IN SENATE--Introduced by Sen
--read twice and ordered printed, and when printed to be committed to the Committee on

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A.
Assembly
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IN ASSEMBLY--Introduced by M. of A.
with M. of A. as co-sponsors

--read once and referred to the Committee on

*PUBSERLA*

(Relates to the powers and duties of the department of public service and the Long Island power authority; repealer)

Pub Serv. dept pub serv/LIPA

AN ACT

to amend the public service law, the public authorities law and the executive law, in relation to the powers and duties of the department of public service and the Long Island power authority, and to repeal subdivision (u) of section 1020-f of the public authorities law relating to general powers of the authority (Part A); and in relation to the issuance of securitized restructuring bonds to refinance the outstand-
ing debt of the Long Island power authority (Part B)

The People of the State of New York, represented in Senate and Assembly, do enact as follows:
Section 1. This act enacts into law major components of legislation relating to issues deemed necessary by the state. Each component is wholly contained within a Part identified as Parts A through B. The effective date for each particular provision contained within such Part is set forth in the last section of such Part. Any provision in any section contained within a Part, including the effective date of the Part, which makes reference to a section "of this act", when used in connection with a particular component, shall be deemed to mean and refer to the corresponding section of the Part in which it is found. Section three of this act sets forth the general effective date of this act.

PART A

Section 1. Section 3 of the public service law, as amended by chapter 8 of the laws of 2012, is amended and a new section 3-b is added to read as follows:

§ 3. Department of public service. [1.] There shall be in the state government a department of public service. The chairman of the public service commission shall be the chief executive officer of the department. He or she shall appoint and shall have the power to remove, subject to the provisions of the civil service law, all officers, clerks, inspectors, experts and employees of the department, and to approve all contracts for special service. The chairman shall designate one of the commissioners in the department or an officer of the department to act as deputy chairman during the absence or disability of the chairman and during such times such deputy chairman shall possess all the powers of the chairman as chief executive officer of the department.
2. The department shall, upon notification to the Long Island power authority, undertake a comprehensive and regular management and operations audit of said authority pursuant to subdivision (bb) of section one thousand twenty-f of the public authorities law. The department shall have discretion to have such an audit performed by its staff, or by an independent contractor. In every case in which an audit is required pursuant to subdivision (bb) of section one thousand twenty-f of the public authorities law performed by an independent auditor, the department shall have the authority to select the auditor, and to require the Long Island power authority to enter into a contract with the auditor that is consistent with the contracting-related requirements specified in subdivision nineteen of section sixty-six of this chapter and the requirements of subdivision (bb) of section one thousand twenty-f of the public authorities law. Such contract shall provide further that the auditor shall work for and under the direction of the department according to such terms as the department may determine are necessary and reasonable.

§ 3-b. Long Island office of the department. 1. There is hereby established in the department an office to review and make recommendations with respect to the operations and terms and conditions of service of, and rates and budgets established by, the Long Island power authority and/or its service provider.

2. Definitions. As used or referred to in this section:

(a) "Authority" means the Long Island power authority.

(b) "Service provider" means the entity under contract with the authority to, among other things, manage and operate the authority's electric transmission and distribution system. The service provider,
however, shall not be considered an electric corporation under this
chapter.

3. General powers. In undertaking the requirements of this section,
the department shall be empowered and authorized to:

(a) Review and make recommendations to the board of the Long Island
power authority with respect to the rates and charges to be established
by the authority and become applicable on or after January first, two
thousand sixteen pursuant to subdivision (u) of section one thousand
twenty-four of the public authorities law.

(i) The purpose of such review is to make recommendations designed to
ensure that the authority and the service provider provide safe and
adequate transmission and distribution service at rates set at the
lowest level consistent with sound fiscal operating practices.

(ii) The department's recommendations shall be designed to be consist-
et with ensuring that the revenue requirements related to such rate
review are sufficient to satisfy the authority's obligations with
respect to its bonds, notes and all other contracts.

(iii) In the context of such review, the department may not make any
recommendation that would modify the compensation or fee structure
included within the agreement between the authority and the service
provider.

(iv) In undertaking such review and in making recommendations related
to the proposed rates and charges, the department shall establish stand-
ards, policies and procedures that, at a minimum, provide for public
statement and evidentiary hearings and participation of intervenors and
other parties, and ensure that any final recommendations related to the
proposed rates and charges are provided to the authority within two
hundred forty days of the filing with the department of such plan.
(v) The parties to any such rate review proceeding shall include, but not be limited to, department staff, the authority, the service provider and, to the extent it deems necessary or appropriate, the utility intervention unit.

(b) Review the annual capital expenditures proposed by the service provider and recommend such improvement in the manufacture, conveying, transportation, distribution or supply of electricity, or in the methods employed by the service provider as in the department's judgment allows for safe and adequate service.

(c) Annually review the emergency response plan of the service provider in accordance with the following requirements:

(i) Examine and determine whether the emergency response plan is consistent with the requirements of paragraph (a) of subdivision twenty-one of section sixty-six of this chapter and any regulations or orders promulgated thereto, and to recommend amendments of same; and

(ii) Review and make recommendations with respect to the performance of the service provider in restoring service or otherwise meeting the requirements of the emergency response plan during an emergency event, defined for purposes of this section as an event where widespread outages have occurred in the authority's service territory due to a storm or other causes beyond the control of the authority and its service provider, including making determinations with respect to whether the service provider is reasonably able to implement the emergency response plan, whether the length of any outages related to such emergency were materially longer than they would otherwise have been because the service provider failed to reasonably implement the emergency response plan, and the reasonableness of costs associated with such emergency response.
(d) Upon notification to the Long Island power authority, undertake a comprehensive and regular management and operations audit of the authority and service provider pursuant to subdivision (bb) of section one thousand twenty-f of the public authorities law. The department shall have discretion to have such an audit performed by its staff, or by an independent contractor. In every case in which an audit is required pursuant to subdivision (bb) of section one thousand twenty-f of the public authorities law performed by an independent auditor, the department shall have the authority to select the auditor, and to require the authority to enter into a contract with the auditor that is consistent with the contracting-related requirements specified in subdivision nineteen of section sixty-six of this chapter and the requirements of subdivision (bb) of section one thousand twenty-f of the public authorities law. Such contract shall provide further that the auditor shall work for and under the direction of the department according to such terms as the department may determine are necessary and reasonable.

(e) Accept, investigate, mediate to resolve and make recommendations to the Long Island power authority and/or the service provider regarding the resolution of complaints from consumers in the authority's service territory relating to, among other things, the provision of electric service provided by the service provider.

(f) Review the net metering program implemented under subdivision (h) of section one thousand twenty-g of the public authorities law and make recommendations designed to ensure consistency with the requirements of sections sixty-six-j and sixty-six-l of this chapter, and any regulations and orders adopted thereto.

(g) Review and make recommendations with respect to any proposed plan submitted by the Long Island power authority and/or the service provider
related to implementation of energy efficiency measures, distributed
generation or advanced grid technology programs having the purpose of
providing customers with tools to more efficiently and effectively
manage their energy usage and utility bills, and improving system reli-
ability and power quality.

4. Review and inspection. To undertake the requirements of subdivision
two of this section, the department shall be authorized to inspect all
premises and facilities owned or operated by the authority and the
service provider, review all books and records of the authority and the
service provider, interview all appropriate personnel, and require annu-
al reporting consistent with the requirements of subdivision six of
section sixty-six of this chapter and any regulations and orders adopted
thereto; provided, however, that this authority shall not extend to
affiliates of the service provider.

§ 2. Subdivision 2 and paragraph (b) of subdivision 6 of section 18-a
of the public service law, subdivision 2 as amended by section 2 of part
NN of chapter 59 of the laws of 2009 and paragraph (b) of subdivision 6
as amended by section 1 of part BB of chapter 59 of the laws of 2013,
are amended and a new subdivision 1-a is added to read as follows:

1-a. All costs and expenses of the department related to the depart-
ment's responsibilities under section three-b of this chapter shall be
paid pursuant to appropriation on the certification of the chairman of
the department and upon the audit and warrant of the comptroller. For
the state fiscal year beginning on April first, two thousand fourteen
and each state fiscal year thereafter, payments are to be made from all
moneys collected from the Long Island power authority pursuant to this
section. The total of such costs and expenses shall be assessed on such
The chairman of the department shall estimate prior to the start of each state fiscal year the total costs and expenses, including the compensation and expenses of the commission and the department, their officers, agents and employees, and including the cost of retirement contributions, social security, health and dental insurance, survivor's benefits, workers' compensation, unemployment insurance and other fringe benefits required to be paid by the state for the personnel of the commission and the department, and including all other items of maintenance and operation expenses, and all other direct and indirect costs. Based on such estimates, the chairman shall determine the amount to be paid by each assessed public utility company and the Long Island Power Authority and a bill shall be rendered to each such public utility company and authority.

(b) The bill for each public utility company and the Long Island Power Authority shall be rendered on or before February first preceding each fiscal year, and shall be for the amount equal to the product of the aforesaid estimated costs and expenses of conducting the department's and commission's total operations during the fiscal year for which billing is being made multiplied by the proportion which compares:

(1) the gross operating revenues, over and above five hundred thousand dollars, for that utility company or the authority derived from intrastate utility operations in the last preceding calendar year, or other twelve month period as determined by the chairman, to:

(2) the total of the gross operating revenues, derived from intrastate utility operations for all utility companies and the authority in the
state which revenues are included under subparagraph one of this para-

For the purposes of calculating the commodity cost component of its
gross operating revenue, where the utility delivers to end-use customers
electricity and/or natural gas commodities that are sold to such custom-
ers by a third party, such utility shall include in its revenues an
estimate of the sales revenue for the electric and/or natural gas
commodities that it delivers, including all such commodities sold to
end-use customers by third parties, in such manner as to assure that all
der-usage delivery customers, regardless of the entity from which they
purchase their electric and/or natural gas commodities, bear a fair and
proportionate share of the assessment imposed herein, as the commission
may determine.

(c) The minimum assessment for any utility company, as well as the
Long Island power authority, whose gross revenues from intrastate utili-
ty operations are in excess of five hundred thousand dollars in the
preceding calendar year shall be two hundred dollars.

(d) The amount of such bill for fiscal years beginning on or after
April first, nineteen hundred eighty-three so rendered shall be paid by
such public utility company and such authority to the department on or
before April first; provided, however, that [a] any such utility company
or such authority may elect to make partial payments for such costs and
expenses on March tenth of the preceding fiscal year and on September
tenth of such fiscal year. Each such partial payment shall be a sum
equal to fifty percentum of the estimate of costs and expenses to be
assessed against such utility company or authority under the provisions
of this subdivision and shall not be less than two hundred dollars.
(e) During the course of any state fiscal year, the chairman may increase or decrease the estimate of costs and expenses. In such case, revised bills shall be sent to each public utility company and such authority, and such increase or decrease shall be equally apportioned against the remaining payments for such fiscal year.

(f) On or before October tenth of each year, the chairman shall compute the actual costs and expenses of the department and the commission and adjustments or other corrections as needed for the preceding state fiscal year and, after deducting the amounts recovered pursuant to subdivisions three and four of this section, shall, on or before October twentieth, send to each public utility company and/or the authority affected thereby a statement setting forth the amount due and payable by, or the amount standing to the credit of, such public utility company and/or the authority. Any amount owing by any public utility company and/or the authority shall be paid not later than thirty days following the date such statement is received. Any such amount standing to the credit of any public utility company shall be refunded by the commission or, at the option of such utility company, shall be applied as a credit against any succeeding payment due.

