

AFFIRMATION OF GEORGE E. PATAKI

STATE OF NEW YORK)
) SS.:
COUNTY OF PUTNAM)

GEORGE E. PATAKI, being duly sworn, hereby deposes and says:

1. I am an attorney duly licensed in the State of New York and, from 1995 to 2006, I served as Governor of the State of New York. I affirm the following to be true under penalty of perjury.

2. As Governor, I chaired the Public Authorities Control Board ("PACB") and possessed veto power over Long Island Power Authority ("LIPA") projects.

3. On July 16, 1997, I announced the PACB decision approving the transition from LILCO to LIPA. I believed the transition would reduce high utility rates on Long Island and stated that:

"... the Long Island Power Authority (LIPA) takeover of the Long Island Lighting Company (LILCO) will guarantee utility rate reductions of 14 percent, retain reliability of service, permit competition in the electric industry, remove the threat of additional tax liabilities and close out existing tax certiorari cases." See Exhibit "A", annexed hereto.

4. My decision was based heavily on assurances made to me in my role as Governor and chairman of the PACB by LIPA Chair Richard Kessel, LIPA outside counsel Arthur Kremer, individual LIPA board members and the generating companies that, if the transition was approved by the PACB, LIPA would not remove power generating facilities from the tax rolls, prosecute then pending tax certiorari actions or file future tax certiorari actions under the agreements submitted to PACB for approval unless the governmental assessing entity altered the assessment criteria in a way different from the last two years prior to the 1997 agreement.

5. I respectfully request that any Court considering these issues give appropriate deference to the administrative decision I made which was joined in by Senate President Joseph Bruno and Assembly Speaker Sheldon Silver, and announced on July 16, 1997, as reflected in the minutes of the PACB.

Dated: January 14, 2020
Putnam County, New York



Hon. George E. Pataki

EXHIBIT “A”

NEW YORK STATE PUBLIC AUTHORITIES CONTROL BOARD**MINUTES OF THE MEETING OF JULY 16, 1997**

A meeting of the New York State Public Authorities Control Board, a governmental agency of the State of New York, was held at the State Capitol, Albany, New York, Room 124 at 2:02 p.m. on July 16, 1997.

The following voting members or their designated representatives were present to address 97-LI-001, the Long Island Power Authority project:

Governor George E. Pataki
Senator Joseph L. Bruno, Majority Leader
Assemblyman Sheldon Silver, Speaker of the Assembly

The following nonvoting members or their duly appointed representatives were present:

Senator William T. Stachowski
Assemblyman George Winner

Also present were:

John Faso, Member of the Assembly
Lou Tomson, Governor's Office
Mary Beth Labate, Division of the Budget
Judith Kenny, Division of the Budget
Thomas S. Tipple, Division of the Budget
Dan Sheppard, Division of the Budget
Walter Tuchowski, Division of the Budget
Todd Scheuermann, Division of the Budget
Vincent Sculco, Division of the Budget
Diana Taylor, Governor's Office
Mary Louise Mallick, Senate Finance Majority
Lee Van Riper, Senate Finance Majority
Todd Meyer, Senate Finance Majority
Rebecca Malchow, Senate Finance Majority
Michael Rynasko, Senate Finance Minority
Steven Pleydle, Assembly Ways and Means Majority
Edward Cupoli, Assembly Ways and Means Majority
Craig Brandon, Assembly Ways and Means Majority
Claudia Coleman, Assembly Ways and Means Majority
Carol Taylor, Assembly Ways and Means Majority
Radmila Miletich, Assembly Majority
Chris Berry, Assembly Ways and Means Minority

John Bryan, Assembly Ways and Means Minority
 Mary Clark, Assembly Ways and Means Minority
 Chris Hall, Assembly Ways and Means Minority
 Maurice Peaslee, Office of State Comptroller
 Brian Byfield, Office of the State Comptroller
 Robert Hardy, Department of Health
 Frank McHale, Department of Health
 David Kvam, Dormitory Authority
 Jean Woodard, Energy and Research Development Authority
 Jackie Jerry, Energy and Research Development Authority
 Cathie Love, Energy and Research Development Authority
 Richard Siegel, LILCO
 John Germain, Housing Finance Agency
 Carol Coyne, Staff of Senator Seward
 Patricia Lynch, Office of Speaker Sheldon Silver
 Peter Drago, Office of Speaker Sheldon Silver
 Jim Gebhardt, Environmental Facilities Corporation
 Ralph Rossi, Environmental Facilities Corporation
 Seth Hulkower, Long Island Power Authority
 Louis Freda, Brooklyn Union Gas Company
 Larry Shapiro, New York Public Interest Research Group
 Anne Van Buren, Energy Association
 Terry Fox, Energy Association
 William Greenwald, Energy Association
 Gordian Raacke, Citizen's Advisory Panel
 Peter Iwanowicz, Environmental Associates
 Frank Mahoney, Paine Webber
 Shawn Burke, Paine Webber
 Michael Slackman, Newsday Newspaper
 David Hepp, Inside Albany
 Tim Roske, AP Photo
 Fred Dicker, New York Post
 J. McCaffrey, Associated Press
 D. Tompkins, Office of Comptroller
 Dixie Hathaway, Office of Comptroller

Governor Pataki called the meeting to order at 2:02 p.m. and directed the presentation of the materials on the agenda.

WHEREUPON, the minutes of the June 18, 1997 meeting were approved.

WHEREUPON, there was discussion on the following item:

97-LI-001

**APPROVING CERTAIN SPECIFIED PROJECTS OF
THE LONG ISLAND POWER AUTHORITY**

The Governor's opening comments addressed the considerable time and effort spent over many years and governors attempting to provide lower utility rates for Long Island. He said that this issue has been talked about for more than a decade and now we are getting beyond talk and taking the action that will finally provide benefits to the people of Long Island. He then thanked past and current LIPA Chairmen James Gill, Frank Zarb and Richard Kessel for their efforts, as well as Lou Tomson.

