ECONOMIC DEVELOPMENT & ENERGY COMMITTEE
OF THE
SUFFOLK COUNTY LEGISLATURE
Minutes

A meeting of the Economic Development and Energy committee of the Suffolk County Legislature was held at the William H. Rogers Legislature Building, 725 Veterans Memorial Highway, Smithtown, NY 11787 on Friday, January 25, 2002 in the Rose Y. Caracappa Auditorium at 1:30 P.M.

Members Present:

Legislator Jon Cooper, Chairman

Legislator Fred Towle, Vice Chairman

Legislator Allan Binder, Member

Legislator Vivian Fisher, Member

Legislator George Guldi, Member

Also in Attendance:

Paul Sabatino, Counsel to the Legislature

Tom McGinty, Newsday

Mitchell Pally, Suffolk County Electrical Agency

Gerard McCreight, Aide to Legislator Cooper

Jim Hartnett, Suffolk County Economic Development

Peter Quinn, Sufffolk County Electrical Agency

Gordian Raacke, CAP

Robert Garfinkle, Suffolk County Attorney's Office

Bill Shannon, Suffolk County Dept. of Public Works

Michael Artsis, Long Island Tonite (Filming)

Todd Johnson, County Executive's Office

Nanette Essel, Aide to Legislator Fisher

Eben Bronfman, Aide to Legislator Guldi

B.J. McCartan, Aide to Presiding Officer Tonna

Fred Pollert, Director, Budget Review Office

Minutes taken by:

Eileen Schmidt, Legislative Secretary

(*The meeting was called to order at 12:50 P.M.*)

CHAIRMAN COOPER:

Legislator Binder if you could lead us in the pledge, please.

SALUTATION

CHAIRMAN COOPER:

Thank you. I don't believe we have any speaker cards, so – if Peter Quinn could please come up to the front. Hello, Peter, Happy New Year.

MR. QUINN:

Good afternoon and Happy New Year to you. Peter Quinn, Long Island Coalition for Democracy. I am commenting about news, legal notices that I saw in Newsday last week and earlier this week. Suffolk County has two industrial development agency arrangements with companies. There were two for Brookhaven, there were two for Islip and it occurred to be that during a recession there are particularly when the Legislature wrestles with funding for different departments and different divisions within the County that you have a branch of the executive doling out our tax dollars to companies on the alleged ground that they're going to create and maintain jobs. And it seems to me that one, the Legislators themselves should know the dollar amounts that are being offered to these companies. They receive tax, property tax abatements, mortgage transfer tax eliminations and sales tax eliminations and sometimes they can reach as high as $500,000 when they're totaled up and yet the legal notices don't require that the public be served by listing what those amounts are for each company. So it bothers me that one, the Legislators don't know and two, the public doesn't know what these giveaways are of our tax dollars.

So I would urge the Legislature to seek some kind of regulation that requires the dollar amounts be put into the legal notices otherwise the legal notices are meaningless. They are simply a pro forma compliance with State law, but they don't serve the public in any way and although you do receive quarterly reports about what the IDA's are doing you're not given that upfront information before the decisions are finalized. So I would urge your attention and perhaps even during a recession you ought to ask for a moratorium on what company – what entitling these companies to receive these benefits. Thank you.

LEGISLATOR FISHER:

(inaudible)

MR. QUINN:

Yes.

LEGISLATOR FISHER:

So what you're suggesting is that the information be given at an earlier point in the process?

MR. QUINN:

It could be included right in the legal notices before the so called public hearing by the IDA is held. Usually the legal notice gives the name of the company, where it's going to be located and tells when the IDA will hold its public hearing. Sometimes at the LIA offices, sometimes at the Hauppauge Industrial Association offices, but there is no dollar figure ever listed –

LEGISLATOR FISHER:

Now can the incentives be easily quantified?

MR. QUINN:

Yes, it can be. Yes, it can be and if you -- if one chooses to go to those hearings – in the past I wasn't always given that information, but at a recent one I was told how much the taxes were and in that particular case the company was being awarded $313 or $330, 000 in tax eliminations and I thought well, frequently you wrestle with issues that are a $1,000 in the budget and you quibble about those things and struggle to resolve them. In the meantime, out the back door is going hundreds of thousands of dollars and this amounts over the past 15 years to several of billions of dollars.

LEGISLATOR FISHER:

Thank you, Peter.

CHAIRMAN COOPER:

Thank you very much, Peter. We'll next move to our public speakers, if Mitchell Pally, Chair of the Suffolk County Electrical Agency and Robert Garfinkel from the Suffolk County Attorney's Office could you come to the

front, please.

MR. PALLY:

Good morning.

MR. PALLY:

Good afternoon.

MR. GARFINKLE:

Good afternoon.

CHAIRMAN COOPER:

Good afternoon, thanks for coming down.

MR. GARFINKLE:

Our pleasure.

CHAIRMAN COOPER:

If you could just state your names for the record, please.

MR. PALLY:

Mitchell Pally, Chairman, Suffolk County Electrical Agency.

MR. GARFINKLE:

Robert Garfinkle, Suffolk County Department of Law, Staff Counsel for the Electrical Agency.

CHAIRMAN COOPER:

Mitch, I understand that you've come down primarily to give details to the committee about the program on going program by the Suffolk County Electrical Agency to try to source lower cost energy for Suffolk residents. If you can please give us some details.

MR. PALLY:

Before I do that I'd like Bob just to make a statement regarding some of the restrictions we are under with regard to Federal rules on the matter. Not in any way not wanting to give the information, but in some cases being prohibited from giving out some information, so Bob why don't you just do that before we start.

MR. GARFINKLE:

A couple of things, first of all, back in 1996 the Electrical Agency which was constituted pursuant to a local law passed by the Legislature was created in the early 80's and in 1996 the Electrical Agency filed a Section 211 application under the Federal Power Act before the Federal Energy Commission to require what was then LILCO and now LIPA to transport over its transmission system up to 200 megawatts of electricity 24 hours a day to all of Suffolk County residential customers. Various procedural motions were made; finally there was an order from FERC that basically said that LIPA was required as the successor in interest to transport that electricity up to the 200 megawatts. The actual cost for that service was to be determined either through negotiations or at a hearing before the FERC, the Federal Energy Regulatory Commission. The status of that right now is FERC has assigned what's called a settlement judge for the purpose of seeing if the matter can be resolved without a hearing. Pursuant to the regulations with FERC any of the subject matters of – that were brought up in those settlement negotiations by law are confidential.

Additionally, the Suffolk County Electrical Agency had put out a request for proposals from various energy suppliers to supply up to the 200 megawatts of power and the companies that submitted those responses also required confidentiality with respect to even their names and that for negotiating purposes on other matters or for essentially bidding on other matters they wish their names to be withheld. Certainly, what Mr. Pally can do is give the broad background on what's going on. The RFP itself is public knowledge; we have no problem if you don't already have copies of that of making copies available to you. But there maybe questions that come up and not that I anticipated they we may be precluded legally. And the line is kind of drawn in the sand in the sense that one of the reasons that the Electrical Agency was given the authority by the FERC order was that there -- it is not deemed to be a entity of Suffolk County government. It's an independent agency and one of the arguments that LILCO originally had brought and LIPA tried to bring is that they did not have the authority to bring this proceeding before the FERC because Suffolk County doesn't have the authority. And what we had argued was it's an independent agency and it does need to be this independent line maintained for the viability of the transaction. So that background Mr. Pally's here to answer whatever questions he can.

MR. PALLY:

Just let me just make one short statement and I'd be more than happy to answer any questions that any members of the Legislature have. The Suffolk County Legislature -- Suffolk County Electrical Agency's job by statute both State statute and local statute is to try and procure low cost power to customers within Suffolk County. We have two programs that we are using at the moment to do that. We purchase and have purchased since 1983 hydropower from the New York Power Authority, which we provide on an as available basis to all customers in Suffolk County. And if you notice on your LIPA bill there is a Suffolk County Electrical Agency credit that is the cost or the lack of cost for lack of a better term the reduction that we provide as part of our contract with NYPA that goes to all residential and commercial customers, so that has been going on since 1983. In addition we have five megawatts of economic development power which we are provided under State law from the Fitzpatrick Nuclear Power Plant which we use for economic development purposes.

Companies apply for such power and we provide that power to them on a as appropriate basis and we have given that power out to a number of companies over the years that meet certain job creation and job retention characteristics within Suffolk County. I don't have the list of those companies at the moment, but I could be more than happy to provide those for you as necessary. Bob, if you could just get that over to them that would be helpful.

CHAIRMAN GULDI:

With the list of the companies that are currently under the five megawatt economic development power --

MR. PALLY:

-- yes --

CHAIRMAN GULDI:

-- could you provide us with the amount of power allocated to them, the approximate cost of that power and the approximate dollar value savings that they are realizing from not paying commercial --

MR. PALLY:

-- some of that, some of that at least in regard to the cost is an estimate based upon the cost of the power goes up and down, but we will provide you with, yes.

CHAIRMAN GULDI:

Yeah, but you do have primers and guidelines within --

MR. PALLY:

Yes, yes. We would be more that happy to provide that information to you. It should have been provided to you. It usually is provided to you as we make changes, but we will be more than happy to provide you with the list as it is currently appropriate to do so.

CHAIRMAN GULDI:

I've seen it from time to time I'd just like to see the current list.

MR. PALLY:

Yeah.

CHAIRMAN GULDI:

But the one other thing I'd like you to provide with that, the job creation and retention criteria that you're using, if you have a policy statement of that criteria I'd like to see what that is cause with the reports that we see that Newsday is getting some of that power I can not fathom for the life of me how they could possibly argue either for job creation or job retention. I don't think Newsday's going to North Carolina and they've been here forever and I can't imagine a criteria that they qualify under. So I'd like to see the criteria.

