

Introduced by Presiding Officer Lindsay

Laid on Table 11/9/2011

**PROCEDURAL RESOLUTION NO. 35 -2011, AUTHORIZING  
APPEAL IN LIPA LITIGATION**

**WHEREAS**, by Resolution No 8-2002, this Legislature authorized Reilly, Like & Tenety, 179 Little East Neck Road, North Babylon, NY 11702, to take legal action against the Long Island Power Authority ("LIPA") for the purpose of seeking full recovery of any and all overpayment by the County of Suffolk and Suffolk County ratepayer's of the LIPA Bill Credit Rate Differential; and

**WHEREAS**, under the terms of the County Legislature's agreement with Reilly, Like & Tenety, Irving Like's fee has been \$325/hour; and

**WHEREAS**, by an order dated June 3, 2010, New York State Supreme Court Justice Elizabeth Emerson granted summary judgment to LIPA; and

**WHEREAS**, Reilly, Like and Tenety has recommended that the County appeal Judge Emerson's decision; and

**WHEREAS**, Reilly, Like & Tenety has agreed to take the appeal, and represent the County in all future proceedings related to this case, on a contingency basis; now, therefore, be it

**1st RESOLVED**, that Reilly, Like & Tenety, P.C. is hereby authorized to appeal the order of Justice Emerson, dated June 3, 2010 to the Appellate Division, Second Department; and be it further

**2nd RESOLVED**, that as of the effective date of this resolution, Reilly, Like & Tenety will represent the County of Suffolk on a contingency basis; and be it further

**3rd RESOLVED**, that in the event of the County's obtains a judgment against LIPA or agrees to a monetary settlement as payment of their legal fee, Reilly, Like & Tenety will be entitled to 20% of the recovery as payment of their legal fees; and be it further

**4th RESOLVED**, in the event of non-monetary settlement with LIPA, i.e., LIPA agrees to provide services, programs or benefits to the County and its ratepayers, the County will determine the qualitative value of such settlement and require as the settlement that LIPA pay 10% of this value to the County in case which will be paid to Reilly, Like & Tenety in full satisfaction of their legal fee; and be it further

**5th RESOLVED**, that the County shall be responsible for paying the cost of printing the record and briefs on appeals, up to a maximum of \$10,000; and be it further

**6th RESOLVED**, that the Presiding Officer is authorized to executive such agreements as may be necessary to carry out the terms of this resolution.

DATED: November 9, 2011

**EFFECTIVE IMMEDIATELY PURSUANT TO SECTION 2-15 OF THE SUFFOLK  
COUNTY CHARTER**