(g) The total amount which may be charged to any public utility company and the Long Island power authority under authority of this subdivision for any state fiscal year shall not exceed one per centum of such public utility company's or authority's gross operating revenues derived from intrastate utility operations in the last preceding calendar year, or other twelve month period as determined by the chairman; provided, however, that no corporation or person that is subject to the jurisdiction of the commission only with respect to safety, or the power author-
ity of the state of New York, shall be subject to the general assessment
provided for under this subdivision.

Notwithstanding the provisions of subdivision one of this section, for
telephone corporations as defined in subdivision seventeen of section
two of this article, the total amount which may be charged such corpo-
relations for department expenses under the authority of subdivision one
of this section for any state fiscal year shall not exceed one-third of
one percentum of such corporation's gross operating revenue, over and
above five hundred thousand dollars, derived from intrastate utility
operations in the last preceding calendar year, or other twelve month
period as determined by the chairman.

(h) On-bill recovery charges billed pursuant to section sixty-six-m of
this chapter shall be excluded from any determination of an entity's
gross operating revenues derived from intrastate utility operations for
purposes of this section.

(b) The temporary state energy and utility service conservation
assessment shall be based upon the following percentum of the utility
entity's gross operating revenues derived from intrastate utility oper-
ations in the last preceding calendar year, minus the amount, if any,
that such utility entity is assessed pursuant to subdivisions one and
two of this section for the corresponding state fiscal year period: (1)
two percentum for the state fiscal year beginning April first, two thou-
sand thirteen and the state fiscal year beginning April first, two thou-
sand fourteen; (2) one and three-quarters percentum for the state fiscal
year beginning April first, two thousand fifteen; and (3) one and one-
half percentum for the state fiscal year beginning April first, two
thousand sixteen. With respect to the temporary state energy and utility
service conservation assessment to be paid for the state fiscal year
beginning April first, two thousand seventeen and notwithstanding clause
(i) of paragraph (d) of this subdivision, on or before March tenth, two
thousand seventeen, utility entities shall make a payment equal to one-
half of the assessment paid by such entities pursuant to this paragraph
for the state fiscal year beginning on April first, two thousand
sixteen. With respect to the Long Island power authority, the temporary
state energy and utility service conservation assessment shall be based
upon the following percentum of such authority's gross operating revenue
derived from intrastate utility operations in the last preceding
calendar year, minus the amount, if any, that such authority is assessed
pursuant to subdivisions one-a and two of this section for the corre-
sponding state fiscal year period: (1) one percentum for the state
fiscal year beginning April first, two thousand thirteen and the state
fiscal year beginning April first, two thousand fourteen; (2) three-
quarters of one percentum for the state fiscal year beginning April
first, two thousand fifteen; and (3) one-half percentum for the state
fiscal year beginning April first, two thousand sixteen; provided,
however, that should the amount assessed by the department for costs and
expenses pursuant to such subdivisions equal or exceed such authority's
temporary state energy and utility service conservation assessment for a
particular fiscal year, the amount to be paid under this subdivision by
such authority shall be zero. With respect to the temporary state ener-
gy and utility service conservation assessment to be paid for the state
fiscal year beginning April first, two thousand seventeen and notwith-
standing clause (i) of paragraph (d) of this subdivision, on or before
March tenth, two thousand seventeen, the Long Island power authority
shall make a payment equal to one-half of the assessment it paid for the
state fiscal year beginning on April first, two thousand sixteen. No
corporation or person subject to the jurisdiction of the commission only
with respect to safety, or the power authority of the state of New York,
shall be subject to the temporary state energy and utility service
conservation assessment provided for under this subdivision. Utility
entities whose gross operating revenues from intrastate utility oper-
ations are five hundred thousand dollars or less in the preceding calen-
dar year shall not be subject to the temporary state energy and utility
service conservation assessment. The minimum temporary state energy and
utility service conservation assessment to be billed to any utility
entity whose gross revenues from intrastate utility operations are in
excess of five hundred thousand dollars in the preceding calendar year
shall be two hundred dollars.

§ 3. Section 1020-b of the public authorities law is amended by adding
a new subdivision 23 to read as follows:

23. "Service provider" means the entity under contract with the
authority to, among other things, manage and operate the authority's
electric transmission and distribution system.

§ 4. Section 1020-d of the public authorities law, as added by chapter
506 of the laws of 1995, is amended to read as follows:

§ 1020-d. [Trustees] Board of trustees. 1. [The] Starting on January
first, two thousand fourteen, the board of the authority shall be
constituted and consist of [fifteen] five trustees all of whom shall be
residents of the service area, [nine] three of whom shall be appointed
by the governor, one of whom the governor shall designate as chairman,
and serve at his or her pleasure, [three] one of whom shall be appointed
by the temporary president of the senate, and [three] one of whom shall
be appointed by the speaker of the assembly. [Two] One of the gover-
nor's appointees shall serve an initial term of one year; [two] one of
the governor's appointees shall serve an initial term of two years; [two] and one of the governor's appointees shall serve an initial term of three years; and three of the governor's appointees shall serve an initial term of four years. [Two of the appointees] The appointee of the temporary president of the senate and [two of the appointees] the appointee of the speaker of the assembly shall serve initial terms of [one year; and one appointee of the temporary president of the senate and one appointee of the speaker of the assembly shall serve initial terms of two] four years. Thereafter, all terms shall be for a period of four years. In the event of a vacancy occurring in the office of trustee by death, resignation or otherwise, the respective appointing officer shall appoint a successor who shall hold office for the unexpired portion of the term.

2. No trustee shall receive a salary, but each shall be entitled to reimbursement for reasonable expenses in the performance of duties assigned hereunder.

3. Notwithstanding the provisions of any other law, no trustee, officer or employee of the state, any state agency or municipality appointed a trustee shall be deemed to have forfeited or shall forfeit his or her office or employment by reason of his or her acceptance of a trusteeship on the authority, his or her service thereon or his or her employment therewith.

4. All trustees appointed under this section shall have relevant utility, corporate board or financial experience.

§ 5. On or before December 1, 2013 the governor, the temporary president of the senate and the speaker of the assembly shall choose and announce their appointments to the board of the Long Island power authority to be made pursuant to section 1020-2 of the public authori-
ties law, as amended by section four of this act, giving due consider-
ation to continuity of business. The board of trustees of the Long
Island power authority in existence on December 31, 2013, shall be abol-
ished on such date and be constituted on January 1, 2014 pursuant to
section 1020-d of the public authorities law, as amended by section four
of this act.

§ 6. Subdivision (u) of section 1020-f of the public authorities law
is REPEALED.

§ 7. Subdivisions (c) and (bb) of section 1020-f of the public author-
ities law, subdivision (c) as amended by chapter 506 of the laws of 2009
and subdivision (bb), as added by chapter 8 of the laws of 2012, are
amended and five new subdivisions (u), (cc), (dd), (ee) and (ff) are
added to read as follows:

(c) To appoint officers, agents and employees, without regard to any
personnel or civil service law, rule or regulation of the state and in
accordance with guidelines adopted by the authority, prescribe their
duties and qualifications and fix and pay their compensation[, provided,
however, that the appointment of the chief executive officer shall be
subject to confirmation by the senate in accordance with section twen-
ty-eight hundred fifty-two of this chapter;]. By January first, two
thousand fourteen, the authority, through its governance committee,
shall amend such guidelines to require that staffing at the authority is
kept at minimum levels, consistent with ensuring that the authority is
able to meet obligations with respect to its bonds and notes and all
applicable statutes and contracts, and oversee the activities of the
service provider;

(u) Rate plans. Subject to subdivision six of section one thousand
twenty-k of this title to fix rates and charges for the furnishing or
rendition of gas or electric power or of any related service at the
lowest level consistent with sound fiscal and operating practices of the
authority and which provide for safe and adequate service. In implement-
ing this power:

1. The authority and the service provider shall, on or before February
first, two thousand fifteen, submit for review to the department of
public service a three-year rate proposal for rates and charges to take
effect on or after January first, two thousand sixteen.

2. The authority and the service provider shall thereafter submit for
review to the department of public service any rate proposal that would
increase the rates and charges and thus increase the aggregate revenues
of the authority by two and one-half percent or greater; provided,
however, that the authority may place such rates and charges into effect
on an interim basis, subject to prospective change; provided, further,
that a final rate plan issued by the authority that would not so
increase such rates and charges shall not be subject to the requirements
of paragraph four of this subdivision and shall be considered final for
the purposes of review under article seventy-eight of the civil practice
law and rules. The authority and/or the service provider may otherwise
submit for review to such department any rate proposal irrespective of
its effect on revenues.

3. The authority shall not fix any final rates and charges proposed
that would not be subject to review by the department of public service
pursuant to paragraphs one and two of this subdivision until after hold-
ing public hearings thereon upon reasonable public notice, with at least
one such hearing to be held each in the county of Suffolk and the county
of Nassau.
4. Any recommendations associated with a rate proposal submitted pursuant to paragraphs one and two of this subdivision shall be provided by the department of public service to the board of the authority immediately upon their finalization by the department. Unless the board of the authority makes a preliminary determination in its discretion that any particular recommendation is inconsistent with the authority's sound fiscal operating practices, any existing contractual or operating obligations, or the provision of safe and adequate service, the board shall implement such recommendations as part of the final rate plan and such final rate plan shall be deemed to satisfy the requirements of this subdivision and be considered final for the purposes of review under article seventy-eight of the civil practice law and rules. The board shall make any such preliminary determination of inconsistency within thirty days of receipt of such recommendations, with notice and the basis of such determination being provided to the department of public service, and contemporaneously posted on the websites of the authority and its service provider. The board shall thereafter, within thirty days of such posting and with due advance notice to the public, hold a public hearing with respect to its preliminary determination of inconsistency. At such hearing, the department of public service shall present the basis for its recommendations, and the board shall present the basis for its determination of inconsistency. The authority and the service provider may, during the time period before such public hearing reach agreement with the department on disputed issues. Within thirty days after such public hearing, the board of the authority shall announce its final determination and planned implementation with respect to any such recommendations. The board's final determination of inconsistency shall be subject to any applicable judicial review proceeding, including
review available under article seventy-eight of the civil practice law and rules.

(bb) Comprehensive and regular management and operations audits. 1.
The authority and the service provider shall cooperate in the undertaking and completion of a regular and comprehensive management and operations audit conducted pursuant to the requirements of this subdivision and [subdivision two of section three] paragraph (d) of subdivision three of section three-b of the public service law. Such audit shall review and evaluate the [authority's] overall operations and management of the authority and service provider, including [the authority's] such operations and management in the context of [its] the authority's duty to set rates at the lowest level consistent with standards and procedures provided in subdivision (u) of this section, and include, but not be limited to: (i) the [authority's] service provider's construction and capital program planning in relation to the needs of its customers for reliable service; (ii) the overall efficiency of the authority's and service provider's operations; (iii) the manner in which the authority is meeting its debt service obligations; (iv) the [authority's] Fuel and Purchased Power Cost Adjustment clause and recovery of costs associated with such clause; (v) the authority's and service provider's annual budgeting procedures and process; and (vi) the authority's compliance with debt covenants.

