

STATE OF NEW YORK

7558

2023-2024 Regular Sessions

IN ASSEMBLY

May 25, 2023

Introduced by M. of A. THIELE, PHEFFER AMATO, SMITH, SOLAGES -- read once and referred to the Committee on Governmental 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:

1 Section 1. Subdivisions 1, 10, and 12 of section 83-n of the legisla-
2 tive law, as added by section 1 of part JJ of chapter 55 of the laws of
3 2022, are amended to read as follows:

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

15 The second purpose of such chapter 517 was to replace LILCO with a
16 publicly owned power authority. The legislature found that "There is a
17 lack of confidence that the needs of the residents and of commerce and
18 industry in the service area for electricity can be supplied in a reli-
19 able, efficient and economic manner by the Long Island lighting company
20 (hereinafter referred to as "LILCO")" and "Such matters of state concern
21 best can be dealt with by replacing such investor owned utility with a
22 publicly owned power authority."

23 In 1995, LIPA replaced LILCO as the electric company for its service
24 area. However, LIPA was never established as a true "publicly owned
25 power authority" as originally envisioned by the State Legislature.

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

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1 Rather, since 1995, LIPA has opted for a third-party management model
2 whereby LIPA contracts its responsibility to manage the utility to a
3 private, investor owned utility company.

4 LIPA is the only utility in the nation that is operated under a third-
5 party management model. This model has repeatedly failed its customers.
6 There has been a lack of transparency, oversight, and accountability.
7 This failure has been most dramatically evidenced in the unacceptable
8 storm response by LIPA and its third-party contractors during Superstorm
9 Sandy in 2012 and Tropical Storm Isaias in 2020.

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

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

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

37 12. No later than [~~April first~~] November thirtieth, two thousand twen-
38 ty-three, the commission shall issue a final report to the members of
39 the legislature regarding the establishment of a public power model for
40 the Long Island Power Authority. Such report shall provide any legis-
41 lation required to implement the public power model.

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

48 § 3. This act shall take effect immediately.