MR. PALLY:

Sure. Well, some of the criteria is in State law also that we are bound by, but we will be more than happy to provide you both of those pieces of information as appropriate.

The third program is the program we are trying to procure at the moment which is under as Mr. Garfinkle indicated under the 211 statute under the Federal Energy Regulatory Act to provide. We had bid we had proposed in 1996 that we and asked for and made a partition for up to 200 megawatts for residential customers and up to 100 megawatts for industrial customers. In late 1996 FERC temporarily approved our requests for residential customers, tabled our request for industrial customers and since December 31st, 1996 we have been attempting to negotiate first with LILCO and now with LIPA a price that we would have to pay for the transmission of that power, obviously, from wherever it comes into to the residential customers in Suffolk County since the Suffolk County Electrical Agency of course does not own any of the wires or anything else that goes into anybody's home. FERC transcribed the temporary order to a permanent order in September of 2001 and as a result of that started a actual Federal regulatory process in relation to the setting of that price and that is what we are engaged in with LIPA at the moment in front of FERC and those are as I said that is what is ongoing at the moment. So and that's the confidential rules that we are bound by with regard to our proposals and LIPA's proposals within the regulatory process those are bound by FERC confidentiality rules. But that is where we are at the moment and as I said I'd be more than happy to answer any questions that anybody have if I'm allowed to do so.

CHAIRMAN COOPER:

Mitch --

MR. PALLY:

Yes, Mr. Chairman.

CHAIRMAN COOPER:

You're certainly aware that Richie Kessel has repeatedly made the claim that if your plan was put into effect and if it did reduce residential rates in Suffolk County it would have the {concumbant} effective increasing commercial rate which commercial rate in Suffolk and rates across the board in Nassau County. Can you explain the thought process behind that

and why that would happen if you indeed believe that --

MR. PALLY:

Well, I don't -- I don't believe it will happen, so I don't want to explain how Mr. Kessel may or may not come to that conclusion. It is not our intent for that to happen; it is not our intent in anyway to penalize any body outside the class of people that we can serve with whatever power we are allowed by FERC to provide. In setting the price of the power to be delivered to each individual residential customer there are obviously two components to that. There is the price of the energy, which we have -- to be supplied to the Electrical Agency by a power producer responding to our RFP and there is the price of the transmission and distribution of that power. The transmission and distribution price will be set in one of two ways either the Electrical Agency and LIPA can agree to a price which we obviously hope so. Or if that cannot happen FERC will set a price after the appropriate regulatory aspect and public hearing. In both of those cases it is our assumption that the parties involved understand the non-intent to penalize other customers. So -- and even if FERC sets their own price they understand the rules that we are bound by; they understand the financial ramifications to LIPA and will set a price that FERC believes is appropriate under the circumstances. So we do not believe and it's never been our intent and we do not believe it is going to happen that anyone else will be penalized for the reduction that we hopefully will be able to provide to the residential customers of Suffolk County under the appropriate County and State laws and Federal law that we are applying under. He may have a different opinion I understand that, but I don't agree with it.

CHAIRMAN COOPER:

There's a according to quote from the press release that LIPA issued on the 15th I quote in part, "it is LIPA's understanding that Suffolk seeks to supply 200 megawatts of electricity to residential customers under a formula that would not cover some of LIPA's costs for wheeling or transporting the power over its wires along with other substantial cost. As a result the cost would be paid by all the residential and commercial customers in Nassau as well as commercial customers in Suffolk." And then Richie Kessel goes on to say that your agency is seeking to implement a plan that would have all the commercial and residential electric customers in Nassau, in the Rockaway's as well as all the commercial customers in Suffolk underwrite some of the cost for wheeling electricity to a select group of customers in Suffolk County that's not fair. So and I had a conversation with Richie Kessel the other day he reiterated this.

MR. PALLY:

I don't know -- how one could define how many residential customers are there in Suffolk County? I don't know how you could define 450,000 customers as select customers. Select is a word to me that means a significantly lesser amount than 450,000 customers because this power, if we can ever get it will be provided to every residential customer in Suffolk County. It is not our intent and has never been our intent to pick and choose one customer over another customer. I don't want to get it and my neighbor not get it or Huntington get it and Brookhaven not get it or anything like that. It is our intent to service 450,000 residential

customers in Suffolk County. I don't as I said; I don't define that as select number (1) and number (2) we do not believe in all of the financial information that we have seen that anyone else would be penalized.

CHAIRMAN COOPER:

And also your long term goal is to expand the program to include commercial customers --

MR. PALLY:

Well, we will if we do get the appropriate order from FERC setting the price and that power is provided I don't want to speak for the board. One of my other board members Mr. Quinn is here so I will not speak for anybody but myself, but I would assume that the Electrical Agency will then look at the application we have made to FERC for industrial customers and determine at that time whether or not that is an application which we should continue to pursue at that time. So I don't want to foreshadow a decision which may or may not be made by the Agency, but I would assume that at least that discussion will take place.

LEGISLATOR FISHER:

Mr. Chair.

CHAIRMAN COOPER:

Just one additional question.

MR. PALLY

Yes.

CHAIRMAN COOPER:

LIPA already has a program called Long Island Choice and Richie Kessel had made the statement that your program is not necessary because companies can already tap into or residential customers can tap into Long Island Choice. What is the difference between your program and Long Island Choice? And a related question, how is it that you believe that you can source electricity cheaper than LIPA?

MR. PALLY:

Well, I'll try to answer the second question first and I'll try to be very careful and Mr. Garfinkle, if I go to far kick me under the table. Obviously, the only reason we would do this is if we could save the residential ratepayers of Suffolk County money. We're not going to do this if the answer is their bills are going to be more expensive than they are now. All of us are LIPA customers; we all pay LIPA bills and I don't

think anybody wants to pay a bill which is more expensive than it is today. So we're all in that same situation where this would only happen if the price that we had to charge is less than the price LIPA is now charging in some fashion. The only way we will know that is by having two facts, two situations occur. Number one we have sent out an RFP which is public knowledge asking companies power producers whether or not they can provide power, a certain amount of power to the Electrical Agency at a price, at a certain price at a certain time for a certain duration. Obviously, the answer to the question is nobody can do that then it's not going to happen. If the answer is somebody can do that or somebody's at an appropriate time and an appropriate place meeting our criteria then that will be the first step that we know then that there is somebody out there who believes that they can supply power to us under the conditions that we have put in the RFP. Obviously, at a lower price than maybe being supplied now to LIPA.

The second issue the second component of the price will obviously be the price set for the transmission either a negotiated settlement with LIPA or a price set by FERC. Only when we see what those two prices are going to be, the price of the electricity supplied to us and the price that either we enter into an agreement with LIPA with or FERC sets will we know whether or not the Electrical Agency can supply power at a lower cost to the 450,000 residential customers of Suffolk County. And only then will we know whether we're going to do it, but the answer is if you add A & B and it's more than C then we're obviously not going to do it because then it can't be done. But if A & B are less than C and we believe we can do it and FERC gives us the authority to do it and FERC sets a price that allows us to do it at a lesser cost then we will supply -- then it is our intent to supply that power and provide a reduction in the price to 450,000 residential customers. So that's, that's our intent; how our plan differs from Long Island Choice well, in obviously, in one perceptive in Long Island Choice and I'm not an expert on Long Island Choice, so I don't want to if I make an error in that please, you know. My understanding is in Long Island Choice each individual customer has to decide for themselves whether they want to be part of the program. My house does, your house does, everybody's house does individually one by one to determine whether or not they want to and then they would enter into that program for some period of time. In our case that would not happen; we would just serve everybody cause it's our assumption that everybody would like to have a price reduction. I guess we could have people opted out, but that would be pretty hard to do, but I'm not sure anybody would want to opt out and save X, you know, because they don't want to get it. But it is not our intent to offer a choice one by one as LIPA does now; we would serve all 450,000 customers as we would be permitted to do by State statute and the FERC rules.

CHAIRMAN COOPER:

Could you give us some idea as to the approximate electricity or energy savings that are being charged right now by your business customers in Suffolk?

MR. PALLY:

I don't have that information. It's not the reduction in cost on the business customers goes up and down throughout the year because of the price that they pay and the price that we get the energy from, from the New York Power Authority. So because our price goes up and down

obviously their price goes up and down, but I can get you a compilation of that for the last year. I'll be more than happy to send you I do not have it with me, but would be more than happy to send that to you.

CHAIRMAN COOPER:

Please. There was another point made in the LIPA press release that said that your plan if implemented would undermine competition on Long Island because a competitive supply would be less able to compete for SCEA customers remaining energy requirements. Would you again, disagree with that statement?

MR. PALLY:

Why don't you answer that one, Bob? He's our competition guru, go ahead.

MR. GARFINKLE:

The question was asked before about Long Island Choice and as at least as was explained to me under the Long Island Choice program it must be by its own terms of operation (inaudible) with LIPA, I believe calls Revenue Neutral which means that you effective --

SPEAKER:

(inaudible)

MR. GARFINKLE:

-- it must be revenue neutral which means that a customer really can't save money because their getting less money from one customer they need to make up their revenue from someone else. So that the charges when the total charges are added up the person's going to effectively get the same bill. What you can do you can change suppliers; so rather than using a supply of electricity that contracted for by the Long Island Power Authority you'd contract with your own, what they're called ESCO's or Energy Supply Companies that register to do business under LIPA system.

With respect to the issue of competition I think the question that came up before the Electrical Agency or by competition do you mean the ability to have more suppliers compete or do you mean having lower rates by ratepayers? So that yes, you can have competition by bringing more suppliers in, but if it's not reducing the rates to the ratepayers I think that was the issue that was confronted by the Electric Agency. And what they were interested in is actually reducing rates. So that to the extent that if competition means you're putting pressure to reduce rates that's the track that the Electrical Agency is choosing to pursue.

