

MINUTES OF THE ONE HUNDRED FORTY FOURTH MEETING OF THE
AUDIT AND FINANCE COMMITTEE
HELD ON JUNE 23, 2020

Pursuant to a notice and agenda dated June 10, 2020, a copy of which is annexed hereto, the one hundred fortieth (144th) meeting of the Audit and Finance Committee (the “Committee”) of the NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY (the “Authority”) was convened at 10:00 a.m. on Tuesday, June 23, 2020 by videoconference.

The following members of the Committee were present:

Jay Koh, *Committee Chair*

Richard Kauffman, *Chair of the Authority*

Sherburne Abbott

Kate Fish

Ken Daly

Also present were Alicia Barton, President and CEO; Janet Joseph, Senior Vice President for Strategy and Market Development; Jeffrey J. Pitkin, Treasurer; Peter J. Costello, General Counsel; Sara L. LeCain, Senior Counsel and Secretary to the Committee; Martin Dunbar, Lead Audit Partner at KPMG; Jeff Mabb, Senior Partner at KPMG; and various other staff of the Authority.

Mr. Koh called the meeting to order and noted the presence of a quorum. The meeting notice and agenda were forwarded to the Committee members and the press on June 10, 2020.

Mr. Koh indicated that the first item on the agenda concerned the approval of the minutes of the one hundred forty third (143rd) meeting of the Committee, held on April 28, 2020.

Mr. Koh indicated that the next item on the agenda is the Annual Investment Report and Investment Guidelines. Jeffrey Pitkin presented this item.

Mr. Pitkin stated that the amount of the Authority's total investments decreased \$144 million on a fair market value basis from the prior year. As a result of market disruption and U.S. treasury markets in March resulting from the COVID-19 health crisis, certain maturing U.S. treasury obligations were transferred to increase balances that were held in money market accounts within the policy portfolio limits. In addition, in consultation with the Authority's statutory fiscal agent, certain other maturing investments were held in fully collateralized demand deposit account balances. We increased the collateral limits for those accounts that maintained liquidity and avoided what otherwise would have required either longer term U.S. treasury investments or realizing negative yields. So, in addition to that, the Report notes that the NY Sun balance increased primarily due to pay-as-you-go collections for projected working capital needs, exceeding actual expenses. The fluctuation noted for the NY Green Bank was primarily due to additional capital deployed principally on relatively recent close deals, or ones that closed near year-end. The Report summarized the composition of the Industrial portfolio as compared to the prior year, both by investment type and by term.

Mr. Pitkin continued, stating that the report noted the investment income for the year increased from \$16.6 million to \$19.7 million and the average annual rate of return was 2.6% as compared to the prior year 2.3%. The report noted that the portfolio yield has decreased to 1.4% as of year-end and has decreased substantially since then due to overall declines and treasury market rates. The Authority projects that investment income will be substantially lower in fiscal year 2021 than it was for the year just ended. The impact of that reduced interest income either reduces this funding for programs, or reduces offsets that otherwise cover administrative expenses.

Mr. Pitkin noted that the Authority's Independent Auditors have issued a report stating that nothing came to their attention to indicate that the Authority was not in compliance with provisions of the Investment Guidelines. No changes were proposed, but under requirements of the Public Authorities Law, the Members are required to reaffirm the approval of the Guidelines annually.

In response to an inquiry from Mr. Kauffman, Mr. Pitkin explained that the Guidelines have been adopted consistent with requirements by the office of state controller for investment guidelines for public authorities. The Authority's investments are limited primarily to be US government obligations or other investments that are fully secured or fully collateralized from a practical standpoint, investments have been limited to US treasury bills. When investing in treasury bills, there are short maturities of two or three months.

Mr. Pitkin continued, noting that the other principal area of investment is in treasury money market funds and the committee had recently approved amendments to the investment criteria that changed the portfolio limits. This allowed the Authority to have up to 20% of the portfolio in the treasury money market funds and those funds are AAA rated. They provide a source of liquidity to address our daily and weekly cashflow needs. Mr. Pitkin explained that the Authority has made an effort to avoid the need to liquidate those treasuries prior to maturity, so that there is no further impact on actual yields. As a result, management does not see the need to revise the policies at this time.

