defined in section nine hundred sixteen of the labor law to
 20 maintain the employment and working conditions of the ServCo employees
 21 consistent with the requirements of this subdivision.

22 4. Notwithstanding any provision of law which may or could be deemed
 23 to the contrary, such acquisition of ServCo by or for the authority
 24 and/or authority subsidiary, and the rights, obligations and under-
 25 takings of the authority in connection therewith as hereinabove set
 26 forth, are hereby declared to be in furtherance of the authority's
 27 proprietary, marketplace function of providing a safer, more efficient,
 28 reliable, and economical supply of electrical energy within the service
 29 area, which will realize savings for the ratepayers and taxpayers in the
 30 service area and further protect the interests of ratepayers and the
 31 economy in the service area.

32 § 9. Subdivision 2 of section 1020-p of the public authorities law, as
 33 added by chapter 517 of the laws of 1986, is amended to read as follows:

34 2. The authority and all its subsidiaries shall be required to pay no
 35 taxes nor assessments upon any of the property acquired or controlled by
 36 it or upon its activities in the operation and maintenance thereof or
 37 upon income derived therefrom, provided that nothing herein shall
 38 prevent the authority from entering into agreements to make payments in
 39 lieu of taxes with the governing bodies of municipalities, as provided
 40 for in section one thousand twenty-q of this title.

41 § 10. Section 1020-s of the public authorities law, as amended by
 42 chapter 388 of the laws of 2011, subdivision 1 as amended by chapter 681
 43 of the laws of 2021 and subdivision 3 as added by chapter 358 of the
 44 laws of 2020, is amended to read as follows:

45 § 1020-s. Public service law and section ninety-four-c of the execu-
 46 tive law generally not applicable to authority; inconsistent provisions
 47 in certain other acts superseded. 1. The rates, services and practices
 48 relating to the electricity generated by facilities owned or operated by
 49 the authority shall not be subject to the provisions of the public
 50 service law or to regulation by, or the jurisdiction of, the public
 51 service commission or the office of renewable energy siting, except to
 52 the extent (a) article seven of the public service law applies to the
 53 siting and operation of a major utility transmission facility as defined
 54 therein, (b) [~~article ten of such law applies to the siting of a gener-~~
 55 ~~ating facility as defined therein, (c)] section eighteen-a of such law
 56 provides for assessment for certain costs, property or operations, [~~(d)~~]~~

1 (c) to the extent that the department of public service reviews and
2 makes recommendations with respect to the operations and provision of
3 services of, and rates and budgets established by, the authority pursu-
4 ant to section three-b of such law, [~~(e)~~] (d) that section seventy-four
5 of the public service law applies to qualified energy storage systems
6 within the authority's jurisdiction, [~~and (f)~~] (e) that section seven-
7 ty-four-b of the public service law applies to Long Island community
8 choice aggregation programs, and (f) that section ninety-four-c of the
9 executive law applies to the siting of a major renewable energy facility
10 as defined therein.

11 2. [~~The issuance by the authority of its obligations to acquire the~~
12 ~~securities or assets of LILCO shall be deemed not to be "state action"~~
13 ~~within the meaning of the state environmental quality review act, and~~
14 ~~such act shall not be applicable in any respect to such acquisition or~~
15 ~~any action of the authority to effect such acquisition.~~

16 3.] In the event that a comprehensive and regular management and oper-
17 ations audit, as provided by subdivision (bb) of section one thousand
18 twenty-f of this [~~article~~] title, indicates a finding of fraud, abuse,
19 or mismanagement by a former service provider of the authority, and upon
20 a finding by the public service commission that reasonable cause exists
21 for the basis of such indication, the public service commission may
22 order that any recommendations contained in the regular management and
23 operations audit be implemented. The public service commission may also
24 provide in their order, the date in which any recommendation must be
25 fully implemented. Failure to comply with any such order can result in
26 the imposition of a civil penalty by the public service commission
27 against the former service provider or revocation of the service provid-
28 er's authority to operate within the state.