MR. PALLY:

And it's not our intent and has never been our intent to preclude one of

the 450,000 residential customers in Suffolk County from choosing Long Island Choice if they want to. They could in reality do both. They can get the lower cost power we are going to provide, hopefully, to all the residential customers and if they still want to choose Long Island Choice it's our opinion they can do that also. I don't know what the combination of that will be in regard to savings for them and I don't know I'm not aware at the moment of what the savings is to a residential customer under Long Island Choice at the moment and individual residential customer at the moment. But it is not been our belief that one would preclude the other.

CHAIRMAN COOPER:

And Mitch, you mentioned that you're currently getting approximately five megawatts of power from the Fitzpatrick Nuclear Power Plant, how much approximately do you purchase from NYPA in hydropower?

MR. GARFINKLE:

The NYPA -- the hydropower is only excess capacity that's determined by the power authority. The Long Island Region was precluded from getting a steady load of power pursuant to a legal or litigation a number of years ago. So it's when there's power that's not being supplied to other LIPA customers and they have this excess capacity that it then gets transferred down to Nassau County into Suffolk County. So we -- the agency has no control, Suffolk County has no control over that that's strictly within the purview of the New York Power Authority to which the agency does have a contract with them on it; it's called as available power. So there's no way in advance to calculate it that's why some months you won't see a credit on your bill; some months you will see and it could be anywhere from a few cents to maybe a dollar so in that area.

CHAIRMAN COOPER:

And does LIPA also source hydropower from NIPA?

MR. GARFINKLE:

I don't believe so.

MR. PALLEY:

I do not believe so

CHAIRMAN COOPER:

I'm just wondering forgive me if I'm slow, but I'm -- LIPA has much faster resources than your agency does I'm sure. How is it that with your relatively limited personnel that you've been able to source done a better job of sourcing low cost energy --

MR. PALLY:

I don't want to -- that's -- the power we get from the New York Power Authority comes under State law. The State law and the Federal law in the creation of the hydropower plants upstate back when they were built in the 50's and 60's created a certain class of customers one after the other that the power is made available to. That's why in upstate New York there are a number of paper manufacturers in Messina and other places like that. They have basically the first choice to take that power from the upstate customers because they are required -- they are an eligible customer under Federal law to do that when the plants were originally built. Then there's a wide variety of other customers and then we're at the bottom under State law. So we don't have to go out and get it, State law automatically makes us eligible to get it when they have it available to give us that's why we're not higher up in the pecking order because everybody else comes first. And if they go through everybody else and still have excess power left from the hydropower plants then we get it, but we get that automatically by function of State law not because we went out and bid it or anything like that. The same thing occurs with the five megawatts of hydropower. We get that under operation of State law that's why we're required -- we're not allowed to get more than five megawatts. We'd obviously take more than five megawatts if somebody would make it available to us, but the maximum we are allowed by State law is five megawatts. So since five megawatts is the maximum we get that's what we do, but we don't go out and procure that from anybody that's also by operation of State law. The only thing we have actually gone out and procured and obviously at the moment we haven't moved any energy because we have not finished the negotiations is the RFP we sent out for the additional up to 200 megawatts for residential customers. So it's not a question in that case of finding things that LIPA can't get. In the first two situations we get them by State law so we don't have to go out and find them they find us. In relation to the third one obviously LIPA could do the same thing and in many cases does do the same thing put out a bid for additional power from other sources. In this case we're doing it as the Electrical Agency because we want to be able to control under the FERC ruling where that power goes.

CHAIRMAN COOPER:

And finally, is there anything in State law that precludes Nassau County from setting up a Nassau County Electric Agency.

MR. PALLY

They have an Electrical Agency, they get the same five megawatts of power that we get; use them for economic development purposes in Nassau County. I don't think there's anything that precludes them from doing anything we've done. No.

CHAIRMAN COOPER:

So they could be as aggressive as you're being if they --

MR. PALLY:

They could be doing the exact same thing we're doing I guess that makes a more aggressive in that regard to try and find additional power for the ratepayers, but there's nothing, I mean, when the Electrical Agency's -- Westchester has an Electrical Agency also, in fact, so does New York City for some minor points for the economic development power. That's how power goes to Madison Square Garden and other places like that and the MTA it goes through a conduit of the Electrical Agency. So there is nothing in State law that makes Suffolk County's Electrical Agency any different than anybody else is in that regard other than the fact that we decided to try and get FERC to give us authority to do this and FERC said yes.

CHAIRMAN COOPER:

Thank you, Mitch. Legislator Fisher.

LEGISLATOR FISHER:

Mitch, we all know that there have been a number of power generating plant proposals for new plants in Suffolk County. When you have sent out the RFP will that RFP and the bids coming in for this proposal impact whether or not plants will have approval to be built in Suffolk County? Will there be any more incentive to create more power generating plants in Suffolk County?

MR. PALLY:

That is not our intent --

LEGISLATOR FISHER:

But could it be --

MR. PALLY:

-- and the RFP which went out did not require that such power be produced in Suffolk County. It could be produced anywhere as far as we're concerned about --

LEGISLATOR FISHER:

It was not limited to --

MR. PALLY:

No.

LEGISLATOR FISHER:

-- power generation in Suffolk County --

MR. PALLY:

No, no.

LEGISLATOR FISHER:

So then you're saying it doesn't have the additional impact --

MR. PALLY:

No.

LEGISLATOR FISHER:

-- unintended consequence of encouraging the building of power plants in Suffolk County?

MR. PALLY:

No.

LEGISLATOR FISHER:

Okay. LIPA has not until very recently been involved in the power generating side. They had been a power transmission entity, therefore, the rhetoric that we're hearing in LIPA's news releases somehow don't set right other than it seems to me that rhetoric would impact the negotiations on the cost of power transmission. Is there any standard that has been set for the cost of power transmission that you could use as a basis for negotiations? What is the standard cost of power transmission?

MR. GARFINKLE:

We hired a consultant of the -- Electrical Agency has hired a consultant to make such an analysis and what those figures are number one, a part of negotiation process before FERC is to what the demands are from a bargaining position before FERC and what from every preliminary indication there could be some degree of savings to the Suffolk County residential customers based upon what that consultant has determined to what he believes to be the facts.

LEGISLATOR FISHER:

So that consultant from FERC acts --

MR. GARFINKLE:

Not FERC for the Electrical Agency.

LEGISLATOR FISHER:

Oh, from the Electrical Agency, but FERC would abide by the recommendations of that consultant do you think?

MR. GARFINKLE:

No, no, FERC, I apologize for interrupting you. If there was not successful negotiations there would be a – effective a trial an administrative trial.

LEGISLATOR FISHER:

Almost like an arbitration then.

MR. GARFINKLE:

In a sense, yes. They would produce their experts; we would produce our experts and staff just like before the PFC, FERC has staff and they do their own analysis. The could accept our position, they could accept LIPA's position; they could accept neither position and come up with their own conclusions based upon their own analysis. So that or at least be tempered by their own internal investigation as to what degree of credibility to give to either LIPA's position or our position so that there would be a mechanism if it was not negotiated for the FERC to actually make a determination as to what the reasonable cost that LIPA would be entitled to to transport that electricity across its transmission lines.

LEGISLATOR FISHER:

Now if the determination is such that we could realize the savings for the electrical customers in Suffolk County how frequently you would renegotiate these RFP's these deals? For example, we saw that there was a great rate increase in Suffolk County because of fuel costs and we have seen fuel cost drop, but we have not seen that reflected in our electric bills. Would you be able to have enough flexibility and to shop when there are fluctuations in the market? How long would your RFP tie you in to a contract?

MR. GARFINKLE:

The RFP asked for bids for supplying energy for a period of one through ten years. As a matter of negotiations or a matter before – it would be anywhere between one and ten years and that's something for negotiation purposes that could be negotiated if it went to a hearing depending on what the consultants final recommendation is (inaudible) limit its application to a lesser period or may go for the full ten years period depending on what the belief in the power markets are the energy markets and on the various prices under the RFP. But that's something that the final decision has not yet been made by the Electrical Agency.

LEGISLATOR FISHER:

Okay. So between one and ten years is your window of flexibility in

renegotiating the contract.

MR. GARFINKLE:

I don't want to mislead you; we could enter into a contract between one and 10 years. You could obviously enter into a contract for one year with options the more options you get the less probably the less discount you're going to get upfront because it's –

LEGISLATOR FISHER:

Because of the risk factors involved.

MR. GARFINKLE:

Because of the risk factors, the shorter you can get a better price in year one, but you may expose yourself to less savings or no savings in other years. I mean, these are things that the consultant will be discussing with the Electric Agency as various options and a lot of those options will be depended upon the success or unsuccessful conclusion of negotiations with LIPA.

LEGISLATOR FISHER:

How much of a response have you had to the RFP?

MR. GARFINKLE:

There was significant enough response and it was very encouraging.

LEGISLATOR FISHER:

How many?

MR. GARFINKLE:

I'm really not –

LEGISLATOR FISHER:

Oh, you can't tell us?

MR. GARFINKLE:

It would weaken our position with the Long Island Power Authority, but what I can tell you is that we have told the judge and obviously not going to make misstatements to either to you or to the judge that it was a

significant enough response and creditable responses to which we could go to one of several suppliers.

LEGISLATOR FISHER:

Okay. Thank you.

CHAIRMAN COOPER:

Legislator Binder.

LEGISLATOR BINDER:

Thanks. Let me first ask about the fact that we're discussing it today. How this comes about. As I listen to what's transpired you've been doing this a long time; we have FERC ruling back to 1996. Permanent rulings September of last year, not exactly yesterday. Nothing seems to be new here and one day as I picked up my paper outside at the end of my property I look and there's an interesting front page.

MR. PALLY:

I'm half way to Albany when I saw it.

