

\$6M WINDFALL WITHHELD

Pact says PSEG need not share LI tax cut savings

BY MARK HARRINGTON
mark.harrington@newsday.com

PSEG Long Island's unique contract with the Long Island Power Authority exempts the company from a state order to share its windfall from federal tax reductions, PSEG and state officials said.

LIPA in its annual budget reported it received a total of \$6 million in savings from contractors who saw significant reductions from President Donald Trump's tax reform bill, which lowered the corporate tax rate to 21 percent from 35 percent.

The Public Service Enterprise Group of Newark, PSEG's parent, reported in financial filings last year that it expected to record a one-time, noncash earnings benefit in the range of \$660 million to \$850 million as a result of the tax cuts.

Individual PSEG ratepayers in New Jersey will see an average benefit from the utility's \$114 million tax break of \$41 each year, according to news media reports.

But PSEG Long Island, in responses to Newsday this month, said it won't have to share its tax savings because its contract with LIPA contains language making its annual \$58 million fee and \$8.7 million annual bonus unchangeable.

PSEG Long Island spokeswoman Elizabeth Flagler noted that changes in costs related to that management fee are "not adjusted," either up or down, during the term of the contract, which was negotiated as part of the 2012 LIPA Reform Act.

"The fee that we are paid as a contractor to LIPA for providing operations services under the [contract] is a fixed fee," Flagler said.

"Unlike jurisdictional utilities whose rates reflect the inclusion of taxes, our fee like those of other contractors was set independent of the applicable tax rate," she said.



PSEG Long Island said its LIPA contract makes its annual \$58M fee and \$8.7M bonus unchangeable.

PSEG's \$3.874 billion contract with LIPA, which is in effect through 2023, is LIPA's second largest — smaller only than National Grid's \$5 billion contract to operate Long Island power plants. PSEG operates the Long Island electric grid under a long-term contract with LIPA.

Due to the corporate tax-rate reduction, National Grid will return some \$5.2 million to ratepayers, PSEG said, part of the total \$6 million LIPA ratepayers are due back from all contractors.

Gov. Andrew M. Cuomo last year ordered the state Public Service Commission to review all state utilities' corporate income taxes and the financial benefit they'd see from the tax cut to ensure utility customers weren't paying rates based on the old federal tax bracket, or that only shareholders were benefiting.

LIPA as a state authority doesn't pay federal taxes. PSEG Long Island does, said Flagler, who declined to specify the amount or the savings from the corporate tax cut.

Assemb. Steve Englebright (D-Setauket) called the contract exemption "stunning and unacceptable. This is after all a for-profit company that's operating under a not-for-profit public utility structure."

Stephen Liss, counsel to Englebright's office, said the contract language presents ratepayers with a "heads PSEG wins, tails you lose" scenario.

But an analysis of the contract may leave the state Legislature with little room to intervene, Liss said.

"We can't interfere with a contract," Liss said. "The only remedy would be through the courts."

A spokesman for Cuomo's office referred calls to the PSC, which last year issued an order requiring utilities to report their tax savings and share proceeds with ratepayers.

James Denn, a PSC spokesman, said the agency's administrative arm, the Department of Public Service, "as part of its regulatory oversight and review of electric service operation and customer service practices on Long Island, examined the [PSEG tax] issue in consultation with LIPA shortly after the effective

date of the tax reform. The contract price for PSEG's services is fixed in this regard."

Asked why National Grid had to return savings but PSEG didn't, the state agency said the National Grid contract is "subject to periodic cost-based pricing adjustment."

When Cuomo launched the state proceeding last January, he said the aim was to "ensure that any financial windfall that might be received by New York's utilities as a result of the federal government's decision to cut corporate federal income taxes is returned to the more than 10 million utility customers in New York" who indirectly pay the taxes.

"While the federal government slashes corporate income taxes at the expense of middle- and working-class men and women, the PSC will ensure that any resulting financial gains earned by our utilities go to benefit consumers and not company owners," Cuomo said then.

"We will do everything in our power to keep this windfall from lining the pockets of the top 1 percent, and deliver savings directly to hardworking New Yorkers," he said.

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Long Island Office
235 Pinelawn Rd., Melville, NY
11747-4250

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HOLIDAY CLOSINGS

Today is Martin Luther King Jr. Day. Government offices, schools, courts, the financial markets and post offices are closed. No mail will be delivered except for Priority Express.

THIS DATE IN HISTORY

1793 During the French Revolution, King Louis XVI, condemned for treason, was executed on the guillotine.

1861 Jefferson Davis and four other Southerners whose states had seceded from the Union resigned from the U.S. Senate.

1950 Former State Department official Alger Hiss, accused of being part of a Communist spy ring, was found guilty in New York of lying to a grand jury.

1977 On his first full day in office, President Jimmy Carter pardoned almost all Vietnam War draft evaders.

1997 Speaker Newt Gingrich was reprimanded and fined as the House voted for the first time to discipline its leader for ethical misconduct.

2003 Hispanics surpassed blacks as the largest U.S. minority group.