Legislative Commission on the Future of LIPA

Attached you will find information which may prove helpful in your deliberations. The first attachment, “A LIPA Ratepayer Bill of Rights” is drawn from research on best practices regarding providing ratepayers with consumer protections.

The second attachment, A Long Island Power Authority Advisory Council, looks at how the NYS legislature has provided LIRR and MTA ratepayers with mechanisms for exercising oversight of a state authority.

The third attachment is a review of what the NYS Public Authorities Law has to say on the constitution of authority boards.

Respectfully submitted Fred Harrison, Food and Water Watch

1. A LIPA Ratepayer Bill of Rights

The legislative hearings have highlighted the need for new avenues of access, involvement, and accountability in the shaping of LIPA policies and practices. Guaranteeing basic ratepayer rights would help create confidence and build trust in LIPA as an institution, while addressing ratepayer alienation expressed in both testimony and JD Power polling. Without clear rights and mechanisms of accountability, there is no due process. LIPA ratepayers will continue to find themselves without adequate redress, at odds with a public institution that should be on their side. The guarantee of rights in writing is as old as the United States and helps ensure that those who are empowered to make decisions on behalf of the public do so with respect for public sentiment. The rights enumerated below are mostly adopted from the Iowa Energy Ratepayer Bill of Rights (A), the New Orleans City Council (B), the National Consumer Law Center (C), and the Mississippi Ratepayers’ Bill of Rights (D)

LIPA RATEPAYER RIGHTS

1. **Ratepayers have the right to affordable and reliable electric service. (A)**
2. **Ratepayers have the right to a resilient energy system that has the fewest negative impacts on the environment and consumers, with a focus on fossil free renewable power (A)**
3. **Ratepayers have a right to clear and transparent rate and billing information. (A)(D)**
4. **Ratepayers have a right to clear, appropriate, and accessible avenues for redress and conflict resolution. (A)(D)**

1. **Ratepayers have a right to continued service during all disputes. (A)(D)**
2. Ratepayers have the right to an annual evening public meeting with LIPA management and Board in attendance, in each of the counties and the Rockaways.
3. Ratepayers have a right to be informed on matters of concern that come before the Board. The billing system will be used to communicate with ratepayers about important policy issues

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1. Ratepayers have the right to the protections afforded to customers served by private utilities regulated by the PSC. (D)

These rights include, but are not limited to, ratepayer intervenor participation in a budget and rate-making approval process. Ratepayer intervenors may submit expert testimony and question LIPA personnel on relevant budget and rate matters. Ratepayer intervenors that submit the required number of qualified petition signatures and demonstrate the need for funds to pay for expert assistance, will be eligible for reimbursement from a fund established by LIPA.\*

\*1062 signatures of ratepayers required for “ratepayer intervenor” status. (1062 signatures are required to run for Congress)

1. Ratepayers have the right through petition to initiate a vote of “No Confidence” in the LIPA Board of Trustees.\*

Informational material on the measure, authored by the respective parties, will be distributed to all ratepayers through the billing system. Balloting will be done through the billing system.

\* 10,000 signatures of ratepayers required

A majority “No Confidence” vote would require the Board to reverse policy or submit resignations. If the Board refuses to act in accordance with the “No Confidence” vote, appropriate legislative hearings and action would commence.

1. Ratepayers should not be disconnected from electric service based on the inability to pay. (C)(D)
2. Ratepayers have the right to utility affordability programs sufficient to meet the needs of economically distressed households. (C)

The cost of ensuring all residential customers can remain connected to utility service to be funded by all rate classes, including commercial and industrial users.

1. **Ratepayers have a right to privacy and consumer data protection. (A)**
2. Ratepayers have the right to a special medical designation which prioritizes service and repair (B)

**References and examples.**

1. Iowa Energy Ratepayer Bill of Rights https://iowarbor.org
2. New Orleans City Council https://library.municode.com/la/new\_orleans/codes/code\_of\_ordinances?nodeId=PTIICO\_CH158UT\_ARTVIIICUPR\_DIV2BIRI&showChanges=true
3. National Consumer Law Center <https://www.nclc.org/wp-content/uploads/2022/08/IB_Utility_Service_Principles-1.pdf>
4. Mississippi Ratepayers’ Bill of Rights https://www.law.cornell.edu/regulations/mississippi/title-39/part-2
5. A Long Island Power Authority Advisory Council

The establishment of a strong, independent advisory council would strengthen the oversight and accountability of LIPA. Council members would represent and advocate for ratepayers and communities.

The current LIPA Community Advisory Board (CAB) established in 2017, has 19 members, all appointed by LIPA’s CEO. LIPA’s CAB has no legislative mandate nor independent functionality. It is not set up to provide oversight. By contrast, the NYS legislature has created advisory councils for LIRR and MTA ratepayers. These councils are designed to “advocate” on behalf of ratepayers and function as “watchdogs.”

The Long Island Railroad Commuter Council (LIRCC) and Permanent Citizens Advisory Committee (PCAC) to the MTA offer examples of legislatively required public oversight. The goal of the LIRCC is “to hold Long Island Railroad management and the MTA Board accountable to commuters.” Its mandate is “to investigate, monitor, and make recommendations to LIRR management regarding service delivery, customer safety, communications, finance, and capital projects.”

The Permanent Citizens Advisory Committee to the MTA has similar goals but also includes undertaking major research projects, preparing and presenting testimony “relevant to the MTA Board and committee meeting agendas, and to other stakeholder organizations, including elected officials.”

A LIPA Advisory Council could be modeled on these precedents. (See links and detail below) It could draw on the strengths of LI DPS, the office of the NYS Consumer Advocate, stakeholders, energy experts and local organizations and institutions.