LEGISLATOR BINDER:

Was that because you saw it you ended up --

SPEAKER:

(inaudible)

LEGISLATOR BINDER

Well, that's allowed actually that you're allowed to read the paper.

LEGISLATOR GULDI:

As long as you're not reading while on the cellphone.

LEGISLATOR BINDER:

As long as you're not on the cellphone while you're reading the paper. Okay. So anyway how from your view how does this become front page news in Newsday when this is old seems to me old hat things that have been happening over time and nothing new. What was the new thing; what did you see that was new that this became a front page --

MR. PALLY:

Nothing, I mean, nothing really other than, you know, the fact that we were negotiating with LIPA, but we had been negotiating with LIPA since December and that's one of the points, you know, I tried to make --

LEGISLATOR BINDER:

When did you start negotiation with LIPA?

MR. PALLY:

December, right?

LEGISLATOR BINDER:

December --

MR. PALLY:

December 2001.

LEGISLATOR BINDER:

Early December.

MR. PALLY:

No. We've been negotiating with LICO and then LIPA since 1996. Okay.

LEGISLATOR BINDER:

No. But when did you actually start transmission and distribution T&D discussions and negotiations real and earnest discussions with LIPA? When did you actually engage not LILCO, but LIPA?

MR. GARFINKLE:

The last FERC order came down in September of 2001 --

LEGISLATOR BINDER:

At the time becomes permanent so you have to engage at that point really

for a price.

MR. GARFINKLE:

What the order provided for among other things was the ability to have the FERC appoint a settlement judge and the settlement judge was to make a initial determination whether it was worthwhile to pursue settlement discussions. So under the process the parties could agree upon a judge if the judge could not be agreed upon by the parties then FERC would appoint one at least initially to make a determination whether negotiations were worthwhile exploring. There was some discussion between the Electrical Agency's special counsel in Washington, D.C. and LIPA's special counsel in Washington, D.C. upon the selection and they agreed upon a judge, a Judge Bobby McCartney who is a settlement judge. They've judges in FERC for one purpose they're settlement judges for others they're actually the trial judges. A settlement judge will not be the trial judge in the same case because obviously she's privyed to confidential information which could prejudice a final decision. So in this case there was an agreement upon the selection of Judge Bobby McCartney. She had set down a time schedule that I guessing, my recollection was this was around the end of October, November. I think Judge McCartney was selected --

LEGISLATOR BINDER:

So, but to get to that point I just want to get some time line on this. So sometime in October you were already discussing with LIPA the question of the selection of a settlement judge. So you were in negotiations at least some kind of discussion about LIPA being fully aware that there was a September ruling by FERC.

MR. PALLY:

Well, no, let me, again, Allan that's one of the things I want to got back to and I apologize for interrupting. LIPA has been aware of this proceeding since they took over LILCO. Okay. They filed a motion with FERC to become to basically substitute themselves for LILCO when they took over LILCO that was approved by FERC so, therefore, all of the terminology became versus LILCO to became LIPA. So LIPA has been aware of this issue since then and that's issue number one which I think they did. I was looking for my papers, but I think they did that back in 1998 when they actually made a procedural motion to FERC so that they would then become the party involved as opposed to LILCO since LILCO no longer existed.

LEGISLATOR BINDER:

So they've actually been represented before FERC in this particular manner.

MR. PALLY:

Absolutely, absolutely, right, since they took over in 1998. The second issue --

LEGISLATOR BINDER:

No, wait let me ask you now 1996 --

MR. PALLY:

Right.

LEGISALTOR BINDER:

-- is when there was a temporary order that's not the -- the permanent order is September of 2001.

MR. PALLY:

Yes.

LEGISLATOR BINDER:

But they had a temporary order which very well could become a permanent order so when LIPA actually took over they were fully aware of --

MR. PALLY:

Yes, yes.

LEGISLATOR BINDER:

-- this proceeding they were fully aware of the fact that this could happen and so in discussing their price, their structure the supposed quote $625 million supposed settlement with Suffolk County when they created that they were fully aware of the fact that this was already in order. FERC was already leaning towards doing this cause they were on the road to doing this 1996 and so this is just -- September was just kind of the end of a road that they figured they were going down anyway. So when all of this happened LIPA was fully aware.

MR. PALLY:

Yep.

LEGISLATOR BINDER:

That's one of the things I want to get --

MR. PALLY:

And let Bob -- Bob, why don't you talk about the financial statement?

MR. GARFINKLE:

You're 100% correct, Mr. Binder, Legislator Binder. When LIPA took over LILCO in their initial bond prospectus or official statements to perspective bondholders in the investing community they had indicated that there was, in fact, this 211 application under the Federal Power Act by the Suffolk County Electrical Agency. In reviewing the documents themselves I found nothing in those documents that would indicate that if there were an adverse ruling against LIPA that it would have a negative impact upon them as a company. Whether it would have an impact or not have an impact we don't believe it would. Apparently, the financial advisors, the legal staff representing LIPA's underwriters as well as LIPA's own outside or in-house legal staff made no reference if there was an adverse ruling that it would have a negative impact upon the financial viability of LIPA.

Presumably and this is carrying it one step further if there was a dislocation, a significant dislocation of rates it could have an economic impact with some customers couldn't afford those rates. It might have an economic where those customers would be forced to leave the system or

not use as much electricity. None of these things were mentioned in the bond statement. So that in addition to them knowing about it they apparently didn't feel it was significant enough to make any mention other than the fact that this was a pending application. Back in – as recently as September when the order came out it was clear that what LILCO was originally obligated to do with the Electrical Agency was asking for and what LIPA was going to be bound to by becoming a successor an interest to LILCO which they made a formal application to become the successor to LILCO before FERC is that we were looking for in the initial stages 200 megawatts of power to all residential customers 24 hours a day.

LEGISLATOR BINDER:

That's not new; that's not a new number you didn't just bring that on?

MR. GARFINKLE:

No, no.

LEGISLATOR BINDER:

That's kind of an old number that's been floating around since the day they took over.

MR. GARFINKLE:

Yes.

LEGISLATOR BINDER:

So to get the time line down they've been involved since they took over in '98. They were fully aware; you've even engaged now since the end of last year October since the permanent order in picking of a settlement judge. You go through December and now you're in kind of head to head negotiations in December and then did you send out a press release to cause front-page news? Cause I -- how does, you know, I don't know maybe you'll speculate for me. What -- how does a front page Newsday story get written when it seems that this is just such old hat that and there's nothing new here? Did it come from the energy agency --

Electrical Agency?

MR. GARFINKLE:

No, no. It may have either been a very slow news day or a very low written article. More the latter, right.

LEGISLATOR BINDER:

Okay. I perceive this as far as obviously --

MR. PALLY:

No. We have not, we have not done, we have not made any public statement on anything other than the public, I mean, the public record indicates obviously that we sent out an RFP because we had to do that publicly which we did. And anybody reading that would know that we were sending out an RFP under the FERC 211 order. That's all we have done.

LEGISLATOR BINDER:

So it's clear that there's only two parties that are going to create the story. The Legislature is not going to create it. The County Executive is not, I mean, the possibility only comes from the Electrical Agency or LIPA and if you're telling us that there wasn't the Electrical Agency then obviously the assumption is pretty and I think it's pretty clear that LIPA wanted to create the story. The question I guess that we have to ask ourselves is why was it so important for LIPA to create this story at this time. Cause the timing is interesting too considering how old this is and how long this has been kicked around.

MR. GARFINKLE:

I'm not going to minimize the issue of the timing which I do think is very significant and to a very large degree very telling, but --

LEGISLATOR BINDER:

And I was going to ask you if you could speculate on why the timing now?

MR. GARFINKLE:

Well, if I could just give a little more background --

LEGISLATOR FISHER:

Speak into the mike I'm having a hard time hearing you.

MR. GARFINKLE:

I'm sorry if I could just give a little bit more background. Inquiries did come in from the press about the Electrical Agency the nature of the application. I believe what was indicated and I know I had conversations with Mr. McGinty who's here in the audience today from Newsday giving the background of the Electrical Agency; giving the background of the application; giving the perimeters of what the RFP was. Going forward with what Mr. Pally said was the indication of the Electrical Agency not to cause any dislocation of prices among {non ski} customers believing that between the cost of the power that was being bought by the Electrical Agency the cost of internal savings that LIPA could generate there would not be this dislocation of shifting of prices. I believe that there may have been calls to the County Executive's Office. I believe nothing significantly from what I just said was stated by the County Executive' Office. I would assume based upon the article that calls went into LIPA. Why LIPA's reaction to our application I think is really at the nub of your question. Why their reaction to it is so dramatic I don't know. Whether it's to influence the negotiations is a very strong possibility and one could very easily conclude that that is the basis for what they're attempting to do. It may also be for other reasons, but I think it's reasonable, one could reasonably conclude that that is a significant reason why LIPA's reacting the way they're reacting.

LEGISLATOR BINDER:

Let me go into a different line of questioning. That was kind of the time line and my concern about how this this becomes before us now and I'm concerned about that and I don't think anything I just don't think things become stories on there own. I don't think you have reporters sit there and say wow, you know, I've heard this let me kind of track this down. Usually, I say, nine times out of ten someone calls and says I got an idea, I know something's going on maybe you'd be interested in this. And then someone gets their interest peaked and they start going both sides and that's how it kind of flowers into, particularly a front page story when

there was nothing. It's not like a car accident ends up on the front page it happened and everyone runs to see what happened. This is something that simmered for a long time and the timing is very suspicious.

Let me talk about the economics of this a little or ask about the economics with this a little bit. The reaction is pretty visceral considering the fact that LIPA has no idea of how much in the end we're going to end up paying for this power. How does LIPA have such confidence, Mr. Kessel, particularly has such confidence in the fact that the price is going to be so low as to not cover their costs as to then put the burden on all the ratepayers to cover the cost that we're going to be shorting them. How is he so certain?

