

THE LONG ISLAND RATEPAYER RESCUE PLAN



**PREPARED BY THE
LONG ISLAND ASSEMBLY MINORITY
DELEGATION**

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A. INTRODUCTION

In May 1998, the Long Island Power Authority (LIPA) became Long Island's primary electric service provider. LIPA was created by an Act of the State Legislature and is a public authority and a municipal subdivision of the State of New York. It is a not-for-profit entity.

LIPA is governed by a fifteen member Board of Trustees. While the state legislation creating LIPA originally provided for an elected Board, this provision of the law was never implemented. Rather, the members of the Board of Trustees are now appointed by Albany politicians, all of whom currently hail from New York City. Nine are appointed by the Governor. Three are appointed by the State Senate Majority Leader and three are appointed by the Speaker of the State Assembly.

LIPA owns the retail electric transmission and distribution system on Long Island and provides electric service to approximately 1.1 million customers in Nassau, Suffolk, and the Rockaway peninsula in Queens.

LIPA is the 2nd largest municipal electric utility in the nation in terms of electric revenues, 3rd largest in number of customers, and 7th largest in electricity delivered.

LIPA does not own its generating capacity. Long Island's power plants are privately owned. National Grid is the current owner. These power plants are old and inefficient. Ninety-six percent of LIPA's on-island resources are supplied from a combination of natural gas and oil burning plants. National Grid manages the generating facilities and provides power to LIPA through a series of agreements.

Ten years after the LIPA takeover of LILCO, Long Islanders continue to suffer with some of the highest electricity rates in the nation, second only to Hawaii. A major contributor to these high rates is the crushing burden of debt which LIPA has incurred.

According to the New York State Comptroller, “the Long Island Power Authority is the most heavily indebted municipal electric utility in the country.” Moody’s Investor Service, in a 2005 analysis, reported that LIPA’s debt ratio was 211%. Other electric utilities in the State of New York have debt ratios that are less than 100%.

The major contributor to this overwhelming debt is the Shoreham Nuclear Power Station. The nuclear plant, built by LILCO, was never commercially operated. In the agreement to close the plant, LIPA was required by the State of New York to assume the Shoreham debt.

Today LIPA’s total debt is more than \$6.6 billion. Approximately \$3.8 billion of this debt is attributable to Shoreham.

B. RECENT RATE INCREASE

Just after Thanksgiving in 2008, LIPA announced that it was seeking a 4.8% rate increase. This rate increase is in addition to the power supply charge which in many cases has exceeded the base rate charge. Further, it was announced that the base rate could increase by 17.2% over the next five years.

Unlike privately owned utilities in the State of New York whose rates must be approved by the State Public Service Commission, LIPA’s rates are not subject to any oversight.

It is noted that the State Legislature passed legislation in 2008 that would have subjected LIPA to PSC oversight in setting its rates. However, LIPA opposed the bill, and the Governor ultimately vetoed it.

LIPA held two public hearings on December 4, 2008. On December 11th, the LIPA Board approved a 3.2% rate increase. LIPA announced the rate increase during the holiday season, held two quickly-called public hearings, and approved the rate increase, all in less than 3 weeks.

C. LIPA'S SECRETIVE MANAGEMENT PRACTICES

The method by which LIPA enacted its most recent rate increase is illustrative of the total lack of openness, transparency, and accountability with which LIPA conducts its business. Its most important decisions are made behind closed doors and public participation is no more than a formality which has little to no effect on the policy making process.

There have been numerous other recent examples of LIPA's secrecy and closed management style.

On January 9, 2009, Newsday reported that the cost of Caithness power plant project in Yaphank was kept secret by LIPA. The \$1.49 billion price tag of the plant was only revealed by the State Comptroller's Office, years after the project was contracted.

It was also reported by Newsday that the Caithness project was only part of \$6 billion in spending obligations for the next two decades where LIPA kept the public in the dark.

D. PUBLIC HEARING

In summary, ten years after LIPA took over LILCO, Long Island continues to have extremely high rates and growing debt with the future promising more of the same. If these trends are permitted to continue, the Long Island economy will be crippled in its efforts to recover from the national recession. Further, the problems are exacerbated by LIPA's continued practices of conducting its business behind close doors with neither openness nor transparency. LIPA is a captive of Albany politics with no accountability to the people of Long Island.

This energy future is unacceptable for Long Island. It is imperative that Long Island's leaders plan a future for LIPA that (1) will make LIPA's operation transparent, (2) reduce the burden of LIPA's crushing debt, and (3) begin the transition away from costly, polluting fossil fuels in favor of less costly and less polluting renewable energy sources.