29 § 11. Section 1020-u of the public authorities law, as added by chap-
30 ter 517 of the laws of 1986, is amended to read as follows:

31 § 1020-u. Employees of the authority not subject to the public employ-
32 ees' fair employment act. All employees of the authority and/or any
33 subsidiaries shall be exempt from the provisions of the public employ-
34 ees' fair employment act as set forth in article fourteen of the civil
35 service law.

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

38 § 1020-aa. Conflicts of interest. 1. If any member, officer or employ-
39 ee of the authority or its subsidiary entity shall have an interest,
40 either direct or indirect, in any contract to which the authority is, or
41 is to be, a party, such interest shall be disclosed to the authority in
42 writing and shall be set forth in the minutes of the authority. The
43 member, officer or employee having such interest shall not participate
44 in any action by the authority with respect to such contract.

45 2. No member, officer or employee shall be deemed to have such an
46 interest solely by reason of the ownership of two percent or less of the
47 securities of a [~~corporation~~] corporate entity which is, or is to be, a
48 party to a contract with the authority or its subsidiary entity, includ-
49 ing without limitation the holding company of any banking institution in
50 which the funds of the authority or its subsidiary entity are, or are to
51 be, deposited or which is, or is to be, acting as trustee or paying
52 agent under any bond or note resolution, trust indenture or similar
53 instrument to which the authority or its subsidiary entity is a party.

54 3. Nothing in this section shall be deemed or construed to limit the
55 right of any member, officer or employee of the authority to acquire an
56 interest in bonds or notes of the authority.

1 § 13. Section 1020-cc of the public authorities law, as amended by
2 section 11 of part A of chapter 173 of the laws of 2013, is amended to
3 read as follows:

4 § 1020-cc. Authority subject to certain provisions contained in the
5 state finance law, the public service law, the social services law and
6 the general municipal law. 1. ~~(a)~~ All contracts of the authority shall
7 be subject to the provisions of the state finance law relating to
8 contracts made by the state. The authority shall also establish rules
9 and regulations with respect to providing to its residential gas, elec-
10 tric and steam utility customers those rights and protections provided
11 in article two and sections one hundred seventeen and one hundred eigh-
12 teen of the public service law and section one hundred thirty-one-s of
13 the social services law. The authority shall conform to any safety stan-
14 dards regarding manual lockable disconnect switches for solar electric
15 generating equipment established by the public service commission pursu-
16 ant to subparagraph (ii) of paragraph (a) of subdivision five and
17 subparagraph (ii) of paragraph (a) of subdivision five-a of section
18 sixty-six-j of the public service law. The authority shall let contracts
19 for construction or purchase of supplies, materials, or equipment pursu-
20 ant to section one hundred three and paragraph (e) of subdivision four
21 of section one hundred twenty-w of the general municipal law.

22 (b) Notwithstanding paragraph (a) of this subdivision, before any
23 contract: (i) made for or by the authority shall be executed or become
24 effective, whenever such contract exceeds an amount established by the
25 comptroller in consultation with the authority, it shall first be
26 approved by the office of the comptroller and filed in his or her office
27 pursuant to section one hundred twelve of the state finance law, except
28 for categories described in paragraphs (c) through (e) of subdivision
29 three of section twenty-eight hundred seventy-nine-a of this chapter
30 which shall not be subject to the bidding requirements or pre-audit
31 requirements of the comptroller pursuant to section one thousand twen-
32 ty-mm of this title, but must be entered into pursuant to guidelines and
33 thresholds established by the comptroller in consultation with the
34 authority, and any collective bargaining agreements.

35 2. The authority [~~and service provider~~] shall provide to the state
36 comptroller on March thirty-first and September thirtieth of each year a
37 report documenting each contract in excess of two hundred fifty thousand
38 dollars per year entered into with a third party and related to manage-
39 ment and operation services associated with the authority's electric
40 transmission and distribution system, including the name of the third
41 party, the contract term and a description of services or goods to be
42 procured, and post such report on each of their websites. All contracts
43 necessary for conducting utility operations entered into between [~~the~~
44 ~~service provider~~] ServCo and third parties are not subject to the
45 requirements of subdivision one of this section.

