STATE OF NEW YORK

8894--A

IN ASSEMBLY

January 26, 2024

Introduced by M. of A. THIELE, SOLAGES, ANDERSON, SHRESTHA -- read once and referred to the Committee on Corporations, Authorities and Commissions -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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; and providing for the repeal of certain provisions upon the expiration thereof

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

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

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

§ 3. Title 2 of article 9 of the public authorities law governs the roles and responsibilities of boards of public authorities. Through adoption of the act and the amendments made by part A of chapter 173 of the laws of 2013, the board's responsibilities were modified from those afforded to the boards of other New York state public authorities. LIPA is the only utility in the nation that is operated under a third-party management model. This model has repeatedly failed its customers. There has been a lack of transparency, oversight, and accountability. This failure has been most dramatically evidenced in the unacceptable storm response by LIPA and its third-party service contractors during Superstorm Sandy in 2012 and Tropical Storm Isaias in 2020. In adopting

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

LBD13880-03-4

section 83-n of the legislative law, the legislature determined that a better management alternative for LIPA must be implemented. The legislature proposed implementation of the original vision for LIPA intended by chapter 517 of the laws of 1986, as a publicly owned power company. Thus, amendment of title 1-A of article 9 of the public authorities law is required to allow LIPA's board to function with full authority under title 2 of article 9 of the public authorities law and as intended in chapter 517 of the laws of 1986. LIPA's board must have the legislative authority to effectively oversee LIPA's public power operations. Amendment of the public authorities law, the public service law and the state finance law are necessary to aid in the transition to a fully public power model.

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

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

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

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

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

~~The decisions by LILCO to commence construction of the Shoreham nuclear power plant and thereafter to continue such construction were imprudent.~~

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

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

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

~~Dealing with such a situation in an effective manner, assuring the provision of an adequate supply of electricity in a reliable, efficient and economic manner, and retaining existing commerce and industry in and attracting new commerce and industry to the service area, in which a substantial portion of the state's population resides and which encompasses a substantial portion of the state's commerce and industry, are hereby expressly determined to be matters of state concern within the meaning of paragraph three of subdivision (a) of section three of article nine of the state constitution.~~

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

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

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

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

The legislature finds that a public power authority can best accomplish the purposes and objectives of this title by [~~implementing, if it then appears appropriate, the results of negotiations between the state and LILCO. In such circumstances, such an authority will provide~~] providing safe and adequate service at rates which will be lower than the rates which would otherwise result and will facilitate the shifting of investment into more beneficial energy demand/energy supply management alternatives, realizing savings for the ratepayers and taxpayers in the service area and otherwise restoring the confidence and protecting the interests of ratepayers and the economy in the service area. Moreover, [~~in such circumstances the replacement of such investor owned utilities by such an authority will result in~~] a public power authority will result in an improved system and reduction of future costs and a safer, more efficient, reliable and economical supply of electric energy. The legislature further finds that such an authority shall utilize to the fullest extent practicable, all economical means of conservation, and technologies that rely on renewable energy resources, cogeneration and improvements in energy efficiency which will benefit the interests of the ratepayers of the service area.

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

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

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

2. "Act" means the Long Island power authority act, being title one-A of article five of the public authorities law, as added by [~~this title~~] **chapter five hundred seventeen of the laws of nineteen hundred eighty-six, and as subsequently amended**.

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

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

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

6. **"Community stakeholder board" means a committee designed to supplement the expertise and experience of the board to promote citizen involvement and ensure balanced representation from its service area.**

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

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

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

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

[~~10.~~] **11.** "LILCO" means the Long Island lighting company, its subsidiaries and their successors and assigns, other than the authority.

[~~11.~~] **12.** "Municipality" means any city, town, village, county, municipal corporation, district corporation, district or other political subdivision of the state.

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

~~12-a.~~] **13.** "Project" means an action undertaken by the authority that:

(i) Causes the authority to issue bonds, notes or other obligations, or shares in any subsidiary corporation, or

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

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

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

[~~14.~~] **15.** "Real property" means lands, structures, franchises and interests in land, including lands under water and riparian rights, and

any and all other things and rights usually included within such term, and includes also any and all interests in such property less than full title, such as easements, rights of way, uses, leases, licenses and all other incorporeal hereditaments and every estate, interest or right, legal or equitable, including terms for years and liens thereon by way of judgments, mortgages or otherwise, and also all claims for damages for such real estate.