2. The department of public service shall notify the authority that said department is in the process of initiating a comprehensive management and operations audit as described in paragraph one of this subdivision in a manner that ensures the timeliness of such audit, and in accordance with the following timeframe: the first comprehensive management and operations audit shall be initiated as of the effective date of
[this subdivision] chapter eight of the laws of two thousand twelve and
undertaken in a manner and to an extent that is practicable in the
context of the authority's transition to a new management service struc-
ture; the second comprehensive management and operations audit shall be
initiated no later than December fifteenth, two thousand [fifteen]
sixteen; and all additional comprehensive management and operations
audits shall be initiated at least once every five years thereafter.
Within a reasonable time after such notification to the authority, said
department or the independent auditor retained by the authority to
undertake such audit shall hold public statement hearings, with proper
notice, in both Nassau and Suffolk counties for the purpose of receiving
both oral and written comments from the public on matters related to
such audit as described in paragraph one of this subdivision.

3. Each such audit shall be completed within eighteen months of initi-
atation absent an extension for good cause shown by the department of
public service or the independent auditor under contract with the
authority with notice of such extension to the governor, the temporary
president of the senate, the speaker of the assembly, and the chairs of
the authority and the department of public service. Such audit shall be
provided to the board of the authority immediately upon its completion.
The department of public service shall provide notice of completion of
such audit to the governor, the temporary president of the senate, the
speaker of the assembly, and the minority leaders of the senate and
assembly, and the authority, upon receipt of such audit, shall post a
copy of such audit, including findings and recommendations, on its
website and the website of the service provider. Unless the board of the
authority makes a preliminary determination that any particular finding
or recommendation contained in such audit is inconsistent with the
authority's sound fiscal operating practices, any existing contractual
or operating obligation, or the provision for safe and adequate service,
the board shall implement or cause its service provider to implement
such findings and recommendations in accordance with the timeframe spec-
ified under such audit.

4. The board of the authority shall make any preliminary determination
of inconsistency with respect to any such finding or recommendation
within thirty days of receipt of the audit, with notice and the basis of
such determination being provided to the department of public service.
Such notice and basis shall be posted contemporaneously on the authori-
ty's website and the website of the service provider and the board
shall, within thirty days of such posting and with due advance notice to
the public, hold a public hearing with respect to its preliminary deter-
mination of inconsistency. At such hearing the department of public
service or the independent auditor responsible for undertaking such
audit shall present the basis for its findings and recommendations and
the board shall present the basis for its determination of inconsistenc-
y. The authority and auditor may during the time period prior to such
public hearing reach agreement on disputed issues. Within thirty days
after such public hearing, the board of the authority shall announce its
final determination and planned implementations with respect to any such
findings and/or recommendations. The board's final determination of
inconsistency shall be subject to any applicable judicial review
proceeding, including review available under article seventy-eight of
the civil practice law and rules.

(cc) To prepare an emergency response plan pursuant to this subdivi-
sion. 1. The service provider shall, in consultation with the authority,
prepare and maintain an emergency response plan (1) to assure the
reasonably prompt restoration of service in the case of an emergency
event, defined for purposes of this subdivision as an event where wide-
spread outages have occurred in the authority's service territory due to
a storm or other causes beyond the control of the authority and the
service provider, (ii) consistent with the requirements of paragraph (a)
of subdivision twenty-one of section sixty-six of the public service law
and any regulations and orders adopted thereto, and (iii) establishing
the separate responsibilities of the authority and service provider.

2. On or before February third, two thousand fourteen, the authority
and service provider shall submit an emergency response plan to the
department of public service for review. Contemporaneously with such
submission, the authority shall provide notice of such proposed plan to
the secretary of state for publication in the state register, the
authority and service provider each shall post such plan on their
websites and otherwise make such plan available for review in-person,
and afford members of the public an opportunity to submit written
comments and oral comments pursuant to at least one hearing to be held
each in the county of Suffolk and the county of Nassau. Such written
comments must be submitted by March fourteenth, two thousand fourteen.
The authority and service provider shall provide a copy of all written
comments they receive and a transcript of such public hearings to the
department of public service for its consideration in reviewing the
emergency response plan. The department shall provide any recommenda-
tions to the service provider with respect to such plan on or before
April fifteenth, two thousand fourteen. Such plan must be made final by
June second, two thousand fourteen. For each year thereafter, the
service provider shall submit an emergency response plan to the depart-
ment of public service, and such department shall provide its recommen-
dations, in accordance with a schedule to be established by such depart-
ment and that is consistent with the schedule associated with such
department's review of similar such plans provided by electric corpo-
ra t ions pursuant to subdivision twenty-one of section sixty-six of the
public service law.

3. By June second, two thousand fourteen, and by June first annually
thereafter, the authority and service provider shall jointly certify to
the department of homeland security and emergency services that the
emergency response plan ensures to the greatest extent feasible the
timely and safe restoration of energy services after an emergency
consistent with the requirements of paragraph (a) of subdivision twen-
ty-one of the public service law and the department's recommendations.
The filing of such emergency response plan shall also include a copy of
all written mutual assistance agreements among utilities. The service
provider shall file with the county executives of Nassau and Suffolk
county and the mayor of the city of New York the most recent version of
the emergency response plan, and make sure that such amended versions
are timely filed.

4. Starting in calendar year two thousand fourteen, the service
provider annually shall undertake at least one drill to implement proce-
dures to practice its emergency response plan. The service provider
shall notify and allow participation in such drill of all appropriate
municipal emergency responders and officials.

5. If, during an emergency event, electric service is not restored in
three days, the service provider shall within sixty days from the date
of full restoration file with the department a report constituting a
review of all aspects of the preparation and system restoration perform-
ance during the event, and shall thereafter take into consideration any
recommendations made by the department associated with such review.
(dd) On or before January first, two thousand fifteen, and by January
first of each calendar year thereafter, to submit for review to the
department of public service a report detailing the service provider's
planned capital expenditures.
(ee) To submit for review to the department of public service any
proposed plan related to implementing energy efficiency measures,
distributed generation or advanced grid technology programs for the
purpose provided pursuant to paragraph (g) of subdivision three of
section three-b of the public service law.
(ff) To assist and cooperate with the department of public service
with respect to any review undertaken pursuant to section three-b of the
public service law, including providing the department with reasonable
access to all facilities and premises owned or operated by the authority
or its service provider, allowing review of all books and records of the
authority and its service provider, providing copies of requested docu-
ments, allowing interviews of all appropriate personnel, and responding
in a reasonable and timely manner to any inquiries or reporting requests
made by the department.
§ 8. Section 1020-q of the public authorities law, as added by chapter
517 of the laws of 1986 and subdivision 2 as amended by section 19 of
part Y of chapter 63 of the laws of 2000, is amended to read as follows:
§ 1020-q. Payments in lieu of taxes. 1. Each year after property ther-
etofore owned by LILCO is acquired by the authority by any means author-
ized by this title and, as a consequence, is removed from the tax rolls,
the authority shall make payments in lieu of taxes to municipalities and
school districts equal to the taxes and assessments which would have
been received from year to year by each such jurisdiction if such acquisi-

tion had not occurred, [except for such taxing jurisdictions which tax

the Shoreham plant, in which case the in lieu of tax payments shall in

the first year after the acquisition be equal to one hundred percent of

the taxes and assessments which would have been received by such taxing

jurisdictions. In each succeeding year such in lieu of tax payments

shall be decreased by ten percent until such time as such payments equal

taxes and assessments which would have been levied on such plant in a

nonoperative state] provided, however, that for the calendar year start-
ing on January first, two thousand fifteen, 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.

2. The authority shall also make payments in lieu of taxes for those

taxes which would otherwise be imposed [upon LILCO, if LILCO were to

continue in operation,] pursuant to sections one hundred eighty-six-a

and one hundred eighty-six-c of the tax law, [and to former sections one

hundred eighty-six and one hundred eighty-six-b of the tax law as such

sections one hundred eighty-six and one hundred eighty-six-b were in

effect on December thirty-first, nineteen hundred ninety-nine, paragraph

(b) of subdivision four of section one hundred seventy-four of the navi-
gation law,] and any taxes imposed by a city pursuant to the authori-

zation granted by section twenty-b of the general city law.

3. No municipality or governmental subdivision, including a school

district or special district, shall be liable to the authority or any

other entity for a refund of property taxes originally assessed against

the Shoreham plant. Any judicial determination that the Shoreham plant

assessment was excessive, unequal or unlawful for any of the years from
nineteen hundred seventy-six to the effective date of this title shall not result in a refund by any taxing jurisdiction of taxes previously paid by LILCO pursuant to such Shoreham plant assessment. The authority shall discontinue and abandon all proceedings, brought by its predecessor in interest, which seek the repayment of all or part of the taxes assessed against the Shoreham plant.

§ 9. Subdivision 1 of section 1020-s of the public authorities law, as amended by chapter 388 of the laws of 2011, is amended to read as follows:

1. The rates, services and practices relating to the electricity generated by facilities owned or operated by the authority shall not be subject to the provisions of the public service law or to regulation by, or the jurisdiction of, the public service commission, except to the extent (a) article seven of the public service law applies to the siting and operation of a major utility transmission facility as defined therein, (b) article ten of such law applies to the siting of a generating facility as defined therein, [and] (c) section eighteen-a of such law provides for assessment for certain costs, property or operations, and (d) to the extent that the department of public service reviews and makes recommendations with respect to the operations and provision of services of, and rates and budgets established by, the authority pursuant to section three-b of such law.

§ 10. Section 1020-w of the public authorities law, as added by chapter 517 of the laws of 1986, is amended to read as follows:

§ 1020-w. Audit and annual reports. The accounts of the authority shall be subject to the supervision of the state comptroller and an annual audit shall be performed by an independent certified accountant selected by the [state division of the budget] authority, upon recommen-
dation of its finance and audit committee. The authority shall submit annually to the governor, the state comptroller, the temporary president of the senate, the speaker of the assembly and the county executives and governing bodies of the counties of Suffolk and Nassau, a detailed report pursuant to the provisions of section two thousand eight hundred of [title one of article nine of] this chapter, which report shall be verified by the chairman of the authority. The authority shall comply with the provisions of sections two thousand eight hundred one, two thousand eight hundred two and two thousand eight hundred three of [title one of article nine of] this chapter.

§ 11. Section 1020-cc of the public authorities law, as amended by chapter 413 of the laws of 2011, is amended to read as follows:

§ 1020-cc. Authority subject to certain provisions contained in the [state finance law,] the public service law[,] and the social services law [and the general municipal law]. [All contracts of the authority shall be subject to the provisions of the state finance law relating to contracts made by the state.] The authority shall also establish rules and regulations with respect to providing to its residential gas, electric and steam utility customers those rights and protections provided in article two and sections one hundred seventeen and one hundred eighteen of the public service law and section one hundred thirty-one-s of the social services law. The authority shall conform to any safety standards regarding manual lockable disconnect switches for solar electric generating equipment established by the public service commission pursuant to subparagraph (ii) of paragraph (a) of subdivision five and subparagraph (ii) of paragraph (a) of subdivision five-a of section sixty-six-j of the public service law. [The authority shall let contracts for construction or purchase of supplies, materials, or equip-
ment pursuant to section one hundred three and paragraph (e) of subdivi-
sion four of section one hundred twenty-w of the general municipal law.] § 12. Paragraph (b) of subdivision 4 of section 94-a of the executive law, as amended by chapter 8 of the laws of 2012, is amended to read as follows:

(b) The utility intervention unit shall have the power and duty to:

(i) on behalf of the secretary, initiate, intervene in, or participate in any proceedings before the public service commission or the depart-
ment of public service, to the extent authorized by sections three-b, twenty-four-a, seventy-one, eighty-four or ninety-six of the public service law or any other applicable provision of law, where he or she deems such initiation, intervention or participation to be necessary or appropriate;

(ii) represent the interests of consumers of the state before federal, state and local administrative and regulatory agencies engaged in the regulation of energy services; and

(iii) [accept and investigate complaints of any kind from Long Island power authority consumers, attempt to mediate such complaints where appropriate directly with such authority and refer complaints to the appropriate state or local agency authorized by law to take action with respect to such complaints.] hold regular forums in each of the service territories of the combination gas and electric corporations, as defined under section two of the public service law, and the Long Island power authority to educate consumers about utility-related matters and the regulatory process, opportunities to lower energy costs, including through energy efficiency and distributed generation, and other matters affecting consumers.
§ 13. Notwithstanding any other provision of law to the contrary,
including but not limited to any provision of law related to rebidding,
letting or amending contracts of any amount, the Long Island power
authority is authorized to amend the operating service agreement, dated
December 28, 2011, entered between such authority and PSEG, Long Island,
LLC, including Amendment No. 1 thereto, approved on June 27, 2012, sole-
ly by adoption of a resolution by a majority of the authority's board of
trustees.