MR. PALLY:

I don't know.

LEGISLATOR BINDER:

Okay.

MR. PALLY:

I don't know cause I don't know. If I could tell what the price was going to be I would tell you what the price is going to be. I have no idea what the price is going to be.

LEGISLATOR BINDER:

Well, he seems to know.

MR. PALLY:

Well, do you -- Bob --

MR. GARFINKLE:

You'd have to ask Mr. Kessel again.

MR. PALLY:

I have no idea what the price is going to be.

CHAIRMAN COOPER:

Allan, just so you know I have invited Richie Kessel to a future committee meeting to address this very issue and I have full confidence that he will consider the request.

LEGISLATOR BINDER:

I'm looking forward to that, I guess I'll believe it when I see it.

MR. PALLY:

This is not in anyway, you know, Richie is a good friend. I have no idea what they think the price will be cause I have not idea what we think the price will be because we have no idea what FERC may rule. I mean, we have our ideas --

LEGISLATOR BINDER:

And they have theirs.

MR. PALLY:

-- and they have theirs, but that doesn't mean that FERC is going to

accept our position or accept their position as Bob said they may make their own position and you know whether they it that's it.

LEGISLATOR BINDER:

My question is, is there a sense that that LIPA thinks that their position is so weak that it won't be able to justify the transmission cost needed to sustain the system without additional cost ratepayers?

MR. GARFINKLE:

I just don't know; that's really speculation, Legislator Binder, as I said there's the possibility that if negotiations can't be -- aren't successful the rate would be determine by FERC which we don't know what it would be. LIPA doesn't know what it would be that's the purpose of negotiations to see if there's something that both sides can live -- if not comfortably with, but can live adequately with. I think that the position --

LEGISLATOR BINDER:

It's premature to make speculations on its impact on ratepayers until we see the numbers.

MR. GARFINKLE:

Yes, right.

MR. PALLY:

And that's why I've said it's premature to assume that we're going to do this because we don't know we're going to do this.

LEGISLATOR BINDER:

It might just cost us too much after we see the T&D cost.

MR. PALLY:

If it costs us too much money we're not going to do it. It's as simple as that.

LEGISLATOR BINDER:

I would assume that LIPA's position is, we have to include in the transmission not only our "overheads straight costs", but debt and other factors that that weigh upon, I mean, cause that's what LILCO's point was years ago that -- and it was one of the big controversies back then was that if you wanted to wheel power through LILCO they weren't going to put on the cost of Shoreham and other costs and other problems that they had, but they're going to include that in the trans -- because they see that as an addition to overhead and I assume that that's what their position is. I'm not going ask (inaudible) cause I don't want to get into the specifics of the negotiations.

MR. GARFINKLE:

Well, their position under Long Island Choice which they invited the Electrical Agency to join included enough revenue being generated to LILCO to pay off all their expenses as though you were effectively a LIPA customer and that's the offer that was made publicly to LIPA or Suffolk County join the Long Island Choice Program. So to that extent I would say you're correct.

LEGISALTOR BINDER:

If Nassau were to -- the question was --

MR. SABATINO:

Can I interrupt for one second? Just on that point, Legislator Binder, you're right that, in fact, was the issue that was being litigated in the summer of 1998 before FERC, in fact, we had that Washington law firm that came before the committee and talked about the stranded asset argument and, in fact, we passed resolutions saying push 50%. But we never, we never heard back whatever happened. In fact, we made a couple of inquires, I'd like to know whatever happened to that FERC proceeding.

MR. PALLY:

Nothing.

MR. SABATINO:

Nothing because they haven't decided or we were told in July of 1998 that the final brief was being filed and that that brief and that decision was the lynch pin to the entire success of the Electrical Agency proposal. And there's a big dispute and fight right here in the Legislature and I'd like to know whatever happened with the FERC.

MR. GARFINKLE:

FERC issued as Legislator Binder indicated initially a temporary order back in '98 in that temporary order they said they did not have sufficient information to set any rate terms and conditions which would include what portion if any of stranded cost would be included. The total quantification of the cost of that LIPA would be entitled to for the transmission service. In the final order just issued in September of 2001 once again they said they didn't have sufficient information to set the rates, terms and conditions. They were either to be negotiated or there would be a full public hearing to secure evidence and then make a determination as to what portion of what would be included what portion if any help this strain of cost.

LEGISLATOR BINDER:

So that the stranded asset question is --

MR. GARFINKLE:

It's still has not been decided by FERC.

LEGISLATOR BINDER:

Right. So that's going to be part of the negotiation and part of whether we determine -- I think this strand asset is going to be the question

whether we can get cheap enough cost that it's worth it for us to even go forward.

MR. PALLY:

We'll find out.

LEGISLATOR BINDER:

Right. That might be one of the problems. Okay.

MR. PALLY:

We'll find out.

LEGISLATOR BINDER:

If Nassau forward -- if Nassau goes forward with theirs would that have an impact if they did what we're doing would that have an impact on Suffolk County ratepayers?

MR. GARFINKLE:

At this point I don't know because I don't know what LIPA would be willing to negotiate with them if anything or what FERC would make what decision FERC would make --

LEGISLATOR BINDER:

Well, you don't know what their costs would be.

MR. GARFINKLE:

Right. It's not only what their cost would be it's a question of --

LEGISLATOR BINDER:

No, no, what they would pay into the system so you don't know the burden it would impose upon us since we don't --

MR. GARFINKLE:

Correct.

LEGISLATOR BINDER:

And that was kind of my point it was almost rhetorical in the since that we don't know what we're going to pay. They don't know if they went forward how much we pay so we don't know if there's a burden on us in Suffolk if they went forward.

MR. GARFINKLE:

Correct.

MR. PALLY:

Too many unknowns.

LEGISLATOR BINDER:

Right. Let me just one last question; I was talking to someone who was a lobbyist back when the Electrical Agency was created by State law. Claims to me that this was never intended this way and that it would take -- and they're pulling out the old {bill jacket} and they're going and they're looking at the legislative history and says to me that that this agency can't do what its doing even proposing to do. And that it will take New York State enabling legislation for you to wheel this power the 200 megawatts to residential homes, but can you comment on --

MR. GARFINKLE:

Number one, the Electrical Agency was created pursuant to New York State law and then Suffolk County Legislature by local law opted into the New York State law. Number two, with respect to the transmission of electricity over the LIPA grid and the importation of power, obviously, that's a matter before FERC because that's where we are. So --

LEGISLATOR BINDER:

No. I think that the claim was that under the Electrical Agency law, New York State Electrical Agency law that allows us to opt in that we're going beyond the State the State boundaries in a sense that opt in that and I haven't seen the State law creating it, but the claim is that our agency is doing more than it is allowed to under State law and it would require enabling legislation for us to go forward.

MR. GARFINKLE:

Well, I can tell you that when we made the 211 application both the County Attorney's office and outside counsel reviewed the legislative history and we concluded that under New York State law we were -- the Electrical Agency was empowered to do just what they're attempting to do and that they were authorized under the State legislation to make the application to FERC for the relief that's being requested. So I would respectfully disagree.

MR. PALLY:

And FERC agreed.

MR. GARFINKLE:

And FERC agreed.

MR. PALLY:

Because if we did not have jurisdiction to do this FERC decision would have been, no.

LEGISLATOR BINDER:

That's after review of New York State law.

MR. PALLY:

Right. Instead their answer was, yes. So obviously FERC believes we can do what we're asking them to do cause otherwise they just would have said, no, and we wouldn't be negotiating at the moment.

MR. GARFINKLE:

Specifically, I believe what the State legislation states is that we have the ability to -- the Electrical Agency -- an electrical agency has the ability to purchase power from other municipal agencies -- let me see if I can get the exact quote, in fact, bear just with me. "Under New York law Suffolk is authorized to purchase gas or electrical agency from State -- from the State from any State agency or other municipal corporations or from any other private or public corporation."

CHAIRMAN COOPER:

Legislator Towle.

LEGISLATOR TOWLE:

Thank you, Mr. Chairman. Mitch, just to go back to some questions that Legislator Guldi had and some information he's looking for maybe I'll just include these things with packet so to speak.

MR. PALLY:

Yes, sir. Absolutely, we will provide whatever information is requested.

LEGISLATOR TOWLE:

Obviously, the Electrical Agency you pointed out I think was 1983 you said. Have every year you had five megawatts of power to --

MR. PALLY:

I believe the answer to that question is, yes. I believe that we have always been authorized up to a maximum of five megawatts and so I believe the answer to that question is yes, but we will go back and go through our records to determine that, but I believe the answer is, yes.

LEGISLATOR TOWLE:

That would be something I'd like to know.

MR. PALLY:

Okay.

LEGISLATOR TOWLE:

The second thing would be do you receive applications? Is that how a business would apply for --

MR. PALLY:

When we have available power because we enter into contracts with the companies that we supply the power to. When that applica -- when that contract expires we send out a notice to companies and there are certain criteria you have to meet in that under State law and under the rules of the Electrical Agency. So only certain types of companies can apply; retail companies are exempt. There's a whole series of things that you can't do.

LEGISLATOR TOWLE:

Okay.

MR. PALLY:

Certain types of companies do. We normally send out a notice; we have sent out a letter to -- through business associations, LIA did it; HIA did it. We sent it to everybody we thought could get it out to the appropriate people who might want to apply for it.

LEGISLATOR TOWLE:

Right.

MR. PALLY:

The power, one thing I wanted to make clear, the power is not for everybody because you have to have a very large -- because the power fluctuates in regard to price you have to have -- you have be a very large energy user to save money under the program.

LEGISLATOR TOWLE:

Okay.

MR. PALLY:

Not every business is going to save money under the program. Some businesses would actually pay more under this program than they would to LIPA, under LIPA's programs.