An Advisory Council would also align well with current LIPA Board Policy to “actively **engage** with our customers and the communities we serve [and] to **respond** to our customers’ needs and **exceed their expectations**.” An Advisory Council would provide LIPA with ongoing ratepayer and community engagement.

Links and information relevant to the LIRRCC and PCAC

1.Long Island Railroad Commuter Council [**https://pcac.org/lirrcc/**](https://pcac.org/lirrcc/) **https://legislation.nysenate.gov/pdf/bills/2009/S3899A**

*The Long Island Railroad Commuter Council (LIRRCC) was created by the New York State Legislature in 1981 to advocate on behalf of Long Island Railroad (LIRR) riders. Our 12 volunteer members are appointed by the Governor upon the recommendation of the Nassau and Suffolk County Executives, as well as the Brooklyn and Queens Borough Presidents.*

*LIRRCC Mission Statement*

*The LIRRCC is the official voice of Long Island Railroad commuters. The Council advocates for such priorities as improved LIRR service, communication, and overall commuter experience by providing constructive feedback to LIRR management and the MTA Board in the formulation and implementation of Railroad-specific and agency-wide policies.*

*LIRRCC Goals*

* *To hold Long Island Railroad management and the MTA Board accountable to commuters and all users of its services to improve the overall customer experience.*
* *d including accessibility.*
* *To assure the timely capital investment in and maintenance and upgrade of LIRR facilities, including stations, rolling stock, and infrastructure;*
* *To advocate for more equitable fares to increase affordable access to LIRR services;*
* *To promote the use of commuter rail service in Nassau, Suffolk, Queens, and Kings (Brooklyn) counties.*

*The 12 members of the LIRRCC are recommended as follows, with appointment by the Governor:*

|  |  |
| --- | --- |
| ***No. of Members*** | ***Recommended By*** |
| *5* | *Nassau County Executive* |
| *5* | *Suffolk County Executive* |
| *1* | *Brooklyn Borough President* |
| *1* | *Queens Borough President* |

2.The Permanent Citizens Advisory Committee to the MTA <https://pcac.org/about/> https://legislation.nysenate.gov/pdf/bills/2009/S3899A

*The PCAC is the coordinating body for the three riders councils created by the New York State Legislature in 1981: the****Long Island Railroad Commuter Council (LIRRCC)****, the****Metro-North Railroad Commuter Council (MNRCC)****, and the****New York City Transit Riders Council (NYCTRC)****. These councils were created to serve as a voice for users of the MTA system in the development and implementation of policy, and to hold the MTA board and management accountable to riders. To accomplish these goals, the PCAC, councils and their professional staff hold regular public meetings; provide public commentary in a variety of forums; and undertake frequent research projects.*

*Each of the three councils has held one non-voting MTA Board seat since 1995, sitting on and providing input into the relevant MTA agency operating committees at all times. The PCAC’s 38 total members are required to be regular users of the MTA system and serve without pay. The 11 MNRCC members and 12 LIRRCC members are appointed by the Governor’s Office upon the recommendation of appropriate county executives and borough presidents. The 15 NYCTRC members are appointed by the Governor upon recommendation of the mayor, public advocate, and borough presidents.*

***PCAC Mission Statement:***

*As a trusted advisor to the MTA, PCAC regularly researches issues, recommends viable solutions, and advocates on behalf of the region’s riders and commuters. The PCAC strives to hold the MTA Board and leadership accountable to users of Long Island Railroad, Metro-North Railroad, and New York City Transit subways and buses and the Staten Island Railway, by providing informed and timely advice on such matters as service, finance, capital investments, communications, and management.*

***PCAC Goals:***

* *To provide a  platform to review MTA plans and policies, and to present riders’ positions to the MTA on system-wide issues.*
* *To evaluate and take positions on operating plans, budget proposals, and capital program priorities;*
* *To identify and advocate for funding sources to maximize the system’s reliability, lifespan, and environmental sustainability;*
* *To undertake and publicize at least one major research project annually;*
* *To prepare and present testimonies relevant to the MTA Board and committee meeting agendas, and to other stakeholder organizations, including elected officials.*

3.Public Authorities in NYS

* Of the almost 600 statewide authorities, none appear to have an elected board. The NYS Public Authorities Law speaks to appointments.
* “Individuals **appointed** to the board of a public authority shall participate in state approved training regarding their legal, fiduciary, financial and ethical responsibilities as directors of an authority within one year of **appointment** to a board.”
* Source: https://codes.findlaw.com/ny/public-authorities-law/pba-sect-2824.html
* “A state authority is a public authority or public benefit corporation established by the State Legislature, with one or more of its members **appointed** by the governor or who serve as members by virtue of holding a civil office of the state.”
* Source:<https://video.dos.ny.gov/lg/handbook/html/public_authorities_regional_agencies_and_intergovernmental_cooperation.html>
* “Each public authority is governed by a separate board of directors **appointed** by elected officials for varying terms of office.”
* Source: <https://www.osc.state.ny.us/public-authorities/what-public-authority>
* “Public Authorities are, however, covered under the New York State ethics law. A Public Authority is considered a “state agency” for purposes of Public Officers Law (“POL”) Sections 73, 73-a, and 74.5 A “state agency” is defined as “any state department, or division, board, commission, or bureau of any state department, *any public benefit corporation, public authority or commission at least one of whose members is* ***appointed*** *by the governor...*.6 **Appointed** board members and Authority employees are also specifically covered by the state ethics law. Source: NYSBA,Government, Law and Policy Journal, Fall 2009 , Vol 11,#2
* <https://publicauthority.files.wordpress.com/2014/05/sleight-sullivan.pdf>