

## Proposal Concerning Modifications to LIPA’s Tariff for Electric Service

### Requested Action:

Long Island Power Authority (“LIPA” or the “Authority”) staff (“Staff”) proposes to modify its Tariff for Electric Service (the “Tariff”), effective October 1, 2024, to expressly absolve the Authority of liability for any improper access or sharing of customer data after the Authority transfers such data to the Integrated Energy Data Resource (“IEDR”) platform. This Tariff change is consistent with tariff amendments filed by the Joint Utilities<sup>1</sup> as ordered by the New York State Public Service Commission (the “Commission”) in its Order Addressing Integrated Energy Data Resource Matters issued on October 13, 2023.<sup>2</sup>

### Background:

In February 2021, the Commission issued an order to establish a statewide IEDR, an online platform that would provide access to statewide customer and system data in order to “accelerate efficient and expanded useful access to useful energy data, for all types of users, including Energy Service Entities (ESEs), utilities, governmental agencies and academics.”<sup>3</sup> The Commission stated that the:

...statewide IEDR is intended to provide ESEs with access to useful energy-related information and tools in a more streamlined manner than under the current process where data is obtained separately from each individual utility. Specifically, IEDR users would be able to access and use a variety of query tools that enable useful analyses across all of the statewide energy-related data that is stored within the IEDR platform.<sup>4</sup>

The Commission appointed the New York State Energy Research Development Authority (“NYSERDA”) to serve the role of Program Sponsor.

The IEDR is “intended to collect, house, integrate, analyze, and manage ‘a wide variety of standardized energy-related information from the State’s electric and gas utilities and other sources,’” including Customer Data Sets and various types of utility system data.<sup>5</sup> The Commission has defined “Customer Data Sets” to include three different data sets: 1) Customer Contact Information; 2) Customer Billing; and 3) Customer Energy Usage.<sup>6</sup> “Highly confidential personal information,” which is defined by the Commission as “[h]ighly sensitive information specific to an individual that could be used to identify the individual, such as social security number, banking information, or driver’s license,” will not be transferred to the IEDR platform.<sup>7</sup>

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<sup>1</sup> The Joint Utilities are: Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., KeySpan Gas East Corporation d/b/a National Grid, Liberty Utilities (St. Lawrence Gas) Corporation, National Fuel Gas Distribution Corporation, New York State Electric & Gas Corporation, Niagara Mohawk Power Corporation d/b/a National Grid, Orange and Rockland Utilities, Inc., Rochester Gas and Electric Corporation, and The Brooklyn Union Gas Company d/b/a National Grid NY.

<sup>2</sup> *Case 20-M-0082 – Proceeding on Motion of the Commission Regarding Strategic Use of Energy Related Data*, Order Addressing [sic] Integrated Energy Data Resource Matters (Oct. 13, 2023) (“IEDR Matters Order”).

<sup>3</sup> *Case 20-M-0082*, Order implementing Integrated Energy Data Resource (Feb. 11, 2021).

<sup>4</sup> IEDR Matters Order at 9-10.

<sup>5</sup> *Id.* at 12.

<sup>6</sup> *Case 20-M-0082*, Order Adopting a Data Access Framework and Establishing Further Process at Appendix A (Apr. 1, 2015) (“DAF Order”).

<sup>7</sup> *Id.* at Appendix A; IEDR Matters Order at 11.

In the IEDR Matters Order, the Commission directed the Joint Utilities to transfer the defined Customer Data Sets to the IEDR Solution Architect and Development Team (the “IEDR Administrator”) without customer consent, “as such transfer is an exchange of customer data between data custodians.”<sup>8</sup> The Commission further stated:

As a data custodian, the IEDR will be governed by the [Data Access Framework (“DAF”)], which establishes the means and methods for ESEs to access Customer Data Sets and other energy-related information from the IEDR platform, while ensuring that such information is properly protected from unauthorized disclosures. Any data being accessed by an ESE via the IEDR platform would only be released consistent with the policies and requirements adopted as part of the DAF.<sup>9</sup>

To that end, the Commission “clarifie[d] that the IEDR Administrator shall not share Customer Data Sets without customer consent, subject to the data protection requirements set forth in the Commission’s DAF Order and related orders.”<sup>10</sup>

