



**Testimony Prepared for the United States Senate Committee on
Environment and Public Works
Legislative Hearing on S. 1733, Clean Energy Jobs and American
Power Act
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Introduction

Good afternoon Chairman Boxer, Ranking Member Inhofe, and members of the Senate Environment and Public Works Committee. My name is Kevin Law and I am the President and CEO of the Long Island Power Authority, also known as LIPA.

On behalf of Governor David A. Paterson, I thank you for giving me this opportunity to testify today and to share with you the perspective of the Long Island Power Authority and that of New York State on the Clean Energy Jobs and American Power Act.

I am happy to acknowledge and thank Senator Kirsten Gillibrand – my home state Senator – for her unwavering support and all the great work she does for New York and for our country.

S. 1733 is necessary and groundbreaking legislation that will spur the new 21st century clean energy economy, diversify our energy portfolio to move toward renewables, create green jobs, reduce greenhouse gas pollution, and wean ourselves off our dependence on foreign fossil fuel.

I support your efforts and am pleased and proud to share with you the New York and Long Island story. LIPA can provide a unique perspective from a utility, state, and region that is already operating under programs to reduce pollution and develop the clean energy economy.

LIPA is the second largest public power company in the country. We serve as the primary electric provider for 1.1 million customers and a population of nearly 3 million people in Nassau and Suffolk Counties on Long Island and in Far Rockaway in New York City. We are a municipal subdivision of the State of New York and operate as a non-profit state entity and thus we do not have any shareholders – only ratepayers.¹

¹ LIPA is a member of the American Public Power Association and the Large Public Power Council and acknowledges some of their members do not share its views and certainly does not speak on behalf of them or any other public utility in this matter.

Climate change is the most pressing environmental issue of our time. There is no question that we need bold action at the federal level, beginning with strong cap and trade legislation. We need partnerships to address our energy challenges, as no one level of government or utility can solve these problems alone. We need the federal government to work with states, local governments, and utilities. Together, we can meet our challenges.

But the need for action at the federal level does not diminish the need for action at the state level. In New York, we have taken up the mantle of experimentation and innovation. We have transformed our state into a proving ground for the latest technological advances and policy reforms. And we are setting the national standard for what a state can do by itself and with other states to combat climate change. Consequently, we believe that S. 1733 can work for the nation because we are already doing it in New York.

Our experience in New York and at LIPA under a number of aggressive and comprehensive clean energy goals and initiatives shows that we can do this.

New York is 1 of 10 Northeastern and Mid-Atlantic states (New York, Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, Rhode Island, and Vermont) that are participating in Regional Greenhouse Gas Initiative (RGGI). This is the first mandatory, market-based cap and trade effort in the country to reduce greenhouse gas pollution. RGGI caps and then will reduce CO2 emissions from the power sector 10% by 2018.

The states distribute nearly all emission allowances through quarterly auctions rather than direct allocation and expects to invest the proceeds in areas like energy efficiency, renewable energy, and other public benefit programs. Similar to what S. 1733 is designed to do, RGGI is spurring innovation in the clean energy economy and creating green jobs. By reinvesting these proceeds back into the clean energy economy, consumers will directly benefit from reduced emissions and lower utility bills through installation of clean distributed generation and implementation of energy efficiency measures.

In January of 2009, Governor Paterson announced one of the most ambitious clean energy goals in America. By 2015, New York will meet 30 percent of its electricity needs through clean renewable energy and 15 percent by reducing its demand for energy. We call this our "45 by 15" program. We estimate that meeting our 45 by 15 goal will create 50,000 new jobs for New Yorkers. Right now 21 percent of the state's energy (4 percent on Long Island) comes from renewable energy sources. To reach this goal New York has invested to date more than \$800 million in energy efficiency and renewable energy resources, and New York is on pace to reach \$1 billion in these investments in the coming year.

At the end of this summer New York State released a draft energy plan for our state. This plan recognizes the benefits of investing in energy efficiency and renewable energy resources, while managing the impacts of these investments on energy consumers. It is critical that we make energy more affordable for New Yorkers, in a way that recognizes that we are moving towards a carbon-constrained economy. It is anticipated that the plan will be final in December.

Also at the end of the summer Governor Paterson issued an Executive Order setting a state goal of reducing greenhouse gas pollution by 80 percent by 2050, and directed the heads of key State agencies, including LIPA, to develop a plan for how we can reach this ambitious goal.

This climate action plan will include a plan to help safeguard our people, wildlife, natural resources and communities from the climate changes that are regrettably inevitable. And the state's climate team will also work with low income communities to ensure that the steps we take to reduce emission and to adapt to climate impacts will reflect the principles of Climate Justice.

Most recently, on October 13, 2009 Governor Paterson enacted the Green Jobs Green New York Act, a new law that authorizes, using \$112 million of funds provided through RGGI, a program to create green jobs and stimulate investment in weatherization and energy efficiency improvements for residential and commercial buildings. The Act authorizes the establishment of a revolving loan and green jobs training programs to retrofit homes to conserve energy. The program will target middleclass homeowners and small businesses that will pay back the loan out of what they save on their energy bills. The job training component will focus on new entrants to the workforce and displaced workers.