46 § 14. Subdivisions 1 and 3 of section 1020-kk of the public authori-
47 ties law, as amended by chapter 49 of the laws of 2022, are amended to
48 read as follows:

49 1. On or before March thirty-first, two thousand twenty-two and every
50 semi-annual period thereafter[~~+(a)~~] the authority shall report to the
51 governor, the temporary president of the senate and the speaker of the
52 assembly regarding advertising and lobbying on behalf of the authority
53 by the authority, the trustees of the authority, or any employee of the
54 authority[~~;~~ ~~and (b) any service provider of the authority shall report~~
55 ~~to the governor, the temporary president of the senate and the speaker~~
56 ~~of the assembly regarding advertising and lobbying on behalf of the~~

~~authority, or in connection with the service provider's provision of management and operation services or the operation of the authority's electric transmission and distribution system~~].

3. The authority [~~and its service providers~~] shall prepare [~~separate reports~~] a lobbying report to include the following information:

(a) For lobbying, such report shall include, but not be limited to: the name of the trustee, employee of the authority [~~or service provider~~] engaging in lobbying; the name of the public official or public employee that was lobbied; the date and time of the meeting or communication; the subject matter of the lobbying, and any expenses incurred by the authority [~~or its service provider~~] for travel, lodging, or meals in connection with such lobbying.

(b) For advertising, such report shall include, but not be limited to, itemization of any public funds spent on advertising and information pertaining to the advertising marketing plan including measurable goals and objectives for the advertising campaign.

§ 15. Section 1020-11 of the public authorities law, as added by chapter 375 of the laws of 2022, is amended to read as follows:

§ 1020-11. Pilot thermal energy network projects. Within three months of the effective date of this section, the authority and its [~~service provider~~] subsidiary shall submit for review to the department of public service at least one and as many as five proposed pilot thermal energy network projects as defined in subdivision twenty-nine of section two of the public service law. Within six months of the effective date of this section, and upon recommendation by the department of public service, the authority shall determine whether it is in the public interest to approve or modify such pilot thermal energy network projects and shall [~~direct the service provider to~~] implement such proposed or modified pilot thermal energy network projects. The authority shall promulgate rules and regulations consistent with the standards set forth in subdivisions two and three of section sixty-six-t of the public service law.

§ 16. Section 1020-mm of the public authorities law, as amended by chapter 37 of the laws of 2023, is amended to read as follows:

§ 1020-mm. Prioritization of emergency services. 1. Extraordinary circumstances, including excessive costs, shortages of supply, and the inflated price of fuel, may threaten the capacity to provide utility service essential to the continued safety, health, prosperity, and well-being of the people of Long Island, by reason of the interconnection and interdependence of electric facilities, the reliability of such service throughout the area require emergency action by LIPA. It is therefore declared that:

(a) If, during a widespread prolonged outage that affects at least twenty thousand customers in the service territory of the authority, and the [~~service provider~~] authority is not able to restore electric power services within twenty-four hours to any affected police department, fire department, ambulance service or advanced life support first response service facility that is prewired with an appropriate transfer switch for using an alternate generated power source, [~~such service provider~~] the authority shall notify the village, town or city in which such facility is located.

[~~2-~~] (b) Towns, cities, and villages shall provide to counties, and counties shall to the extent practicable, provide the [~~service provider~~] authority and the division of homeland security and emergency services with a list of such police departments, fire departments, ambulance services and advanced life support first response services located within such municipality's territorial boundaries within one year of the

1 effective date of this section, and periodically thereafter as necessary
2 to update such list.

3 ~~[3-]~~ (c) For the purposes of this section, "alternate generated power
4 source" shall mean electric generating equipment that is of the capacity
5 that is capable of providing adequate electricity to operate all life
6 safety systems and the basic operations of a police department, fire
7 department, ambulance service or advanced life support first response
8 service.