[~~15. "RCNLD" means the reproduction cost of new assets, less depreciation.~~]

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

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

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

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

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

[~~20.~~] **21.** "State agency" means any board, authority, agency, department, commission, public corporation, body politic or instrumentality of the state.

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

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

23. "Service provider" means [~~the~~] **any** 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 **prior to an acquisition of ServCo by the authority**.

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

25. "Contracts for emergency goods or services" shall mean contracts entered into for procurement of goods, services or both goods and services made to meet emergencies arising from unforeseen causes or to

effect repairs to critical infrastructure that are necessary to avoid delay in the delivery of critical services that could compromise the public welfare.

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

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

§ 1020-d. Board of trustees. 1. Starting on January first, two thousand [~~fourteen~~] twenty-six, the board of the authority shall be constituted and consist of [~~nine~~] thirteen trustees all of whom shall be residents of the service area, [~~five~~] two of whom shall be appointed by the governor (trustees one and two), one of whom the governor shall designate as chair, and serve at his or her pleasure, two of whom shall be appointed by the temporary president of the senate after consultation with the state senator or senators representing the LIPA service area (trustees three and four), [~~and~~] two of whom shall be appointed by the speaker of the assembly after consultation with the state assembly member or members representing the LIPA service area (trustees five and six), two of whom shall be appointed by the Nassau county executive with the consent of the Nassau county legislature (trustees seven and eight), two of whom shall be appointed by the Suffolk county executive with the consent of the Suffolk county legislature (trustees nine and ten), one of whom shall be appointed by the mayor of the city of New York upon the recommendation of the Queens borough president (trustee eleven), one of whom shall be the LIPA community stakeholder board chair (trustee twelve), and one of whom shall be the business manager of the International Brotherhood of Electrical Workers 1049 representing the union employees of LIPA (trustee thirteen). Trustees one through eleven shall serve staggered five-year terms, except during the first term of appointments upon the effective date of the chapter of the laws of two thousand twenty-four which amended this section. Trustees three and five shall be appointed for one year, trustees seven and ten shall be appointed for two years, trustees one and nine shall be appointed for three years, trustees six and eight shall be appointed for four years, and trustees two, four, and eleven shall be appointed for five years. This will allow for staggered appointments of at least two members each year after the first year, thus ensuring a degree of continuity of committee membership. [~~One of the governor's appointees shall serve an initial term of two years; one of the governor's appointees shall serve an initial term of three years; and three of the governor's appointees shall serve an initial term of four years. One of the appointees of the temporary president of the senate and one of the appointees of the speaker of the assembly shall serve initial terms of two years; and one appointee of the temporary president of the senate and one appointee of the speaker of the assembly shall serve initial terms of three years. Thereafter, all terms shall be for a period of four years. In the event of a vacancy occurring in the office of trustee by death, resignation or otherwise, the respective appointing officer shall appoint a successor who shall hold office for the unexpired portion of the term.~~] An office shall be deemed vacant upon the expiration of the term.

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

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

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

4. All trustees appointed under this section shall have relevant utility, engineering, energy, information technology, construction, law, human resources, procurement, customer service, management, corporate board or financial experience.

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

2. The CSB shall be composed of twenty-six members, five of whom shall reside in Nassau county and be appointed by the speaker of the assembly in consultation with the Nassau county delegation, five of whom shall reside in Suffolk county and be appointed by the speaker of the assembly in consultation with the Suffolk county delegation, three of whom shall reside in the Rockaways and be appointed by the speaker of the assembly in consultation with the New York state legislative delegation representing the Rockaways, five of whom shall reside in Nassau county and be appointed by the temporary president of the senate in consultation with the Nassau county delegation, five of whom shall reside in Suffolk county and be appointed by the temporary president of the senate in consultation with the Suffolk county delegation, and three of whom shall reside in the Rockaways and be appointed by the temporary president of the senate in consultation with the New York state legislative delegation representing the Rockaways. The CSB shall be composed of ratepayers and made up of members from diverse sectors and backgrounds with proper geographic diversity and stakeholder representation including social justice, environmental, indigenous nations, business, faith-based, labor, local government, economic development, energy, low and fixed income, members of disadvantaged communities, consumer, civic and school districts.

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

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

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

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

4. The community stakeholder board shall:

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

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

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

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

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

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

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

g. provide the authority and board of trustees with analyses and recommendations on significant elements of the operational plans including, but not limited to, financial policies, cost allocation, rate design, operational efficiency, and to submit its recommendations to the authority or, if a collective recommendation cannot be reached, a recommendation indicating the majority and minority positions and the rationales for those positions.

