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OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

IN THE MATTER OF
LONG ISLAND LIGHTING COMPANY
(Shoreham Nuclear Power Station,
Unit 1)

SUFFOLK COUNTY, STATE OF NEW YORK,
AND TOWN OF SOUTHAMPTON MOTION FOR
RECONSIDERATION OF CLI-86-11

On June 6, 1986, the Commission issued a Memorandum and Order, CLI-86-11, directing that a Licensing Board be appointed to conduct proceedings on the February 13, 1986, Shoreham exercise. Subsequent to June 6, two events have occurred which require the NRC to reconsider its direction that post-exercise litigation commence:

- 1 The NRC has previously been supplied with the Nassau County Board of Supervisors' resolutions. See Letter from Thomas L.

DS03

2. On July 3, the State of New York enacted legislation which creates a municipal power authority (the Long Island Power Authority ("LIPA")) to take over LILCO. LIPA is specifically prohibited from operating the Shoreham Nuclear Power Plant.²

These two developments require the NRC to reconsider its order that post-exercise litigation should proceed.³

Presumably, the premise of the Commission's ruling in CLI-86-11 was that the results of the February 13 Shoreham exercise provided a basis for meaningful litigation. Based on that premise, the Commission directed that litigation be conducted regarding matters, revealed by the exercise, which preclude a finding of reasonable assurance that adequate protective measures can and will be taken, i.e., "fundamental flaws" in the LILCO plan. As stated in previous filings, Suffolk County, the State of New York, and the Town of Southampton ("Governments") disagree

Carroll, Counsel to the Nassau County Board of Supervisors, to Nunzio Palladino, June 23, 1986.

2 A copy of the New York State LIPA legislation is attached hereto.

3 The Licensing Board ruled at a prehearing conference held July 8, 1986, that it did not have jurisdiction to consider the impact of these events on the post-exercise litigation, although it did indicate that contentions on the Coliseum matter would be considered. See ASLB Memorandum and Order (Prehearing Conference, July 8, 1986), dated July 11, 1986, pp. 2-3. The Board indicated that it believed the Commission was the proper entity to consider the matters. See July 8, 1986 Transcript, 16,100, 16,104.

with the Commission's initial premise because the most fundamental and fatal flaw in LILCO's Plan -- it is illegal and cannot be implemented -- has already been identified and acknowledged by all parties, except for LILCO.⁴ Setting that point aside, however, since the issuance of CLI-86-11, events have occurred which mean that the exercise and the most basic premises of that exercise -- the existence of a bona fide license applicant and the existence of a relocation center -- no longer have any validity. Thus, assuming arguendo that there was a basis for exercise litigation when CLI-86-11 was issued, subsequent events have changed the facts and eliminated any rational basis for the parties or this Commission to expend time or resources in litigating the results of activities on February 13 which have now been rendered irrelevant.

In view of these events, the Governments move the NRC:
(a) to reconsider CLI-86-11; and (b) on reconsideration, to rule that the post-exercise litigation should proceed no further. The bases for the foregoing relief are set forth below.

⁴ See, e.g. Suffolk County, State of New York and Town of Southampton Motion for Cancellation of Emergency Planning Exercise (December 24, 1985).

II. Discussion

A. There is no Longer Any Relocation Center in the LILCO Plan

The February 13 exercise was fundamentally premised on the existence of a relocation center where evacuees would be directed to go for radiological monitoring and decontamination of themselves and their vehicles, where hundreds of buses and vans carrying persons out of the EPZ would report, discharge passengers, and be decontaminated, where evacuees would be registered, reunited with family members, and provided with assistance in seeking health care, housing, food and other services, and from which evacuees would be provided directions, or transportation to "congregate care centers" for sheltering. It was assumed during the exercise that the Nassau Coliseum was available to LILCO to be such a relocation center.⁵ All exercise activities relating to evacuation -- that is, everything that took place from approximately 10 a.m. until the exercise ended at 4:30 p.m.⁶ -- were premised on that basic assumption.⁷ Indeed, during the exercise

5 The Governments had argued previously that LILCO lacked any valid agreement for use of the Coliseum. However, the ASLB had essentially ignored the issue in arriving at its decision in LBP-85-13. See 22 NRC 410 (1985), rev'd, ALAB-832, 23 NRC 135, 157-162 (1986), review petition pending.

6 The exercise began at about 5:15 a.m. Although the decision to recommend evacuation was not made until approximately 10:00 a.m., beginning shortly after 8:00 the "players" began preparing for an evacuation recommendation, including various activities involving the Nassau Coliseum. The first EBS message recommending evacuation was simulated at 10:24 a.m.

7 For example, during the exercise all evacuation bus routes including those supposedly carrying school children were assumed

the LILCO "players" in simulated EBS radio announcements "advised" approximately 100,000 "evacuees" to report to the Nassau Coliseum for monitoring and decontamination because they had potentially been exposed to radiation during their supposed evacuation efforts.

On June 16, 1986, however, the Nassau County Board of Supervisors enacted a resolution which rendered irrelevant all of the foregoing exercise premises. Thus, in pertinent part, the resolution specifies:

RESOLVED, that the purported designation of the Nassau Veterans Memorial Coliseum by the Long Island Lighting Company as a Nuclear Disaster Evacuation Center be and the same is hereby declared a nullity, contrary to law and void; and be it further

RESOLVED, that no Nassau County facilities, including the Nassau Veterans Memorial Coliseum, are or will be available for the use by the Long Island Lighting Company, or by the Facility Management Corporation of New York, Inc., as part of the Long Island Lighting Company emergency plan, unless prior approval by resolution is first obtained from the Nassau County Board of Supervisors;

ultimately to terminate at the Nassau Coliseum; evacuees in private vehicles were supposedly routed out of the EPZ on routes intended to take them to the Coliseum; and the only site for radiological monitoring and decontamination of evacuees was the Coliseum.

(emphasis added). Clearly, the Board of Supervisors' resolution, which was signed into law by Henry W. Dwyer, the acting Nassau County Executive, renders the entire February 13 exercise meaningless.

Even assuming arguendo that the exercise could have demonstrated that the LILCO Plan could be implemented -- an assumption with which the Governments strongly disagree -- such a "demonstration" makes no difference given the recent events. Thus, whether LILCO could recommend or implement an evacuation premised completely on the existence and availability of the Nassau Coliseum is an academic and totally irrelevant point. The fact is, that facility is not available to be a part of LILCO's Plan. There is no point in litigating exercise "events" or "results" that are centered around a non-existent facility. Accordingly, the Commission should reconsider CLI-86-11 and rule that in light of the Nassau County action, the ASLB is to terminate exercise litigation.

Moreover, the absence of any relocation center requires not just reconsideration and reversal of the Commission's order that exercise litigation should proceed, but further requires the Commission to acknowledge the existence of this "fundamental flaw" in LILCO's Plan: there can be no reasonable assurance that adequate protective measures can and will be taken when there is no place for radiological monitoring, decontamination, or

relocation of hundreds of thousands of evacuees.⁸ Further, the nonexistence of LILCO's previously assumed relocation center, in effect renders void the entire protective action of evacuation as proposed in the LILCO Plan. Without such an end point for evacuees, all prior evacuation time estimates, transportation and

8 In a June 20 letter to Mr. Denton of the NRC Staff, LILCO suggested that the Nassau County action of June 16 was either of no consequence, or of uncertain consequence to LILCO's application for a license to operate Shoreham. LILCO claimed that despite the Board's decision, "the authority to make use of the Coliseum and other Nassau County facilities in an emergency rests with the County Executive; and the County Executive has said that in the event of an accident at Shoreham he would in fact make use of whatever resources were available to him, including the Coliseum." LILCO misstated the law and the effect of the Board of Supervisors' decision.

First NUREG-0654 specifies the need for an "agreement" between LILCO and the owner of a relocation center. E.g., NUREG-0654, § II.A.3. The Staff's witnesses during the Shoreham hearings emphasized the need for such an agreement. See Direct Testimony of Thomas E. Baldwin, Joseph H. Keller, Roger B. Kowieski, and Philip H. McIntire Concerning Phase II Emergency Planning, April 17, 1984, p. 20; Tr. 14,201, 14,221, 14,269, 14,270. And the fact that LILCO on repeated occasions failed in its attempts to identify a relocation center -- leading the ASLB in August 1984 to rule that there was a "void in the record" -- further underscores that a relocation center agreement is essential under the NRC's rules. Previously, over the Governments' objections, LILCO was permitted to reopen the record and offer a purported agreement with the lessee of the Coliseum to meet this requirement of NUREG-0654. However, the Nassau County Board of Supervisors declared this purported agreement "a nullity, contrary to law, and void." Therefore, LILCO does not comply with NUREG-0654.

Second, LILCO implied that it had the "assurance" of the Nassau County Executive that the Coliseum would be used in an emergency. Even if that were so, such assurance could not substitute for the required agreement. See Guard v. Nuclear Regulatory Commission, 753 F.2d 1144 (D.C. Cir. 1985). Nevertheless, there is in fact no such assurance, as shown by the statement of Nassau County Executive Purcell's spokeswoman, who is quoted in Newsday, June 28, as saying, "... Purcell has never officially made such a statement to the utility." (Copy of Newsday article attached.)

routing plans, the assumed necessary number of evacuation vehicles and related logistics, and public information and education materials embodied in the LILCO Plan are invalid. In addition, of course, there is now no provision at all in the LILCO Plan to protect the health of potentially exposed individuals by monitoring and decontaminating them. Thus, the NRC must not only reconsider CLI-86-11 and terminate post-exercise litigation. It must also rule that LILCO's Plan fails to comply with 10 CFR § 50.47.

B. Long Island Power Authority

The July 3 enactment by New York State of the LIPA legislation is an exceedingly important development that the NRC cannot ignore. It will eliminate the license applicant in this proceeding and Shoreham will not operate. The legislation is being implemented now by the Governor of New York, who has issued an invitation to LILCO to get started with the process of negotiation. LILCO's spokesperson was reported in the July 12 Newsday as stating: "LILCO is ready to sit down with the Governor at any time." (article attached). The LIPA legislation is not, therefore, as LILCO has suggested,⁹ a matter of no current importance. Rather, the legislation evidences the intent and determination of New York State that LILCO will be replaced.¹⁰ It further under-

⁹ See Letter from Donald P. Irwin, LILCO counsel, to ASLB, July 7, 1986.

¹⁰ In the legislation's statement of policy, Section 1020-a, the State enunciates numerous reasons why it determined a takeover of LILCO to be beneficial: lack of confidence that

scores that Shoreham will not operate: LIPA, by statute (Section 1020-t), is barred from operating Shoreham.

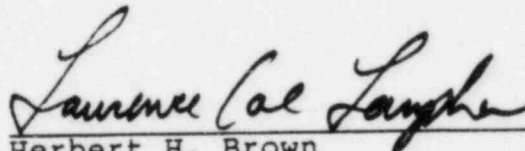
In view of the prospective takeover of LILCO, the NRC must rule that LILCO is no longer a bona fide applicant for a Shoreham license. Certainly, the NRC would never at the outset accept and process an application from an entity which was about to go out of existence, particularly if its successor were barred as a matter of law from constructing or operating a nuclear plant. That, however, is exactly the situation which is now presented: shortly LILCO will not own Shoreham; and LILCO's successor -- LIPA -- will not operate Shoreham. In these circumstances, there is no legitimate basis or reason for the ASLB to continue with the post-exercise litigation to examine the LILCO plan or exercise for fundamental flaws or any other defects, or for any other entity of the NRC to proceed with any action designed to assess Shoreham's eligibility for a license. That would be a waste of time and resources. The NRC cannot on June 6 have intended for such pointless and wasteful litigation to pro-

LILCO can supply service area needs; LILCO's excessive costs have deterred economic development; LILCO's imprudence related to Shoreham; rate increases caused by Shoreham which impact Long Island's economy; and uncertainty over the costs and efficiency of Shoreham even if it were permitted to operate. The State determined that "a situation threatening the economy, health, and safety exists in the service area" and that these "matters of State concern best can be dealt with by replacing such investor owned utility with a publicly owned power authority."

ceed. The NRC should reconsider its prior ruling in light of this significant new development and direct the ASLB to discontinue further proceedings.¹¹

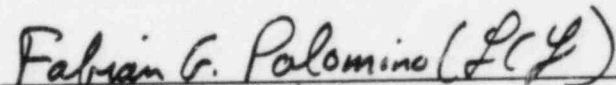
Respectfully submitted,

Martin Bradley Ashare
Suffolk County Attorney
Building 158 North County Complex
Veterans Memorial Highway
Hauppauge, New York 11788



Herbert H. Brown
Lawrence C. Lanpher
Karla J. Letsche
Kirkpatrick & Lockhart
1900 M Street, N.W.
Washington, D.C. 20036

Attorneys for Suffolk County



Fabian G. Palomino
Richard J. Zahnleuter
Special Counsel to the Governor
of New York State
Executive Chamber
Two World Trade Center
New York, New York 10047

¹¹ LILCO suggested to the ASLB in its July 7 letter (footnote 9, supra) that the LIPA legislation was a reason to speed up the post-exercise litigation. Presumably, LILCO feels that if the litigation can be completed prior to the takeover being effected and if the NRC can be persuaded to license Shoreham (the Governments submit that any such licensing is unlawful due to LILCO's noncompliance with regulatory requirements), then the takeover of LILCO might be more difficult (i.e., more expensive) for the State to effect. It is most unsuitable for LILCO to urge the NRC to manipulate the licensing process in order to help LILCO fend off the State's legitimate activities under State law. The NRC must, of course, totally reject any such manipulation.