9 2. To the extent necessary, and pursuant to guidelines and thresholds
10 established by the comptroller in consultation with the authority, the
11 authority shall be entitled to enter into contracts for emergency goods
12 or services or short-term public power purchase agreements, without
13 being subject to the bidding requirements or pre-audit requirements of
14 the comptroller pursuant to subdivision three of section twenty-eight
15 hundred seventy-nine-a of this chapter in accordance with subdivision
16 (h) of section one thousand twenty-f of this title. This shall include
17 contracts entered into for the procurement of goods, services or both
18 goods and services made to meet emergencies arising from unforeseen
19 causes or to effect repairs to critical infrastructure that are neces-
20 sary to avoid a delay in the delivery of critical services that could
21 compromise the public welfare. Contracts entered into for emergency
22 goods or services or short-term public power purchase agreements shall
23 be pursuant to guidelines established by the comptroller and shall
24 require notice to the office of the state comptroller within forty-eight
25 hours.

26 § 17. Paragraph a of subdivision 9 of section 24 of the executive law,
27 as added by chapter 37 of the laws of 2023, is amended to read as
28 follows:

29 a. Whenever a local state of emergency is declared pursuant to this
30 section and upon receipt of notification by an electric corporation or
31 the ~~[service provider]~~ Long Island power authority, pursuant to section
32 seventy-three-a of the public service law or section one thousand twen-
33 ty-mm of the public authorities law, the chief executive shall coordi-
34 nate with affected police departments, fire departments, ambulance
35 services and advanced life support first response services prewired with
36 an appropriate transfer switch for using an alternate generated power
37 source for the emergency deployment of alternate generated power sourc-
38 es.

39 § 18. Section 3-b of the public service law, as added by section 1 of
40 part A of chapter 173 of the laws of 2013, paragraph (a) of subdivi-
41 sion 3 as amended by chapter 479 of the laws of 2017, is amended to read as
42 follows:

43 § 3-b. Long Island office of the department. 1. There is hereby estab-
44 lished in the department an office to review and make recommendations
45 with respect to the operations and terms and conditions of service of,
46 and rates and budgets established by, the Long Island power authority
47 ~~[and/or its service provider]~~.

48 2. Definitions. As used or referred to in this section:

49 (a) "Authority" means the Long Island power authority.

50 (b) "Service provider" means the entity formerly under contract with
51 the authority to provide management and operation services associated
52 with the authority's electric transmission and distribution system and
53 any subsidiary of such entity that provides such services under
54 contract. However, the service provider and any affiliate of the
55 service provider with whom the authority or service provider contracts
56 to provide services associated with the authority's electric trans-

1 mission and distribution system shall not be considered an electric
2 corporation under this chapter.

3 (c) "Operations services agreement" means an agreement and any amend-
4 ments thereto between the Long Island lighting company dba LIPA or the
5 Long Island power authority and the service provider to provide manage-
6 ment and operation services associated with the authority's electric
7 transmission and distribution system.

8 3. General powers. In undertaking the requirements of this section,
9 subject to subdivisions (u) and (bb) through (hh) of section one thou-
10 sand twenty-f of the public authorities law, the department shall be
11 empowered and authorized to:

12 (a) Review and make recommendations to the board of the Long Island
13 power authority with respect to the rates and charges, including charges
14 related to energy efficiency and renewable energy programs, to be estab-
15 lished by the authority and become applicable on or after January first,
16 two thousand sixteen pursuant to subdivision (u) of section one thousand
17 twenty-f of the public authorities law.

18 (i) The purpose of such review is to make recommendations designed to
19 ensure that the authority [~~and the service provider~~] provide safe and
20 adequate transmission and distribution service at rates set at the
21 lowest level consistent with sound fiscal operating practices.

