STATE OF NEW YORK

7441

2023-2024 Regular Sessions

IN SENATE

May 25, 2023

Introduced by Sens. THOMAS, PALUMBO, SANDERS -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

AN ACT to amend the legislative law, in relation to the legislative commission on the future of the Long Island Power Authority

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

Section 1. Subdivisions 1, 10, and 12 of section 83-n of the legislative law, as added by section 1 of part JJ of chapter 55 of the laws of 2022, are amended to read as follows:

1. The legislature hereby finds and declares that chapter 517 of the laws of 1986 created the Long Island Power Authority (LIPA). Said authority was created, in part, because the decisions by LILCO, the private utility that provided electricity to Long Island and part of Queens, "to commence construction of the Shoreham nuclear power plant and thereafter to continue such construction were imprudent". Further, the legislature found in chapter 517 of the laws of 1986 that "a situation threatening the economy, health and safety exists in the service area". One of the two express purposes of the act was the closure of the Shoreham nuclear power plant. In 1992, LIPA bought the Shoreham nuclear power plant. The plant was fully decommissioned in 1994.

The second purpose of such chapter 517 was to replace LILCO with a publicly owned power authority. The legislature found that "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")" and "Such matters of state concern best can be dealt with by replacing such investor owned utility with a publicly owned power authority."

In 1995, LIPA replaced LILCO as the electric company for its service area. However, LIPA was never established as a true "publicly owned

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

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power authority" as originally envisioned by the State Legislature. Rather, since 1995, 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 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 contractors during Superstorm Sandy in 2012 and Tropical Storm Isaias in 2020.

After more than 25 years of unsatisfactory management under the third-party management model, a better alternative must be implemented. That inquiry must begin with the original intent of chapter 517 of the laws of 1986, whereby LIPA was to directly manage and operate the utility as a true public power utility. Initial investigations by LIPA after Tropical Storm Isaias in 2020-2021 indicate that both ratepayer savings and increased management efficiencies could be achieved through the public power model.

Consequently, it is the purpose of this section to implement the original vision for LIPA intended by chapter 517 of the laws of 1986, as a publicly owned power company. The legislature hereby creates a commission to provide the legislature with the specific actions, legislation, and timeline necessary to restructure LIPA into a true publicly owned power authority. The public must participate in that process so that the new LIPA becomes transparent with proper oversight and accountability. The legislative commission shall submit its final report to the legislature no later than [~~April first~~] November thirtieth, two thousand twenty-three.

10. No later than [~~December thirty-first, two thousand twenty-two~~] May first, two thousand twenty-three, the commission shall issue a draft report to the members of the legislature regarding the establishment of a public power model for the Long Island Power Authority. The commission shall hold at least one public hearing with a public comment period in each of the counties comprising the service area of the Long Island Power Authority on the draft report no later than [~~February fifteenth~~] October first, two thousand twenty-three and before issuing a final report.

12. No later than [~~April first~~] November thirtieth, two thousand twenty-three, the commission shall issue a final report to the members of the legislature regarding the establishment of a public power model for the Long Island Power Authority. Such report shall provide any legislation required to implement the public power model.

§ 2. Severability. If any provision 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 provision thereof directly involved in the controversy in which the judgment shall have been rendered.

§ 3. This act shall take effect immediately.