LIPA Energy Efficiency and Renewable Energy Programs

LIPA has been at the forefront of combating climate change through significant investments in efficiency and renewable resources. LIPA has helped transform the regional economy, create clean energy jobs, and increase the use of solar and wind power for residences, businesses, municipalities, and schools.

This year, I launched Efficiency Long Island. At \$924 million over 10 years, it is one of the most ambitious energy efficiency programs for a public utility in the country. This program adds to the \$355 million investment LIPA has already made in energy efficiency and renewable projects over the last 10 years, and is a key component to our 10-year energy master plan for Long Island. It is also one of LIPA's chief components in assisting New York State's efforts to reduce electric consumption by 15% by 2015.

LIPA is one of the top ten utilities in the country for solar programs. Our Solar Pioneer Program has helped install over 2000 solar roofs on Long Island and has rebated approximately \$40 million for solar panels, approximately 14 MWs. This program is about to become even more successful with the assistance of Senator Gillibrand, who has preliminarily secured \$500,000 in federal funding to boost the program. We are also about to construct the largest central-distributed solar systems in the United States. 50 mega watts of solar generation will be installed on Long Island, primarily at Brookhaven National Laboratory, which is a facility operated by the Department of Energy.

While our solar programs are booming, LIPA has recently established a Backyard Wind Program for residential, business, and municipal customers, offering financial incentives and technical assistance for those seeking to harness power from the wind through the use of land-based wind turbines.

In addition, with the help of a federal appropriation from Congressman Gary Ackerman, LIPA is studying the feasibility of a regional off-shore wind farm in partnership with the investor-owned utility Consolidated Edison and other state and city agencies that would be located approximately 13 miles south of the Rockaway Peninsula in the Atlantic Ocean. This project has the potential to provide between 350-750 MW with the opportunity to expand further, potentially making it the largest off-shore wind farm in the country.

Another way LIPA is ensuring that its customers can benefit and see lower bills during this transition is by using energy in a smarter way. With the help of a federal appropriation from Congressman Steve Israel and our own capital spending, LIPA has implemented a residential and commercial customer smart meter pilot program as the first step toward full-scale deployment. A total of 200 industrial, commercial, and residential LIPA customers in two separate pilot areas are currently participating. Smart meters will allow home and business owners to monitor and reduce energy usage, which can increase reliability and encourage energy efficiency by facilitating smarter end-user technologies. And of course, LIPA has filed applications to the Department of Energy for stimulus funds for several smart grid projects.

Clean Energy Jobs and American Power Act (S. 1733)

Though the chairman's mark of the bill was just released on October 23rd, we have conducted an initial review of some of the key changes and offer the following comments. (Other New York State energy and environmental officials may likely offer more substantial comments after a more thorough analysis of the Chairman's mark is completed.)

S. 1733 has the potential to secure our energy independence, create green jobs, and build a 21st century clean energy economy for Long Island and the country while containing costs and providing workable timelines for emissions reductions.

The Pollution Cut

We are pleased that S.1733 will establish key interim pollution reduction targets. In particular we support the 20 percent cut in 2005 greenhouse gas pollution levels by 2020.

One lesson learned from RGGI is the importance of setting the initial cap and subsequent reductions at the proper level. In 2005 modeling for the electricity sector did not take into account that we would be in the midst of the greatest economic crisis since the Great Depression. Since New York set its cap at the highest levels it is now 10 percent above where actual emissions are. The cap in the Senate Bill will avoid making the same mistake.

Moratorium on state cap and trade programs

It is extremely helpful that S. 1733 allows state and regional cap and trade programs to continue if the federal auction is delayed past March 31, 2011 which will prevent a gap in the programs. We are also pleased to see a specified funding program for state renewable programs.

The states that are participating in RGGI should receive auction proceeds from the federal program at a level sufficient to continue the programs currently funded by RGGI auction proceeds. The RGGI states are funding productive clean energy programs with the proceeds from the sale of allowances. These programs have economic benefits that greatly exceed the dollars expended through creation of green jobs, reducing greenhouse gas emissions and the demand for RGGI allowances. If the RGGI states are not permitted to continue the RGGI programs, federal legislation should provide a replacement funding source from the auction of federal allowances.

We remain hopeful that S. 1733 will ultimately reflect the funding commitments made in the House American Clean Energy and Security Act (H.R. 2454).

Allowance Allocations

Any federal cap and trade program should auction allowances from the outset to: (1) establish a market price for carbon; (2) allocate allowances in a fair and equitable manner; and (3) promote returning the value of allowances to the public. RGGI has demonstrated the best method of distributing allowances is through auctions. The strategic use of allowances or allowance value can both stimulate the green jobs that are vital to every state, as well as help to provide cost-containment to those businesses and citizens who will be affected by allowance prices. The more successful we are with next-generation technology investment, renewables, energy efficiency and other programs currently being run by the states, the lower the cost of carbon for those in the market.