§ 14. This act shall supersede the fifth project condition established
in Resolution No. 97-LI-1 of the public authorities control board, dated
July 16, 1997, related to the implementation of certain rate increases.

§ 15. This act shall take effect on January 1, 2014; provided, howev-
er, that section twelve of this act shall take effect on April 1, 2014,
and sections five, ten, eleven, thirteen and fourteen of this act shall
take effect immediately; provided, however, that the amendments to
subdivision 6 of section 18-a of the public service law made by section
two of this act shall not affect the repeal of such subdivision and
shall be deemed repealed therewith.

PART B

Section 1. Legislative findings. The legislature hereby finds and
determines:

1. On May 28, 1990, Long Island Power Authority (the authority)
acquired all the capital stock and associated assets, including trans-
mission and distribution (T&D) system assets of Long Island Lighting
Company (LILCO) which does business as the retail electric utility on
Long Island, New York under the name of LIPA. In connection with that
acquisition, the authority took over ultimate responsibility for providing electric utility service to residential, commercial, industrial, nonprofit and governmental customers in the counties of Suffolk and Nassau and a portion of the county of Queens (hereinafter referred to as the "service area"). Such acquisition effectively converted LILCO from an investor-owned utility that was comprehensively regulated by the New York Public Service Commission (PSC) and the United States Federal Energy Regulatory Commission (FERC), to a municipal utility that is not comprehensively regulated either by the PSC or FERC.

2. Since May 28, 1998, neither the Authority nor LIPA has directly operated or maintained the T&D system assets, provided electric service or billed and collected T&D rates from LIPA's customers; instead, the authority and LIPA have contracted out virtually all of these activities to other companies. Most of these operations and service responsibilities have been contracted out to affiliates of a company now known as National Grid plc (National Grid), a multi-national electric and gas utility company organized under the laws of England and Wales pursuant to a management services agreement. Thus, while the LIPA name appears on customer bills as well as on service trucks and other equipment used in the service area, affiliates of National Grid have been principally in charge of management and operation of the T&D system assets and providing electricity to consumers in the service area. The authority and LIPA have now contracted with affiliates of Public Service Enterprise Group and Lockheed Martin Services Inc. (PSEG-Lockheed) to provide operation and maintenance services for the T&D system assets for ten years starting January 1, 2014, when the National Grid contract expires.

3. High costs of electric utility service poses a serious threat to the economic well-being, health and safety of the residents of and the
commerce and industry in the service area. High costs of electric utility service deter commerce and industry from locating in the service area and have caused existing commerce and industry to consider seriously moving out of the service area.

4. High debt and associated debt service contribute to the authority's high electric rates. The authority has approximately seven billion dollars in outstanding debt, a substantial portion of which was issued to refinance debt associated with construction of the now abandoned Shoreham nuclear power plant. The annual debt service associated with such bonds puts pressure on the authority's customer rates.

5. As of December 31, 2012, the three major rating agencies generally rated the authority's debt in the single-A range, though Moody's Investors Services assigns approximately seven hundred million dollars of the authority's debt slightly lower ratings of Baal and Baa2.

6. If securitized restructuring bonds were issued by a bankruptcy-remote entity with a AAA or equivalent rating in current market conditions to finance a portion of the costs of purchasing, redeeming or defeasing outstanding debt of the authority, and other associated costs, the debt service on the authority's debt could be reduced and the costs of electric utility service could be lowered.

7. Securitized restructuring bonds are likely to be most attractive to the investing public and result in the lowest possible yields if they are issued by a newly organized, special purpose public benefit corporation or other corporate municipal instrumentality of the state.

8. The purpose of this act is to provide a legislative foundation for the issuance of securitized restructuring bonds to refinance outstanding debt of the authority, a significant portion of which relates to LILCO's costs of constructing and financing the now abandoned Shoreham nuclear
power plant, including the creation of restructuring property by the
authority to provide for the redemption or defeasance of a portion of
the outstanding debt of the authority. It is the intent of the legisla-
ture to authorize, for the purpose of reducing electric utility costs to
consumers in the service area, the following: (a) the organization of a
restructuring bond issuer as a special purpose corporate municipal
instrumentality of the state, created for the limited purpose of issuing
securitized restructuring bonds to purchase restructuring property to
finance the cost of purchasing, redeeming or defeasing a portion of the
outstanding debt of the authority and associated costs, which securi-
tized restructuring bonds create no new financial obligations or liabil-
ities for the authority or for the state; and (b) implementation of
contracts with owners of the securitized restructuring bonds through a
statutory pledge and agreement that the state will not in any way take
or permit any action to revoke, modify, impair, postpone, terminate or
amend this act in any manner that is materially adverse to the owners of
the restructuring bonds until those bonds are no longer outstanding and
all amounts due and owing under the related transaction documents have
been paid in full.

9. Accordingly, the issuance of securitized restructuring bonds is
expected to result in lower aggregate distribution and transmission
charges and transition charges, compared to other available alterna-
tives.

§ 2. Definitions. As used or referred to in this act, unless a differ-
ing meaning clearly appears from the context:

1. "Ancillary agreement" means any bond insurance policy, letter of
credit, reserve account, surety bond, swap arrangement, hedging arrange-
ment, liquidity or credit support arrangement or other similar agreement
or arrangement entered into in connection with the issuance of restructuring bonds that is designed to promote the credit quality and marketability of such restructuring bonds or to mitigate the risk of an increase in interest rates.

2. "Approved restructuring costs" means, to the extent approved as such under a restructuring cost financing order, (a) costs of purchasing, redeeming or defeasing a portion of outstanding debt of the authority, including bonds and notes issued by the authority, debt issued by the New York state energy research and development authority for the benefit of the LILCO; (b) costs of terminating interest rate swap contracts and other financial contracts entered into by or for the benefit of the authority and related to debt obligations of the authority; (c) rebate, yield reduction payments and any other amounts payable to the United States Treasury or to the Internal Revenue Service to preserve or protect the federal tax-exempt status of outstanding debt obligations of the authority; and (d) upfront financing costs associated with restructuring bonds.

3. "Assignee" means any individual, corporation, limited liability company, partnership or limited partnership, trust or other legally-recognized entity to which an interest in restructuring property is assigned, sold or transferred, other than as security, including any assignee of that party.

4. "Authority" means Long Island Power Authority, a corporate municipal instrumentality and political subdivision of the state.

5. "Consumer" means any individual, governmental body, trust, business entity, nonprofit organization or other legally-recognized entity that takes electric delivery service within the service area by means of electric transmission or distribution facilities, whether those electric
transmission or distribution facilities are owned by LIPA or any other
entity.

6. "Financing cost" means the costs to issue, service, repay, or refi-
nance restructuring bonds, whether incurred upon issuance of such
restructuring bonds or over the life of the restructuring bonds, and
approved for recovery in a restructuring cost financing order. Without
limitation, "financing cost" may include, as applicable, any of the
following:

(a) principal, interest and redemption premiums payable on restructur-
ing bonds;

(b) any payment required under an ancillary agreement and any amount
required to fund or replenish a debt service reserve account or other
account established under any indenture, ancillary agreement or other
financing document relating to the restructuring bonds;

(c) any federal, state or local taxes, payments in lieu of taxes,
franchise fees or license fees imposed on transition charge revenues;

and

(d) any cost related to issuing restructuring bonds, administering the
restructuring bond issuer and servicing restructuring property and
restructuring bonds, or related to the efforts to prepare or obtain
approval of a restructuring cost financing order, including, without
limitation, costs of calculating adjustments of transition charges,
servicing fees and expenses, trustee fees and expenses, legal fees and
expenses, accounting fees and expenses, administrative fees and
expenses, placement fees, underwriting fees, fees and expenses of the
authority's advisors and outside counsel, if any, rating agency fees and
any other related cost that is approved for recovery in the restructur-
ing cost financing order.
7. "Financing entity" means the restructuring bond issuer, the authority or any servicer, trustee, collateral agent, and other person or entity acting for the benefit of owners of the restructuring bonds, the restructuring bond issuer or the authority that may own restructuring property or have rights to receive proceeds of restructuring bonds or to receive proceeds from the sale of restructuring property.

8. "LIPA" means Long Island Lighting Company, currently doing business under the name of LIPA.

9. "Ongoing financing costs" means financing costs that are not upfront financing costs. Ongoing financing costs include: (a) principal, interest and redemption premiums payable on restructuring bonds; (b) any payment required under an ancillary agreement and any amount required to replenish a debt service reserve account or other account established under any indenture, ancillary agreement or other financing document relating to restructuring bonds; (c) any federal, state or local taxes, payments in lieu of taxes, franchise fees or license fees imposed on transition charge revenues; and (d) any cost related to administering the restructuring bond issuer and servicing restructuring property or restructuring bonds, including, without limitation, costs of calculating adjustments of transition charges, servicing fees and expenses, administrative fees and expenses, trustee fees and expenses, and legal fees and expenses, accounting fees and expenses, and rating agency fees, approved for recovery in the restructuring cost financing order. Ongoing financing costs shall include any excess of actual upfront financing costs over the estimate of upfront financing costs included in the principal amount of the restructuring bonds.

10. "Restructuring bond issuer" means the corporate municipal instrumentality of the state created under section four of this act.
11. "Restructuring bonds" means bonds or other evidences of indebtedness that are issued pursuant to an indenture or other agreement of the restructuring bond issuer under a restructuring cost financing order (a) the proceeds of which are used, directly or indirectly, to recover, finance, or refinance approved restructuring costs, (b) that are directly or indirectly secured by, or payable from, restructuring property, and (c) that have a term no longer than thirty years.

12. "Restructuring cost financing order" means an order by the authority, adopted in accordance with this act, which approves the imposition and collection of transition charges, and the financing of approved restructuring costs and upfront financing costs through the sale of restructuring property and the issuance of restructuring bonds, and which includes a procedure to require periodic adjustments to transition charges to ensure the collection of transition charges sufficient to provide for the timely payment of scheduled debt service on the restructuring bonds and all other ongoing financing costs contemplated by the restructuring cost financing order.