Attorneys for Governor Mario M.
Cuomo and the State of New York

Stephen B. Latham (PGL)

Stephen B. Latham
Twomey, Latham & Shea
P.O. Box 398
33 West Second Street
Riverhead, New York 11901

Attorney for the Town of
Southampton

July 21, 1986

Coliseum Stays in LILCO Plan

By John McDonald 335.10

In its latest revision of the emergency-response plan for the Shoreham nuclear power plant, the Long Island Lighting Co. continues to designate the Nassau Coliseum as its relocation center for evacuees — despite a Nassau supervisors' vote prohibiting such use of the building.

LILCO submitted the plan to the Nuclear Regulatory Commission June 20, a few days after the vote by the Nassau supervisors. The utility told the NRC in an accompanying letter that Nassau County Executive Francis Purcell has said that in a real emergency he would "make use of whatever resources were available to him, including the Coliseum."

Purcell's spokeswoman, Elaine King, said, however, that Purcell has never officially made such a statement to the utility. LILCO vice presi-

dent Lynne Abraham said utility officials had based the assertion in the letter on Purcell's statements to the press.

Long Beach Supervisor Bruce Nyman said LILCO's proposed use of the Coliseum is "absurd, and it flies in the face of clear legislative action taken by the Board of Supervisors." He was joined in that criticism by Glen Cove Mayor Vincent Suozzi. Hempstead Supervisor Thomas Gulotta said through a spokesman that the board's resolution "speaks for itself."

LILCO changed several aspects of its plan in response to a Federal Emergency Management Agency evaluation of a drill it held Feb. 13, a drill in which Suffolk County and New York State officials refused to participate.

Any 6/28/80 WEUSDA

NEWSDAY

Saturday, July 12, 1986

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Cuomo Invite for LILCO

By Martin Weston

Gov. Mario Cuomo yesterday sent a formal invitation to LILCO to begin negotiating the future of the utility and electric power on Long Island.

The invitation, sent in the form of a letter from the governor's secretary, Gerald Crotty, followed an earlier announcement by Cuomo that he had named his economic development chief, Vincent Tese, to direct talks with Long Island Lighting Co.

Crotty's letter to LILCO chairman William J. Catacosinos said: "As you know, the governor has said to you privately and repeated it publically that he has always been willing to negotiate with LILCO on the very serious issues facing both ratepayers on Long Island and LILCO.

"To the extent there is any confusion about our prior invitation to discuss and negotiate, consider this letter as a former confirmation of that position."

Yesterday, LILCO spokesman William Sherrard said the company would have no comment because Catacosinos had not yet received the letter. But, Sherrard said, "LILCO is ready to sit down with the governor at any time."

In recent weeks, Cuomo has indicated publicly that although the state was pursuing a public power authority to replace LILCO, he hoped for a negotiated settlement of such issues as the Shoreham nuclear plant and whether the utility would continue in its present form.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

Before the Commission

In the Matter of)
)
)

LONG ISLAND LIGHTING COMPANY)

(Shoreham Nuclear Power Station,)
Unit 1))
_____)

Docket No. 50-322-OL-3
(Emergency Planning)

Certificate of Service

I hereby certify that copies of SUFFOLK COUNTY, STATE OF NEW YORK, AND TOWN OF SOUTHAMPTON MOTION FOR RECONSIDERATION OF CLI-86-11 have been served on the following this 21st day of July 1986 by U.S. mail, first class, except as otherwise noted.

* Lando W. Zech, Jr., Chairman
U.S. Nuclear Regulatory Comm.
Room 1113
1717 H Street, N.W.
Washington, D.C. 20555

* William C. Parler, Esq.
General Counsel
U.S. Nuclear Regulatory Comm.
10th Floor
1717 H Street, N.W.
Washington, D.C. 20555

* Comm. James K. Asselstine
U.S. Nuclear Regulatory Comm.
Room 1136
1717 H Street, N.W.
Washington, D.C. 20555

* Comm. Frederick M. Bernthal
U.S. Nuclear Regulatory Comm.
Room 1156
1717 H Street, N.W.
Washington, D.C. 20555

* Bernard M. Bordenick, Esq.
U.S. Nuclear Regulatory Comm.
7735 Old Georgetown Road
8th Floor, Room 8704
Washington, D.C. 20555

* Comm. Thomas M. Roberts
U.S. Nuclear Regulatory Comm.
Room 1103
1717 H Street, N.W.
Washington, D.C. 20555

Alan S. Rosenthal, Chairman
Atomic Safety and Licensing
Appeal Board
U.S. Nuclear Regulatory Comm.
Washington, D.C. 20555

Mr. Howard A. Wilber
Atomic Safety and Licensing
Appeal Board
U.S. Nuclear Regulatory Comm.
Washington, D.C. 20555

Mr. Gary J. Edles
Atomic Safety and Licensing
Appeal Board
U.S. Nuclear Regulatory Comm.
Washington, D.C. 20555

Mr. William Rogers
Clerk
Suffolk County Legislature
Suffolk County Legislature
Office Building
Veterans Memorial Highway
Hauppauge, New York 11788

Spence Perry, Esq.
Associate General Counsel
Federal Emergency Management
Agency
Washington, D.C. 20471

Mr. L. F. Britt
Long Island Lighting Company
Shoreham Nuclear Power Station
North Country Road
Wading River, New York 11792

Ms. Nora Bredes
Executive Director
Shoreham Opponents Coalition
195 East Main Street
Smithtown, New York 11787

Stuart Diamond
Business/Financial
NEW YORK TIMES
229 W. 43rd Street
New York, New York 10036

Joel Blau, Esq.
New York Public Service Comm.
The Governor Nelson A.
Rockefeller Building
Empire State Plaza
Albany, New York 12223

Stewart M. Glass, Esq.
Regional Counsel
Federal Emergency Management
Agency
26 Federal Plaza
New York, New York 10278

Anthony F. Earley, Jr., Esq.
General Counsel
Long Island Lighting Company
175 East Old Country Road
Hicksville, New York 11801

**W. Taylor Reveley, III, Esq.
Hunton & Williams
P.O. Box 1535
707 East Main Street
Richmond, Virginia 23212

Mr. Jay Dunkleberger
New York State Energy Office
Agency Building 2
Empire State Plaza
Albany, New York 12223

Stephen B. Latham, Esq.
Twomey, Latham & Shea
33 West Second Street
Riverhead, New York 11901

Mary Gundrum, Esq.
New York State Department
of Law
2 World Trade Center, Rm. 4614
New York, New York 10047

MHB Technical Associates
1723 Hamilton Avenue
Suite K
San Jose, California 95125

Martin Bradley Ashare, Esq.
Suffolk County Attorney
Bldg. 158 North County Complex
Veterans Memorial Highway
Hauppauge, New York 11788

Fabian G. Palomino, Esq.
Special Counsel to the Governor
Executive Chamber, Rm. 229
State Capitol
Albany, New York 12224

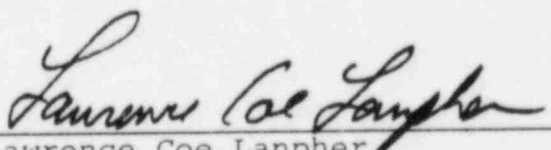
David A. Brownlee, Esq.
Kirkpatrick & Lockhart
1500 Oliver Building
Pittsburgh, Pennsylvania 15222

*Docketing and Service Section
Office of the Secretary
U.S. Nuclear Regulatory Comm.
1717 H Street, N.W.
Washington, D.C. 20555

Hon. Peter Cohalan
Suffolk County Executive
H. Lee Dennison Building
Veterans Memorial Highway
Hauppauge, New York 11788

Dr. Monroe Schneider
North Shore Committee
P.O. Box 231
Wading River, New York 11792

Atomic Safety and Licensing
Appeal Board
U.S. Nuclear Regulatory Comm.
Washington, D.C. 20555


Lawrence Coe Lanpher
KIRKPATRICK & LOCKHART
1900 M Street, N.W.
Suite 800
Washington, D.C. 20036

Date: July 21, 1986

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By Hand

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By Federal Express

STATE OF NEW YORK

S. 7784--B

A. 9517--B
R. R. 736

SENATE--ASSEMBLY

March 4, 1986

IN SENATE -- Introduced by Sens. LAVALLE, JENKINS, LACK, TRUNZO -- read twice and ordered printed, and when printed to be committed to the Committee on Energy -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

IN ASSEMBLY -- Introduced by M. of A. HARENBERG, KREMER, HALPIN, NEWBURGER, PATTON, YEVOLI, LIPSCHUTZ -- Multi-Sponsored by -- M. of A. BARRAGA, BEHAN, BIANCHI, FLANAGAN, GAFFNEY, KRAMER, SAWICKI, WERTZ -- read once and referred to the Committee on Corporations, Authorities and Commissions -- reported and referred to the Committee on Ways and Means -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported and referred to the Committee on Rules -- amended on the special order of third reading, ordered reprinted as amended, retaining its place on the special order of third reading

AN ACT to amend the public authorities law, the public service law and the election law in relation to creating the Long Island power authority, prescribing its functions, powers and duties and to permit the sale of certain interests in the Nine Mile Point nuclear power project and making an appropriation therefor

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

- 1 Section 1. Article five of the public authorities law is amended by
- 2 adding a new title one-A to read as follows:
- 3 TITLE 1-A
- 4 LONG ISLAND POWER AUTHORITY
- 5 Section 1020. Short title.
- 6 1020-a. Declaration of legislative findings and declarations.
- 7 1020-b. Definitions.

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [] is old law to be omitted.

LBD12449-18-6

- 1020-c. Long Island power authority; creation.
 - 1020-d. Trustees.
 - 1020-e. Officers and employees; expenses.
 - 1020-f. General powers of the authority.
 - 1020-g. Powers to provide and maintain generating, transmission and resource recovery waste to energy facilities.
 - 1020-h. Acquisition of property, including the exercise of the power of eminent domain.
 - 1020-i. Subsidiaries.
 - 1020-j. Notes of the authority.
 - 1020-k. Bonds of the authority.
 - 1020-l. State and municipalities not liable on bonds or notes.
 - 1020-m. Legal investments.
 - 1020-n. Deposit and investment of moneys of the authority.
 - 1020-o. Agreement of the state.
 - 1020-p. Exemption from taxation.
 - 1020-q. Payments in lieu of taxes.
 - 1020-r. Repayment of state appropriations.
 - 1020-s. Public service law generally not applicable to authority; inconsistent provisions in certain other acts superseded.
 - 1020-t. Authority not to construct or operate a nuclear powered facility in the service area.
 - 1020-u. Employees of the authority not subject to the public employees' fair employment act.
 - 1020-v. Equal employment opportunity and minority and women owned business enterprise programs.
 - 1020-w. Audit and annual reports.
 - 1020-x. Authority subject to open meetings law.
 - 1020-y. Court proceedings; preferences; venue.
 - 1020-z. Corporate existence.
 - 1020-aa. Conflicts of interest.
 - 1020-bb. Authority subject to certain provisions contained in the state finance law, the public service law, the social services law and the general municipal law.
 - 1020-cc. Authority not to seek nor any subsidiary of the authority, to apply for or accept preference hydroelectricity.
 - 1020-dd. Nine Mile Point II; disposition of interest.
 - 1020-ee. Liberal interpretation.
 - 1020-ff. Inconsistent provisions of other laws superseded.
 - 1020-gg. Severability.
- § 1020. Short title. This title shall be known and may be cited as the "Long Island power authority act".
- § 1020-a. Declaration of legislative findings and declarations. The legislature hereby finds and declares that:
- Constantly escalating and excessive costs of electricity in the counties of Suffolk and Nassau and that portion of the county of Queens served by the Long Island lighting company (hereinafter referred to as the "service area") pose a serious threat to the economic well-being, health and safety of the residents of and the commerce and industry in the service area.
- There is a lack of confidence that the needs of the residents and of commerce and industry in the service area for electricity can be sup-

1 plied in a reliable, efficient and economic manner by the Long Island
2 lighting company (hereinafter referred to as "LILCO").

3 Such excessive costs and lack of confidence have deterred commerce and
4 industry from locating in the service area and have caused existing com-
5 merce and industry to consider seriously moving out of the service area.

6 The decisions by LILCO to commence construction of the Shoreham nu-
7 clear power plant and thereafter to continue such construction were
8 imprudent.

9 The investment of LILCO in the Shoreham nuclear power plant has
10 created significant rate increases, straining the economic capabilities
11 of ratepayers in the service area, and likely will require further sub-
12 stantial rate increases if such plant is placed in service.

13 It is uncertain whether the Shoreham nuclear plant ever will go into
14 commercial service, or if it does whether its reliability, cost of con-
15 struction, operation and maintenance will be such as to provide suffi-
16 cient, reliable and economic electric service to ratepayers in the ser-
17 vice area. The very substantial financial strain of the investment in
18 the Shoreham nuclear plant has required LILCO to suspend dividends on
19 its common and preferred stock, severely threatening the continued
20 economic viability of LILCO.