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

b. The minutes of CSB meetings and proceedings and CSB findings and recommendations shall be made public, subject to the freedom of information law.

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

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

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

§ 1020-e. Officers and employees; expenses. The board, or the [~~chairman~~] chairperson pursuant to authority duly delegated to him or her, from time to time shall hire, without regard to any personnel or civil service law, rule or regulation of the state [~~and in accordance with guidelines adopted by the authority~~], such employees and consultants, including without limitation those in the areas of engineering, marketing, finance, appraisal, accounting [~~and~~], law, construction, transmission and distribution, energy management, information technology, cyber security, power supply, human resources, procurement, treasury, energy efficiency, customer service and any other area of utility operations, as it may require for the performance of its duties and shall prescribe the duties and compensation of each officer and employee, provided, however, that [~~if~~] any such employees [~~are~~] hired, leased, or otherwise retained by the authority or any of its subsidiaries as a

consequence of an acquisition of all the [~~stock or assets of LILCO~~] membership interests in, or assets of, ServCo, or any authority subsidiary [~~they~~] shall be hired subject to, and be entitled to, all applicable provisions of (i) any existing contract or contracts with labor unions representing ServCo employees, and (ii) all existing pension, retirement, or other [~~retirement plans~~] benefits provided to ServCo employees under any existing collective bargaining agreement. ServCo employees shall not be public employees or eligible to become members of the New York state and local employees' retirement system. [~~Notwithstanding the provisions of any general, special or local law, the board may determine that, if any pension or retirement plan becomes inapplicable or is terminated, all or such class or classes of employees of the authority as the board may determine may elect to become members of the New York state employees' retirement system on the basis of compensation payable to them by the authority.~~]

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

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

(h) To make and execute agreements, contracts and other instruments necessary or convenient in the exercise of the powers and functions of the authority under this title, including contracts with any person, firm, corporation, municipality, state agency or other entity in accordance with the provisions of section one hundred three of the general municipal law, and all state agencies and all municipalities are hereby authorized to enter into and do all things necessary to perform any such agreement, contract or other instrument with the authority, except that (i) the authority's contracts, other than as specified in paragraph (ii) of this subdivision, shall only be subject to bidding requirements and pre-audit requirements whenever such contract exceeds an amount established by the comptroller in consultation with the authority, and (ii) the authority's contracts entered into for categories described in paragraphs (c) through (e) of subdivision three of section twenty-eight hundred seventy nine-a of this chapter, shall not be subject to the bidding requirements or pre-audit requirements of the comptroller pursuant to section one thousand twenty-mm of this title, but must be entered into pursuant to guidelines and thresholds established by the comp-

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

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

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

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

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

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

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

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

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

and rules. The board shall make any such preliminary determination of inconsistency within thirty days of receipt of such recommendations, with notice and the basis of such determination being provided to the department of public service, and contemporaneously posted on the [~~websites~~] website of the authority [~~and its service provider~~]. The board shall thereafter, within thirty days of such posting and with due advance notice to the public, hold a public hearing with respect to its preliminary determination of inconsistency. At such hearing, the department of public service shall present the basis for its recommendations[~~,~~] and the board shall present the basis for its determination of inconsistency [~~and the service provider may present its position~~]. The authority [~~and the service provider~~] may, during the time period before such public hearing reach agreement with the department on disputed issues. Within thirty days after such public hearing, the board of the authority shall announce its final determination and planned implementation with respect to any such recommendations. The authority's final determination of inconsistency shall be subject to any applicable judicial review proceeding, including review available under article seventy-eight of the civil practice law and rules.

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

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

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

3. Each such audit shall be completed within eighteen months of initiation absent an extension for good cause shown by the department of public service or the independent auditor under contract with the authority with notice of such extension to the governor, the temporary president of the senate, the speaker of the assembly, and the chairs of the authority and the department of public service. Such audit shall be provided to the board of the authority immediately upon its completion. The department of public service shall provide notice of completion of such audit to the governor, the temporary president of the senate, the speaker of the assembly, and the minority leaders of the senate and assembly, and the authority, upon receipt of such audit, shall post a copy of such audit, including findings and recommendations, on its website [~~and the website of the service provider~~]. Unless the board of the authority makes a preliminary determination that any particular finding or recommendation contained in such audit is inconsistent with the authority's sound fiscal operating practices, any existing contractual or operating obligation, or the provision for safe and adequate service, the board shall implement [~~or cause its service provider to implement~~] such findings and recommendations in accordance with the timeframe specified under such audit.

