My name is Laverne Tennenberg, and I am an elected assessor for the Town of Riverhead.

I offer my testimony today to give you my perspective as it relates to the Long Island Power Authority and property taxes and Payments in Lieu of Taxes, or PILOTs.

In 2013, the NYS Legislature passed the LIPA Reform Act. I note that Assemblyman Fred Thiele did not vote for this legislation. In fact, I have met with Assemblyman Thiele, Senator Ken LaValle, now retired, and our former Assemblyman now Senator Anthony Palumbo to discuss my concerns with the Act.

The LIPA Reform Act did, among other things, amend §1020-q of the Public Authorities Law by providing *“that for the calendar year starting on January 1, 2015, and for each calendar year thereafter, such payments in lieu of taxes shall not exceed the in lieu of tax payments made to such municipalities and school districts in the immediately preceding year by more than two percent”.* One justification for the LIPA Reform Act was that… *“LIPA pays a franchise tax of about $26 million per year to the State based on gross receipts, despite the fact that a provision of the Tax Law requiring investor-owned utilities to pay the same tax was repealed in 2000. Additionally, a review of LIPA's annual budget shows that PILOTs assessed by municipalities with respect to LIPA's T&D-related properties are growing at a rapid rate. Both the gross receipts tax paid to the State and the PILOTs assessed by municipalities are passed on directly to LIPA's customers and paid as part of the utility bill. To reduce the effect of these taxes, the bill would eliminate entirely the gross receipts tax imposed by the State and, starting in calendar year 2015, cap the property-related PILOTs at 2% per year”.*

LIPA owns real properties which are subject to PILOT payments. Some of those real properties are called Special Franchise, which are poles, wires, and conduits in the public right of way. The State of New York is tasked with valuing these Special Franchise properties, not the local assessor, and are valued on a cost basis of reproduction cost new less depreciation.

After Superstorm Sandy in 2012, LIPA was given $729 million dollars from FEMA to harden its infrastructure. Since the Special Franchise properties had increased in value due to improvements, the assessments of the Special Franchise properties were increased by NYS. However, according to the LIPA Reform Act, LIPA would not pay more than 2% of a prior year’s payment. No other property owner that I am aware of has the same benefit as has been afforded to LIPA. NONE. How is that fair and equitable to Long Island taxpayers? To your constituents? If one were to add a $500,000 addition to their million-dollar home, they would have to pay full taxes on the increase in value. But LIPA does not. Again, I ask you, how is that fair?

Newsday reported on June 20, 2022 that Chief Executive Tom Falcone stated that LIPA’s assets, including substations, transmission lines, and poles have increased in value, from about $4 billion to around $10 billion since its takeover from LILCO. However, LIPA does not have to pay based on value.

With regard to Riverhead’s billing methodology to collect PILOT payments, LIPA’s Chief Executive Tom Falcone continues to send letters to the taxing jurisdictions in the Town of Riverhead, reciting that the town’s invoice and collection and distribution method fails to include all taxing jurisdictions within the town. Therefore, the amounts owed for PILOT payments remain unpaid and in arrears. There is nothing in Public Authorities Law that dictates how PILOTs are to be billed or collected. §1020-q of the Public Authorities Law states that *“the authority shall make payments in lieu of taxes to municipalities and school districts…”* LIPA refuses to make these payments to school districts and other taxing jurisdictions. LIPA, in its letters to the taxing jurisdictions, stated *“that it believes that the Town Receiver of Taxes is responsible for the coordination of PILOT invoices and the collection and distribution of LIPA’s payments for all the amounts owed to the various taxing jurisdictions for each parcel in a similar manner as it does for property taxes for each parcel”.* This is a falsehood. The Receiver of Taxes may only collect property taxes as permitted in the tax warrant as approved by Suffolk County. The Receiver of Taxes has no statutory authority to collect PILOT payments. PILOTs are not part of the tax warrant.

LIPA has engaged in lawsuits with the 10 towns and the county that are still ongoing, and I would defer to our Town Attorney to elaborate further should you need edification.

I believe that the LIPA Reform Act needs reforming, as does the Public Authorities Law need amending as follows:

1. Exclude the value of Special Franchise properties from the 2% cap on PILOT payments.
2. Tighten up language in §1020-q of the Public Authorities Law to specify the precise methodology for the billing and collection of PILOT payments.

Thank you for holding this hearing, and for the opportunity to speak before you.