LEGISLATOR TOWLE:

Obviously, --

MR. PALLY:

So it's not I don't want to give the impression that, you know, the possible allotment is to like the 30,000 businesses in Suffolk County. Probably, 29,900 of those businesses would cost more money to take the program than otherwise. So it's a very select group of companies that can save money because of the criteria involved and because of the fluctuation of the price and because of the amount of energy they use. One of our customers has freezers for food storage, okay. Obviously, he has a very large energy usage because those freezers are on 24 hours a day seven days a week because of the fluctuation in our price can save money during certain times of the year. So he gets a certain amount he applied for and we all agreed he should get that power under it and it averages out during the year where he saves some money under the program. So there are a wide variety of criteria on how to get to that point.

LEGISLATOR TOWLE:

Okay. So if you provide us with a criteria --

MR. PALLY:

Sure.

LEGISLATOR TOWLE:

What is the normal term of the contract? You said you enter into a contract with the businesses.

MR. PALLY:

I believe they're three years.

MR. GARFINKLE:

They're normally three years.

LEGISLATOR TOWLE:

Okay. So every three years you either re-evaluate those contracts or you review new applicants.

MR. PALLY:

Yes. In fact, we just added another applicant in the fall. The Almann Company from Hauppauge, I believe, became a customer of the Electrical Agency because they applied, we had some power that became available, and they met the various criteria.

LEGISLATOR TOWLE:

Okay.

MR. PALLY:

And so we approved it.

LEGISLATOR TOWLE:

I'd like a listing too. I think Legislator Guldi had asked for a breakdown of the rates and what people were paying and what is was in value. I'd like a breakdown since the Agency started providing low cost power to who's actually received it. How much they receive; whether or not they've been a consistent applicant or whether from year to year it's varied.

MR. PALLY:

We will get -- the Department of Public Works actually does the billing. So we will get that information -- whatever they have we'll get from them.

MR. GARFINKLE:

I'll ask them to go back as far as their records that they maintain their records on, I mean, the agency's been in existence since 1983 I think. So I don't know how long we've been supplying the five megawatts, but certainly a substantial period of time I'm sure they have the records going

back.

LEGISLATOR TOWLE:

I would assume if we've started providing power in '83 that because its 19 years old we haven't gotten rid of our records of people that we've done business with.

MR. PALLY:

Whatever we have we will provide.

MR. GARFINKLE:

We will provide.

LEGISLATOR TOWLE:

That'll be fine. And is the five megawatts is that an established amount that you can not increase or that's --

MR. PALLY:

We are not allowed to increase it by State law.

LEGISLATOR TOWLE:

Okay. I think that was all my questions. Thank you.

CHAIRMAN COOPER:

Mitch, but you did mention they've applied, I believe, you said, you applied to FERC to be able to supply additional --

MR. PALLY:

Right, but that's a separate -- right. We have in our original application in 1996 we submitted two actual applications. One was for up to 200 megawatts for residential customers and one was for up to 100 megawatts for commercial industrial customers. FERC approved the first one and basically tabled the second one and it was our belief that we should pursue the first one because we wanted to make sure that we could actually do what it is we wanted to do before going back and trying the second one. So the second application is still there before FERC, but we have kind of not pursued it in the interest of pursuing the first -- this one first.

CHAIRMAN COOPER:

And I don't know how many inquiries that you received to participate in your existing program from businesses that you could not fulfill because of your limit of five megawatts.

MR. PALLY:

We do get some, obviously, we get a lot of companies apply and then we find that they don't meet the criteria. So obviously, and, you know, the criteria for the five megawatts my assumption would be, would be significantly different than the criteria for the up to 100 megawatts assuming that we every got to the up to a 100 megawatts.

CHAIRMAN COOPER:

That was my next question.

MR. PALLY:

Right. Because we'd obviously want to make that available to a much larger range of companies in Suffolk County. That is of course assuming we ever get that authority to do that we would obviously set significantly different criteria. The criteria we operate under now with the five megawatts is basically in State law so we're not going around changing it and as a result of that as I indicated there's a very small number of companies in the larger scheme that actually can apply for and actually received it because of the conditions; that's the issue. And that's one of the reasons why we put in an application for 100 other megawatts

because we wanted to be able to expand the class of people we could supply that power to and not be restricted as we are with the five megawatts.

CHAIRMAN COOPER:

According to the Newsday article 200 megawatts would be enough power for about 20% of the homes that LIPA's currently supplying with energy. If you were also given authorization for 100 megawatts for commercial customers any ideas as to what percentage that --

MR. PALLY:

That would be hard to determine because in most cases obviously residential customers all of us use about the same amount of power. Obviously, there's some difference with regard to home size or number of children. As we all know how many baths they all take, but in reality the difference is much smaller. With regard to companies that's a much bigger spread because depending on whether, you know, what they're doing, whether they have shifts overnight or what they actually manufacturer is a much different spread. So it would be very hard to determine at least at the moment what how many companies we could supply because we don't know what each individual company is going to need in that regard. But I think the issue on the residential I think we -- that would be half of our residential customers in Suffolk County?

MR. GARFINKLE:

It's roughly half.

MR. PALLY:

It's about half of the residential customers in Suffolk County, but as I indicated it is not our intent to pick and choose customers. Now obviously if we picked and choose customers the people who were picked would get a better benefit than if we spread it out over everybody because obviously then you're selecting a smaller group of people. But I'm not going to be the one to make the selection and we don't want to make the selection. Our intent is to supply that power to everybody and everybody gets the same benefit in that regard.

MR. GARFINKLE:

I think also just the fact, Legislator Cooper, also to clarify something I don't know whether it does need clarification, I apologize. The guidelines under which the Electrical Agency would be able under the FERC -- under the Federal Power Act to supply electricity to residential customers is different criteria then it would be under the commercial customers. The commercial customers would be very difficult for the Electrical Agency to blanketly supply all commercial customers. There would have to special criteria met for each one; not so much set by the Electrical Agency, but set by FERC and basically it's called ownership and control of facilities so that there would have to be some arrangement where the Electrical Agency would own -- there would have to be some arrangement where the Electrical Agency would own some of the lines going whether from the roads into the plants and things and there would have be an economic analysis by the applicant to the agency whether they want to spend that kind of money and reimburse the Electrical Agency for things like that. So it's a little bit more complicated than just the 200 megawatts going to all the residential customers 24 hours a day.

CHAIRMAN COOPER:

And Mitch, I don't know whether you can answer this, but you had mentioned that there were several other electrical agencies throughout the State, Westchester, New York City, Nassau; do you know the average amount of electricity they're allowed to source. You're asking --

MR. PALLY:

From the Economic Development Power they are restricted to the same five megawatts. So the same five megawatts that we operate -- restriction that we operate under Nassau and Westchester operate under. Some of the upstate electrical agencies have different rules because they were original customers to the NYPA plant so it's a very, very complicated situation in regard to that. But with regard to the ones in the metropolitan area that were created basically the same time ours was created they're under the same restrictions we are in regards to the five megawatts.

CHAIRMAN COOPER:

But as far as the current plan for the 200 or the 100 are there any other agencies in the State --

MR. PALLY:

Not that I'm aware of.

MR. GARFINKLE:

I'm not aware of.

MR. PALLY:

Not that we are aware of.

CHAIRMAN COOPER:

So this is a unique program.

MR. PALLY:

Yes.

CHAIRMAN COOPER:

Thank you very much. Any other questions?

MR. GARFINKLE:

Thank you.

CHAIRMAN COOPER:

Thank you, Mitch.

MR. PALLY:

Thank you and anytime you'd like us to come back and we will supply -- we'll send that information to all the members of the County Legislature if that's okay.

CHAIRMAN COOPER:

One thing that I would request is that some future meeting of the Energy Committee if someone from the Agency could come and just give a broad overview of your various activities. I'm sure that there's a lot that you're doing that I at least are not aware of; so I'd appreciate getting an update as to --

MR. PALLY:

Sure. Thank you.

MR. GARFINKLE:

Thank you.

CHAIRMAN COOPER:

There being no further speakers we can move to the agenda.

TABLED RESOLUTIONS

1000. (P) Imposing reverter clause on non-Brookhaven Town PILOT payments pending appeal of Gowan decision. (Haley)

LEGISLATOR BINDER:

Motion.

LEGISLATOR TOWLE:

Second.

CHAIRMAN COOPER:

All those in favor?

LEGISLATOR GULDI:

Hold on a minute.

LEGISLATOR FISHER:

There's a motion by Legislator Binder.

CHAIRMAN COOPER:

We have a motion and a second. All those in favor? Opposed?

LEGISLATOR GULDI:

On the motion, the -- I'm confused to the -- this is impose a reverter clause. Counsel, could you explain what the role of a reverter clause is, I mean, if we got a court order we're complying with it. What do we need a reverter clause I don't understand?

MR. SABATINO:

This is a question of philosophy. There's a concern on the part of some Legislators including the sponsor obviously that if the Gowan Decision is upheld that the result of upholding the Gowan Decision is that the $7.9 million which the Town of Brookhaven conceded to the County in connection with the pilot payments should be paid to the -- should be paid back to the Town of Brookhaven. It's not going to happen automatically by virtue of the Gowan Decision. The County has the $7.9 million; Legislator Haley's concern is that if Gowan is upheld as a matter of

fairness and equity the money should be paid back. So that's why he's proposing the reverter clause so that it would in fact become automatic as opposed to right now which is everybody would sit around and access their relative positions so.

LEGISLATO BINDER:

Mr. Chairman.

CHAIRMAN COOPER:

Legislator Binder.