22 (ii) The department's recommendations shall be designed to be consist-
23 ent with ensuring that the revenue requirements related to such rate
24 review are sufficient to satisfy the authority's obligations with
25 respect to its bonds, notes and all other contracts.

26 (iii) [~~In the context of such review, the department may make recom-
27 mendations with regard to the compensation or fee structure included
28 within the operations services agreement.~~

29 ~~(iv)]~~ In undertaking such review and in making recommendations related
30 to the proposed rates and charges, the department shall establish stand-
31 ards, policies and procedures that, at a minimum, provide for public
32 statement and evidentiary hearings and participation of intervenors and
33 other parties, and ensure that any final recommendations related to the
34 proposed rates and charges are provided to the authority within two
35 hundred forty days of the filing with the department of such plan.

36 [~~(v)]~~ (iv) The parties to any such rate review proceeding shall
37 include, but not be limited to, department staff, the authority[~~, the~~
38 ~~service provider~~] and, to the extent it deems necessary or appropriate,
39 the utility intervention unit.

40 (b) Review the annual capital expenditures [~~proposed by the service~~
41 ~~provider~~] and recommend such improvement in the manufacture, conveying,
42 transportation, distribution or supply of electricity, or in the methods
43 employed by the [~~the service provider~~] authority as in the department's
44 judgment allows for safe and adequate service.

45 (c) Annually review the emergency response plan of the authority [~~and~~
46 ~~the service provider~~] in accordance with the following requirements:

47 (i) Examine and determine whether the emergency response plan is
48 consistent with the requirements of paragraph (a) of subdivision twen-
49 ty-one of section sixty-six of this chapter and any regulations or
50 orders promulgated thereto, and to recommend amendments of same; and

51 (ii) Review and make recommendations to the authority with respect to
52 the performance of the service provider or the authority in restoring
53 service or otherwise meeting the requirements of the emergency response
54 plan during an emergency event, defined for purposes of this section as
55 an event where widespread outages have occurred in the authority's
56 service territory due to a storm or other causes beyond the control of

1 the authority and its service provider, as the case may be, including
2 making determinations with respect to whether the service provider, if
3 applicable, or the authority is reasonably able to implement the emer-
4 gency response plan, whether the length of any outages related to such
5 emergency were materially longer than they would otherwise have been
6 because the service provider, if applicable, or the authority failed to
7 reasonably implement the emergency response plan, the reasonableness of
8 costs associated with such emergency response, the costs, if any, that
9 were unreasonably and imprudently incurred by the [~~service provider~~]
10 authority or any service provider, and whether [~~the~~] any service provid-
11 er would be liable for any such costs pursuant to the terms and condi-
12 tions of [~~the~~] any then applicable operations services agreement.

13 (d) Upon notification to the Long Island power authority, undertake a
14 comprehensive and regular management and operations audit of the author-
15 ity and any then applicable service provider pursuant to subdivision
16 (bb) of section one thousand twenty-f of the public authorities law. The
17 department shall have discretion to have such an audit performed by its
18 staff, or by an independent contractor. In every case in which an audit
19 is required pursuant to subdivision (bb) of section one thousand twen-
20 ty-f of the public authorities law performed by an independent auditor,
21 the department shall have the authority to select the auditor, and to
22 require the authority to enter into a contract with the auditor that is
23 consistent with the contracting-related requirements specified in subdi-
24 vision nineteen of section sixty-six of this chapter and the require-
25 ments of subdivision (bb) of section one thousand twenty-f of the public
26 authorities law. Such contract shall provide further that the auditor
27 shall work for and under the direction of the department according to
28 such terms as the department may determine are necessary and reasonable.

29 (e) Accept, investigate, mediate to resolve and make recommendations
30 to the Long Island power authority [~~and/or the service provider~~] regard-
31 ing the resolution of complaints from consumers in the authority's
32 service territory relating to, among other things, the provision of
33 electric service provided by [~~the service provider and/or~~] the authori-
34 ty.