Governor Pataki continued to discuss the burden of high utility rates and how the Long Island Power Authority (LIPA) takeover of the Long Island Lighting Company (LILCO) will guarantee utility rate reductions of 14 percent, retain reliability of service, permit competition in the electric industry, remove the threat of additional tax liabilities and close out existing tax certiorari cases. The LIPA-LILCO pact includes settlement of several lawsuits filed by the utility companies that could have forced Long Island communities to repay more than \$1 billion in property tax overcharges. The Governor indicated that LILCO and Brooklyn Union, as part of the agreement, will invest \$1.3 billion in the Long Island service area over the next ten years.

Sheldon Silver, Speaker of the Assembly, then indicated his intent to vote in favor of the LIPA-LILCO agreement, mentioning his reservations about the size of the debt involved, but also citing the need to take advantage of the IRS tax waiver written into Federal law. Speaker Silver further stated that this resolution provides assurances, including a specific rate reduction guarantee and measures to create competition among Long Island power suppliers and other enhancements, all without compromising the safety or reliability of the delivery system. He also stated that \$1.3 billion in energy related infrastructure improvements will be undertaken by LILCO and Brooklyn Union in Suffolk and Nassau counties.

Senator Bruno stated he was pleased that the Speaker is supportive of the resolution and that his vote will resolve problems that have plagued Long Islanders for years, related to the excessive utility rates there. Senator Bruno indicated his intent to vote for the LIPA-LILCO PACB resolution because it is the right thing to do for Long Island and the State, and that this action will fix the Shoreham mistake made years ago.

WHEREUPON, the Members being all present, a vote was taken, and by motion made and seconded, the resolution was unanimously approved.

WHEREUPON, the Governor called a brief recess.

At 2:35 p.m. the meeting was called back to order with Judith Kenny representing Patricia Woodworth as Chair and voting members Roman Hedges representing Speaker Sheldon Silver and Abe Lackman representing Senator Joseph Bruno. Nonvoting members Senator William T. Stachowski and Assemblyman George Winner were also present.

WHEREUPON, there was discussion regarding the following item:

97-EF-168

APPROVING A SPECIFIED PROJECT OF THE
ENVIRONMENTAL FACILITIES CORPORATION
(State Water Pollution Control Revolving Fund -
Short-Term Direct Loan)

Mr. Lackman asked Mr. Gebhardt of EFC for the total cost of the project, which the Bronx Community Paper Company proposes to construct at the Harlem River Yard.

Mr. Gebhardt responded that approximately \$570 million would ultimately be financed by private activity bonds, grant monies and equity capital. Mr. Lackman also inquired about the proposed timeframe for construction of the environmental components of the project. Mr. Gebhardt responded that this would probably occur this fall, before frost could impede the work. Mr. Lackman further asked if the required permits and approvals were in place, to which Mr. Gebhardt indicated the final Environmental Impact Statement was issued in December 1993 and a Record of Decision was issued in 1994.

A vote was taken and, by motion made and seconded, the resolution was adopted.

WHEREUPON, the Members or their representatives being all present, a vote was taken, and by motion made and seconded, it was unanimously:

RESOLVED, to adopt and subscribe certain resolutions appearing on the agenda, without prejudice to applications, portions thereof or proposed resolutions not adopted or not within the scope of such adopted resolutions, described as follows:

Resolution No.

97-ER-87

APPROVING A SPECIFIED PROJECT OF THE
ENERGY RESEARCH AND DEVELOPMENT
AUTHORITY(Pollution Control Revenue Bonds - 1997
Series A - Rochester Gas and Electric)

- 97-ER-88 APPROVING A SPECIFIED PROJECT OF THE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY(Pollution Control Revenue Bonds - 1998 Series A - Rochester Gas and Electric)
- 97-HF-192 APPROVING A SPECIFIED PROJECT OF THE HOUSING FINANCE AGENCY (Liberty View Apartments)
- 97-HF-193 APPROVING A SPECIFIED PROJECT OF THE HOUSING FINANCE AGENCY(Riverhead Landing Apartments)
- 97-EF-165 APPROVING A SPECIFIED PROJECT OF THE ENVIRONMENTAL FACILITIES CORPORATION (Water Facilities Revenue Bonds-Long Island Water Corporation)
- 97-EF-166 APPROVING VARIOUS PROJECTS OF THE ENVIRONMENTAL FACILITIES CORPORATION (State Water Pollution Control Revolving Fund - Short-Term Direct Loans)
- 97-EF-167 APPROVING A SPECIFIED PROJECT OF THE ENVIRONMENTAL FACILITIES CORPORATION (State Water Pollution Control Revolving Fund Revenue Bonds - NYC Municipal Water Finance Authority)
- 97-DA-478A AMENDING THE APPROVAL OF A SPECIFIED PROJECT OF THE DORMITORY AUTHORITY (Tax Exempt Leasing Program)
- 97-DA-479 APPROVING A SPECIFIED PROJECT OF THE DORMITORY AUTHORITY (Frances Schervier Home and Hospital)
- 97-DA-480 APPROVING A SPECIFIED PROJECT OF THE DORMITORY AUTHORITY (The Rosalind and Joseph Gurwin Jewish Geriatric Center of Long Island)

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97-DA-481

APPROVING A SPECIFIED PROJECT OF THE
DORMITORY AUTHORITY (Center for Nursing and
Rehabilitation)

WHEREUPON, there being no further matters before the Board, the meeting was
adjourned at 2:50 pm.

Thomas S. Tipple, Assistant Secretary