LEGISLATOR BINDER:

On the motion, I've been -- I'd question this for sometime and I've been looking at it and I have to tell you that I'm seeing now questions about using the affordable housing money. We were talking about using it in Babylon; it ended up not in a recent resolution, but I think we're going to start -- I think Legislators as this other $20 million affordable money starts to be eaten through or becomes not available because we don't make it available. I think that there's going to be a move to use this 7.9 million and I've been somewhat hesitant cause I didn't think anyone was going to use the 7.9 anyway at this point and I wasn't in a rush. But the longer this goes the more chance I think that the Appellate Division could uphold the Gowan Decision and I don't know that it's right that that we should've taken $7.9 million and then they get hit with the reversal on the bifurcation. And so they end up getting hit doubly and we're -- we say well sorry we already took your 7.9 we spent it, too bad. So I really am at the point at this point I'm supporting this in fact I'm going to be -- I'm going to ask to be listed as a co-sponsor.

LEGISLATOR GULDI:

Is there a budgetary impact bill in terms of the 7.9?

LEGISLATOR BINDER:

Only it would seem to be only if the Gowan Decision is upheld; if it is upheld the budgetary impact will happen at the year and in the budget that we then have to revert back or pay back the $7.9 million to Brookhaven, but the question we have to ask ourselves is is it right to

keep the money if the Gowan Decision is upheld.

LEGISLATOR GULDI:

The status of the appeal of the Gowan Decision is that a matter perfected before the Appellate Division awaiting argument?

MR. SABATINO:

The original 18-month schedule should put you somewhere in May to June of this year in terms of at least the argument. I would expect the decision probably by July because they tend to wait until the summer time before they issue those kinds of decisions. So you're looking at something I would say by the end of July.

LEGISLATOR BINDER:

Right. And that's the Appellate Division and obviously then we're talking Court of Appeals. I think there should be at least some understanding by the Town of Brookhaven that in the event that this all gets reversed on them that they're not going to be out the $8 million check they wrote us for affordable housing. So that's why I made the motion.

CHAIRMAN COOPER:

We have a motion and a second. All those in favor? Opposed? Resolution is approved. (Vote: 4-0-0-0) Moving on to,

1023. (Non P) Repealing energy conservation tax. (Caracciolo)

LEGISLATOR FISHER:

Motion to table.

LEGISLATOR GULDI:

It has to be tabled for a public hearing. Counsel.

MR. SABATINO:

This one doesn't; this one is a resolution. This legislation would be effective June 1st of this year repeal the 1½ % energy conservation tax on energy sources in Suffolk County.

LEGISLATOR BINDER:

Can I ask why this one's in this committee even if it's non-prime and why resolution 1072 I think it is, is not which would create an agency to use securitization, but it would also in affect eliminate and then the goal is to eliminate the fuel use tax? Problem is this is non-prime I'm kind of curious --

MR. SABATINO:

They're both prime in Finance.

LEGISLATOR BINDER:

But I'm wondering why -- why they're both about the same issue, but one isn't discussed here in Energy and its impact on energy and the cost of energy in Suffolk County where one is discussed.

LEGISLATOR GULDI:

Put your name on it.

LEGISLATOR BINDER:

I guess so. Okay. And I'm in this committee I understand. We'll leave it at that I won't pursue that.

LEGISLATOR FISHER:

I made a motion to table.

LEGISLATOR BINDER:

Yeah. I would second the motion to table. My concern with this one is there's not replacement for the money. You just can't leave a $14 million gaping hole in the budget. You may or may not like the budget that was passed that's secondary to the fact that you can't create a hole. So I would second the motion to table.

LEGISLATOR GULDI:

I'll make a motion to approve.

LEGISLATOR TOWLE:

I'll second it.

CHAIRMAN COOPER:

We have a motion to table and a second. All those in --

LEGISLATOR BINDER:

On the motion I'm just curious why some members might think it's appropriate to pass a resolution without the appropriate funds to replace the lost revenues. Okay, I figured we weren't going to get an answer to that.

LEGISLATOR TOWLE:

I figured why delay the process if you really don't want to hear the

answer.

LEGISLATOR BINDER:

(Laughing.)

CHAIRMAN COOPER:

As I said, we have a motion to table and a second --

LEGISLATOR FISHER:

To table so we're not left with a gaping hole.

LEGISLATOR TOWLE:

I will give an answer. The same reason that we weren't asked why we going to impose this tax is the same reason why I think we should eliminate it.

LEGISLATOR BINDER:

I have the same -- I have the same anger and angst Legislator Towle.

SPEAKER:

(inaudible)

LEGISLATOR BINDER:

And bear with you I have the same concern, anger and angst about it, but I think in getting rid of it which we have to do before March 1st, I would prefer that we do it with an alternative to fill the hole with some money from somewhere.

LEGISLATOR TOWLE:

I don't disagree Legislator Binder I think sometimes when you move resolutions like this forward it's going to force the debate of the issue, as pretending it doesn't exist. You had Legislators who voted on the budget and who after the budget was approved and newspapers did stories about what they actually voted on were quoted in the paper saying we didn't really realize we were voting on that.

LEGISLATOR FISHER:

Legislator Towle, would you be willing to table it for one cycle so that we can try to find some other way to fill that hole in the budget at least so that we can think about it because again, do we want to make this kind of budgetary decision on the run? Or would we like to have some time to ponder and examine other ways of preserving the integrity of the budget?

LEGISLATOR TOWLE:

Well, I believe Legislator Fisher that your intentions are definitely honorable and I respect your concept of, you know, we should attach revenues to resolutions. We should obviously attach what is going to happen and impact our budget to a resolution, but the reality is that, you know, we approved this on top of a tax increase. It obviously is going to affect electric rates as well as we learned after the fact for some people. I was not one of them; I happen to clearly understand that when we put this in the budget. This was something that I was adamantly opposed to, in fact, sponsored a bill to eliminate the 1% tax that the County has left for some reason on fuel sources. I didn't like this, but it was part of an overall budget process that, unfortunately, I thought the budget for the most part was well balanced. This was one section I didn't think it was well balanced. I'd be willing to wait one month, but the reality is that unfortunately, Legislator Binder's resolution has as much chance of passing out of the Finance Committee as I do in picking tomorrow nights lottery numbers. And the reality is that's just not going to happen –

LEGISLATOR GULDI:

I think your chances are much higher.

LEGISLATOR TOWLE:

-- and if this – you're probably right – so I mean we can sit here and pontificate about it and table this for a month, but I'm hoping that if we pass it maybe it would jolt the other committee to really look at this in a serious manner and consider it.

LEGISLATOR BINDER:

Mr. Chairman, we're non-prime on this also, so passing this doesn't jolt anyone because it doesn't come out of here and probably has much chance of mine passing out of the Finance Committee as this one has a chance of passing out of the Finance Committee. I don't think this has a better chance. And in terms of a question about rushing to judgment, the judgment has to be made before March 1st, otherwise there's an imposition of a tax so we don't have a lot of time to dilly dally in deciding how we're going to, you know, eliminate the tax. We have to move quickly, get it done and it has to be done in February and I don't know that it's wrong to move quickly in trying to do this since considering how quickly we do the budget and how – how much time we actually saw between the time we actually saw the amendings of the budget and we actually voted on it. It would seem to me that this is more than a – at least a few hours. We're getting more than a few hours here in trying to decide how to fill only a small piece of what the budget did and I would just hope that we could get if we can't get out of Finance then we get 10 Legislators to discharge it. All the other bill would do is create the mechanism to do securitization. Again, I don't know how much securitization because we can find cuts to offset; right now it's 14 million. My understanding is from Budget Review that if we cut something near 25% of the travel and office not office the travel and equipment budget the net to us could be $6 million. I hear there's also another two million unexpected revenues; there might be eight million out there, so it might only be six million securitization as a percentage it might be less than 10% of the total revenue stream to securitize and can even be less.

My legislation does not do anything until February cause I need to do that in February I'm going to put in a resolution to actually implement some specific formula to fill the hole and to get rid of it. If Legislators don't, then you have to questions why Legislators didn't roll it back when they had the alternative. With this I don't know you're making a statement because what's happening here is the statement that is, I didn't vote for this because then we have a hole in the budget. So you're giving an instant reason for everyone to say I couldn't vote for this that's why I don't think this is an appropriate vehicle. The other is an appropriate vehicle for a vote for whether you are for or against the fuel tax. The reason that's an appropriate vehicle is because it will fill the hole in some

manner and there will be money for the budget that way. So I would hope – that's why I can't support this, but I understand Legislator Towle's anger and angst over what has happened and he's exactly right.

CHAIRMAN COOPER:

Legislator Binder, for better or worse your bill is not before our committee so we can't vote on that. We are non-prime, I do have some concerns that this might be fiscally irresponsible if we were to approve this and send a message that it's okay for us to take $14 million out of the budget unless we could find $14 million in cuts somewhere. But in any case we have, I believe, a motion and a second to table. All those in favor? Opposed?

LEGISLATOR GULDI:

Opposed.

CHAIRMAN COOPER:

The resolution is approved.

SPEAKER:

Approved? I thought the resolution was tabled.

CHAIRMAN COOPER:

Resolution to table is approved. Motion to table is approved. (Vote: 3-1-0-0) Moving on to.

1050. (P) Authorizing retrofitting of traffic lights and LED fixtures. (Cooper) This will save us some money, but it will not save us the full 14 million. But we have Bill Shannon here and Bill I understand that you'd like to put in your two cents worth. Thank you, Bill.

MR. SHANNON:

Thank you, Mr. Chairman and members of the committee. I just like to take an opportunity to discuss the IR1050. I think it might be prudent to give a little background here before we look at the different parts of the resolution itself. Prior to the 1970's, installation of traffic signals on Town and County roads was the responsibility of the individual Towns. In the early '70's as the County began to grow the Department of Public Works in conjunction with the Towns and the State Legislature changed State law to allow the County and the Towns to share responsibility for traffic signals on County roads. As presently constituted State law requires that the Town and the County enter into an agreement for each traffic signal that the County wishes to put up on the County road system. Furthermore, the responsibility for the County was to install -- spend the capital money to install the traffic signal and also would be responsible for the timing of the signal, the operation of the signal; how much green time; whether a left turn phase is required, things of that nature. Also in that agreement the Town accepts responsibility for the routine maintenance of the traffic signals.