13. "Restructuring property" means the property rights and interests created pursuant to this act, including, without limitation, the right, title, and interest: (a) in and to the transition charges established pursuant to a restructuring cost financing order, as adjusted from time to time in accordance with the restructuring cost financing order; (b) in and to all revenues, collections, claims, payments, money, or proceeds of or arising from the transition charges or constituting transition charges that are the subject of a restructuring cost financing order, regardless of whether such revenues, collections, claims, payments, money, or proceeds are imposed, billed, received, collected or maintained together with or commingled with other revenues, collections,
claims, payments, money or proceeds; and (c) in and to all rights to
obtain adjustments to the transition charges pursuant to the terms of
the restructuring cost financing order. Restructuring property shall
constitute a vested, presently existing property right notwithstanding
the fact that the value of the property right will depend on further
acts that have not yet occurred, including but not limited to, consumers
remaining or becoming connected to the T&D system assets and taking
electric delivery service, the imposition and billing of transition
charges, or, in those instances where consumers are customers of LIPA or
any successor owner of the T&D system assets, such owner performing
certain services.

14. "Service area" means the geographical area within which LIPA
provided electric distribution services as of the implementation date of
this act.

15. "Servicer" means an entity authorized and required, by contract or
otherwise, to impose, bill and collect transition charges, to prepare
periodic reports regarding billings and collections of transition charg-
es, to remit collections to the appropriate financing entity, and to
provide other services contemplated by the restructuring cost financing
order, which may include calculation of periodic adjustments to the
transition charges or providing other services related to the restruc-
turing property. Without limitation, LIPA or any successor owner of the
T&D system assets, their agents or subcontractors, or any entity author-
ized to bill and collect T&D rates may be a servicer.

16. "Servicing fee" means, except to the extent otherwise specified in
a restructuring cost financing order, the periodic amount paid pursuant
to a servicing agreement, indenture or other such document to a servicer
of restructuring property which amount shall approximate the estimated
1. incremental cost of imposing, billing and collecting transition charges, preparing servicing reports and performing other customary servicing services required in connection with securitized bonds. A restructuring cost financing order may authorize a smaller fee payable to a successor servicer that is affiliated with a successor owner of the T&D system assets if the incremental cost of providing servicing services is less than LIPA's incremental costs. A restructuring cost financing order may authorize a larger fee payable to a successor servicer that is not affiliated with the owner of the T&D system assets or is not performing similar services with respect to the base rates of the owner of the T&D system assets if such larger fee is reasonably necessary to employ a reliable successor servicer.

17. "Successor regulator" means a regulatory department, commission or other instrumentality or subdivision of the state with jurisdiction to regulate the T&D rates of LIPA or its successor as owner of the T&D system assets.

18. "Third-party biller" means any person or entity authorized, required or entitled to bill or collect transition charges or T&D rates other than the authority, LIPA or a successor owner of the T&D system assets, or a servicer.

19. "T&D rates" means rates and charges for electric transmission and distribution services in the service area. "T&D rates" shall not include charges for the generation or resale of electricity or any charges imposed to fund public purpose programs.

20. "T&D system assets" means the physically integrated system of electric transmission and distribution facilities (and other general property and equipment used in connection therewith) owned by LIPA as of the effective date of this act or thereafter acquired for use by LIPA or
its successors in providing retail electric utility service to consumers in the service area.

21. "Transition charges" means those rates and charges relating to the T&D system assets that are separate and apart from base rates of LIPA or any successor owner of the T&D system assets and that are authorized in a restructuring cost financing order to recover from consumers the principal, interest and premium payable on restructuring bonds and the other ongoing financing costs associated with the restructuring bonds. As provided in paragraph (c) of subdivision 5 of section five of this act, transition charges shall be imposed on all consumers in the service area and collected by LIPA or any successor owner of the T&D system assets, their agents, subcontractors, assignees, collection agents or any other entity designated under the restructuring cost financing order.

22. "Upfront financing costs" means the fees and expenses, including, without limitation, expenses associated with the efforts to prepare or obtain approval of a restructuring cost financing order, as well as the fees and expenses associated with the structuring, marketing, and issuance of restructuring bonds, including, without limitation, counsel fees, structural advisory fees, underwriting fees and original issue discount, rating agency and trustee fees (including fees of trustee's counsel), accounting and auditing fees, printing and marketing expenses, stock exchange listing fees and compliance fees, filing fees, any applicable taxes, payments in lieu of taxes, the amount required to fund a debt service reserve account or other account established under any indenture, ancillary agreement or other financing document relating to the restructuring bonds, and fees and expenses of the authority's advisors and outside counsel, if any. Upfront financing costs include reimbursement to any person of amounts advanced for payment of such
costs. Upfront financing costs do not include scheduled debt service or 
other ongoing financing costs, to the extent such ongoing financing 
costs are payable from transition charge revenues. If any upfront 
financing costs cannot be reasonably determined before the principal 
amount of restructuring bonds is fixed, such financing costs shall be 
estimated and the aggregate of such estimates shall be included as an 
upfront financing cost for purposes of determining the principal amount 
of restructuring bonds to be issued. If the actual upfront financing 
costs are greater than the estimated upfront financing costs, the 
difference shall be deemed to be an ongoing financing cost; if the actual upfront financing costs are less than the estimated upfront financing costs, the proceeds corresponding to such difference shall be used to pay ongoing financing costs.

§ 3. Procedure; judicial review. 1. Standard. The authority may 
prepare a restructuring cost financing order for the purpose of issuing 
restructuring bonds to refinance outstanding debt of the authority based 
on a finding that such bond issuance is expected to result in savings to 
consumers of electric transmission and distribution services in the 
service area on a net present value basis.

2. Public hearings. Notwithstanding any other provision of law to the 
contrary, at any time after the effective date of this act, after making 
such finding, the authority shall schedule and hold one or more expedited public statement hearings on the proposed restructuring cost 
financing order. After the conclusion of such hearings and its review 
of any comments received, the authority shall finalize the restructuring 
cost financing order for submission to the board of trustees of the 
authority. If the board of trustees of the authority approves such
restructuring cost financing order, the restructuring cost financing order shall become a final rate order by the authority.

3. Appeals. Because delay in the final determination of the petition will delay the issuance of restructuring bonds, thereby diminishing savings to consumers that might be achieved if the restructuring bonds were issued promptly after the issuance of the restructuring cost financing order, notwithstanding any other law to the contrary, any action, suit or proceeding to which the authority or the restructuring bond issuer may be a party, in which any question arises as to the validity of this act or any restructuring cost financing order, shall be preferred over all other civil causes in all courts of the state, except election matters, and shall be heard and determined in preference to all other civil business pending therein, except election matters, irrespective of position on the calendar. Such preference shall also be granted upon application of counsel to the authority in any action or proceeding questioning the validity of this act or any restructuring cost financing order in which such counsel may be allowed to intervene. Notwithstanding any other provision of law to the contrary, the validity of this act may only be challenged by an aggrieved party pursuant to an action, suit or proceeding filed within thirty days of the effective date of this act, and the validity of any restructuring cost financing order may only be challenged by an aggrieved party pursuant to an action, suit or proceeding filed within thirty days after such restructuring cost financing order becomes a final rate order by the authority; provided, however, that any such action, suit or proceeding and all supporting papers shall be filed directly to the Supreme Court, Appellate Division, Second Judicial Department.
4. Expiration of appeals. The authority shall provide written notification to the restructuring bond issuer upon the authority's determination that any and all actions, suits and proceedings challenging this act and the final restructuring cost financing order have been denied or dismissed or the timing associated with the filing of such actions, suits and proceedings has lapsed or expired, and any related appeals have been exhausted or the timing related to such appeals has lapsed or expired.

5. Agreement to sell restructuring bonds. Within the time specified in the restructuring cost financing order, after receiving notice from the authority that the time for petitions and appeals has lapsed or expired, the restructuring bond issuer shall enter into an agreement with one or more underwriters or purchasers satisfactory to the authority to sell the restructuring bonds in compliance with the restructuring cost financing order. No later than the third business day after the pricing of the restructuring bonds in accordance with such agreement, the initial servicer shall determine the initial transition charges and the expected savings to consumers in accordance with the restructuring cost financing order and shall file an issuance advice letter with the authority and the restructuring bond issuer setting forth the principal amount of restructuring bonds to be issued, the pricing, the net proceeds, the initial transition charges, the expected savings to consumers and any other information required by the restructuring cost financing order. No later than the end of the third business day after the filing of such issuance advice letter, the authority shall confirm in a notice to the restructuring bond issuer that such pricing complies with the restructuring cost financing order.
6. Issuance of restructuring bonds. Within ninety days after receiving notice of confirmation from the authority, the restructuring bond issuer shall issue the restructuring bonds, in one or more series or tranches and at one or more times, pursuant to the agreement to sell the restructuring bonds. The restructuring bond issuer shall purchase the restructuring property from the authority for a purchase price equal to the net proceeds from the sale of the restructuring bonds less any amounts of such proceeds required to fund or pay upfront financing costs.

7. Irrevocability. Upon the issuance of the restructuring bonds, the transition charges, including any adjustments thereof as provided in the restructuring cost financing order, shall be deemed established by the authority as irrevocable, final and effective without further action by the authority, or any other entity. The state, including the authority or any successor regulator, thereafter may not in any way take or permit any action to reduce, impair, postpone or terminate the transition charges approved in the restructuring cost financing order, as the same may be adjusted from time to time pursuant to subdivision 3 of section five of this act, or impair the restructuring property or the collection or recovery of transition charge revenues, including, but not limited to, either directly or indirectly by taking transition charges into account when setting other rates for any owner of the T&D system assets; nor shall the amount of revenues arising with respect to restructuring property be subject in any way to reduction, impairment, postponement, or termination.

8. Application of proceeds. The restructuring bond issuer shall cause the proceeds from its issuance of the restructuring bonds to be placed in one or more separate accounts and used only to pay or fund upfront financing costs and to purchase the restructuring property from the
authority. The authority shall cause the proceeds from its sale of
restructuring property to be placed in one or more separate accounts and
used only to pay approved restructuring costs, and if funds remain in
those accounts after the payment of all approved restructuring costs, to
make a refund or credit to consumers on the same basis that transition
charges are then being imposed, to the extent such a refund or credit is
practical.

§ 4. Creation of restructuring bond issuer. 1. Creation of restruc-
turing bond issuer. For the purpose of effectuating the purposes
declared in section one of this act, there is hereby created a special
purpose corporate municipal instrumentality of the state to be known as
"LI power refinancing authority", which shall be a body corporate and
politic, a political subdivision of the state, and a public benefit
corporation, exercising essential governmental and public powers for the
good of the public. The restructuring bond issuer shall not be created
or organized, and its operations shall not be conducted, for the purpose
of making a profit. No part of the revenues or assets of the restruc-
turing bond issuer shall inure to the benefit of or be distributable to its
trustees or officers or any other private persons, except as herein
provided for actual services rendered.

2. Activities limited to issuing restructuring bonds and related
activities.

(a) The restructuring bond issuer is hereby authorized to:

(i) issue the restructuring bonds contemplated by a restructuring cost
financing order, and use the proceeds thereof to purchase or acquire,
and to own, hold and use restructuring property or to pay or fund
upfront financing costs;
(ii) contract for servicing of restructuring property and restructuring bonds and for administrative services; and

(iii) pledge the restructuring property to secure the restructuring bonds and the payment of ongoing financing costs, all pursuant to section seven of this act.

(b) So long as any restructuring bonds remain outstanding, the restructuring bond issuer shall not be authorized to merge or consolidate, directly or indirectly, with any person or entity. Additionally, the restructuring bond issuer shall not have the power or authority to incur, guarantee or otherwise become obligated to pay any debt or other obligations other than the restructuring bonds and financing costs unless otherwise permitted by the restructuring cost financing order. The restructuring bond issuer shall keep its assets and liabilities separate and distinct from those of any other entity.