35 (f) Review the net metering program implemented under subdivision (h)
36 of section one thousand twenty-g of the public authorities law and make
37 recommendations designed to ensure consistency with the requirements of
38 sections sixty-six-j and sixty-six-l of this chapter, and any regu-
39 lations and orders adopted thereto.

40 (g) Review and make recommendations with respect to any proposed plan
41 submitted by the Long Island power authority [~~and/or the service provid-~~
42 ~~er~~] related to implementation of energy efficiency measures, distributed
43 generation or advanced grid technology programs having the purpose of
44 providing customers with tools to more efficiently and effectively
45 manage their energy usage and utility bills, and improving system reli-
46 ability and power quality.

47 [~~(h) Review the data, information and reports submitted pursuant to~~
48 ~~subdivision (hh) of section one thousand twenty-f of the public authori-~~
49 ~~ties law and other pertinent information related to the metrics in the~~
50 ~~operations services agreement, the Long Island power authority's evalu-~~
51 ~~ation of such data, information and reports, and make recommendations to~~
52 ~~the authority with respect to the service provider's annual incentive-~~
53 ~~based compensation within thirty days of receipt of such evaluation and~~
54 ~~information.]~~

55 4. Review and inspection. To undertake the requirements of subdivision
56 [~~two~~] three of this section, the department shall be authorized to

1 inspect all premises and facilities owned or operated by the authority
2 and the service provider, review all books and records of the authority
3 and the service provider, interview all appropriate personnel, and
4 require annual reporting consistent with the requirements of subdivision
5 six of section sixty-six of this chapter and any regulations and orders
6 adopted thereto; provided, however, that this authority shall not extend
7 to affiliates of the service provider.

8 § 19. Paragraph (c) of subdivision 2 of section 74-b of the public
9 service law, as added by chapter 681 of the laws of 2021, is amended to
10 read as follows:

11 (c) the development of a data security agreement to be adopted by
12 participating eligible municipalities, energy service companies, the
13 Long Island power authority, and Long Island power authority service
14 providers, if applicable;

15 § 20. Paragraph (a) of subdivision 2 of section 112 of the state
16 finance law is amended by adding a new subparagraph (iii) to read as
17 follows:

18 (iii) Before the Long Island power authority enters into any contract
19 which exceeds an amount established by the comptroller in consultation
20 with such authority, it shall first be approved by the office of the
21 state comptroller and filed in his or her office, except that contracts
22 entered into for emergency goods and services or short-term public power
23 purchase contracts must comply with guidelines and thresholds estab-
24 lished by the comptroller in consultation with the Long Island power
25 authority. The Long Island power authority shall not be subject to the
26 fifty thousand dollar limitation set forth in clause one of subparagraph
27 (i) of this paragraph.

28 § 21. The opening paragraph of subdivision 1 of section 2827-a of the
29 public authorities law, as added by chapter 506 of the laws of 2009, is
30 amended to read as follows:

31 Notwithstanding any law to the contrary, no state authority shall
32 hereafter have the power to organize any subsidiary corporation unless
33 the legislature shall have enacted a law granting such state authority
34 such power for the organization of a specific corporation, provided,
35 however, that the Long Island power authority shall have the power to
36 organize a subsidiary corporation as authorized under title one-A of
37 article five of this chapter, and provided, further, that a state
38 authority may organize a subsidiary corporation pursuant to the follow-
39 ing requirements:

40 § 22. Severability. If any provisions of this act or the application
41 thereof shall for any reason be adjudged by any court of competent
42 jurisdiction to be invalid, such judgment shall not affect, impair or
43 invalidate the remainder of this act, but shall be confined in its oper-
44 ation to the provisions thereof directly involved in the controversy in
45 which the judgment shall have been rendered.

46 § 23. This act shall take effect January 1, 2026; provided however, if
47 chapter 728 of the laws of 2022 shall not have taken effect on or before
48 such date then sections sixteen and seventeen of this act shall take
49 effect on the same date and in the same manner as such chapter of the
50 laws of 2022, takes effect.