Consequently, when we reviewed the resolution to install LED fixtures at each one of the traffic lights we noted that the – in several instances there would not be a direct benefit to the County. The LED signals do use less power, however, the Towns as far as the maintenance agreement do pay for that power. Additionally, the LED signals require less frequent lamping. Our information indicates that an LED signal can last anywhere's between five and seven years. Incandescent bulbs obviously burn out at a more rapid rate. The cost savings there is in the maintenance whereby the signal contractor would not be required to go out and re-lamp on them on a less frequent basis that's where the cost savings would be. So those were two issues that we thought --

SPEAKER:

(inaudible)

MR. SHANNON:

Yes, they are.

CHAIRMAN COOPER:

By the town.

MR. SHANNON:

By the town, yes, they are. Typically, the towns contract to an electrical contractor who does the work for them. Okay. Finally, there's the issue of LED and the nature of the light cone that produces itself. LED fixtures are the light produces very directional and consequently it's critical that the light cone that the signal produces is focused so that the motorist can readily see it. In a breeze or in a stiff wind the signals will move and it creates a phenomenon that we call in the industry blanking where the light rays are blown – the head shifts and the light is no longer visible to the motorist.

LEGISLATOR BINDER:

(inaudible)

MR. SHANNON:

Pardon me.

LEGISLATOR BINDER:

(inaudible)

MR. SHANNON:

Well, what we found we've discussed this with New York State DOT; they are currently in a program to re-lamp to LED. And we asked them about the tethering issue because there is some debate apparently in the industry or whether it's necessary or not and we are currently looking into that further. In the State situation for new signals they are tethering meaning that they are putting an extra span wire across to prevent the signal head from moving. And in existing signals they're just re-lamping without the tethering. So we're looking into that particular case.

So as we go through the cost estimates that we prepared for all comments we took a worst case scenario because when you tether you obviously increase the wind load on the traffic signal poles. The traffic signal head can no longer swing so as the wind gets greater the resistance increases and there's a greater pull on the traffic signal pole. So we included tethering and the installation of new poles on a certain percentage of our signal installations to insure that the cost estimate we had would be more

than adequate to cover it should the decision be made to move ahead.

Finally, there in the resolution there's a mention of grants or Federal Aid to help defray the cost of the installation. CEMAQ money, congestion, mitigation, air quality, it's a fund source through the Federal ISTEA and T21 funds could be used for this type of program. It's been used in other parts of the country, as you know, Legislator Cooper, Connecticut has used it. In our particular case right now the way funds are programmed it would not be probably available. Funds of that nature would not be available until after 2005. So those -- for those reasons we stated our concern; we think LED signals are out of place. We think it's a good program, however, we think that given further research and further discussions between yourself and members of the committee with the Department I think is more appropriate before we move on this particular resolution.

CHAIRMAN COOPER:

Bill, why is it that the CEMAQ funds you believe will not be available until 2005?

MR. SHANNON:

Typically, the funding of that nature is programmed out under the Federal Aid Program is funded out through {NEMTIC} and currently the budget years goes out it's programmed out to 2005. So to add anything new to the program at this point would have to be at 2005, 2006.

CHAIRMAN COOPER:

Well, I appreciate your comments and your input; I've learned quite a bit about this issue over the past, well, in the period since I introduced the bill. There are some clear societal advantages I believe to go into LED's. They're about I believe 90% move energy efficient. There are very clear cost savings to whatever municipality has the responsibility for paying the electricity for the traffic lights, for maintaining the lights. In the case of the City of New Haven in Connecticut, they've been saving in excess of quarter of a billion dollars year in electricity and they've also had very substantial, probably almost equal savings in maintenance. The number of maintenance trips with bucket trucks to change bulbs has been reduced from about 1000 trips per year down to, well, right now they say it's been none, but they expect over the next year maybe 142. So there are clear environmental benefits, energy savings benefits that's cost benefits, but one reason that it made sense in Connecticut was that they were able to access the CEMAQ grants also the local utility company there offered rebates for every LED that was retrofitted. I have been in touch with LIPA

to explore this possibility and they're exploring it, but again without the CEMAQ funds this may not be tenable, particularly considering that the cost would be borne by the County and the benefits would accrue to the towns. I had an idea that perhaps we could start this on a smaller scale somewhere if we had a town that was willing to partner with us, but in any case it takes further thought. I'd like to have some further conversation with you, so I'll make a motion to table this bill.

LEGISLATOR FISHER:

May I ask a question? (inaudible) an amount as to the cost --

MR. SHANNON:

I'd be glad to --

LEGISLATOR FISHER:

You mentioned tether -- tethering cost, the retrofitting cost.

MR. SHANNON:

Okay. With just as a general rule of thumb we note that in the capital cost the LED's are more expensive fixtures. And if you consider a traffic signal face just being a red, yellow and green the difference in cost would be for LED would be $690 per face now versus $200 for incandescent. And typically with each traffic signal installation we have on the average about nine faces. So nine times say 500 you're looking at between 4500 and $5000 per location, signal location. Also keep in mind that New York State DOT does not recommend that we go to LED for the yellow indication. Obviously, from our experience we know that yellow is on very short so the initial front end cost isn't -- the power savings isn't -- doesn't justify the more expensive front end cost. So totally looking across the County countywide for the retrofit we're looking at on the average of nine correction $5,000 per intersection of approximately 550 intersections for a total of in the ballpark of 2.7 to $2.8 million; that's for the LED itself. If we determine that tethering is appropriate and it's something that we would like to do we estimated it to be about $1,000 per intersection or 550,000 countywide.

And finally, on the new poles we estimated that if is was required to replace poles due to the increase wind load we estimated 25% of our

locations, that maybe high, as I say we need to look into this a little further. That's $12,000 per intersection; 140 intersections that's 1.7 million totaling up approximately $5 million.

LEGISLATOR FISHER:

And grants when they become available would cover what kind of percentage and which categories? Would they just cover retrofitting or would they cover all three categories?

MR. SHANNON:

I think we could make the case if we presented the program, I think we could make the case that it would cover all portions of the program. Obviously, the DOT would have to endorse the fact that tethering is necessary. It would be an 80%, you know, we would front end 20 and the State or the Feds would pick up 80%.

LEGISLATOR FISHER:

And we're at the wrong point of the cycle apparently the T21 cycle because you said the money wouldn't be available.

MR. SHANNON:

That's correct.

LEGISLATOR FISHER:

But aren't there other programs that would support this kind of project -- other environment --

MR. SHANNON:

Well, we checked with New York State DOT who is -- who are currently undergoing this process and we asked if there were any grants that they were aware of and they indicated that were not. They were using State dedicated funds to do the work that's presently under contract.

LEGISLATOR FISHER:

Thank you.

MR. SHANNON:

Of course this all is predicated on the assumption that the power savings is passed along to the consumer.

CHAIRMAN COOPER:

Again, to reiterate, I make a motion to table. I do think that this bill has merit at the proper time, but a little bit more work needs to be done. The benefits are clear cut; the City of New Haven in their case felt that it was clearly a win, win for them to quote from a letter that all the members of the committee have in conclusion he wrote, "That after a year of operation I can say that the lamps are trouble free and are an example of a new technology that worked the first time." But again that worked for them because they were able to access the grants and the rebates.

MR. SHANNON:

Exactly.

CHAIRMAN COOPER:

My intention here was to do something that would benefit the environment as well as taxpayers and I'm concerned now that, that at least the latter intention may not come to fruition. So again, I make a motion to table.

LEGISLATOR FISHER:

I'll second that motion.

CHAIRMAN COOPER:

All those in favor? Opposed? Resolution is tabled. (Vote: 4-0-0-0) Next we move on to,

SENSE RESOLUTIONS

4-02 (Non P) – Memorializing Resolution Requesting State of New York to Authorize Lottery for Suffolk County. (Cooper) I make a motion since it's my own bill to table.

LEGISLATOR GULDI:

Second.

CHAIRMAN COOPER:

All those in favor? Opposed? Sense 4-02 is tabled. (Vote: 4-0-0-0) Last,

PROCEDURAL MOTION

2-02 (P) – Extending Retention of Citizens Advisory Panel for LIPA Oversight for 2002. (Cooper)

LEGISLATOR FISHER:

Motion.

LEGISLATOR GULDI:

On the motion. I understand they're some -- I want to do some work -- let me frame this properly. I'd like to request that we table this for one cycle. I'd like to explore what I understand are competing resolutions for in-house versus independent oversight personnel and I'd ask to table this for one cycle. I spoke to Mr. Raacke with respect to my concerns before

the meeting and I do need a cycle in order to do that. Does it pose a problem for CAP to wait a month, Gordian?

MR. RAACKE:

(inaudible)

LEGISLATOR FISHER:

Gordian, you have to come

LEGISLATOR GULDI:

It's two weeks it's not a month. Thank you. It's only two weeks.

LEGISLATOR TOWLE:

I'll second your motion.

MR. RAACKE:

I think it's the right thing to do is to table that motion and to consider it further. I would urge you to do that as quickly as possible; obviously, because LIPA oversight is necessary and while we're without a contract we can't provide that service

CHAIRMAN COOPER:

Thank you. We have a motion to table and a second. All those in favor? Opposed? Resolution is tabled. (Vote: 4-0-0-0) That's all the business before us. This meeting is adjourned.

(Having no further business the Ways and Means Committee was adjourned at 2:35 p.m.)

{ } denotes spelled phonetically.