(c) The restructuring bond issuer shall have no additional authority to engage in other business activities; provided, however, that in connection with the powers specified in paragraph (a) of subdivision 2 of this section, as a financing entity, the restructuring bond issuer shall have the power to:

(i) sue and be sued;

(ii) have a seal and alter the same at pleasure;

(iii) make and alter by-laws for its organization and internal management and make rules and regulations governing the use of its property;

(iv) make and execute contracts and all other instruments necessary or convenient for the exercise of its powers and functions under this act and to commence any action to protect or enforce any right conferred upon it by any law, contract or other agreement, including, without limitation, make and execute contracts with the authority, LIPA or any
successor owner of the T&D system assets, any servicers, any financing
entity or any other public or private entities to service restructuring
property owned by restructuring bond issuer, to service restructuring
bonds issued by restructuring bond issuer, and to provide services in
administering the restructuring bond issuer, and to pay compensation for
such services;
(v) appoint officers, agents and employees, prescribe their duties and
qualifications, fix their compensation and engage the services of
private consultants, accountants, counsel and others on a contract basis
for rendering professional and technical assistance and advice;
(vi) pay its operating expenses, scheduled debt service on the
restructuring bonds and other ongoing financing costs;
(vii) issue restructuring bonds and provide for the rights of the
holders thereof;
(viii) procure insurance against any loss in connection with its
activities, properties and assets in such amount and from such insurers
as it deems desirable;
(ix) invest any funds or other moneys under its custody and control in
investment securities or under any ancillary agreement;
(x) establish and maintain such reserves, special funds and accounts,
to be held in trust or otherwise, as may be required by agreements made
in connection with the restructuring bonds, or any agreement between
itself and third parties;
(xl) as security for the payment of the principal of and interest on
any restructuring bonds issued by it pursuant to this act, and any
agreement made in connection therewith, pledge all or any part of its
revenues or assets, including, without limitation, restructuring proper-
ty, unspent proceeds of its restructuring bonds, transition charge
1 revenues, and earnings from the investment and reinvestment of unspent
2 proceeds of its restructuring bonds and transition charge revenues; and
3 (xii) do any and all things necessary or convenient to carry out its
4 purposes and exercise the powers expressly given and granted in this
5 section.

6 3. No authority to file for bankruptcy protection. The restructuring
7 bond issuer shall not be authorized to be a debtor under chapter 9 of
8 the United States Bankruptcy Code or any other provision of the United
9 States Bankruptcy Code. No governmental officer or organization is
10 empowered to authorize, whether by executive order or otherwise,
11 restructuring bond issuer to be a debtor under chapter 9 of the United
12 States Bankruptcy Code or any other provision of the United States Bank-
13 ruptcy Code. Until at least one year and one day after all restructuring
14 bonds issued by restructuring bond issuer have ceased to be outstanding
15 and all unpaid financing costs have been paid, the state hereby pledges,
16 contracts and agrees with owners of restructuring bonds issued by
17 restructuring bond issuer that the state will not limit or alter the
18 denial of authority to the restructuring bond issuer to be a debtor
19 under chapter 9 of the United States Bankruptcy Code or any other
20 provision of the United States Bankruptcy Code.

21 4. Governance. The restructuring bond issuer shall be governed by a
22 board consisting of three trustees appointed by the governor. The trust-
23 ees shall not be trustees, directors, officers, or employees of the
24 authority, LIPA or any successor owner of the T&D system assets.
25 (a) One of the trustees first appointed shall serve for a term ending
26 four years from January first next succeeding his appointment; one of
27 such trustees shall serve for a term ending five years from such date;
28 and one of such trustees shall serve for a term ending six years from
such date. Their successors shall serve for terms of six years each.

Trustees shall continue in office until their successors have been appointed and qualified and the provisions of section 39 of the public officers law shall apply. In the event of a vacancy occurring in the office of a trustee by death, removal, resignation or otherwise, the Governor shall appoint a successor to serve for the balance of the unexpired term.

(b) Trustees shall serve without salary or other compensation, but each trustee shall be entitled to reimbursement for actual and necessary expenses incurred in the performance of his or her official duties. Anything to the contrary contained in this act notwithstanding, any trustee who also serves as an employee of restructuring bond issuer shall be entitled to receive such salary as the trustees may determine for services as such employee.

(c) A majority of the trustees shall constitute a quorum for the transaction of any business or the exercise of any power or function of restructuring bond issuer. Any one or more trustees may participate in a meeting of the board by means of a conference telephone or similar communications equipment allowing all persons participating in the meeting to hear each other at the same time. Participation by such means shall constitute presence in person at a meeting. The board may delegate to one or more of its trustees, or officers, agents and employees, such powers and duties as the board may deem proper.

(d) Such trustees other than those serving as employees of restructuring bond issuer may engage in private employment, or in a profession or business. Restructuring bond issuer, its trustees, officers and employees shall be subject to the provisions of sections 73 and 74 of the public officers law.
(e) Notwithstanding any inconsistent provision of law to the contrary, general, special or local, no officer of the state or of any civil division thereof shall be deemed to have forfeited or shall forfeit his or her office or employment by reason of his or her acceptance of an appointment as trustee of restructuring bond issuer.

(f) The governor may remove any trustee for inefficiency, neglect of duty or misconduct in office after giving him or her a copy of the charges against him or her and an opportunity to be heard, in person or by counsel, in his or her defense, upon not less than ten days notice. If any trustee shall be so removed, the governor shall file in the office of the department of state a complete statement of the charges made against such trustee and his or her findings thereon, together with a complete record of the proceedings.

(g) Each trustee shall have a fiduciary duty to act in the best interests of the restructuring bond issuer, including its creditors, the owners of the restructuring bonds, and such other duties as may be specified in the organizational documents or other agreements of the restructuring bond issuer.

(h) The restructuring bond issuer and its corporate existence shall continue until one year and one day after all restructuring bonds and ongoing financing costs and other indebtedness of restructuring bond issuer have been actually paid and all its other liabilities and obligations have been paid, met or otherwise discharged. Upon termination of the existence of restructuring bond issuer, all of its rights and property shall pass to and be vested in the state.

§ 5. Restructuring cost financing orders. 1. Content of restructuring cost financing orders. The restructuring cost financing order shall include the following: (i) a description of the approved restructuring
costs; (ii) the amount of approved restructuring costs that the author-ty proposes to pay through the sale of the restructuring property and the issuance of the restructuring bonds; (iii) designation of the authority as the entity in which initial ownership of restructuring property will vest; (iv) an estimate of the date on which restructuring bonds will be issued and the expected scheduled term to maturity of the restructuring bonds; (v) a description of the estimated debt service on the restructuring bonds and other ongoing financing costs that may be recovered through transition charges; as part of this description, the restructuring cost financing order may include qualitative or quantitative limitations on financing costs approved to be recovered provided that no such limitation on financing costs shall impair the ability of the restructuring bond issuer to pay and service the restructuring bonds in accordance with their terms; (vi) a proposed methodology for allocating transition charges on an equal percentage basis among customer service classifications and among volumetric (kWh) and demand (kW) charges within those customer service classifications, along with an associated bill impact analysis of the proposed methodology; (vii) a description of the proposed adjustment mechanism to reconcile actual collections with forecasted collection on at least an annual basis and a finding that the adjustment mechanism is just and reasonable; (viii) a description of the benefits to consumers in the service area that are expected to result from the sale of the restructuring property and the issuance of restructuring bonds as opposed to traditional alternative financing mechanisms; (ix) specifying the entity that will contract to act as servicer with respect to the restructuring property and the restructuring bonds on terms and conditions mutually acceptable to such servicer and the restructuring bond issuer; (x) specifying the entity or
entities that will contract to provide administrative or other services
to the restructuring bond issuer; (xi) specifying when the restructuring
property will be created and vest and addressing such other matters as
may be necessary or desirable for the marketing or servicing of the
restructuring bonds or the servicing of the restructuring property;
(xii) authorizing the imposition, billing and collection of transition
charges to pay debt service on the restructuring bonds and other ongoing
financing costs; (xiii) a description of the restructuring property that
will be created and that may be used to pay and secure the payment of
the restructuring bonds approved to be issued in the restructuring cost
financing order; (xiv) a requirement that the amounts in the debt
service reserve accounts or other accounts funded with the proceeds of
restructuring bonds or transition charges be fully used, to the extent
practical, to make the final payments of principal and interest on the
restructuring bonds and other ongoing financing costs or to make refunds
to consumers on the same basis as such consumers would have then been
obligated to pay transition costs; and (xv) the finding required by
subdivision 1 of section 3 of this act.

2. Periodic reports. A restructuring cost financing order shall
require the restructuring bond issuer or the servicer to file at least
annually with the authority and the appropriate financing entity a peri-
odic report showing the billing and collection of transition charges,
the application of transition charge revenues to debt service on the
restructuring bonds and other ongoing financing costs, and the balances
in any debt service reserve accounts or other accounts required by the
restructuring cost financing order.

3. Adjustment mechanism.
(a) Each restructuring cost financing order shall include a mathematical formula for making periodic adjustments to the transition charges. The mathematical formula shall apply the following principles:

(i) The transition charges will be adjusted at least annually to ensure that the collections of transition charges are adequate to pay principal and interest on the associated restructuring bonds when due pursuant to the expected amortization schedule, to fund all debt service reserve accounts to the required levels and to pay when due all other expected ongoing financing costs.

(ii) The adjustments of transition charges will take into account historical and reasonably foreseeable differences between amounts billed and amounts collected due to applicable taxes, consumer defaults and delays, billing lags, write-offs and other factors.

(iii) The adjustments of transition charges will take into account historical and reasonably foreseeable variations in billings due to variations in electricity consumption associated with the seasons, storms and other weather conditions, outages, gain or loss of consumers, efficiencies, electric vehicles, economic conditions or other factors.

(iv) The adjustments of transition charges will take into account any over-collection or under-collection of transition charges so that, to the extent practical, the outstanding balance of restructuring bonds is equal to the scheduled balance on the expected amortization schedule, the amounts in the debt service reserve accounts are equal to the required reserve level, and all ongoing financing costs are paid when due.

(v) The adjustments of transition charges will be applied ratably to the transition charges for each customer service classification.
(b) Once restructuring bonds have been issued, the adjustment mechanism specified in the restructuring cost financing order shall be applied to correct for any over-collection or under-collection of transition charges and to provide for timely payment of scheduled principal of and interest on the restructuring bonds and the payment and recovery of other ongoing financing costs in accordance with the restructuring cost financing order. Application of the adjustment mechanism shall occur at least annually or more frequently as provided in the restructuring cost financing order. A notice of such periodic adjustment of transition charges shall be filed with the authority by or on behalf of the owner of restructuring property and a copy shall be provided to the owner of the T&D system assets at least sixty days before the adjustment is to take effect, provided that the restructuring bond issuer may request an earlier effective date.

(c) Each adjustment to the transition charge, in amounts as calculated by or on behalf of the owner of restructuring property, shall automatically become effective sixty days following the date on which the notice of periodic adjustment is filed with the authority unless the authority approves an earlier effective date requested by the restructuring bond issuer.