21 For all the above reasons, a situation threatening the economy, health
22 and safety exists in the service area.

23 Dealing with such a situation in an effective manner, assuring the
24 provision of an adequate supply of electricity in a reliable, efficient
25 and economic manner, and retaining existing commerce and industry in and
26 attracting new commerce and industry to the service area, in which a
27 substantial portion of the state's population resides and which encom-
28 passes a substantial portion of the state's commerce and industry, are
29 hereby expressly determined to be matters of state concern within the
30 meaning of paragraph three of subdivision (a) of section three of arti-
31 cle nine of the state constitution.

32 Such matters of state concern best can be dealt with by replacing such
33 investor owned utility with a publicly owned power authority. Such an
34 authority can best accomplish the purposes and objectives of this title
35 by implementing, if it then appears appropriate, the results of negotia-
36 tions between the state and LILCO. In such circumstances, such an
37 authority will provide safe and adequate service at rates which will be
38 lower than the rates which would otherwise result and will facilitate
39 the shifting of investment into more beneficial energy demand/energy
40 supply management alternatives, realizing savings for the ratepayers and
41 taxpayers in the service area and otherwise restoring the confidence and
42 protecting the interests of ratepayers and the economy in the service
43 area. Moreover, in such circumstances the replacement of such investor
44 owned utilities by such an authority will result in an improved system
45 and reduction of future costs and a safer, more efficient, reliable and
46 economical supply of electric energy. The legislature further finds that
47 such an authority shall utilize to the fullest extent practicable, all
48 economical means of conservation, and technologies that rely on renewa-
49 ble energy resources, cogeneration and improvements in energy efficiency
50 which will benefit the interests of the ratepayers of the service area.

51 § 1020-b. Definitions. As used or referred to in this title, unless a
52 different meaning clearly appears from the context:

53 1. "Acquire" means, with respect to any right, title or interest in or
54 to any property, the act of taking by the exercise of the power of emi-
55 nent domain, or acquisition by purchase or otherwise.

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- 1 2. "Act" means the Long Island power authority act, being title one-A
2 of article five of the public authorities law, as added by this title.
- 3 3. "Authority" means the Long Island power authority created by sec-
4 tion one thousand twenty-c of this title.
- 5 4. "Board" means the board of trustees of the authority.
- 6 5. "Bonds" or "notes" mean the bonds, notes or other obligations is-
7 sued by the authority pursuant to this title.
- 8 6. "Fair market value" means the value of property, real, personal or
9 mixed, which would be obtained in an arm's length transaction between an
10 informed and willing buyer under no compulsion to buy, and an informed
11 and willing seller under no compulsion to sell.
7. "Federal government" means the United States of America and any
 agency or instrumentality, corporate or otherwise, of the United States
 of America.
- 16 8. "Final determination" or "finally determined" means a judicial
17 decision (i) by the highest court of competent jurisdiction, or (ii) by
18 a court of competent jurisdiction from which no appeal has been taken
19 and the time within which to appeal has expired.
- 20 9. "Governing body" means, with respect to any municipality, the body
21 having charge of the fiscal affairs of such municipality.
- 22 10. "LILCO" means the Long Island lighting company, its subsidiaries
23 and their successors and assigns, other than the authority.
- 24 11. "Municipality" means any city, town, village, county, municipal
25 corporation, district or other political subdivision of the state.
- 26 12. "OCLD" means the original cost of assets, less depreciation.
- 27 13. "Prudent utility practices" at a particular time means any of the
28 practices, methods, and acts, which, in the exercise of reasonable judg-
29 ment in light of the facts (including but not limited to the practices,
30 methods and acts engaged in or approved by a significant portion of the
31 gas or the electrical utility industry, as the case may be, prior
32 thereto) known at the time the decision was made, would have been ex-
33 pected to accomplish the desired result at the lowest reasonable cost
34 consistent with reliability, safety and expedition. Prudent utility
35 practice is not intended to be limited to the optimum practice, method
36 or act, to the exclusion of all others, but rather to be a spectrum of
37 possible practices, methods or acts. In evaluating whether any matter
38 conforms to prudent utility practice, the parties shall take into ac-
39 count the fact that the authority is a corporate municipality of the
40 state with the statutory duties and responsibilities thereof.
- 41 14. "Real property" means lands, structures, franchises and interests
42 in land, including lands under water and riparian rights, and any and
43 all other things and rights usually included within such term, and in-
44 cludes also any and all interests in such property less than full title,
45 such as easements, rights of way, uses, leases, licenses and all other
46 incorporeal hereditaments and every estate, interest or right, legal or
47 equitable, including terms for years and liens thereon by way of judg-
48 ments, mortgages or otherwise, and also all claims for damages for such
49 real estate.
- 50 15. "RCNLD" means the reproduction cost of new assets, less
51 depreciation.
- 52 16. "Security" means any note, stock (whether common or preferred),
53 bond, debenture, evidence of indebtedness, transferable share, voting-
54 trust certificate or, in general, any interest or instrument commonly
 known as a "security", or any certificate of interest or participation

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1 in, temporary or interim certificate for, receipt for, or warrant or
2 right to subscribe to or purchase any of the foregoing.

3 17. "Service area" means the counties of Suffolk and Nassau and that
4 portion of the county of Queens constituting LILCO's franchise area as
5 of the effective date of this title.

6 18. "Shoreham plant" means the nuclear powered facility designed to
7 generate electric power owned by LILCO and located in Shoreham, New
8 York.

9 19. "State" means the state of New York.

10 20. "State agency" means any board, authority, agency, department,
11 commission, public corporation, body politic or instrumentality of the
12 state.

13 21. "Trustees" means the trustees of the authority appointed or
14 elected, as the case may be, pursuant to section one thousand twenty-d
15 of this title.

16 22. "Valuation date" means (i) the effective date of this title, (ii)
17 the date of the taking of the stock or assets pursuant to this title or
18 (iii) such earlier or later date or, in the case of equity or debt
19 securities, such period of trading days in the primary established
20 market in which such securities are traded, as may be determined to be
21 necessary to exclude from the determination of the market value thereof
22 any enhancement or depreciation in value arising from the announcement,
23 expectation or accomplishment of the taking by the exercise of the power
24 of eminent domain or otherwise, or speculative market activity intended
25 to cause or having the effect of causing an increase or decrease in such
26 market value.

27 § 1020-c. Long Island power authority; creation. 1. For the purpose of
28 effectuating the policy declared in section one thousand twenty-a of
29 this title, there is hereby created a corporate municipal instrumental-
30 ity of the state to be known as the "Long Island power authority", which
31 shall be a body corporate and politic and a political subdivision of the
32 state, exercising essential governmental and public powers.

33 2. The area of operations of the authority shall be the service area.
34 3. The authority is not created or organized, and its operations shall
35 not be conducted, for the purpose of making a profit. No part of the
36 revenues or assets of the authority shall inure to the benefit of or be
37 distributable to its trustees or officers or any other private persons,
38 except as herein provided for actual services rendered.

39 § 1020-d. Trustees. 1. The authority initially shall consist of nine
40 trustees, who shall serve until December thirty-first, nineteen hundred
41 ninety-one, five of whom to be appointed by the governor one of whom
42 shall be the chairman, two of whom to be appointed by the temporary pre-
43 sident of the senate and two of whom to be appointed by the speaker of
44 the assembly. Each trustee shall hold office until his successor has
45 been appointed and qualified. In the event of a vacancy occurring in the
46 office of an initial trustee by death, resignation or otherwise, the
47 respective appointing officer shall appoint a successor, who shall hold
48 office for the unexpired term.

49 2. Beginning January first, nineteen hundred ninety-two, such
50 authority shall consist of twenty-two trustees. One trustee, who shall
51 be the chairman, shall be appointed by the governor, and shall serve at
52 the governor's pleasure. Twenty-one trustees shall be elected from dis-
53 tricts established by the legislature. Each elected trustee shall be a
54 resident of the district from which he is elected. No person who is
55 elected or appointed official of the state or any municipality or any

1 agency or instrumentality thereof, shall be qualified to serve as an
2 elected trustee. Each trustee shall hold office until his successor has
3 been elected and qualified. In the event of a vacancy occurring in the
4 office of a trustee by death, resignation or otherwise, a successor
5 shall be chosen to hold office for the unexpired term in the manner
6 prescribed by the election law.

7 3. Prior to May first, nineteen hundred ninety-one, and each tenth
8 year thereafter, the legislature shall establish twenty-one districts,
9 which shall be equal in population as determined by the last federal
10 decennial census.

11 4. Such trustees, shall be elected in elections conducted by the
12 boards of election pursuant to applicable provisions of the election
13 law. The first such election shall be held on the first Tuesday in
14 December nineteen hundred ninety-one, and the trustees so elected shall
15 take office on January first, nineteen hundred ninety-two. At such elec-
16 tion seven trustees shall be elected for a term of one year; seven shall
17 be elected for a term of two years; and seven shall be elected for terms
18 of three years each. Each such term ending on December thirty-first of
19 the last year thereof. Not later than July first, nineteen hundred
20 ninety-one and each subsequent year in which a reapportionment or read-
21 justment of such districts, takes place, the state board of elections
22 shall determine by lot, which such trustees shall be elected for which
23 terms. Thereafter, seven trustees shall be elected on the first Tuesday
24 in December of each year to replace the trustees whose terms will expire
25 at the end of such year, for terms of three years each except that, all
26 trustees shall be elected at the first election held after a reappor-
27 tionment or readjustment of such districts. No political party shall be
28 entitled to nominate candidates for the office of trustee at any such
29 election.

30 5. Until the trustees first elected pursuant to subdivision four
31 hereof shall have taken office, five trustees shall constitute a quorum
32 for the purpose of organizing the authority and conducting the business
33 thereof. Thereafter, eleven trustees shall constitute a quorum for the
34 purpose of conducting the business of the authority. The vote of a
35 majority of the trustees shall be required for the purpose of taking
36 action.

37 6. The trustee appointed as chairman as provided in this section shall
38 receive an annual salary which shall be set at the salary prescribed for
39 the positions listed in paragraph (f) of subdivision one of section one
40 hundred sixty-nine of the executive law. Each other trustee shall
41 receive no salary but shall be entitled to reimbursement for reasonable
42 expenses in the performance of duties assigned hereunder.

43 7. Notwithstanding the provisions of any other law, no trustee, of-
44 ficer or employee of the state, any state agency or any municipality ap-
45 pointed a trustee of the authority by the governor, the temporary presi-
46 dent of the senate or the speaker of the assembly pursuant to subdivi-
47 sion one of this section shall be deemed to have forfeited or shall
48 forfeit his office or employment by reason of his acceptance of a
49 trusteeship on the authority, his service thereon or his employment
50 therewith.

51 § 1020-e. Officers and employees; expenses. The board, or the chairman
52 pursuant to authority duly delegated to him, from time to time shall
53 hire, without regard to any personnel or civil service law, rule or reg-
54 ulation of the state and in accordance with guidelines adopted by the
55 authority such employees and consultants, including without limitation

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1 those in the areas of engineering, marketing, finance, appraisal, ac-
2 counting and law, as it may require for the performance of its duties
3 and shall prescribe the duties and compensation of each officer and em-
4 ployee, provided, however, that if any such employees are hired as a
5 consequence of an acquisition of all the stock or assets of LILCO, they
6 shall be hired subject and be entitled to all applicable provisions of
7 (i) any existing contract or contracts with labor unions and (ii) all
8 existing pension or other retirement plans. Notwithstanding the provi-
9 sions of any general, special or local law, the board may determine
10 that, if any pension or retirement plan becomes inapplicable or is ter-
11 minated, all or such class or classes of employees of the authority as
12 the board may determine may elect to become members of the New York
13 state employees' retirement system on the basis of compensation payable
14 to them by the authority.