Auction revenue can be used in a variety of ways to promote the goals of climate legislation through the promotion of energy efficiency and clean renewable energy; implementation of energy conscious state and local transportation and land use planning; implementation efforts that reduce vehicle miles travelled (VMT) and/or greenhouse gas emissions; and the development of low carbon technologies and policies. Auction revenues should also be invested with a goal of protecting low- and moderate-income citizens.

State programs to deploy energy efficiency and renewable energy are critical to achieving emissions goals at the lowest cost and to creating green jobs, and a sustainable energy and economic future. All states should have the opportunity to implement clean energy programs funded by allowance value, but the formula for allocation among the states should be based in part on the application of performance measures intended to maximize the benefit of state greenhouse gas emissions actions. For example, more allowances or auction revenues can be made available to states that have adopted state climate plans or programs that promote energy efficiency and clean energy and include elements such as decoupling, net metering and aggressive building standards.

Though we are pleased with some of the modifications that S1733 makes with respect to the allocation of allowances in H.R. 2454, I would like to point out two areas of concern to the distribution of allowances and use of allowance value. First, the legislation provides for the free allocation of most allowances, rather than auctioning allowances and using allowance value for the public benefit. Second, by allocating a total of 35% of the allowance value to the electricity industry and directing the use of allowance value toward reducing the impact of the program on the price of electricity, the legislation interferes with the price signals that should drive the transformation to the clean energy economy. At LIPA, we believe the best way of providing lasting relief from high electricity bills is to invest in energy efficiency.

The allowance allocation to the electricity sector should clearly identify public power utilities as eligible to receive free allocations. Public power utilities generate renewable energy for customers, and provide energy efficiency services to customers throughout New York State. Public power utilities need to be clearly included in the allowance allocations provided to investor-owned utilities so that they, along with investor-owned utilities, can continue to promote clean energy and energy efficiency.

Finally, we suggest the allocation for energy efficiency and renewable energy investment be increased to 15% from 10%, rather than being reduced to 5% by 2020, as specified by S1733, especially in the face of increasing federal requirements resulting from climate change legislation. The nation will not be able to achieve the aggressive, science-based goals in the legislation without continued investment in energy efficiency, renewable energy and

transportation and land use policies that reduce the nation's reliance on fossil fuels. Congress can contain costs and protect consumers by promoting investment in all cost-effective energy efficiency, which would require investments that ramp-up to about \$30 billion annually or approximately 26 percent of total allowances for efficiency alone. Cost-effective investments in renewable energy would require additional funding. Accordingly, we recommend that the allocation to the states for energy efficiency and renewable energy development and deployment be increased to the 15% level and remain at that level through 2020.

Preservation of Authority

We also note that the Chairman's mark-up maintains EPA's authority to regulate greenhouse gas pollution under the Clean Air Act. The history of the Clean Air Act has demonstrated the value of a multi-faceted approach to reducing emissions of air pollutants, with various programs all serving a common goal of reducing emissions at the lowest cost. Preserving EPA's authority to regulate greenhouse gas emissions under the Clean Air Act will have the same beneficial effect.

As S. 1733 is further shaped, LIPA supports your efforts to enact comprehensive climate change and energy legislation while balancing that with the impact on consumers. At LIPA, we have been doing everything in our power to protect and provide value to our customers while pushing forward on energy independence.

If LIPA and New York can be an example, then the country can successfully join with us and other state partners to implement a cap and trade program.

In New York we have over 40 communities, many from Long Island, that have taken the State's "climate smart community pledge." The Climate Smart Communities program outlines a 10-point plan to help guide communities in the reduction of greenhouse gas emissions and their adaptation to the changing climate. Climate Smart Communities have incorporated a variety of strategies in their greening programs, including: establishing baselines for emission reduction targets in municipal facilities, fleets and operations; promoting efficient technologies through use.

Carbon Market Derivatives

While LIPA is supportive of the overarching goals of S. 1733, we are also pleased to see that it does not include language found in H.R. 2454 – The American Clean Energy and Security Act in the House relating to fuel derivatives.

Inclusion of this provision in the final bill would impose mandatory clearing of over-the-counter transactions as well as requirements to force such transactions to be moved to an exchange, which would significantly increase costs for utilities seeking to manage risks through over-the-counter products, dramatically increase transaction costs and tie up needed cash at a time when the cost of capital is high, access to capital markets is uncertain, and our industry needs to invest billions in new energy infrastructure because we have a 20th century system that needs to be brought into the 21st century world.

For LIPA, institution of this requirement would increase the amount of cash collateral we post by approximately \$450 million. It would cost us \$22 million per year which represents about .5% in our rates and potential bond ratings downgrades which would also increase our borrowing costs.

I urge you to refrain from adding the House language S. 1733.

Conclusion

I hope that we have provided valuable information on the great programs and policies that have been implemented in New York and Long Island, and that LIPA can serve as a model to other utilities throughout the country. I am eager to partner with the federal government to expand these great programs. Thank you for the opportunity to testify and I look forward to working with you on this legislation and other critical energy challenges facing our nation.