(d) Notwithstanding any other provision of law to the contrary, the authority shall allow interested parties thirty days from the date of filing of the notice for adjustment within which to make comments. Such comments shall be limited to the mathematical accuracy of the calculations of the amount of the adjustments. If the authority determines that the calculation of the transition charge adjustment in the notice was mathematically inaccurate, the transition charge adjustment shall be changed as soon as it is reasonably practical to do so, but estimated
overcollections or undercollections resulting from the mathematical error shall be taken into account in the next succeeding periodic adjustment.

(e) No adjustment pursuant to this section shall in any way affect the irrevocability of the restructuring cost financing order as specified in subdivision 4 of section five of this act. No adjustment pursuant to this section shall require any approvals or action under any other law or shall be deemed to be the establishment of a new charge, fee or rate under any law.

4. Irrevocability of restructuring cost financing orders.

(a) A restructuring cost financing order shall be an irrevocable final rate order when the time for any actions, suits, proceedings and appeals challenging such final restructuring cost financing order has lapsed or expired as provided in subdivision 3 of section three of this act.

(b) A restructuring cost financing order may be amended on or after the date of issuance of restructuring bonds approved thereunder only: (i) at the request of the authority or the restructuring bond issuer; (ii) in accordance with any restrictions and limitations on amendment set forth in the restructuring cost financing order; and (iii) subject to the limitations set forth in subdivision 7 of section three of this act.

(c) This act, and any restructuring cost financing order made pursuant to this act, shall not be interpreted to alter or limit the rights vested in the authority to establish sufficient T&D rates to pay and perform all of its obligations and contracts with the authority's bondholders and others when due.

5. Effect of restructuring cost financing order.
(a) A restructuring cost financing order shall remain in effect and unabated until the restructuring bonds issued pursuant to the restructuring cost financing order have been paid in full and all ongoing financing and all amounts to be paid to an assignee or financing party under an ancillary agreement are paid or performed in full.

(b) A restructuring cost financing order shall remain in effect and unabated notwithstanding the bankruptcy, reorganization or insolvency of the authority, the restructuring bond issuer, LIPA or any successor owner of the T&D system assets, or any affiliate of the aforementioned, or the commencement of any judicial or nonjudicial proceeding therefor.

(c) For so long as restructuring bonds issued pursuant to a restructuring cost financing order are outstanding, and the related approved restructuring costs have not been paid in full, the transition charges authorized in the restructuring cost financing order shall be non-by-passable and shall apply to all consumers connected to the T&D system assets and taking electric delivery service located within the service area, whether or not the consumers produce their own electricity or purchase electric generation services from a provider of electric generation services other than the owner of the T&D system assets and whether or not the T&D system assets continue to be owned by LIPA.

§ 6. Restructuring bonds. 1. No recourse. Restructuring bonds shall be without recourse to the credit or any assets of the authority, LIPA and the restructuring bond issuer, other than the restructuring property and other assets and revenues of restructuring bond issuer as specified in the pertinent restructuring cost financing order.

2. Exemption from taxation.

(a) It is hereby found and declared that the activities of the restructuring bond issuer are primarily for the benefit of the people of
the state of New York, for the improvement of their welfare and prosperity, and is a public purpose, and the restructuring bond issuer shall be regarded as performing an essential governmental function in carrying out the provisions of this act.

(b) The restructuring bond issuer shall not be required to pay taxes or assessments upon any of the property acquired or controlled by it or upon its activities in the use thereof or upon income derived therefrom.

(c) Restructuring bonds, their transfer and the income therefrom shall, at all times, be free from taxation by the state or any municipality, except for estate and gift taxes.

3. Restructuring bonds not debt of the state. Restructuring bonds issued pursuant to a restructuring cost financing order and the provisions of this act shall not constitute a debt, general obligation or a pledge of the faith and credit or taxing power of the state or of any county, municipality or any other political subdivision, agency or instrumentality of the state. Holders of restructuring bonds shall not be taxed by the legislature or the taxing authority of any county, municipality or any other political subdivision, agency or instrumentality of this state for the payment of the principal thereof or interest thereon. The issuance of restructuring bonds does not obligate the state or any county, municipality or any other political subdivision, agency or instrumentality of the state to levy any tax or make any appropriation for payment of the principal of or interest on the restructuring bonds. All restructuring bonds must contain a statement to the following effect: "Neither the full faith and credit nor the taxing power of the state of New York is pledged to the payment of the principal of, or interest on, this bond."
4. Restructuring bonds as legal investments. Any restructuring bonds issued by the restructuring bond issuer are hereby made securities in which all public officers and bodies of this state and all municipalities, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, building and loan associations, investment companies and other persons carrying on a banking business, all trusts, estates and guardianships and all other persons whatsoever, who are now or may hereafter be authorized to invest in bonds or other obligations of this state, may properly and legally invest funds, including capital in their control or belonging to them. The restructuring bonds are also hereby made securities which may be deposited with and shall be received by all public officers and bodies of the state and all municipalities for any purpose for which the deposit of bonds or other obligations of the state is now or may hereafter be authorized.

§ 7. Restructuring property. 1. (a) Restructuring property that is created pursuant to a restructuring cost financing order shall constitute an existing, present property right, notwithstanding the fact that the imposition and collection of transition charges will depend on further acts that have not yet occurred, including but not limited to:

(i) LIPA or any successor owner of the T&D system assets delivering electric energy or related services, (ii) a servicer performing servicing functions relating to the collection of transition charges, or (iii) the level of future consumption of electric energy. Restructuring property shall exist whether or not transition charges have been imposed, billed, accrued or collected and notwithstanding the fact that the value or amount of the restructuring property is dependent on the future
provision of service to customers by LIPA or any successor owner of the T&D system assets.

(b) All restructuring property created pursuant to a restructuring cost financing order shall continue to exist until the restructuring bonds issued pursuant to such restructuring cost financing order are paid in full and all ongoing financing costs relating to the restructuring bonds have been paid in full.

(c) The restructuring property may be transferred, sold, conveyed or assigned to the restructuring bond issuer. All or any portion of restructuring property may be pledged to secure the payment of restructuring bonds, amounts payable to financing parties, amounts payable to holders of restructuring bonds, amounts payable under any ancillary agreement and other ongoing financing costs. So long as the restructuring property remains pledged to secure the restructuring bonds, revenues from the collection of transition charges shall be applied solely to the repayment of restructuring bonds and other ongoing financing costs. After the occurrence of an event of default with respect to the restructuring bonds, all or any portion of restructuring property may be transferred, sold, conveyed or assigned to any person or entity. Any transfer, sale, conveyance, assignment, grant of a security interest in or pledge of restructuring property by the authority, the restructuring bond issuer, or other financing entity, to the extent previously approved in a restructuring cost financing order, does not require the prior consent and approval of any other person or entity under the public service law or any other law.

(d) If the owner of the T&D system assets, servicer, third-party biller, or any other person or entity authorized to collect transition charges, defaults on any required remittance of transition charge reven-
ues, any court in the state, upon application by an interested party and
without limiting any other remedies available to the applying party,
shall order the sequestration and payment of the transition charge
revenues for the benefit of the owners or pledgees of restructuring
property. The order shall remain in full force and effect notwithstanding
any bankruptcy, reorganization, or other insolvency proceedings with
respect to a servicer, authority, LIPA or any successor owner of the T&D
system assets or any affiliate thereof or of any other person or entity.
(e) Restructuring property, transition charges, transition charge
revenues, and the interests of an assignee, bondholder, financing party
or any other person in restructuring property or in transition charge
revenues, are not subject to setoff, counterclaim, surcharge or defense
by a servicer, any consumer, the authority, LIPA or any successor owner
of the T&D system assets or any other person or in connection with any
default, bankruptcy, reorganization or other insolvency proceeding of
the authority, LIPA or any successor owner of the T&D system assets, any
affiliate thereof or any other entity or otherwise. To the extent that
any consumer makes a partial payment of a bill containing both transi-
tion charges and any other charges, such payment shall be allocated pro
rata between the transition charges and the other charges unless the
consumer specifies that a greater proportion of such payment is to be
allocated to the transition charges, except that the other charges shall
be reduced by the amount of any claims of setoff, counterclaim,
surcharge or defense for purposes of such allocation.
(f) Any successor owner of the T&D system assets and any successor
servicer shall be bound by the requirements of this act and shall
perform and satisfy all obligations of a servicer in the same manner and
to the same extent under a restructuring cost financing order as did
LIPA and the initial servicer, including, without limitation, the obligation to impose, bill and collect the transition charges and to pay such collections to the person entitled to receive the transition charge revenues.

2. Security interests. Any pledge of restructuring property or proceeds thereof, including any moneys, revenues or property or of a revenue producing contract or contracts constituting part of the restructuring property, made by the owner of restructuring property, shall be perfected, valid and binding from the time when the pledge is made. The proceeds, moneys, revenues or proceeds so pledged and thereafter received by the owner of restructuring property shall immediately be subject to the lien of such pledge, and such lien shall be perfected, without any physical delivery thereof or further act. The lien of any such pledge shall be perfected, valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the owner of restructuring property irrespective of whether such parties have notice thereof and shall be superior to any judicial liens or other liens obtained by such claimants or transferees. The description of the restructuring property in a pledge or security agreement and any financing statement is sufficient if and only if the description refers to this Act and the restructuring cost financing order creating such restructuring property. No instrument by which a pledge or lien is created pursuant to this subdivision need be recorded in order to perfect such pledge or lien. However, the restructuring bond issuer shall cause a financing statement describing the pledge and referring to the restructuring cost financing order and the restructuring property described therein to be filed for informational purposes only under article 9 of the uniform commercial code. The secretary of state shall
maintain any financing statement filed under this section in the same manner that the secretary maintains financing statements filed by transmitting utilities under section 9-501 of the uniform commercial code until a termination statement is filed. A pledge of restructuring property is a continuously perfected security interest and has priority over any other lien, created by operation of law or otherwise, that may subsequently attach to that restructuring property or proceeds thereof unless the holder of any such lien has agreed in writing otherwise. Any pledgee of restructuring property shall have a perfected security interest in the amount of all restructuring property revenues or other proceeds that are deposited in any deposit account or other account of the servicer or other entity in which restructuring property revenues or other proceeds have been commingled with other funds. Any other security interest that may apply to restructuring revenues or other proceeds shall be terminated when such revenues or proceeds are transferred to a segregated account for an assignee or a financing party. No application of the adjustment mechanism as described in this act shall affect the validity, perfection, or priority of a pledge of, security interest in or the sale or transfer of restructuring property.

3. Sales of restructuring property.

(a) A transfer of all or any portion of restructuring property, which the parties in the governing documentation have expressly stated to be a sale or other absolute transfer, in a transaction approved in a restructuring cost financing order, shall be treated as an absolute transfer of all of the transferor's right, title, and interest (as in a true sale), and not as a pledge or other financing, of the restructuring property, other than for federal, state and local income and franchise tax purposes.
(b) Any transfer of an interest in restructuring property shall be perfected, vested, valid and binding from the time when the transfer is made. Such transfer shall be perfected, vested, valid and binding as against the transferor, all parties having claims of any kind in tort, contract or otherwise against the transferor, and all other transferees of the transferor, irrespective of whether such parties have notice thereof and shall be superior to any judicial liens or other liens obtained by such claimants or transferees. The description of the restructuring property in a sale or transfer agreement and any financing statement is sufficient if and only if the description refers to this act and the restructuring cost financing order creating such restructuring property. No instrument by which a transfer is created pursuant to this section need be recorded in order to perfect such transfer. However, the restructuring bond issuer shall cause a financing statement describing the pledge and referring to the restructuring cost financing order and the restructuring property described therein to be filed for informational purposes only under article nine of the uniform commercial code. The secretary of state shall maintain any financing statement filed under this section in the same manner that such secretary maintains financing statements filed by transmitting utilities under section 9-501 of the uniform commercial code until a termination statement is filed.