15 § 1020-f. General powers of the authority. Except as otherwise limited
16 by this title, the authority shall have all of the powers necessary or
17 convenient to carry out the purposes and provisions of this title, in-
18 cluding without limiting the generality of the foregoing, the power:

19 (a) To sue and be sued in all courts and to participate in actions and
20 proceedings, whether judicial, administrative, arbitratve or otherwise;

21 (b) To have a corporate seal, and to alter such seal at pleasure, and
22 to use it by causing it or a facsimile to be affixed or impressed or re-
23 produced in any other manner;

24 (c) To appoint officers, agents and employees, without regard to any
25 personnel or civil service law, rule or regulation of the state and in
26 accordance with guidelines adopted by the authority, prescribe their
27 duties and qualifications and fix and pay their compensation;

28 (d) To purchase, receive, take by grant, gift, devise, bequest or
29 otherwise, lease, or otherwise acquire, own, hold, improve, employ, use
30 and otherwise deal in and with, real or personal property whether tangi-
31 ble or intangible, or any interest therein, within the state;

32 (e) To acquire real or personal property, whether tangible or intangi-
33 ble, including without limitation property rights, interests in
34 property, franchises, obligations, contracts, and debt and equity
35 securities, by the exercise of the power of eminent domain; provided,
36 however, that any real property acquired by the exercise of the power of
37 eminent domain must be located within the service area;

38 (f) To sell, convey, lease, exchange, transfer, abandon or otherwise
39 dispose of, or mortgage, pledge or create a security interest in, all or
40 any of its assets, properties or any interest therein, wherever situ-
41 ated;

42 (g) To purchase, take, receive, subscribe for, or otherwise acquire,
43 hold, make a tender offer for, vote, employ, sell, lend, lease, ex-
44 change, transfer, or otherwise dispose of, mortgage, pledge or grant a
45 security interest in, use and otherwise deal in and with, bonds and
46 other obligations, shares or other securities (or interests therein) is-
47 sued by others, whether engaged in a similar or different business or
48 activity;

49 (h) To make and execute agreements, contracts and other instruments
50 necessary or convenient in the exercise of the powers and functions of
51 the authority under this title, including contracts with any person,
52 firm, corporation, municipality, state agency or other entity in accord-
53 ance with the provisions of section one hundred three of the general
54 municipal law, and all state agencies and all municipalities are hereby

1 authorized to enter into and do all things necessary to perform any such
2 agreement, contract or other instrument with the authority;
3 (i) To borrow money at such rate or rates of interest as the authority
4 may determine, issue its notes, bonds or other obligations to evidence
5 such indebtedness, and secure any of its obligations by mortgage or
6 pledge of all or any of its property or any interest therein, wherever
7 situated;
8 (j) To arrange for guarantees of its bonds, notes or other obligations
9 by the federal government or by any private insurer or otherwise, and to
10 pay any premiums therefor;
11 (k) To issue such bonds or notes or other obligations whether or not
12 the income therefrom is exempt from federal income taxation;
13 (l) To purchase bonds, notes or other obligations of the authority at
14 such price or prices as the authority may determine;
15 (m) To lend money, invest and reinvest its funds, and take and hold
16 real and personal property as security for the payment of funds so
17 loaned or invested;
18 (n) To procure insurance against any loss in connection with its
19 properties or operations in such amount or amounts and from such in-
20 surers, including the federal government, as it may deem necessary or
21 desirable, and to pay any premiums therefor;
22 (o) To create or acquire one or more wholly owned subsidiaries in ac-
23 cordance with section one thousand twenty-i of this title to carry out
24 all or any part of the purposes of this title;
25 (p) To negotiate and enter into agreements with trustees or receivers
26 appointed by United States bankruptcy courts or federal district courts
27 or in other proceedings involving adjustment of debts and authorize
28 legal counsel for the authority to appear in any such proceedings;
29 (q) To file a petition under chapter nine of title eleven of the
30 United States bankruptcy code or take other similar action for the ad-
31 justment of its debts;
32 (r) To enter into agreements to purchase power from the power
33 authority of the state of New York, the state, any state agency, any
34 municipality, any private entity, or any other available source at such
35 price or prices as may be negotiated; provided, however, that the
36 authority shall not have the power to enter into any agreement or any
37 negotiation for the purchase of power from the dominion of Canada, or
38 any political subdivision, public authority or private corporation
39 therein; but may enter into an agreement with the power authority of the
40 state of New York for the purchase of such power;
41 (s) To enter into management agreements for the operation of all or
42 any of the property or facilities owned by the authority;
43 (t) To transfer any asset of the authority to one or more (i) private
44 utility or (ii) municipal gas or electric agency established pursuant to
45 article fourteen-A of the general municipal law, for such consideration
46 and upon such terms as the authority may determine to be in the best in-
47 terest of the gas and electric ratepayers in the service area;
48 (u) Subject to the provisions of subdivision six of section one
49 thousand twenty-k of this title and after holding public hearings
50 thereon upon reasonable public notice, with at least one such hearing to
51 be held in the county of Suffolk and at least one in the county of Nes-
52 sau, to fix rates and charges for the furnishing or rendition of gas or
53 electric power or of any related service at the lowest level consistent
54 with sound fiscal and operating practices of the authority and which
55 provide for safe and adequate service;

1 (v) To enter upon any lands and within any building whenever in its
2 judgment it may be necessary for the purpose of making surveys and exa-
3 minations to accomplish any purpose authorized by this title;

4 (w) To enter into agreements to pay annual sums in lieu of taxes to
5 any municipality with respect to any real property which is owned by the
6 authority and is located in such municipality;

7 (x) To maintain an office or offices at such place or places in the
8 state as it may determine;

9 (y) To make any inquiry, investigation, survey or study which the
10 authority may deem necessary to enable it effectively to carry out the
11 provisions of this title and, for that purpose, to take and hear proofs
12 and testimony, and with the prior vote of a majority of the board which
13 majority vote shall include the vote of the chairman to compel the at-
14 tendance of witnesses and to require the production of records, books,
15 papers, accounts and other documents, including public records, and to
16 make copies thereof or extracts therefrom; and

17 (z) To adopt, revise, amend and repeal rules and regulations with
18 respect to its operations, properties and facilities as may be necessary
19 or convenient to carry out the purposes of this title, subject to the
20 provisions of the state administrative procedure act.

21 § 1020-g. Powers to provide and maintain generating, transmission and
22 resource recovery waste to energy facilities. Without limiting the gen-
23 erality of the powers conferred upon the authority by section one
24 thousand twenty-f of this title, the authority shall have the specific
25 power:

26 (a) Subject to the provisions of subdivision one of section ten hun-
27 dred twenty-s of this title, to acquire, construct, improve, rehabili-
28 tate, maintain and operate such generating, transmission and related
29 facilities as the authority deems necessary or desirable to maintain an
30 adequate and dependable supply of gas and electric power within the ser-
31 vice area;

32 (b) Subject to the provisions of subdivision one of section ten hun-
33 dred twenty-s of this title, to acquire, construct, improve, rehabili-
34 tate, maintain and operate such hydroelectric or energy storage projects
35 within the state as it deems necessary or desirable to contribute to the
36 adequacy, economy and reliability of the supply of electric power and
37 energy or to conserve fuel;

38 (c) Subject to the provisions of subdivision one of section ten hun-
39 dred twenty-s of this title, to determine the location, type, size, con-
40 struction, lease, purchase, ownership, acquisition, use and operation of
41 any generating, transmission or other related facility, provided, how-
42 ever, that in making such determinations relating to electric power
43 facilities the authority shall give primary consideration to the con-
44 struction of energy efficient facilities, energy conservation, load
45 management programs, and cogeneration in the service area;

46 (d) To proceed with the physical construction or completion of any
47 generating, transmission or related facility;

48 (e) To apply to the appropriate agencies and officials of the federal
49 and state governments, for such licenses, permits or approval of its
50 plans or projects as it may deem necessary or advisable, and to accept
51 such licenses, permits or approvals as may be tendered to it by such
52 agencies or officials, upon such terms and conditions as it may deem ap-
53 propriate;

54 (f) To institute suit, or to apply to any legislative body for
55 legislation, or to take such other action as it may deem necessary or

1 advisable in the furtherance of the purposes of this title and for the
2 protection of its rights, if for any reason the authority shall fail to
3 secure any such license, permit or approval as it may deem necessary or
4 advisable;

5 (g) To study means of maintaining the customer base in, and attracting
6 commerce and industry to the service area;

7 (h) To implement programs and policies designed to increase the effi-
8 ciency of energy end use, to shift demand from periods of high demand to
9 periods of low demand and to facilitate the development of cogeneration;

10 (i) To develop, with public participation, a comprehensive least-cost
11 plan which shall consider practical and economical use of conservation,
12 renewable resources, and cogeneration for providing service to its
13 customers;

14 (j) To cooperate with and to enter into contractual arrangements with
15 private utility companies or public entities;

16 (i) with respect to the construction and operation of facilities by
17 the authority and the sale of all or part of the output therefrom;

18 (ii) with respect to the construction, completion, acquisition, owner-
19 ship and/or operation of generating facilities, fuel, docks, sidings,
20 loading or unloading equipment, storage facilities and other subsidiary
21 facilities and the disposition of the output of such generating facili-
22 ties; and

23 (iii) with respect to the construction, acquisition, ownership, opera-
24 tion and/or use of transmission facilities;

25 (k) To cooperate with and to enter into contractual arrangements with
26 municipalities with respect to the construction, improvement, rehabili-
27 tation, ownership and/or operation of generating facilities;

28 (l) To cooperate with and to enter into contractual arrangements with
29 the New York state energy research and development authority in connec-
30 tion with the planning, siting, development, construction, operation and
31 maintenance of generating facilities of the authority utilizing new
32 energy technologies;

33 (m) Subject to the provisions of section ten hundred twenty-aa of this
34 title, to construct, maintain and operate resource recovery waste to
35 energy facilities; and

36 (n) After the establishment of Long Island Power Authority (LIPA) and
37 the commencement of its function as a utility, LIPA shall acquire from
38 LILCO all franchise and utility service responsibilities for all ulti-
39 mate consumers of gas and electricity within LILCO's former service ter-
40 ritory, including the responsibility to provide safe and adequate
41 service.

42 § 1020-h. Acquisition of property, including the exercise of the power
43 of eminent domain. 1. The legislature hereby expressly finds and
44 determines:

45 (a) The acquisition by the authority, through purchase or the exercise
46 of the power of eminent domain, of either the securities or assets of
47 LILCO whichever is less expensive for the ratepayers, as the authority
48 may determine will be just to the ratepayers in the service area, is the
49 most appropriate means of dealing with the emergency involving the
50 economy, health and safety of the residents and the industry and com-
51 merce in the service area, notwithstanding the fact that LILCO presently
52 may be devoted to a public use, since the public use of such property by
53 the authority is hereby deemed to be superior to the public use of such
54 property by any other person, association, or corporation.

- 1 (b) The authority, prior to exercising its power of eminent domain to
 2 acquire the stock or assets of LILCO, shall enter into negotiations with
 3 LILCO for the purpose of acquiring such stock or assets upon such terms
 4 as the authority, in its sole discretion, determines will result in
 5 rates equal to or less than the rates which would result if LILCO were
 6 to continue in operation.
- 7 (c) The situs of all stock issued by LILCO, a New York corporation, is
 8 the state of New York.
- 9 (d) The compensation paid by the authority to LILCO shall be just to
 10 the ratepayers in the service area who must pay such compensation.
- 11 (e) If the authority determines that it is the stock of LILCO that
 12 should be taken, the proper measure of damages shall be the fair market
 13 value thereof as evidenced by the price of such stock on the exchange on
 14 which they are traded on the valuation date since there is an esta-
 15 blished market for such stock that is reflective of its value. In no
 16 event, however, shall consequential or severance damages be awarded if
 17 control of LILCO shall have been taken by the authority.
- 18 (f) If the authority determines that it is the assets of LILCO that
 19 should be taken, fair market value would not constitute just compensa-
 20 tion to LILCO since there is an insufficient market in the usual sense
 21 for its assets to ascertain the value thereof from the market. In deter-
 22 mining the compensation payable for such assets, there shall be taken
 23 into consideration the capitalization of LILCO's expected future
 24 earnings.
- 25 (g) LILCO has no reasonable expectation of realizing actual earnings
 26 from the Shoreham plant or of giving effect to any earnings or returns
 27 which may have been reflected on the books of LILCO for accounting
 28 purposes. Moreover, it would not be reasonable, under current and rea-
 29 sonably foreseeable circumstances, to expect that the Shoreham plant
 30 would be reproduced by a public or private utility in LILCO's present
 31 position.
- 32 (h) LILCO would have to phase in over a long period of time any rate
 33 increases based on the costs of the Shoreham plant.
- 34 (i) The public service commission has imposed a limitation on the
 35 earnings which LILCO may realize on its interest in the Nine Mile Point
 36 nuclear power facility.
- 37 (j) The public service commission has imposed on LILCO imprudence
 38 penalties with respect to the Shoreham plant.
- 39 (k) In determining just compensation, the following factors shall be
 40 evaluated in deciding whether OCLD or RCNLD or neither constitutes the
 41 proper basis:
- 42 (i) LILCO is a regulated utility. Under the laws of the state provid-
 43 ing for the regulation of utilities, LILCO's future earnings are res-
 44 tricted to the permitted rate of return times LILCO's OCLD.
- 45 (ii) LILCO presently is being operated as an enterprise the economic
 46 viability of which is dependent upon extraordinary financial stability
 47 adjustments by the public service commission. Such extraordinary and un-
 48 precedented rate relief was granted by the public service commission in
 49 order to provide cash flow relief to prevent LILCO's bankruptcy with the
 50 expectation that ratepayers would receive the full credit of such in
 51 lower rates, and that the public service commission required such ex-
 52 traordinary rate relief to be discontinued in the event that LILCO filed
 53 a petition for relief in a voluntary case under the Bankruptcy Act or if
 54 a final order for relief was entered involuntarily under such act.
 55 LILCO's lack of profitability results not from any repressive or other

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1 improper action taken by any governmental entity but from such factors
2 as mismanagement, imprudent decisions regarding the Shoreham plant and
3 general inefficiency.

4 (iii) There is no reasonable probability that, after condemnation of
5 its assets, LILCO will reproduce them.

6 (iv) Use of RCNLD may result in an unwarranted windfall to LILCO and
7 an unjustifiable penalty to the ratepayers who would have to pay it,
8 since to the extent an award based on RCNLD would exceed an award based
9 on OCLD, it would reflect to a large extent the effects of inflation
10 which would not increase the value of the property to LILCO or its rate
11 base for ratemaking purposes or to the authority for the purpose of con-
12 tinuing to generate and transmit electric power within the service area.

13 (l) Neither consequential nor severance damages are proper if the
14 authority condemns all the assets of LILCO.

15 (m) In determining whether LILCO has any going concern value, the
16 court shall take into consideration the fact that LILCO's continued
17 operations are dependent upon the extraordinary financial stability ad-
18 justments granted by the public service commission.

19 (n) Such an acquisition by the authority of the securities or assets
20 of LILCO serves the public purposes of assuring the provision of an ade-
21 quate supply of gas and electricity in a reliable, efficient and
22 economic manner and retaining existing commerce and industry in and at-
23 tracting new commerce and industry to the service area, all of which are
24 matters of state-wide concern.