Whereafter, upon motion duly made and seconded, and by voice vote of the Members present, the following resolution was approved.

Resolution No.

RESOLVED, that the "Investment Guidelines, Operative Policy and Instructions (June 2020)," as presented at this June 23, 2020 meeting are hereby recommended for approval by the Board; and

BE IT FURTHER RESOLVED, that the Authority's "2019-2020 Annual Investment Report," for the year ended March 31, 2020, as presented at this June 23, 2020 meeting, is hereby recommended for approval by the Board to be adopted as the annual investment report of the Authority required by Section 2800 and Section 2925(6) of the Public Authorities Law.

Mr. Koh indicated that the next item on the agenda was a resolution considering the annual investment report for the NYSERDA OPEB Trust and the investment policy statement for the NYSERDA OPEB Trust.

Mr. Pitkin stated that pursuant to the investment policy statement, the members are requested to adopt a resolution, approving the annual investment report for the trust for the year ended March 31, 2020; and to adopt a resolution, approving the investment policy statement with respect to the investment report. The report summarizes the contributions, investments, income benefit payments, and administrative expenses for the trust for the year ended March 31, 2020, and reports the balances of investments in total and by asset category in comparison to the target levels that were established in the investment policy statement. The market value of the trust was \$50.5 million at year end, a decrease of \$2.6 million from the preceding year. This was primarily due to the decline of fund values resulting from broader bond and equity market disruptions associated with the COVID-19 health crisis. As of the most recent actuarial valuation of the trust on January 1, 2020, the trust is 98.1% funded compared to its OPEB liability.

Mr. Pitkin continued, explaining to the Members that due to the recent volatility in stock and bond markets the total return on the Authority's investments was a negative 6.9% for the year. This slightly outperformed the weighted average return for the benchmark indices of negative 7.5%. The investment policy statement noted that the investments of trust assets should be managed on a long-term basis and that achieving the plan's investment objectives is not guaranteed and there will be time periods for which these objectives will not be met and recognize that some risks must be assumed to achieve the plan's long-term investment objectives, and accepts the inevitable fluctuations in returns that will occur. While it is understood that a certain level of risk is anticipated in the plan's portfolio, the ability to withstand short and intermediate term variability was specifically considered in the development of the investment policy statement, risk tolerance levels. The Authority's investment consultant Milliman has not recommended taking any actions in response to the recent fund performance results.

Mr. Pitkin stated that Milliman has however, recommended a revision to the long-term rate of return that is used for purposes of a discount rate for measuring the actuarial liability of the OPEB beneficiary payments and is recommending a reduction from 6.5% to 6.25% based on their projections for long-term expected returns for the weighted average indices. Although, the Trust's current cumulative return performance of 4.1% is below this target, Milliman's actuarial

projections assume that performance results will rebound over the long term and should produce long-term returns within range of the target rates. Since March 31st, the value of the trust investments partially rebounded in line with broader equity market returns. As of May 31st, the market value of the trust increased \$4.5 million dollars to \$55 million, increasing the cumulative annual return from 4.1% to 5.4%. Management recommended no change to the investment policy statement. Under the provisions of the policy statement, the members are required to approve that there would be no changes to the investment policy statement.

Whereafter, upon motion duly made and seconded, and by voice vote of the Members present, the following resolution was adopted.

Resolution No.

RESOLVED, that the “NYSERDA OPEB Trust Investment Report” for the year ended March 31, 2020, as presented at this June 23, 2020 meeting is hereby recommended for approval by the Board as the annual investment report of the NYSERDA OPEB Trust required by Section 2800 and Section 2925(6) of the Public Authorities Law; and

BE IT FURTHER RESOLVED, that the “Policy Statement for the NYSERDA OPEB Trust (Retiree Health Insurance Benefits Trust)” as presented at this June 23, 2020 meeting, is hereby recommended for approval by the Board.

Mr. Koh indicated that the next item on the agenda concerned the financial statements of the Authority and the NY Green Bank for fiscal year 2019-20. This item was presented by Peter Mahar, the Authority’s Controller and Assistant Treasurer.