In order to create this agenda to rescue Long Island's ratepayers, Long Island's Assembly Minority delegation held a hearing at Lynbrook Village Hall to solicit public input. The delegation heard from the President and CEO of LIPA, Kevin Law, as well as a diverse group of local government officials, civic activists, business leaders, and utility experts. The delegation received testimony outlining numerous proposals to reform LIPA. The remainder of this report will outline the Long Island Assembly Minority delegation's prescription to rescue Long Island ratepayers from the economic hardships being caused by LIPA.

E. RECOMMENDATIONS

1. Elect the LIPA Board of Trustees-

A.2695 and A. 4205 would both provide for the election of the LIPA Trustees. These bills would fulfill the initial promise of the State Legislature to elect the Board and make LIPA accountable only to the ratepayers of Long Island. Without this fundamental change in the operation of LIPA, the public authority will never have the transparency and accountability that a public utility must have.

2. Create a Ratepayer Advisory Board

There needs to be greater public participation in the management of the utility. The creation of an advisory board of ratepayers to the Board of Trustees would help insure this increased public involvement.

3. State Public Service Commission Oversight of LIPA Rates

Legislation that would require LIPA to obtain PSC approval for any rate increase should be re-introduced and passed by the State Legislature. PSC jurisdiction should extend not only to the base rate, but also the power supply charge.

4. Establish a 60-Day Public Comment Prior to Rate Approval

In its most recent rate hike, LIPA completed the entire rate-making process in three weeks. This is unconscionable. It thwarts public participation as well as objective, comprehensive analysis of any rate proposal. By establishing a minimum sixty day period

before LIPA could vote to increase rates, adequate review and public participation would be guaranteed.

5. Require Preparation of an Economic Impact Statement

Legislation should be approved which would require LIPA to prepare an economic impact statement with any petition for a rate increase. Utility costs are a major cost of doing business on Long Island. They are also a major expense for Long Island institutions such as colleges, school districts, hospitals and local governments. Rate increases can have a major impact on the Long Island economy and efforts to stimulate economic growth. These impacts should be assessed by LIPA as part of any rate petition.

6. Permit the Formation of Municipal Utilities

Throughout the State of New York, local governments are permitted to create municipal power companies to provide electric service to its residents. On Long Island, Greenport, Freeport and Rockville Centre are examples of villages that exercised this authority before the creation of LIPA. The enactment of the LIPA statute pre-empted the creation of any new municipal utilities on Long Island.

It is recommended that there be created a limited exemption for municipal power companies. Specifically, Long Island counties, cities, towns, and villages should be permitted to create a utility for the sole purpose of producing renewable energy sources, such as solar or wind power. Permitting such competition with LIPA in the area of renewable energy can only serve to increase its production on Long Island.

7. All LIPA Contracts Posted on the LIPA Website

Every LIPA contract should be posted in its entirety on the LIPA website. These are public contracts and the public should be able to access them. Instituting this practice would deter the lack of transparency and secret dealings that have plagued LIPA.

8. President/CEO - Minimum Qualifications

LIPA is a multi-billion dollar public enterprise. It requires high-level management that is professional. The utility business is highly technical requiring special skills. LIPA's managers should have background and experience in utility management. The public cannot afford to have LIPA's management be dominated by political patronage.

Future top LIPA managers should have a minimum of five (5) years of utility management experience.

9. Create an Office of Renewable Energy

There are too many impediments and not enough incentives to promote the creation of renewable energy on Long Island and New York State. The State needs a comprehensive policy to promote such energy. This new office would be charged with creating such a plan. Long Island needs to increase such energy sources to reduce its dependence on costly, polluting foreign fossil fuels.

10. NYPA-Assume the Shoreham Debt

True rate relief depends on reducing the crushing debt imposed on LIPA. The State imposed the Shoreham debt on LIPA and Long Island as part of the Shoreham

closure. This debt has posed an unfair burden on ratepayers. Just as the State has considered the bailout of the MTA, the state should assume a portion of the LIPA debt. Specifically, it is proposed that the New York Power Authority assume the \$3.8 billion in remaining Shoreham debt. Transfer of this debt would result in real rate relief for Long Islanders

11. Sell LIPA's Stake in Nine Mile Point Nuclear Plant

LIPA assumed LILCO's 18% interest in the upstate Nine Mile Point Nuclear Plant. This is the only generation facility owned by LIPA. The money from the sale of LIPA's interest in this plant could be used to retire significant portion of LIPA's remaining debt.

12. Permit Long Island Local Governments to Finance Renewable Energy Improvements for Business and Residents

Local governments such as Berkeley, California and Boulder, Colorado have created programs to finance renewable energy improvements for its residences and business. The local government uses its bonding authority to purchase and install improvements such as solar panels. The business or residence repays the cost of the improvement through a 20-30 year tax-deductible special assessment. These programs have been effective in removing the barrier of high initial capital costs for such improvements. New York law currently does not permit such programs. State law should be amended to permit local governments to institute such programs.