25 2. In furtherance of the legislative findings and determinations set
26 forth in subdivision one of this section, the authority is hereby
27 authorized and empowered to acquire, through purchase or the exercise of
28 the power of eminent domain, all or any part of the securities or assets
29 of LILCO, as the authority in its sole discretion may determine;
30 provided, however, that prior to proceeding with any such acquisition
31 under this title, the board shall determine, in its sole discretion
32 based upon such engineering, financial and legal data, studies and opin-
33 ions as it may deem appropriate, that the rates projected to be charged
34 after such acquisition and for such reasonable period of time as the
35 board may determine will not be higher than the rates projected to be
36 charged by LILCO during such period if such acquisition had not
37 occurred.

38 3. The authority also is authorized and empowered, in its discretion,
39 to make a tender offer or tender offers for all or any portion of the
40 securities of LILCO at such price or prices as the authority may deter-
41 mine to be appropriate; provided, however that such tender offer or
42 tender offers, in the sole judgment of the authority, will result in
43 rates less than the rates which would result from continued operation by
44 LILCO.

45 (a) The authority shall make such offer or offers or any adjustment
46 thereof prior to acquiring any such securities or any assets of LILCO
47 through the exercise of the power of eminent domain. The authority may
48 pay for such securities in cash or by exchanging therefor the
49 authority's bonds or a combination thereof.

50 (b) In the case of a tender offer in which a subsidiary of the
51 authority acquires at least sixty-six and two-thirds percent of LILCO's
52 common stock, such subsidiary may merge with LILCO and either continue
53 in existence or dissolve, as it may determine.

54 (c) The provisions of section five hundred thirteen and article six-
55 teen of the business corporation law and any other provisions of law

1 relating to procedures in a corporate takeover, including without limi-
 2 tation chapter nine hundred fifteen of the laws of nineteen hundred
 3 eighty-five, shall not be applicable to the actions of the authority
 4 pursuant to this title.

5 (d) In determining whether acceptance of such a tender offer by the
 6 authority is in the best interests of LILCO, the directors of LILCO
 7 shall consider not only the dollar amount of such offer but the in-
 8 terests of employees, suppliers, ratepayers, creditors (including hol-
 9 ders of LILCO's debt securities), and the economy of the service area
 10 and the state.

11 4. The authority, should it determine, in its sole discretion, to ac-
 12 quire the stock or assets of LILCO by the exercise of the power of emi-
 13 nent domain, shall not take title to nor possession of such stock or as-
 14 sets prior to a final determination of the amount of compensation to be
 15 paid for such stock or assets nor prior to a determination by the
 16 authority, in its sole discretion that the taking of such stock or as-
 17 sets will result in rates less than the rates which would result from
 18 continued operation by LILCO. Notwithstanding the provisions of the emi-
 19 nent domain procedure law, the provisions of subdivisions five and six
 20 shall apply to the acquisition of the stock or property of LILCO by the
 21 power of eminent domain, provided however, to the extent the provisions
 22 herein do not supersede or conflict with the provisions of such law the
 23 provisions of such law shall apply.

24 5. Procedure for acquisition of LILCO stock. (a) In the event the
 25 authority determines to acquire the stock of LILCO by the exercise of
 26 the power of eminent domain, having first entered into negotiations with
 27 LILCO for the purchase of such stock, the authority need not hold any
 28 public hearing on its intention to condemn such stock or on the question
 29 of the public use of such action, such finding having been made by the
 30 legislature herein. The authority shall commence such acquisition by
 31 serving upon LILCO and filing with the county clerk of the county in
 32 which the principal office of LILCO is located a notice describing the
 33 stock being acquired, the valuation date, as determined by the
 34 authority, and such additional information as the authority may reason-
 35 ably deem necessary to facilitate the process of condemnation and
 36 payment. The notice shall state that it is a notice of pendency of an
 37 acquisition proceeding and that the authority will elect whether or not
 38 to pay the amount of such award when it has been finally determined. The
 39 authority also shall cause a copy of such notice (i) to be served upon
 40 the stock transfer agent or agents designated by LILCO for the transfer
 41 and registration of its stock and (ii) to be published in at least five
 42 successive issues of a daily newspaper of national circulation.

43 (b) Upon receipt of such notice, the stock transfer agent or agents,
 44 at the expense of the authority, shall forthwith serve upon each of the
 45 registered owners of such stock a copy of such notice. Service shall be
 46 deemed sufficient if mailed by certified or registered mail to the ad-
 47 dress of each such owner as shown on LILCO's stock transfer books. Ser-
 48 vice of the notice upon the stock transfer agent or agents and its pu-
 49 blication shall not be jurisdictional prerequisites to the validity of
 50 the taking. Failure to notify any owner of stock to be taken will not
 51 invalidate any proceedings brought hereunder or any title acquired by
 52 the authority.

53 (c) Upon filing of the notice described in paragraph (a) hereof, the
 54 authority shall petition a special term of the supreme court in the
 55 judicial district in which LILCO has its principal office for the ac-

1 quisition of the stock. Such petition shall be generally in the form
2 prescribed by the eminent domain procedure law so far as consistent
3 herewith.

4 (d) The supreme court in the district in which LILCO has its principal
5 office shall have exclusive jurisdiction to hear and determine all
6 claims arising from the acquisition of stock by the exercise of the
7 power of eminent domain and shall hear such claims without a jury and
8 without referral to a referee or commissioners. Notwithstanding the
9 provisions of section nine hundred one of the civil practice law and
10 rules, upon motion to the court by the authority, the condemnation
11 proceeding for the acquisition of stock shall be maintained as a class
12 action, pursuant to remaining provisions of article nine of the civil
13 practice law and rules, and the owners of the stock shall be deemed a
14 defendant class on the basis of the following express legislative
15 findings:

16 (i) the class of LILCO stock owners is so numerous that joinder of all
17 members is impracticable;

18 (ii) the issue of valuation of LILCO stock is common to all LILCO
19 stock owners and there are questions of law or fact common to the mem-
20 bers of such class which predominate over any questions affecting only
21 individual members;

22 (iii) the claims or defenses, if any, of any representative owner of
23 LILCO stock to acquisition thereof by the authority are typical of the
24 claims or defenses of the class;

25 (iv) there are representative parties who will fairly and adequately
26 protect the interests of the class; and

27 (v) the prosecution of separate actions by or against individual mem-
28 bers of the class would create a risk of inconsistent or varying adjudi-
29 cations with respect to the issue of valuation and other issues common
30 to the class.

31 (e) The procedure for determining just compensation shall be in the
32 manner prescribed by the eminent domain procedure law, except to the ex-
33 tent such procedure is inconsistent with the provisions of this title,
34 in which case the provisions of this title shall control.

35 (f) Upon the entry of an award finally determining just compensation
36 for the stock, the authority shall have sixty days after receipt of not-
37 ice of entry of such award within which to elect to proceed with the
38 taking or to abandon such acquisition as provided in subdivision ten
39 hereof. Notice of such election shall be served by the authority and by
40 the stock transfer agent in the manner described in paragraph (a)
41 hereof. If the authority elects to proceed with the acquisition, it
42 shall deposit with the supreme court in which the condemnation proceed-
43 ing was held an amount equal to the award within one hundred eighty days
44 after receipt by the authority of notice of entry of such award. Upon
45 the making of such deposit, the authority shall notify LILCO's stock
46 transfer agent in writing of such deposit. The sum so deposited shall
47 be applied as provided in the eminent domain procedure law. Upon making
48 such deposit and giving such notice to the stock transfer agent, title
49 to all stock described in the notice of taking shall immediately vest in
50 the authority and the authority shall have the immediate right thereto.
51 In the event the authority elects to abandon the acquisition, the provi-
52 sions of subdivision ten hereof shall apply.

53 (g) It shall be a condition precedent to the payment of compensation
54 for any such securities that such securities be surrendered to the su-

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1 preme court or to such other entity, including the issuer's stock trans-
2 fer agent, as the supreme court may direct.

3 6. Procedure for acquisition of LILCO assets. (a) If the authority
4 shall find it necessary or convenient to acquire any real or personal
5 property of LILCO, (other than securities), whether for immediate or
6 future use, then the authority need not determine that such property is
7 required for public use, since the legislature already has made such
8 determination in this title which determination shall be binding for all
9 purposes. The authority need not publish any notice of its intention to
10 acquire such property or hold any public hearing with respect thereto or
11 to the public use of such action.

12 (b) When any real property of LILCO within this state is sought to be
13 acquired by the exercise of the power of eminent domain, and after the
14 authority shall have entered into negotiations with LILCO for the pur-
15 chase of such property, the authority shall cause a survey and map to be
16 made thereof and shall cause such survey and map to be filed in its of-
17 fice and in the office of the county clerk in which such property is
18 located. There shall be annexed to such survey and map a certificate
19 executed by the chief engineer of the authority, or by such other of-
20 ficer or employee as may be designated by the board, stating that the
21 property or interest therein described in such survey and map is neces-
22 sary for its purposes.

23 (c) Upon filing such survey and map, the authority shall petition a
24 special term of the supreme court in the judicial district in which the
25 property is located for the acquisition of such property or interest
26 therein. Such petition shall describe the property being acquired, the
27 valuation date, as determined by the authority, and such additional in-
28 formation as the authority may reasonably deem necessary to facilitate
29 the process of condemnation and payment. The petition shall state that
30 the authority will elect whether or not to pay the amount of such award
31 when it has been finally determined. In all other respects, such peti-
32 tion shall be generally in the form prescribed by the eminent domain
33 procedure law, so far as consistent herewith. Such petition, together
34 with a notice of pendency of the proceeding, shall be filed in the of-
35 fice of the county clerk of the county in which the property is located
36 and shall be indexed and recorded as provided by law. A copy of such
37 petition, together with a notice of the presentation thereof to such
38 special term of the supreme court, shall be served upon the owners of
39 such property as provided in the eminent domain procedure law. The
40 authority may cause a duplicate original affidavit of the service
41 thereof to be recorded in the books used for recording deeds in the of-
42 fice of the county clerk of the county in which the property described
43 in such notice is located, and the recording of such affidavit shall be
44 prima facie evidence of due service thereof.

45 (d) Subsequent proceedings shall be conducted generally in the manner
46 prescribed by the eminent domain procedure law except to the extent the
47 provisions thereof are inconsistent with the provisions of this title,
48 in which case the provisions of this title shall control.

49 (e) In any proceeding involving the valuation of LILCO property taken
50 by the authority the supreme court shall ascertain and determine just
51 compensation for the property taken as of the valuation date, giving due
52 consideration to the applicable findings and determinations of the
53 legislature set forth in subdivision one hereof.

54 (f) Should LILCO's property be taken by the exercise of the power of
55 eminent domain and if LILCO shall have agreed upon the compensation to

1 be paid therefor in settlement of the proceeding, if, LILCO shall be en-
2 titled to payment of the agreed or awarded compensation within one hun-
3 dred eighty days after the date of the agreement upon the amount of the
4 compensation or of the entry of the award, together with interest upon
5 the amount of such compensation from the time of acquisition thereof by
6 the authority to the date of payment of such compensation; but such in-
7 terest shall cease upon the service by the authority, upon the person or
8 corporation entitled thereto, of a fifteen days' notice that the
9 authority is ready and willing to pay the amount of such compensation
10 upon the presentation of proper proofs and vouchers. Such notice shall
11 be served personally or by registered mail and publication thereof shall
12 be made at least once a week for three successive weeks in a daily
13 newspaper of general circulation in the county in which such property or
14 any part thereof is located.

15 (g) Upon the entry of an award finally determining just compensation
16 for the property of LILCO, the authority shall have sixty days after
17 receipt of notice of entry of such award within which to elect to
18 proceed with the taking or to abandon such acquisition as provided in
19 subdivision ten hereof. Notice of such election shall be served by the
20 authority on the owners of such property in the manner described in
21 paragraph (c) hereof. If the authority elects to proceed with the ac-
22 quisition, it shall deposit with the supreme court in which the condem-
23 nation proceeding was held an amount equal to the award within one hun-
24 dred eighty days after receipt by the authority of notice of entry of
25 such award. Upon the making of such deposit, the authority shall notify
26 LILCO in writing of such deposit. The sum so deposited shall be applied
27 as provided in the eminent domain procedure law. Upon making such depo-
28 sit and giving such notice to LILCO, title to all property described in
29 the notice of taking shall immediately vest in the authority and the
30 authority shall have the immediate right thereto. The order setting
31 forth the award, together with evidence from the clerk of the court of
32 receipt of the amount of the award, shall be filed in the office of the
33 county clerk of the county in which the property is located and shall be
34 indexed and recorded in the same manner as a notice of pendency under
35 the eminent domain procedure law. The owner or person in possession of
36 such property shall deliver possession thereof to the authority upon
37 demand, and in case possession is not delivered when demanded or demand
38 is not convenient because of absence of the owner or inability to locate
39 or determine the owner, the authority may apply to the court without
40 notice for an order requiring the sheriff to put it into possession of
41 such real property. Such an order shall be executed as if it were an
42 execution for the delivery of the possession of the property. In the
43 event the authority elects to abandon the acquisition, the provisions of
44 subdivision ten hereof shall apply.

45 7. At any time the authority and its duly authorized agents and em-
46 ployees may, on reasonable notice and during business hours, (i) enter
47 upon any real property proposed to be acquired for the purpose of making
48 the surveys or maps mentioned in this section, or of making such other
49 surveys, inspections or examinations of real and personal property and
50 (ii) inspect and make copies of the books and records of the issuer of
51 such securities, all as the authority may deem necessary or convenient
52 for the purposes of this title.

