



926 RXR Plaza
Uniondale, NY 11556-0926
T 516.357.3000 F 516.357.3333

EVAN H. KRINICK

PARTNER
(516) 357-3483
evan.krnick@rivkin.com

April 23, 2020

VIA ELECTRONIC MAIL

Mr. Nicholas R. Ciappetta, Esq.
Town Attorney / Deputy Supervisor
Town of Huntington
100 Main Street
Huntington, NY 11743

Mr. John H. Gross, Partner
Ingerman Smith LLP
150 Motor Parkway, Suite 400
Hauppauge, NY 11788

Dear Messrs. Ciappetta and Gross:

I am in receipt of your letters dated April 22, 2020, requesting LIPA's consent to a court order staying all pending litigation matters for the Northport Power Station until at least July 1, 2022 and to defer settlement negotiations until February 2022. My client respectfully declines.

Your letters speak of the uncertainty facing the Town of Huntington and the Northport-East Northport UFSD arising out of the COVID-19 pandemic. As I am sure you can appreciate, COVID-19 has affected all residents, businesses, towns, and school districts on Long Island, including LIPA and its customers. Many Long Islanders are struggling.

As a not-for-profit public authority, LIPA's costs are paid by its customers. The taxes on the Northport Power Station – \$86 million this year – would likely be \$90 million or more by 2022. These amounts are far in excess of a fair tax bill for the Northport plant.

The Town's excessive tax bills place a burden on all Long Islanders through their electric bills, including your neighboring towns and school districts, who are facing similar challenges. LIPA's responsibility to all Long Island families, businesses, towns, and school districts means that it cannot agree to continue to overpay taxes for an additional two years to subsidize your Town and School District. Based on past actions, it is likely that any further delay will be followed by requests for additional delays and continued litigation. After over a decade since the first tax challenge was filed, every Long Islander deserves a fair tax assessment on the Northport plant.

66 South Pearl Street, 11th Floor
Albany, NY 12207-1533
T 518.462.3000 F 518.462.4199

25 Main Street
Court Plaza North, Suite 501
Hackensack, NJ 07601-7082
T 201.287.2460 F 201.489.0495

477 Madison Avenue
New York, NY 10022-5843
T 212.455.9555 F 212.687.9044

2649 South Road
Poughkeepsie, NY 12601-6843
T 845.473.8100 F 845.473.8777

Each of your letters recognize the impact of a court judgment on the Town and School District because it would establish the fair and appropriate level of taxes to be paid going forward and create significant liability for past overpayments.

LIPA has offered a solution – a settlement that provides tax certainty to the Town and School District – guaranteeing a generous payment stream far in excess of that called for by law, and forgiving a refund liability owed by the Town to LIPA’s customers of more than a half-a-billion dollars. In LIPA’s proposal, these payments would continue even if power plant units were retired in the next seven years.

A settlement is the solution that offers Northport residents the certainty you seek. It ensures that your residents continue to pay lower taxes than neighboring school districts and provides the peace of mind of knowing that there will be hundreds of millions in tax subsidies for years to come, averting the immediate, drastic increase in tax rates that will likely occur from a fair valuation of the plant reached by a court in the tax certiorari proceeding.

Meanwhile, we all must plan for the future. Long Island’s electric grid is in a state of transition. Energy production at the Northport Power Station has fallen by nearly 60 percent over the last 20 years, while New York State’s historic Climate Leadership and Community Protection Act mandates that 70 percent of the state’s electricity come from renewable sources by 2030 and all electricity be carbon-free by 2040. This means that the Northport Power Station will be fully retired in its present form no later than 2040. The taxes on the site make any redevelopment with new energy infrastructure cost-prohibitive.

With higher taxes and lower energy production, the taxes on vintage plants like Northport are not sustainable. Property taxes make up the majority of the costs of the plant. Stated simply, the plant costs too much to maintain it as it is today. Without relief, the excessive tax burden will cause the plant to be retired in phases on an accelerated schedule, with the consequent and unfortunate loss of tax revenues and jobs. LIPA estimates that the early retirement today of even one of the four units at the Northport plant would save electric customers over \$300 million,¹ without impacting the reliability of the electric grid.

The present course of ever-higher taxes on the Northport Power Station cannot be sustained, even for another two years. It is time to begin the gradual transition towards a more sustainable future offered to you by the proposed settlement agreement.

For over a decade, LIPA has sought a fair settlement of this tax case. In December 2018, LIPA reached a settlement with the Town of Brookhaven and the Village of Port Jefferson for the Port Jefferson Power Station, and, in November 2019, LIPA and Nassau County announced a preliminary settlement for the E.F. Barrett Power Station and Glenwood Landing Generating Station.

¹ Net present value in 2020 dollars.

April 23, 2020
Page 3

We urge the Town of Huntington and Northport-East Northport UFSD to consider the same path.

Sincerely,

Evan Krinick

Evan Krinick, Esq.

cc: Stuart Besen, Esq.
Karen Levin, Esq.