4. The board of the authority shall make any preliminary determination of inconsistency with respect to any such finding or recommendation within thirty days of receipt of the audit, with notice and the basis of such determination being provided to the department of public service. Such notice and basis shall be posted contemporaneously on the authority's website [~~and the website of the service provider~~] and the board shall, within thirty days of such posting and with due advance notice to the public, hold a public hearing with respect to its preliminary determination of inconsistency. At such hearing the department of public service or the independent auditor responsible for undertaking such audit shall present the basis for its findings and recommendations and the board shall present the basis for its determination of inconsistency [~~and the service provider may present is position~~]. The authority[~~, service provider~~] and auditor may during the time period prior to such public hearing reach agreement on disputed issues. Within thirty days after such public hearing, the board of the authority shall announce its final determination and planned implementations with respect to any such findings and/or recommendations. The authority's final determination of inconsistency shall be subject to any applicable judicial review proceeding, including review available under article seventy-eight of the civil practice law and rules.

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

civil penalty by the public service commission against the **former** service provider.

(cc) To prepare an emergency response plan pursuant to this subdivision. 1. The [~~service provider~~] **authority** shall[~~, in consultation with the authority,~~] prepare and maintain an emergency response plan (i) to assure the reasonably prompt restoration of service in the case of an emergency event, defined for purposes of this subdivision 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 the service provider~~], (ii) consistent with the requirements of paragraph (a) of subdivision twenty-one of section sixty-six of the public service law and any regulations and orders adopted thereto, and (iii) establishing the separate responsibilities of the authority [~~and service provider~~]. Such emergency response plan shall include plans setting forth how the communication and coordination of efforts between the authority, [~~service provider,~~] authority employees, [~~service provider employees,~~] authority company crews, [~~service provider company crews,~~] mutual aid crews, other utilities, local governments and any [~~service provider or~~] other entity performing services to assist the authority shall occur. Such emergency response plan shall include identification of and outreach plans for customers who have documented their need for essential electricity for medical needs, which shall include but not be limited to, apnea monitors for infants, cuirass respirators, hemodialysis machines, intravenous feeding machines, intravenous medical infusion machines, oxygen concentrators, positive pressure respirators, respirators/ventilators, rocking bed respirators, suction machines, and tank type respirators.

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

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

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

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

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

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

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

(ff) To assist and cooperate with the department of public service with respect to any review undertaken pursuant to section three-b of the public service law, including providing the department with reasonable 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~~] authority.

(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 **as set forth in the climate leadership and community protection act enacted in chapter one hundred six of the laws of two thousand nineteen**. 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~~] **authority** 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~~] **For the period of time necessary to determine compliance with all performance metrics for purposes of calculating annual incentive compensation pursuant to any operation services agreement of any former service provider**, 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.

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

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

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

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

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

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

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

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

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

§ 10. Section 1020-s of the public authorities law, as amended by chapter 388 of the laws of 2011, subdivision 1 as amended by section 21 of part O of chapter 58 of the laws of 2024 and subdivision 3 as added by chapter 358 of the laws of 2020, is amended to read as follows:

§ 1020-s. Public service law and section ninety-four-c of the executive law generally not applicable to authority; inconsistent provisions in certain other acts superseded. 1. The rates, services and practices relating to the electricity generated by facilities owned or operated by the authority shall not be subject to the provisions of the public service law or to regulation by, or the jurisdiction of, the public service commission or the office of renewable energy siting, except to the extent (a) article seven of the public service law applies to the siting and operation of a major utility transmission facility as defined therein, (b) article VIII of the public service law applies to the siting and operation of a major electric generation facility or a major electric transmission facility as defined therein, (c) [~~article ten of~~

~~such law applies to the siting of a generating facility as defined therein, (d)~~] section eighteen-a of such law provides for assessment for certain costs, property or operations, [~~(e)~~] **(d)** to the extent that the department of public service reviews and makes recommendations with respect to the operations and provision of services of, and rates and budgets established by, the authority pursuant to section three-b of such law, [~~(f)~~] **(e)** that section seventy-four of the public service law applies to qualified energy storage systems within the authority's jurisdiction, [~~and (g)~~] **(f)** that section seventy-four-b of the public service law applies to Long Island community choice aggregation programs**, and (g) that section ninety-four-c of the executive law applies to the siting of a major renewable energy facility as defined therein**.