53 8. Upon the acquisition of all the outstanding shares of stock of a
54 corporate issuer representing all the voting rights and equity thereof,
55 the authority shall as soon as reasonably practicable take all steps

1 necessary to assure that the rights and claims of all the holders of any
 2 other stock and debt securities and all other creditors thereof are as
 3 secure as they were immediately prior to the acquisition by the
 4 authority. Nothing herein shall prohibit the authority from taking any
 5 appropriate and prudent action to renegotiate and restructure such debt
 6 or from purchasing the preferred stock and debt securities issued by
 7 such corporation at such prices as the authority may determine. The
 8 authority may also exchange its bonds for any outstanding preferred
 9 stock or debt securities with the consent of the holders of such
 10 preferred stock or debt securities.

11 9. As soon as practicable after the authority has acquired sufficient
 12 shares of LILCO stock to do so or after it has acquired all the property
 13 of LILCO pursuant to this title, the authority shall forthwith close and
 14 decommission the Shoreham plant and shall investigate and develop alter-
 15 native uses, if any, for such plant.

16 10. If the authority determines, in its sole discretion, that the
 17 total cost of acquisition will result in rates in excess of the rates
 18 which would result from continued operation by LILCO, the authority
 19 shall abandon the acquisition. In such event, the authority shall serve
 20 notice of such abandonment (i) in the case of a stock acquisition, by
 21 causing to be mailed by certified or registered mail a copy of such not-
 22 ice to each former owner of stock as shown on LILCO's stock transfer
 23 books immediately prior to such acquisition at the address shown on such
 24 stock transfer books and by causing to be published a copy of such not-
 25 ice in at least five successive issues of a daily newspaper of national
 26 circulation or (ii) in the case of an asset acquisition, in the same
 27 manner as provided for the service of a petition for acquisition in
 28 paragraph (c) of subdivision six hereof. In addition, in the case of an
 29 asset acquisition the authority shall file a copy of the notice of aban-
 30 donment with the county clerk of the county in which is located any real
 31 property that was taken and with the clerk of the supreme court in which
 32 the proceeding was instituted.

33 11. The provisions with respect to the valuation of stock and property
 34 set forth in this section shall apply only to stock or property of
 35 LILCO, as the case may be, acquired by the authority by the exercise of
 36 the power of eminent domain.

37 § 1020-i. Subsidiaries. 1. The authority shall have the right to exer-
 38 cise and perform all or part of its powers and functions through one or
 39 more wholly owned subsidiaries by acquiring the voting shares thereof or
 40 by resolution of the board directing any of its trustees, officers or
 41 employees to organize a subsidiary corporation pursuant to the business
 42 corporation law, the not-for-profit corporation law or the transporta-
 43 tion corporations law. Such resolution shall prescribe the purpose for
 44 which such subsidiary corporation is to be formed.

45 2. The authority may transfer to any subsidiary corporation any
 46 moneys, property (real, personal or mixed) or facilities in order to
 47 carry out the purposes of this title. Each such subsidiary corporation
 48 shall have all the privileges, immunities, tax exemptions and other
 49 exemptions of the authority to the extent the same are not inconsistent
 50 with the statute or statutes pursuant to which such subsidiary was in-
 51 corporated provided, however, that in any event any such subsidiary cor-
 52 poration shall be entitled to exemptions from the state public service
 53 law and any regulation by, or the jurisdiction of, the public service
 54 commission, and the state environmental quality review act to the extent

1 provided in subdivision two of section one thousand twenty-s of this
2 title.

3 § 1020-j. Notes of the authority. The authority shall have the power
4 and is hereby authorized from time to time to issue its negotiable notes
5 in conformity with applicable provisions of the uniform commercial code
6 for any corporate purpose and to refund from time to time any notes by
7 the issuance of new notes, whether the notes to be refunded have or have
8 not matured. The authority may issue notes partly to refund notes or to
9 discharge other obligations then outstanding and partly for any other
10 corporate purpose of the authority. The notes may be authorized, sold,
11 executed and delivered in the same manner as bonds. Any resolution or
12 resolutions authorizing notes of the authority or any issue thereof may
13 contain any provisions which the authority is authorized to include in
14 any resolution or resolutions authorizing bonds of the authority or any
15 issue thereof, and the authority may include in any notes any terms,
16 covenants or conditions which it is authorized to include in any bonds.

17 § 1020-k. Bonds of the authority. 1. The authority shall have power
18 and is hereby authorized from time to time to issue its negotiable bonds
19 in conformity with applicable provisions of the uniform commercial code
20 for any purpose authorized by this title, including without limitation
21 (a) to acquire any real or personal property or facilities deemed neces-
22 sary by the authority, (b) to pay interest on bonds or notes of the
23 authority, (c) to establish reserves to secure such bonds and notes, (d)
24 to establish or maintain such other funds or accounts for such purpose
25 or purposes as the authority may deem necessary or desirable, and (e) to
26 pay all other expenses of the authority incident to the issuance of such
27 bonds or notes.

28 2. Except as may be otherwise expressly provided by the authority, the
29 bonds and notes of every issue shall be general obligations of the
30 authority payable out of any moneys or revenues of the authority, sub-
31 ject only to any agreements with the holders of particular bonds or
32 notes, or any trustee therefor, pledging any particular moneys or
33 revenues.

34 3. The authority shall have power from time to time, whenever it deems
35 refunding expedient, to refund any bonds by the issuance of new bonds,
36 whether the bonds to be refunded have or have not matured, and may issue
37 bonds partly to refund bonds then outstanding and partly for any other
38 corporate purpose of the authority. Refunding bonds may be exchanged for
39 the bonds to be refunded, with such cash adjustments as may be agreed,
40 or may be sold with the proceeds applied to the purchase, payment or
41 provision for payment of the bonds to be refunded.

42 4. Bonds may be issued, payable in annual installments or as term
43 bonds or both. Bonds shall be authorized by resolution of the board of
44 the authority and shall bear such date or dates, mature at such time or
45 times, not exceeding fifty years from their respective dates, bear in-
46 terest at such rate or rates, be in such denominations, be in such form,
47 either coupon or registered, carry such registration privileges, be exe-
48 cuted in such manner, be payable in lawful money of the United States
49 of America or by check at such place or places, and be subject to such
50 terms of redemption, as such resolution or resolutions may provide. In
51 the event that term bonds are issued, the resolution authorizing the
52 same may make such provisions for the establishment and maintenance of
53 sinking funds for the payment thereof as the authority may deem neces-
54 sary or appropriate. Bonds or notes may be sold at public or private
55 sale at such price or prices as the authority shall determine but shall

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1 not be sold by the authority at private sale unless such sale and terms
2 thereof have been approved in writing by the state comptroller. Pending
3 preparation of definitive bonds or notes, the authority may issue bonds
4 or notes in temporary form which shall be exchanged for bonds or notes
5 in definitive form when available.

6 5. Any resolution or resolutions authorizing any bonds or any issue of
7 bonds may (a) delegate to an officer or officers of the authority the
8 power to approve the issuance of bonds from time to time and to fix the
9 details of any such bonds or issues of bonds by an appropriate certifi-
10 cate of such authorized officer or officers and (b) contain provisions,
11 which shall be a part of the contract with the holders of the bonds to
12 be authorized as to: (i) pledging or creating a lien on all or any part
13 of the moneys, revenues or properties of the authority to secure the
14 payment of the bonds or of any particular issue of bonds or any portion
15 of any issue of bonds, subject to such agreements with bondholders as
16 may then exist;

17 (ii) the rates, fees and other charges to be charged, and the amounts
18 to be raised in each year thereby, and the use and disposition of the
19 revenues;

20 (iii) the setting aside of reserves or sinking funds, and the regula-
21 tion and disposition thereof;

22 (iv) limitations on the right of the authority to restrict and regu-
23 late the use of any of its property;

24 (v) limitations on the purpose to which the proceeds of sale of any
25 issue of bonds then or thereafter to be issued may be applied;

26 (vi) limitations on the issuance of additional bonds, the terms upon
27 which additional bonds may be issued and secured, and the refunding of
28 outstanding bonds;

29 (vii) the procedure, if any, by which the terms of any contract with
30 bondholders may be amended, the amount or percentage of outstanding
31 bonds the holders of which must consent thereto, and the manner in which
32 such consent may be given;

33 (viii) defining the acts or omissions to act which shall constitute a
34 default in the duties of the authority to holders of its obligations and
35 providing the rights and remedies of such holders or of a trustee acting
36 on their behalf in the event of a default; and

37 (ix) any other matters of like or different character, which in any
38 way may affect the security and protection of the bonds and the rights
39 of the holders thereof.

40 6. Notwithstanding any other provisions of this title, any such
41 resolution or resolutions shall contain a covenant by the authority that
42 it will at all times maintain rates, fees or charges sufficient to pay,
43 and that any contracts entered into by the authority for the sale,
44 transmission or distribution of electricity shall contain rates, fees or
45 charges sufficient to pay, the costs of operation and maintenance of the
46 facilities owned or operated by the authority, payments in lieu of
47 taxes, renewals, replacements and capital additions, the principal of
48 and interest on any obligations issued pursuant to such resolution as
49 the same severally become due and payable, and to establish or maintain
50 any reserves or other funds or accounts required or established by or
51 pursuant to the terms of such resolution or resolutions.

52 7. It is the intention of the legislature that any pledge of moneys,
53 revenues or property or of a revenue producing contract or contracts
54 made by the authority shall be valid and binding from the time when the
55 pledge is made; that the moneys, revenues or proceeds so pledged and

1 thereafter received by the authority shall immediately be subject to the
2 lien of such pledge without any physical delivery thereof or further
3 act; and that the lien of any such pledge shall be valid and binding as
4 against all parties having claims of any kind in tort, contract or
5 otherwise against the authority irrespective of whether such parties
6 have notice thereof. Neither the resolution nor any other instrument by
7 which a pledge or lien is created pursuant to this subdivision need be
8 recorded in order to perfect such pledge or lien.

9 8. Neither the trustees of the authority nor any person executing the
10 bonds or notes shall be liable personally on the bonds or notes or be
11 subject to any personal liability or accountability by reason of the is-
12 suance thereof.

13 9. The authority shall have power out of any funds available therefor
14 to purchase bonds or notes at such price or prices as it deems
15 advisable. The authority may hold, pledge, cancel or resell such bonds,
16 subject to agreements with bondholders.

17 10. All bonds, notes and other obligations issued by the authority un-
18 der the provisions of this title are hereby declared to have all the
19 qualities and incidents of negotiable instruments under the applicable
20 laws of the state.

21 § 1020-l. State and municipalities not liable on bonds or notes. The
22 bonds, notes and other obligations of the authority shall not be a debt
23 of the state or of any municipality, and neither the state nor any
24 municipality shall be liable thereon. The authority shall not have the
25 power to pledge the credit, the revenues or the taxing power of the
26 state or of any municipality, and neither the credit, the revenues nor
27 the taxing power of the state or of any municipality shall be, or shall
28 be deemed to be, pledged to the payment of any bonds, notes or other
29 obligations of the authority. Each evidence of indebtedness of the
30 authority, including the bonds and notes of the authority, shall contain
31 a clear and explicit statement of the provisions of this section.

32 § 1020-m. Legal investments. Any bonds or notes issued by the
33 authority are hereby made securities in which all public officers and
34 bodies of this state and all municipalities, all insurance companies and
35 associations and other persons carrying on an insurance business, all
36 banks, bankers, trust companies, savings banks and savings associations,
37 including savings and loan associations, building and loan associations,
38 investment companies and other persons carrying on a banking business,
39 all trusts, estates and guardianships and all other persons whatsoever,
40 who are now or may hereafter be authorized to invest in bonds or other
41 obligations of the state, may properly and legally invest funds, includ-
42 ing capital in their control or belonging to them. The bonds and notes
43 are also hereby made securities which may be deposited with and shall be
44 received by all public officers and bodies of the state and all munici-
45 palities for any purpose for which the deposit of bonds or other obliga-
46 tions of the state is now or may hereafter be authorized.

47 § 1020-n. Deposit and investment of moneys of the authority. 1. All
48 moneys of the authority from whatever source derived, except as other-
49 wise authorized or provided in this title, shall be paid to the treas-
50 urer of the authority and shall be deposited forthwith in a bank or
51 banks designated by the authority. The moneys in such accounts shall be
52 withdrawn on the order of such person or persons as the authority may
53 authorize. All deposits of such moneys shall be secured in accordance
54 with section two thousand nine hundred twenty-five of this chapter. The
55 state comptroller and his legally authorized representatives are

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1 authorized and empowered from time to time to examine the accounts and
2 books of the authority, including its receipts, disbursements, con-
3 tracts, leases, sinking funds, investments and any other records and
4 papers relating to its financial standing; the authority shall not be
5 required to pay a fee for any such examination.

6 2. The authority shall have power to contract with holders of any of
7 its bonds or notes, or any trustee therefor, as to the custody, collec-
8 tion, securing, investment, and payment of any moneys of the authority
9 and of any moneys held in trust or otherwise for the payment of bonds or
10 notes, and to carry out any such contract. Moneys held in trust or
11 otherwise for the payment of bonds or notes or in any way to secure
12 bonds or notes and deposits of such moneys shall be secured in accord-
13 ance with section two thousand nine hundred twenty-five of this chapter,
14 and all banks and trust companies in the state are authorized to give
15 such security for such deposits.

