Statement on the Draft Report of the Legislative Commission on the Future of LIPA Submitted by Fred Harrison LI Food and Water Watch

The Commission’s good work is a sign of hope for ratepayers We finally have a legislatively authorized study that shows there is a way forward. Progress for ratepayers means the legislature need address not only the matters of law and authority outlined in the pages of the report but must also address issues central to making energy affordable and LIPA accountable to the public. The draft report was relatively silent on these latter concerns. Perhaps time constraints came into play. Regardless, reducing ratepayer costs and increasing LIPA accountability should have a central place in the Commission’s final deliberations.

This statement focuses on a very simple observation. You/the legislature can substantially reduce the bills of LIPA ratepayers .

There is a lot of well-deserved finger-pointing at PSEG and even at LIPA as the cause of ratepayer woes. Yet, from LIPA’s start, the NYS legislature-your predecessors- saddled ratepayers with costs other public power customers do not have. Some of those extraordinary costs have been cited in your own report and help explain why electric rates are so high. The legislature has a clear responsibility for the situation we find ourselves in. They passed into law LIPA and the high-cost energy system we now have. Hopefully it’s true that “what the legislature giveth, the legislature can taketh away.”

Over the past decades the legislature has acted in ways that have imposed huge costs on LIPA. Firstly, from LIPA’s beginning, ratepayers were burdened with the costs of the Shoreham fiasco. Since 1998, debt obligations shouldered by ratepayers have risen to an astounding $13 billion according to Fitch. Ratepayers have paid almost $8 billion in interest payments since that year, almost $8000 per household. Twenty percent of our current PSEG bill goes to debt and principal repayment. If a new LIPA is to be successful, the legislature must act to reduce the need for LIPA to borrow. Money would be better spent on resiliency and rate reduction than interest payments to bond holders. The report did not advise on how to manage this central issue for ratepayers.

The second legislatively imposed cost on ratepayers has nothing to do with what should be figured into the actual cost of electricity. The legislature has required that LIPA, a nonprofit government institution, make Payment in Lieu of Taxes (PILOT) payments , as well as property and assorted other taxes. This may have made sense at the outset of LIPA’s existence. But 25 years later? Using electric rates to finance local government and selected school districts is even more regressive and unequitable than the property tax. Your report notes that 19% of our bill goes to PILOTs and taxes. It also states that other municipal utilities in the northeast contribute a median PILOT/tax payment of 4.6% Based on simple math and fairness you should reduce that burden on LIPA ratepayers to the median. Doing so would reduce LIPA revenue needs by $620 million per year or 15%. Yes, there will be cost shifting, but that is no excuse for allowing an antiquated and unfair system to continue. It’s a system that ***overprices*** electricity costs. As we move towards increased electrification, affordability will be crucial. The legislative commission needs to make the unwinding of this situation a priority. Electricity costs can and should be reduced and by far more than the Draft Report’s estimate of between 1 and 2 %. It is disappointing that the study recognizes the problem but offers no advice. PILOTs and taxes need sunsetting.

Thirdly, LIPA ratepayers have never been permitted to enjoy the full benefits of public power. At the behest of three governors, Mario Cuomo (D), George Pataki (R) and Andrew Cuomo (D), the legislature kept the profit-making side of the electric power industry alive and well with ratepayer money. We not only pay PSEG management, which we hope to soon be rid of, but have been paying a premium for purchasing power from for-profit power suppliers like National Grid. The Genco contract sails beneath the radar. No hearings, no discussions, no evaluation of costs and alternatives. The draft study disappointed in that it did not address how that 50% of our bills could be pared down. The more fully nonprofit LIPA can become, the lower ratepayer costs will be. The report does not recognize that axiom. It actually recommends that a fully municipalized LIPA subcontract to the private sector for many important services. This is confounding and potentially expensive advice. The report recognizes that the hybrid model creates well known management difficulties yet advises that LIPA replace PSEG management with multiple private service providers. Huh? With the tax benefits afforded by the IRA, your legislative package should include a mandate that LIPA move as expeditiously as possible to turn its power supply into a nonprofit power supply.

The fourth source of ratepayer woe -which has not been created by the legislature- but which can be rectified by the legislature- has been cost of managing climate change. The report speaks to the costs of resiliency and the substantial investments required. The AARP, of which I am a member, is very clear that ratepayers should not bear these costs. Rather than bill ratepayers for the externalities caused by fossil fuels , costs should be apportioned based upon responsibility for the problem. The Climate Change Superfund Act tries to do just that. Ratepayers must commend Mr. Thiele for his support of that legislation. Mr. Thiele has also been key in shepherding legislation which has allowed access to UDSA financing, reducing the costs of those LIPA’s debt payments which were discussed earlier.

The fifth and final indignity heaped on ratepayers has been

the fact that the legislature created LIPA without the appropriate means for ensuring its accountability. LIPA ratepayers have few of the rights that ratepayers of the state’s IOUs enjoy. The codification of those rights should be part of any legislative package. Any contemplated expansion of LIPA’s powers and responsibilities needs to be accompanied in equal measure with corresponding institutional and ratepayer rights and procedures. The Commission was sent research on this matter several months ago.

LIPA is a $4 billion / year public enterprise, yet there is meager room for ratepayer or citizen oversight and participation. If it was a private corporation, at least the shareholders would have a once-a-year opportunity to shift policy. LIPA ratepayers and stakeholders have no such opportunity. Yes, LIPA holds public meetings and hearings, but in fact, ratepayers are mostly powerless. As your study reports, other public power systems have either elected boards or boards appointed by local elected officials. Electric rates and energy policy choices are subject to veto at the ballot box. We have no such recourse. We have no means of board accountability. There are no rate hearings with the right to present expert witnesses and question LIPA or PSEG management, and no means for ratepayer intervenor reimbursement. It should also be noted that the report states that 5 of the 6 highest rated municipal systems have elected boards. This should be no surprise. The report should have noted that studies have shown that elected boards are more pro-consumer.

Creating institutions which would allow for genuine public participation is a well-established precedent in New York. Your report cites the MTA model for transitioning SERVCO. It should have also noted the model the NYS legislature created for MTA oversight.

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 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 , modeled on these precedents, could draw on the strengths of the LI Department of Public Service, the office of the NYS Consumer Advocate, stakeholders, energy experts, and local organizations and institutions.

It is critically important that consumers-the ratepayers- the bill payers-be included as co-equal partners in any remaking of LIPA and Long Island’s energy future. The report and the accompanying legislative recommendations falls short in this regard. The institutional stakeholders, SERVCO and the LIPA Board and management, get all the attention. Ratepayers must be included if your work is to be truly successful.

The Commission needs to get a lot right if LIPA ratepayers are to enjoy a brighter future. Nevertheless, there is reason for optimism. There is reason to hope that we may look back and celebrate your work. High electric rates are not preordained. There’s no mystery as to why our bills are so high. We know what the problems are and what can be done to fix them. The legislature can clear away all the unnecessary and unfair costs. They can empower ratepayers. They can allow LIPA to shine.

Thank you for your work and consideration.