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

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

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

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

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

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

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

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

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

§ 1020-cc. Authority subject to certain provisions contained in the state finance law, the public service law, the social services law and the general municipal law. 1. **(a)** All contracts of the authority shall be subject to the provisions of the state finance law relating to contracts made by the state. The authority shall also establish rules and regulations with respect to providing to its residential gas, electric and steam utility customers those rights and protections provided in article two and sections one hundred seventeen and one hundred eighteen of the public service law and section one hundred thirty-one-s of the social services law. The authority shall conform to any safety standards regarding manual lockable disconnect switches for solar electric generating equipment established by the public service commission pursuant to subparagraph (ii) of paragraph (a) of subdivision five and subparagraph (ii) of paragraph (a) of subdivision five-a of section sixty-six-j of the public service law. The authority shall let contracts for construction or purchase of supplies, materials, or equipment pursuant to section one hundred three and paragraph (e) of subdivision four of section one hundred twenty-w of the general municipal law.

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

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

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

1. On or before March thirty-first, two thousand twenty-two and every semi-annual period thereafter[~~: (a)~~] the authority shall report to the governor, the temporary president of the senate and the speaker of the assembly regarding advertising and lobbying on behalf of the authority by the authority, the trustees of the authority, or any employee of the

authority[~~; and (b) any service provider of the authority shall report to the governor, the temporary president of the senate and the speaker 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-ll of the public authorities law, as added by chapter 375 of the laws of 2022, is amended to read as follows:

§ 1020-ll. 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 effective date of this section, and periodically thereafter as necessary to update such list.

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

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

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

a. Whenever a local state of emergency is declared pursuant to this section and upon receipt of notification by an electric corporation or the [~~service provider~~] **Long Island power authority**, pursuant to section seventy-three-a of the public service law or section one thousand twenty-mm of the public authorities law, the chief executive shall coordinate with affected police departments, fire departments, ambulance services and advanced life support first response services prewired with an appropriate transfer switch for using an alternate generated power source for the emergency deployment of alternate generated power sources.

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

§ 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 **formerly** 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 make recommendations with regard to 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)~~] **(iv)** 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~~] **authority** 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 **or the authority** 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**, as the case may be**, including making determinations with respect to whether the service provider**, if applicable, or the authority** 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**, if applicable, or the authority** 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~~] **authority or any service provider**, and whether [~~the~~] **any** service provider would be liable for any such costs pursuant to the terms and conditions of [~~the~~] **any then applicable** 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 **any then applicable** 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~~] three 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.

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

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

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

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

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

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

§ 22. Notwithstanding any provision of law to the contrary, the board of the authority shall not enter into any new operations service agreement or extend any existing operations service agreement with a service provider with an expiration date later than December 31, 2028.

§ 23. Severability. If any provisions of this act or the application thereof shall for any reason be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this act, but shall be confined in its operation to the provisions thereof directly involved in the controversy in which the judgment shall have been rendered.

§ 24. This act shall take effect January 1, 2026; provided that sections one, two, three, four, five, six, seven, eight, nine, ten, eleven, twelve, thirteen, fourteen, fifteen, sixteen, seventeen, eigh-

teen, nineteen, twenty, twenty-one and twenty-two of this act transitioning the Long Island power authority into a full public power authority shall only take effect upon the passage of a resolution by the board of the Long Island power authority, after January 1, 2026 but no later than December 31, 2028, authorizing such transition into a full public power authority consistent with the provisions of this act. Such resolution shall be approved by a majority vote of the board and shall make a finding that the adoption of said resolution and implementation of this act shall result in a reduction in rates for all ratepayers of the service area. If such resolution is not adopted by December 31, 2028, the provisions of sections one, two, three, four, five, six, seven, eight, nine, ten, eleven, twelve, thirteen, fourteen, fifteen, sixteen, seventeen, eighteen, nineteen, twenty, twenty-one, and twenty-two of this act shall expire and be deemed repealed; and provided further that the Long Island power authority shall notify the legislative bill drafting commission upon the occurrence of the enactment of the legislation provided for in such sections of this act in order that the commission may maintain an accurate and timely effective data base of the official text of the laws of the state of New York in furtherance of effectuating the provisions of section 44 of the legislative law and section 70-b of the public officers law.