16 3. Subject to agreements with noteholders and bondholders or any
17 trustee therefor, the authority shall prescribe a uniform system of ac-
18 counts in accordance with generally accepted accounting principles.

19 § 1020-o. Agreement of the state. 1. The state of New York does hereby
20 pledge to and agree with the holders of any obligations issued under
21 this title and the parties to any contracts with the authority hereunder
22 that the state will not limit or alter the rights hereby vested in the
23 authority until such obligations together with the interest thereon are
24 fully met and discharged and/or such contracts are fully performed on
25 the part of the authority, provided that nothing herein contained shall
26 preclude such limitation or alteration if and when adequate provision
27 shall be made by law for the protection of the holders of such obliga-
28 tions of the authority, or those entering into such contracts with the
29 authority. The authority as agent for the state is authorized to include
30 this pledge and agreement by the state in all agreements with the hol-
31 ders of such obligations and in all such contracts.

32 2. Nothing in this title shall be construed as diminishing or enlarg-
33 ing any valid existing rights under any license heretofore issued pur-
34 suant to the provisions of the federal power act.

35 § 1020-p. Exemption from taxation. 1. It is hereby found and declared
36 that the operation of the authority is primarily for the benefit of the
37 people of the state of New York, for the improvement of their health,
38 welfare and prosperity, and is a public purpose, and the authority shall
39 be regarded as performing an essential governmental function in carrying
40 out the provisions of this title.

41 2. The authority shall be required to pay no taxes nor assessments
42 upon any of the property acquired or controlled by it or upon its activ-
43 ities in the operation and maintenance thereof or upon income derived
44 therefrom, provided that nothing herein shall prevent the authority from
45 entering into agreements to make payments in lieu of taxes with the gov-
46 erning bodies of municipalities, as provided for in section one thousand
47 twenty-q of this title.

48 3. The securities and other obligations issued by the authority, their
49 transfer and the income therefrom shall, at all times, be free from tax-
50 ation by the state or any municipality, except for estate and gift
51 taxes.

52 § 1020-q. Payments in lieu of taxes. 1. Each year after property
53 theretofore owned by LILCO is acquired by the authority by any means
54 authorized by this title and, as a consequence, is removed from the tax
55 rolls, the authority shall make payments in lieu of taxes to municipali-

1 ties and school districts equal to the taxes and assessments which would
2 have been received from year to year by each such jurisdiction if such
3 acquisition had not occurred, except for such taxing jurisdictions which
4 tax the Shoreham plant, in which case the in lieu of tax payments shall
5 in the first year after the acquisition be equal to one hundred percent
6 of the taxes and assessments which would have been received by such tax-
7 ing jurisdictions. In each succeeding year such in lieu of tax payments
8 shall be decreased by ten percent until such time as such payments equal
9 taxes and assessments which would have been levied on such plant in a
10 nonoperative state.

11 2. The authority shall also make payments in lieu of taxes for those
12 taxes which would otherwise be imposed upon LILCO, if LILCO were to con-
13 tinue in operation, pursuant to sections one hundred eighty-six, one
14 hundred eighty-six-a, one hundred eighty-six-b and one hundred eighty-
15 six-c of the tax law, paragraph (b) of subdivision four of section one
16 hundred seventy-four of the navigation law, and any taxes imposed by a
17 city pursuant to the authorization granted by section twenty-b of the
18 general city law.

19 3. No municipality or governmental subdivision, including a school
20 district or special district, shall be liable to the authority or any
21 other entity for a refund of property taxes originally assessed against
22 the Shoreham plant. Any judicial determination that the Shoreham plant
23 assessment was excessive, unequal or unlawful for any of the years from
24 nineteen hundred seventy-six to the effective date of this title shall
25 not result in a refund by any taxing jurisdiction of taxes previously
26 paid by LILCO pursuant to such Shoreham plant assessment. The authority
27 shall discontinue and abandon all proceedings, brought by its predeces-
28 sor in interest, which seek the repayment of all or part of the taxes
29 assessed against the Shoreham plant.

30 § 1020-r. Repayment of state appropriations. All appropriations made
31 by the state to the authority shall be treated as advances by the state
32 to the authority, and shall be repaid to it without interest either out
33 of the proceeds of bonds issued by the authority pursuant to the provi-
34 sions of this title, or by the delivery of non-interest bearing bonds of
35 the authority to the state for all or any part of such advances, or out
36 of excess revenues of the authority, at such times and on such condi-
37 tions as the state and the authority mutually may agree upon.

38 § 1020-s. Public service law generally not applicable to authority;
39 inconsistent provisions in certain other acts superseded. 1. The rates,
40 services and practices relating to the electricity generated by facili-
41 ties owned or operated by the authority shall not be subject to the
42 provisions of the public service law or to regulation by, or the juris-
43 diction of, the public service commission, except to the extent (a) ar-
44 ticle seven of the public service law applies to the siting and opera-
45 tion of a major utility transmission facility as defined therein, (b)
46 article eight of such law applies to the siting of a generating facility
47 as defined therein, and (c) section eighteen-a of such law provides for
48 assessment for certain costs, property or operations.

49 2. The issuance by the authority of its obligations to acquire the
50 securities or assets of LILCO shall be deemed not to be "state action"
51 within the meaning of the state environmental quality review act, and
52 such act shall not be applicable in any respect to such acquisition or
53 any action of the authority to effect such acquisition.

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1 § 1020-t. Authority not to construct or operate a nuclear powered
2 facility in the service area. In no event shall the authority construct
3 or operate a nuclear powered facility in the service area.

4 § 1020-u. Employees of the authority not subject to the public
5 employees' fair employment act. All employees of the authority shall be
6 exempt from the provisions of the public employees' fair employment act
7 as set forth in article fourteen of the civil service law.

8 § 1020-v. Equal employment opportunity and minority and women owned
9 business enterprise programs. 1. All contracts entered into by the
10 authority pursuant to this title of whatever nature and all documents
11 soliciting bids or proposals therefor shall contain or make reference to
12 the following provisions:

13 (a) The contractor will not discriminate against employees or appli-
14 cants for employment because of race, creed, color, national origin,
15 sex, age, disability, or marital status, and will undertake or continue
16 existing programs of affirmative action to ensure that minority group
17 persons and women are afforded equal opportunity without discrimination.
18 Such programs shall include, but not be limited to, recruitment, em-
19 ployment, job assignment, promotion, upgrading, demotion, transfer,
20 layoff, termination, rates of pay or other forms of compensation, and
21 selection for training and retraining, including apprenticeship and on-
22 the-job training.

23 (b) At the request of the authority, the contractor shall request each
24 employment agency, labor union, or authorized representative of workers
25 with which it has a collective bargaining or other agreement or under-
26 standing and which is involved in the performance of the contract with
27 the authority to furnish a written statement that such employment
28 agency, labor union or representative shall not discriminate because of
29 race, creed, color, national origin, sex, age, disability or marital
30 status and that such union or representative will cooperate in the im-
31 plementation of the contractor's obligations hereunder.

32 (c) The contractor shall state, in all solicitations or advertisements
33 for employees placed by or on behalf of the contractor in the perform-
34 ance of the contract with the authority that all qualified applicants
35 will be afforded equal employment opportunity without discrimination
36 because of race, creed, color, national origin, sex, age, disability or
37 marital status.

38 (d) The contractor will include the provisions of paragraphs (a)
39 through (c) of this subdivision in every subcontract or purchase order
40 in such a manner that such provisions will be binding upon each subcon-
41 tractor or vendor as to its work in connection with the contract with
42 the authority.

43 2. The authority shall establish measures, procedures and guidelines
44 to ensure that contractors and subcontractors undertake meaningful pro-
45 grams to employ and promote qualified minority group members and women.
46 Such procedures may require after notice in a bid solicitation, the sub-
47 mission of a minority and women workforce utilization program prior to
48 the award of any contract, or at any time thereafter, and may require
49 the submission of compliance reports relating to the operation and im-
50 plementation of any workforce utilization program adopted hereunder. The
51 authority may take appropriate action, including the impositions of
52 sanctions for non-compliance to effectuate the provisions of this sec-
53 tion and shall be responsible for monitoring compliance with this title.

54 3. In the performance of projects pursuant to this title, minority and
55 women-owned business enterprises shall be given the opportunity for

1 meaningful participation. The authority shall establish quantifiable
2 standards and measures and procedures to secure meaningful participation
3 and identify those contracts and items of work for which minority and
4 women-owned business enterprises may best bid to actively and affirma-
5 tively promote and assist their participation in projects, so as to
6 facilitate the award of a fair share of contracts to such enterprises;
7 provided, however, that nothing in this title shall be construed to
8 limit the ability of the authority to assure that qualified minority and
9 women-owned business enterprises may participate in the program. For
10 purposes hereof, minority business enterprise shall mean any business
11 enterprise which is at least fifty-one per centum owned by, or in the
12 case of a publicly owned business, at least fifty-one per centum of the
13 stock or other voting interest is owned by citizens or permanent resi-
14 dent aliens who are Black, Hispanic, Asian, American Indian, Pacific
15 islander, or Alaskan native, and such ownership interest is real, sub-
16 stantial and continuing and has the authority to independently control
17 the day to day business decisions of the entity for at least one year;
18 and women-owned business enterprise shall mean any business enterprise
19 which is at least fifty-one per centum owned by, or in the case of a pu-
20 blicly owned business, at least fifty-one per centum of the stock to
21 other voting interests of which is owned by citizens or permanent resi-
22 dent aliens who are women, and such ownership interest is real, substan-
23 tial and continuing and has the authority to independently control the
24 day to day business decisions of the entity for at least one year.
25 The provisions of this subdivision shall not be construed to limit the
26 ability of any minority business enterprise to bid on any contract.
27 4. In order to implement the requirements and objectives of this sec-
28 tion, the authority shall establish procedures to monitor contractors
29 compliance with provisions hereof, provide assistance in obtaining com-
30 peting qualified minority and women-owned business enterprises to per-
31 form contracts proposed to be awarded, impose contractual sanctions for
32 non-compliance, and take other appropriate measures to improve the ac-
33 cess of minority and women-owned business enterprises to these
34 contracts.
35 § 1020-w. Audit and annual reports. The accounts of the authority
36 shall be subject to the supervision of the state comptroller and an an-
37 nual audit shall be performed by an independent certified accountant
38 selected by the state division of the budget. The authority shall submit
39 annually to the governor, the state comptroller, the temporary president
40 of the senate, the speaker of the assembly and the county executives and
41 governing bodies of the counties of Suffolk and Nassau, a detailed
42 report pursuant to the provisions of section two thousand eight hundred
43 of title one of article nine of this chapter, which report shall be
44 verified by the chairman of the authority. The authority shall comply
45 with the provisions of sections two thousand eight hundred one, two
46 thousand eight hundred two and two thousand eight hundred three of title
47 one of article nine of this chapter.
48 § 1020-x. Authority subject to open meetings law. The authority shall
49 be subject to the provisions of article seven of the public officers law
50 relating to the open meetings law.
51 § 1020-y. Court proceedings; preferences; venue. 1. Any action, suit
52 or proceeding to which the authority may be a party in which any
53 question arises as to the validity of this title or the valuation of
54 stock or assets acquired by the authority by the exercise of the power
55 of eminent domain shall be preferred over all other civil causes in all

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of the authority oller and an an- tified accountant rity shall submit temporary president ty executives and Nassau, a detailed and eight hundred ch report shall be ity shall comply t hundred one, two red three of title

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1. Any action, suit rty in which any or the valuation of cise of the power civil causes in all

1 courts of the state, except election matters, and shall be heard and
2 determined in preference to all other civil business pending therein,
3 except election matters, irrespective of position on the calendar. The
4 same preference shall be granted upon application of counsel to the
5 authority in any action or proceeding questioning the validity of this
6 title or the valuation of stock or assets acquired by the authority by
7 the exercise of the power of eminent domain in which such counsel may be
8 allowed to intervene. The venue of any action or proceeding questioning
9 the validity of this title shall be laid in the county in which the
10 principal office of the authority is located.

11 2. In the event any party shall appeal an award of compensation for
12 the taking by the authority of stock or assets, such party shall post a
13 bond in such amount, if any, as the supreme court shall deem appropriate
14 to adequately protect the interests of the other party under all the
15 circumstances.

16 § 1020-z. Corporate existence. The authority and its corporate ex-
17 istence shall continue until terminated by law, provided, however, that
18 no such law shall take effect so long as the authority shall have bonds,
19 notes or other obligations outstanding, unless adequate provision has
20 been made for the payment thereof.

21 § 1020-aa. Conflicts of interest. 1. If any member, officer or em-
22 ployee of the authority shall have an interest, either direct or in-
23 direct, in any contract to which the authority is, or is to be, a party,
24 such interest shall be disclosed to the authority in writing and shall
25 be set forth in the minutes of the authority. The member, officer or em-
26 ployee having such interest shall not participate in any action by the
27 authority with respect to such contract.

28 2. No member, officer or employee shall be deemed to have such an in-
29 terest solely by reason of the ownership of two percent or less of the
30 securities of a corporation which is, or is to be, a party to a contract
31 with the authority, including without limitation the holding company of
32 any banking institution in which the funds of the authority are, or are
33 to be, deposited or which is, or is to be, acting as trustee or paying
34 agent under any bond or note resolution, trust indenture or similar in-
35 strument to which the authority is a party.