(c) The characterization of the sale, assignment or transfer as an absolute transfer and true sale and the corresponding characterization of the property interest of the purchaser, shall not adversely be affected or impaired by, among other things, the occurrence of any of the following factors: (i) commingling of revenues or other proceeds from transition charges with other amounts; (ii) the retention by the
seller of: (A) a partial or residual interest, including an equity
interest, in the restructuring property, whether direct or indirect, or
whether subordinate or otherwise; or (B) the right to recover costs
associated with taxes, payments in lieu of taxes, franchise fees or
license fees imposed on the collection of transition charges; (iii) any
recourse that the purchaser may have against the seller; (iv) any indem-
nification rights, obligations or repurchase rights made or provided by
the seller; (v) the obligation of the seller to collect transition
charges on behalf of an assignee, including but not limited to, any
retention by the seller to bare legal title for the purpose of collect-
ing transition charges; (vi) the treatment of the sale, assignment or
transfer for tax, financial reporting or other purposes; (vii) any
subsequent order of the authority amending a restructuring cost financ-
ing order pursuant to paragraph (b) of subdivision 4 of section five of
this act; or (viii) any application of the adjustment mechanism as
provided in subdivision 3 of section five of this act.

(d) An assignee or financing party shall not be considered to be a
public utility or person providing electric service solely by virtue of
the transactions described in this act.

§ 8. Rights and duties while restructuring bonds are outstanding. 1.
Responsibilities of the authority. (a) For the purpose of investigating
compliance with the provisions of this act and the applicable restruc-
turing cost financing order, the authority shall have the right, juris-
diction, power and authority to examine the books and records of LIPA or
any successor owner of the T&D system assets, the restructuring bond
issuer, any other financing entity, any servicer, any third-party biller
and any other person or entity that owns restructuring property or has
the right to impose, bill or collect transition charges until the
restructuring bonds issued pursuant to the restructuring cost financing order have been paid in full and all financing costs relating to such restructuring bonds have been paid in full.

(b) Neither the authority nor any successor regulator may, in exercising its powers and carrying out its duties regarding regulation and ratemaking, consider restructuring bonds issued pursuant to the restructuring cost financing order to be the debt of any owner of the T&D system assets, consider transition charges paid under the restructuring cost financing order to be revenue of any owner of the T&D system assets, or consider the approved restructuring costs or ongoing financing costs specified in the restructuring cost financing order to be costs of any owner of the T&D system assets or any affiliate, nor may the authority or any successor regulator determine that any action taken by any owner of the T&D system assets that is consistent with the restructuring cost financing order is unjust or unreasonable from a regulatory or ratemaking perspective; provided that, subject to the limitations set forth in subdivision 4 of section five of this act and the state pledge in section nine of this act, nothing in this subdivision shall (i) affect the authority to apply the adjustment mechanism as provided in subdivision 3 of section five of this act; (ii) prevent or preclude the authority from investigating the compliance of any owner of the T&D system assets and of any financing entity with the terms and conditions of a restructuring cost financing order and requiring compliance therewith; or (iii) prevent or preclude the authority or any successor regulator from imposing regulatory sanctions against any owner of the T&D system assets for failure to comply with the terms and conditions of a restructuring cost financing order or the requirements of this act. When setting other rates for any owner of the T&D system
assets, nothing in this act shall prevent the authority or any successor
regulator from taking into account the collection by such owner of
servicing fees in excess of incremental costs of providing servicing
services, or the collection by such owner of administration fees in
excess of incremental costs of providing administration services;
provided that this would not result in a recharacterization of the tax,
accounting, and other intended characteristics of the financing, includ-
ing, but not limited to, either of the following: (i) treating restruc-
turing bonds as debt for federal income tax purposes; or (ii) treating
any transfer of the restructuring property to the restructuring bond
issuer or to any other financing entity as a true sale for bankruptcy
purposes.

2. Duties of financing entities and any owner of T&D system assets.

(a) Any failure of any financing entity to apply the proceeds of
restructuring bonds, or proceeds from the sale of restructuring prop-
erty, in a reasonable, prudent and appropriate manner or otherwise comply
with any provision of this act shall not invalidate, impair or affect
any restructuring cost financing order, restructuring property, transi-
tion charge, or restructuring bonds.

(b) Any owner of T&D system assets, any servicer, any third-party
biller and any other entity that bills or collects T&D rates shall
simultaneously impose, bill and collect any transition charges applica-
table to consumers in the service area, including all consumers connected
to the T&D system assets and taking electric delivery service located
within the service area, shall allocate partial payments by consumers as
provided in this act, shall terminate service to non-paying consumers on
the same basis as termination of service is permitted for non-payment of
T&D rates, shall exercise all enforcement rights of the owner or pledgee
of the restructuring property for the benefit of such owner or pledgee, and shall remit any transition charge revenue to the owner or pledgee of the restructuring property.

§ 9. State pledge. (a) The state pledges to and agrees with the holders of restructuring bonds, any assignee and all financing entities that the state will not in any way take or permit any action that limits, alters or impairs the value of restructuring property or, except as required by the adjustment mechanism described in the restructuring cost financing order, reduce, alter or impair transition charges that are imposed, collected and remitted for the benefit of the owners of restructuring bonds, any assignee, and all financing entities, until any principal, interest and redemption premium in respect of restructuring bonds, all ongoing financing costs and all amounts to be paid to an assignee or financing party under an ancillary agreement are paid or performed in full.

(b) Any person who issues restructuring bonds is permitted to include the pledge specified in subdivision (a) of this section in the restructuring bonds, ancillary agreements and documentation related to the issuance and marketing of the restructuring bonds.

§ 10. Choice of law. The law governing, as applicable, the validity, enforceability, attachment, perfection, priority and exercise of remedies with respect to the transfer of an interest or right or creation of a security interest in any restructuring property, transition charge or restructuring cost financing order, shall be the laws of the state of New York.

§ 11. Conflicts. In the event of conflict between this act and any other law regarding the attachment, assignment or perfection, or the effect of perfection, or priority of any pledge of, security interest in
or transfer of restructuring property, this act shall govern to the
extent of the conflict. In the event of conflict between this act and
the public service law, the Long Island power authority act or any other
law, this act shall govern to the extent of the conflict. Notwithstanding
any provisions of law to the contrary, no approvals, notices or
authorizations other than those specified in this act shall be required
with respect to any restructuring cost financing order, and the trans-
actions and contracts authorized in or contemplated by this act or any
restructuring cost financing order, including but not limited to the
incurrence and payment of any financing costs, the incurrence or payment
of any approved restructuring costs, the issuance of restructuring
bonds, the sale or other transfer of restructuring property, and any
contracts and expenses incurred to facilitate the preparation of any
restructuring cost financing order.

§ 12. Effect of invalidity on actions. Effective on the date that
restructuring bonds are first issued under this act, if any provision of
this act is held to be invalid or is invalidated, superseded, replaced,
repealed or expires for any reason, that occurrence shall not affect any
action allowed under this act that is taken by the authority, LIPA, the
restructuring bond issuer, any owner of T&D system assets, an assignee,
a collection agent, a financing party, a holder of restructuring bonds
or a party to an ancillary agreement and any such action shall remain in
full force and effect.

§ 13. Effectiveness of the act. The authority may not adopt its first
restructuring cost financing order after the five year period after the
effective date of this act. This section shall not be construed to
preclude the authority from adopting any subsequent restructuring cost
financing orders after such period.
§ 14. Severability. If any section, subdivision, paragraph or subparagraph of this act or the application thereof to any person, circumstance or transaction is held by a court of competent jurisdiction to be unconstitutional or invalid, the unconstitutionality or invalidity shall not affect the constitutionality or validity of any other section, subdivision, paragraph or subparagraph of this act or its application or validity to any person, circumstance or transaction, including, without limitation, the irrevocability of a restructuring cost financing order issued pursuant to this act, the validity of the issuance of restructuring bonds, the imposition of transition charges, the transfer or assignment of restructuring property or the collection and recovery of revenues from transition charges. To these ends, the legislature hereby declares that the provisions of this act are intended to be severable and that the legislature would have enacted this act even if any section, subdivision, paragraph or subparagraph of this act held to be unconstitutional or invalid had not been included in this act.

§ 15. Standing. (a) The owner of restructuring property, or the trustee representing holders of restructuring bonds, shall be expressly permitted hereby to bring actions against any owner of the T&D system assets, any third-party biller, or any other entity authorized to bill or collect T&D rates, any consumers in the service area or any other person or entity for failure to impose, bill, pay or collect any transition charges constituting part of the restructuring property then held pledged as security for such restructuring bonds or for enforcement of any other provision of this act or the applicable restructuring cost financing order.

(b) Except as provided in section three of this act, any court and the authority shall have jurisdiction over any actions for failure to
impose, bill, pay or collect any transition charges or for enforcement
of other provision of this act or any restructuring cost financing
order.

§ 16. Third-party billing. If and to the extent that third parties are
allowed to bill and/or collect any transition charges, the authority,
any successor regulator, and any owner of the T&D system assets will
take steps to ensure non-bypassability and minimize the likelihood of
default by third-party billers, which generally would include (i) opera-
tional standards and minimum credit requirements for any such third-par-
ty biller, or require a cash deposit, letter of credit or other credit
mitigant in lieu thereof, to minimize the likelihood that defaults by a
third-party biller would result in an increase in transition charges
thereafter billed to consumers, (ii) a finding that, regardless of who
is responsible for billing, consumers shall continue to be responsible
for transition charges, (iii) if a third party meters and bills for the
transition charges, that the owner of the T&D system assets and any
servicer must have access to information on billing and usage by consum-
ers to provide for proper reporting to the restructuring bond issuer and
to perform its obligations as servicer, (iv) in the case of a default by
a third-party biller, billing responsibilities must be promptly trans-
ferred to another party to minimize potential losses, and (v) the fail-
ure of consumers to pay transition charges shall allow service termi-
nation by the owner of the T&D system assets on behalf of the
restructuring bond issuer of the consumers failing to pay transition
charges in accordance with service termination rules and orders applica-
able to T&D rates. Any costs associated with such third-party billing
and/or collection shall be included as part of the recoverable ongoing
financing costs or other rates or charges, as appropriate. Further, the
authority and any successor regulator shall not permit implementation of
any third-party billing or collection that would result in a reduction
or withdrawal of the then current ratings on any tranche or series of
the restructuring bonds by any nationally recognized statistical rating
organization designated by the restructuring bond issuer.

§ 17. This act shall take effect immediately.

§ 2. Severability clause. If any clause, sentence, paragraph, subdivi-
sion, section or part of this act shall be adjudged by any court of
competent jurisdiction to be invalid, such judgment shall not take
affect, impair, or invalidate the remainder thereof, but shall be
confined in its operation to the clause, sentence, paragraph, subdivi-
sion, section or part thereof directly involved in the controversy in
which such judgment shall have been rendered. It is hereby declared to
be the intent of the legislature that this act would have been enacted
even if such invalid provisions had not been included herein.

§ 3. This act shall take effect immediately; provided, however, that
the applicable effective date of Parts A through B of this act shall be
as specifically set forth in the last section of such Parts.