The Commission also acknowledged that utilities would have “no ability to protect the data stored in the IEDR platform once it has been transferred” and that the IEDR Administrator would be responsible for “the protection of Customer Data Sets or other energy-related data on the IEDR platform from unauthorized disclosures.”<sup>11</sup> The Commission further acknowledged that once the IEDR platform becomes “operational,” ESEs will have the ability to “directly access data from the IEDR platform itself.”<sup>12</sup>

In light of the above, the Commission directed each of the Joint Utilities to file tariff revisions that “explicitly acknowledge that the customer (and not the utility) is the owner of the customer’s data” and release each utility from liability related to customer data that is improperly accessed or shared after the utility transfers such data to the IEDR platform.<sup>13</sup>

### **Proposal:**

While LIPA is not subject to the Commission’s orders referenced above and is therefore not required to transfer the Customer Data Sets to the IEDR Administrator, LIPA may voluntarily agree to follow the Commission’s IEDR Matters Order to transfer the Customer Data Sets, or a subset thereof, to the IEDR Administrator without customer consent. Consistent with the Commission’s orders referenced above, LIPA would consider such a transfer of data to be between data custodians. LIPA Staff notes that LIPA is not submitting itself to the Commission’s jurisdiction and that LIPA takes no position on whether it will participate in future Commission programs.

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<sup>8</sup> IEDR Matters Order at 2, 11. The DAF Order defines a “data custodian” as “any entity where the energy-related data are housed and being accessed, such [as] the utility or a centralized data warehouse.” DAF Order at Appendix A. In the IEDR Matters Order, the Commission stated:

The IEDR is such a centralized data warehouse that will function as a data custodian for the purposes of managing the energy-related data received from various sources, including from the Joint Utilities. Thus, the transfer of this data from the utilities to the IEDR is a custodian-to-custodian transfer of data that does not require prior customer consent.

IEDR Matters Order at 11.

<sup>9</sup> *Id.* at 12-13.

<sup>10</sup> *Id.* at 2.

<sup>11</sup> *Id.* at 13.

<sup>12</sup> *Id.* at 13.

<sup>13</sup> *Id.* at 15.

Accordingly, LIPA Staff proposed to modify the Tariff to eliminate any LIPA liability for improper access or sharing of relevant customer data after it transfers such data to the IEDR platform. This Tariff amendment is consistent with respective tariff amendments filed by each of the Joint Utilities as authorized by the Commission in the IEDR Matters Order. Consistent with the expectations of the Joint Utilities as reflected in the IEDR Matters Order, LIPA anticipates that the IEDR Administrator will agree to reasonable indemnity provisions in the contract (*e.g.*, a cybersecurity and non-disclosure agreement), to be negotiated between LIPA, through its service provider, and the IEDR Administrator.<sup>14</sup>

**Financial Impacts:** None

**Affected Tariff Leaves:** 1, 38J

**Summary of Proposed Changes:**

Staff is proposing to modify its Tariff to eliminate Authority liability for any improper access or sharing of customer data after the Authority transfers such data to the Integrated Energy Data Resource (“IEDR”) platform.

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<sup>14</sup> See *IEDR Matters Order* at 2.

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**I. General Information (continued):****C. General Terms and Conditions (continued):****25. Integrated Energy Data Resource Liability**

Consistent with the Public Service Commission's Order Addressing Integrated Energy Data Resource Matters, issued and Effective October 13, 2023 in Case 20-M-0082, the Authority may transfer Customer Data Sets ("Data Sets") to the State's Integrated Energy Data Resource ("IEDR") platform as defined in the Public Service Commission's Order Adopting a Data Access Framework and Establishing Further Process issued and effective April 15, 2021 in Case 20-M-0082, where such Data Sets are comprised of the Customer Energy Usage Data Set, Customer Contact Data Set, and Customer Billing Data Set as such terms are defined by the Public Service Commission. Although these Data Sets could include non-anonymized and non-aggregated customer-specific data, no highly confidential personal information, such as social security number or banking information, will be made available or included in these Data Sets. Once the Authority transfers data to the IEDR platform, the Authority is not liable for any improper access or sharing of Data Sets.

Consistent with the Public Service Commission's policies regarding data ownership, this data is owned by the Customer, not the Authority.