36 3. Nothing in this section shall be deemed or construed to limit the
37 right of any member, officer or employee of the authority to acquire an
38 interest in bonds or notes of the authority.

39 § 1020-bb. Authority subject to certain provisions contained in the
40 state finance law, the public service law, the social services law and
41 the general municipal law. All contracts of the authority shall be sub-
42 ject to the provisions of the state finance law relating to contracts
43 made by the state. The authority shall also establish rules and regula-
44 tions with respect to providing to its residential gas, electric and
45 steam utility customers those rights and protections provided in article
46 two and sections one hundred seventeen and one hundred eighteen of the
47 public service law and section one hundred thirty-one-s of the social
48 services law. The authority shall let contracts for construction or pur-
49 chase of supplies, materials, or equipment pursuant to section one hun-
50 dred three and paragraph (e) of subdivision four of section one hundred
51 twenty-w of the general municipal law.

52 § 1020-cc. Authority not to seek nor any subsidiary of the authority,
53 to apply for or accept preference hydroelectricity. The authority nor
54 any subsidiary of the authority, shall not seek, apply for, nor accept
55 hydroelectricity produced by the power authority of the state of New

1 York and marketed subject to the federal preference clause contained in
 2 the Niagara Redevelopment Act at 16 USC Section 836(b)(1) and dis-
 3 tributed by the Power Authority of the State of New York subject to sec-
 4 tion ten hundred five of this chapter. Nothing herein shall be construed
 5 to prohibit the authority from entering into agreements with public
 6 bodies within its service territory for the wheeling and/or distribution
 7 of such hydroelectricity.

8 § 1020-dd. Nine Mile Point II; disposition of interest. The authority
 9 shall make every effort to convey its interest in the Nine Mile Point II
 10 nuclear generating facility through the sale of its interest in such
 11 facility to the power authority of the state of New York or to one or
 12 more of the co-tenants of such plant, provided, however, that in any ac-
 13 quisition of such interest by the power authority of the state of New
 14 York or by one or more of the co-tenants, the authority shall agree to
 15 remain responsible for the purchase of such share of the power generated
 16 by such facility as it is required to purchase under agreements entered
 17 into by LILCO and obligating the authority.

18 § 1020-ee. Liberal interpretation. This title, being necessary for the
 19 prosperity of the state and its inhabitants, shall be liberally con-
 20 strued to effect the purposes hereof.

21 § 1020-ff. Inconsistent provisions of other laws superseded. Insofar
 22 as the provisions of this title are inconsistent with the provisions of
 23 any other law or any part thereof, the provisions of this title shall be
 24 controlling.

25 § 1020-gg. Severability. The provisions of this title are severable,
 26 and if any part or provision hereof, or the application thereof to any
 27 person or circumstance, shall be adjudged by any court of competent
 28 jurisdiction to be invalid or unenforceable, such judgment shall not af-
 29 fect, impair or invalidate the remainder of this title or the applica-
 30 tion of such provision to any other person or circumstance, but shall be
 31 confined in its operation to the provision, person or circumstance
 32 directly involved in the controversy in which such judgment shall have
 33 been rendered.

34 § 2. Section one thousand five of such law is amended by adding a new
 35 undesignated paragraph to read as follows:

36 The authority is further authorized to construct such generating,
 37 transmission and related facilities within the service area of the Long
 38 Island power authority, as the authority, in consultation with and upon
 39 such terms and conditions as the Long Island power authority, deems
 40 necessary or desirable.

41 § 3. The public service law is amended by adding a new section twenty-
 42 four-b to read as follows:

43 § 24-b. Notice to be given Long Island power authority prior to rate
 44 increase. 1. Notwithstanding any inconsistent general, special or local
 45 law or rule or regulation to the contrary, the commission shall to the
 46 extent the Long Island power authority shall so request in any cases or
 47 class of cases, relating to a gas or electric corporation operating
 48 within the service territory of the authority, give notice to the
 49 authority of any filed statement proposing to modify or increase rates,
 50 services, schedule of rates or any other rating rule or to adopt or
 51 amend any rate or service rules or regulations within five days after
 52 the commission shall have received such statement from any gas or elec-
 53 tric corporation within the service territory of the Long Island Power
 54 authority subject to its jurisdiction; provided, however, that in lieu

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1 of giving such notice, the commission may direct that the gas or elec-
2 tric corporation give such notice to the authority.

3 2. In any such case in which the authority shall file with the commis-
4 sion a statement of intent to be a party, the authority shall have and
5 in its discretion may exercise all the rights and privileges of a party.

6 3. For the purposes of this section, the term "authority" shall mean
7 the Long Island power authority, the term "commission" shall mean the
8 public service commission.

9 § 4. Section seventy of such law, as amended by chapter eight hundred
10 thirteen of the laws of nineteen hundred seventy-one, is amended to read
11 as follows:

12 § 70. Transfer of franchises or stocks. No gas corporation or elec-
13 tric corporation shall transfer or lease its franchise, works or system
14 or any part of such franchise, works or system to any other person or
15 corporation or contract for the operation of its works and system,
16 without the written consent of the commission. The permission and ap-
17 proval of the commission, to the exercise of a franchise under section
18 sixty-eight of this chapter, or to the assignment, transfer or lease of
19 a franchise under this section shall not be construed to revive or vali-
20 date any lapsed or invalid franchise or to enlarge or add to the powers
21 and privileges contained in the grant of any franchise or to waive any
22 forfeiture. No such corporation shall directly or indirectly acquire
23 the stock or bonds of any other corporation incorporated for, or engaged
24 in, the same or a similar business, in this state or any other state, or
25 proposing to operate or operating under a franchise from the same or any
26 other municipality, neither shall any street railroad corporation ac-
27 quire the stock or bonds of any electric corporation, unless authorized
28 so to do by the commission. Save where stock shall be transferred or
29 held for the purpose of collateral security only with the consent of the
30 commission empowered by this chapter to give such consent, no stock cor-
31 poration of any description, domestic or foreign, other than a gas cor-
32 poration or electric corporation or street railroad corporation, shall
33 purchase or acquire, take or hold, more than ten per centum of the vot-
34 ing capital stock issued by any gas corporation or electric corporation
35 organized or existing under or by virtue of the laws of this state, ex-
36 cept that a corporation now lawfully holding a majority of the voting
37 capital stock of any gas corporation or electric corporation may with
38 the consent of the commission acquire and hold the remainder of the vot-
39 ing capital stock of such gas corporation or electric corporation or any
40 portion thereof. Provided, that with the consent of such commission and
41 upon and subject to such terms and conditions as such commission may fix
42 and impose, any such stock corporation may acquire, take and hold more
43 than ten per centum of the voting capital stock of any gas corporation
44 or electric corporation, organized or existing under or by virtue of the
45 laws of this state. No consent shall be given by the commission to the
46 acquisition of any stock in accordance with this section unless it shall
47 have been shown that such acquisition is in the public interest. Noth-
48 ing herein contained shall be construed to prevent the holding of any
49 stock heretofore lawfully acquired, nor to prevent, upon the surrender
50 or exchange of such stock pursuant to a reorganization plan, the pur-
51 chase, acquisition, taking or holding of a proportionate amount of stock
52 of any new corporation organized to take over, at foreclosure or other
53 sale, the property of any corporation whose stock has been thus surren-
54 dered or exchanged; but the proportion of the voting capital stock of the
55 new corporation held by a stock corporation and acquired by it by any

1 such surrender or exchange of stock shall not without the consent of the
2 commission exceed the proportion of the voting capital stock held by it
3 in the former corporation. Every contract, assignment, transfer or
4 agreement for transfer of any stock by or through any person or corpora-
5 tion to any corporation, in violation of any provision of this chapter
6 shall be void and of no effect, and no such transfer or assignment shall
7 be made upon the books of any such gas corporation, or electric corpora-
8 tion, or shall be recognized as effective for any purpose. No consent,
9 permission or approval otherwise required under this section shall be
10 necessary for the sale of the franchise, works, system, stocks or bonds
11 by a gas or electric corporation to a duly constituted authority of the
12 state.

13 § 5. Subdivision nine of section 6-178 of the election law, as amended
14 by chapter four hundred thirty-four of the laws of nineteen hundred
15 eighty-four, is amended to read as follows:

16 9. A petition for an independent nomination for an office to be filled
17 at the time of a general election shall be filed not earlier than twelve
18 weeks and not later than eleven weeks preceding such election. A peti-
19 tion for an independent nomination for an office to be filled at a spe-
20 cial election shall be filed not later than twelve days following the
21 issuance of a proclamation of such election. A petition for trustee of
22 the Long Island Power Authority shall be filed not earlier than seven
23 weeks and not later than six weeks preceding the day of the election of
24 such trustees.

25 § 6. Paragraph (h) of subdivision two of section 6-142 of such law is
26 relettered paragraph (i) and a new paragraph (h) is added to read as
27 follows:

28 (h) for the office of trustee of the Long Island Power Authority, five
29 hundred;

30 § 7. Subdivision seven of section 14-100 of such law, as amended by
31 chapter nine hundred fifty-five of the laws of nineteen hundred eighty-
32 three, is amended to read as follows:

33 7. "candidate" means an individual who seeks nomination for election,
34 or election, to any public office or party position to be voted for at a
35 primary [or] general or special election or election for trustee of the
36 Long Island Power Authority, whether or not the public office or party
37 position has been specifically identified at such time and whether or
38 not such individual is nominated or elected, and, for purposes of this
39 subdivision, an individual shall be deemed to seek nomination for elec-
40 tion, or election, to an office or position, if he has (1) taken the ac-
41 tion necessary to qualify himself for nomination for election, or elec-
42 tion, or (2) received contributions or made expenditures, given his con-
43 tributions or expenditures are made or at any other time; and
44 sent for any other person to receive contributions or make expenditures,
45 with a view to bringing about his nomination for election, or election,
46 to any office or position at any time whether in the year in which such
47 contributions or expenditures are made or at any other time; and

48 § 8. Subdivision three of section 14-114 of such law, as renumbered by
49 chapter nine of the laws of nineteen hundred seventy-eight, is amended
50 to read as follows:

51 3. As used in this section the term "contributor" shall not include a
52 party committee supporting the candidate of such party or a constituted
53 committee supporting the candidate of such party.

54 § 9. Long Island power authority creation and contingency fund. (a)
There is hereby established in the joint custody of the state comp-

a consent of the stock held by it, transfer or person or corporation of this chapter assignment shall electric corporation. No consent, section shall be stocks or bonds authority of the

a law, as amended nineteen hundred

fice to be filled rlier than twelve election. A petition filled at a special session following the for trustee of earlier than seven the election of

42 of such law is added to read as er Authority, five

law, as amended by n hundred eighty-

tion for election, be voted for at a for trustee of the office or party time and whether or purposes of this nomination for election, (1) taken the election, or election, given his consent make expenditures, tion, or election, year in which such time; and w, as renumbered by eight, is amended

shall not include a by or a constituted

ontingency fund. (a) f the state comp-

1 troller and the commissioner of taxation and finance a fund to be known
2 as the "Long Island power authority creation and contingency fund".

3 (b) Such fund shall consist of all monies collected or received by the
4 commissioner of taxation and finance on or after the effective date of
5 this act from payments made by LILCO pursuant to its obligations under
6 sections one hundred eighty-six and one hundred eighty-six-a of the tax
7 law, provided however such fund shall not exceed eleven million dollars,
8 and any other monies received from such payments shall be paid to the
9 state treasury.

10 (c) The monies in this fund shall be appropriated to the authority to
11 be used for costs and liabilities incurred by the authority in the fur-
12 therance of the provisions of this act.

13 (d) Notwithstanding the provisions of any general or special law, no
14 part of such fund shall be appropriated until a certificate of approval
15 shall have been issued by the director of the budget and a copy of such
16 certificate filed with the state comptroller, the chairman of the senate
17 finance committee, and the chairman of the assembly ways and means
18 committee. Such certificate may be amended from time to time, subject to
19 the approval of the director of the budget, and a copy of each such
20 amendment shall be filed with the state comptroller, the chairman of the
21 senate finance committee, and the chairman of the assembly ways and
22 means committee.

23 (e) The director of the budget shall not issue any certificate of ap-
24 proval until the authority has entered into a written agreement with the
25 director of the budget providing for repayment by the authority to the
26 state of an amount equal to the total amount expended by the state from
27 such appropriation, on terms to be determined by the director of the
28 budget, and a copy of such agreement shall be filed with the state comp-
29 troller, the chairman of the senate finance committee and the chairman
30 of the assembly ways and means committee.

31 § 10. The sum of eleven million dollars (\$11,000,000), or so much
32 thereof as may be necessary, is hereby appropriated to the Long Island
33 power authority as an advance to be repaid from any moneys in the Long
34 Island power authority creation and contingency fund in the state treas-
35 ury in the general fund to the credit of the state purposes account and
36 not otherwise appropriated for the purposes of administering the provi-
37 sions of title one-a of article five of the public authorities law. No
38 moneys shall be available for expenditure from this appropriation until
39 a certificate of approval has been issued by the director of the budget
40 and a copy of such certificate or any amendment thereto has been filed
41 with the state comptroller, the chairman of the senate finance committee
42 and the chairman of the assembly ways and means committee.

43 § 11. This act shall take effect immediately; provided, however, the
44 provisions of sections one through ten of this act shall take effect
45 January fifteenth, nineteen hundred eighty-seven.