Mr. Mahar stated that The Members are requested to adopt a resolution approving the annual audited financial statements for the fiscal year ended March 31, 2020 for the Authority and separate stand-alone financial statements for NY Green Bank. Both financial statements included an unmodified, clean opinion from the independent auditors, KPMG. The memo included in the Board package summarizes financial statement amounts that include significant accounting estimates, which have been reviewed and found to be reasonable by the independent auditors. Management’s discussion and analysis included a summary of the impacts that the COVID-19 health crisis has had on the Authority’s operations, programmatic activities, and

financial condition. It concludes that there were no material impacts on the financial condition of the Authority as of March 31, 2020. The footnotes to the financial statements include a Subsequent Events disclosure stating that several factors could impact the Authority's financial condition and operations in the future, but such impacts are uncertain at this point. Since the start of the COVID outbreak Management took several actions within the Green Jobs – Green NY and NY Green Bank loan portfolios to assist program counterparties to mitigate delinquencies and defaults from occurring.

Mr. Mahar continued, stating that with regard to the Green Jobs – Green NY portfolio, and as communicated to the Board, Management suspended collection efforts and late fees on delinquent loans, and has made available two-month deferral arrangements for borrowers with COVID-19 hardships, upon request. To date, only 13 out of more than 21,000 outstanding loans have been modified. Management has also supplemented with a weekly review of delinquencies and loan defaults to monitor potential impacts of the crisis on the portfolio. Management continues to use an allowance for doubtful accounts methodology based on loans more than 120 days past due. Through today, the Green Jobs – Green NY portfolio has seen only a slight uptick in loan delinquencies and defaults from pre-COVID-19 averages. Based on these actions, management believes the recorded allowance and portfolio balance are fairly stated. KPMG is satisfied with management's methodology, and the recorded allowance.

Mr. Mahar noted that NY Green Bank has also been monitoring its portfolio for timely payments and working with their Counterparties on deferral modifications upon request. As of today, NY Green Bank has modified only 1 contract to defer principal and interest payments for 90 days with interest accruing on the loan. The Authority currently has one transaction in the portfolio with a principal balance of about \$20.5 million, which was discussed with the Committee last year, that remains in a bankruptcy proceeding which is anticipated to be resolved later this year. Project revenue distributions totaling \$534,000 were received during the fiscal year and were applied against legal expenses related to the bankruptcy. The transaction remains on non-interest-accrual status, and a discounted cash flow analysis of future project revenues supports that no impairment adjustment is required to be recorded for the transaction. KPMG

reviewed management's analysis and concurred that no impairment adjustment was required for the transaction. In addition, staff are actively monitoring other provisions and financial covenants of the portfolio contracts. All other portfolio loans and financing receivables are current on obligations. Management continues to use a specific identification method for asset impairment which KPMG had reviewed during the audit, they are satisfied with the methodology, no impairments were recorded for the fiscal year ended March 31, 2020 and Management believes all outstanding balances are fairly stated.

Mr. Mahar stated that the Members' meeting packet included a detailed explanation of the financial statements. He then highlighted a few significant fluctuations and changes. The total assets increased by \$66 million to \$1.4 billion primarily due to an increase in Green Bank Loans and Financing Receivables and changes in its cash and investment balances. The total liabilities decreased \$12.8 million to \$353 million primarily from a decrease in Bonds payable from scheduled payments and bond redemptions in the GJGNY program. The restricted net position, which is the cumulative difference between revenues and expenses, increased by \$81.5 million to \$1.1 billion primarily from the additional capitalization of the NY Green Bank. The unrestricted net position increased from \$4.1 million to \$6.0 million, \$1.9 million higher than the Budget, primarily from higher interest earnings than anticipated and lower than anticipated capital asset purchases. The total revenues of \$1.3 billion were about \$182 million less than budgeted primarily due to Utility Surcharge assessment revenues being less than budgeted due to an overestimate of NYSUN expenditures in the FY19-20 Budget, as discussed at the January meeting. Total expenses of \$1.3 billion were about \$294 million less than budgeted primarily due to the NY-Sun overstatement of budgeted program expenses. Variances in the other funds were generally caused by delays in launching new initiatives, market participation, lower than anticipated production by the generating facilities, and general timing of expenditures.

Mr. Mahar noted that the Members' package included separate stand-alone financial statements for NY Green Bank. NY Green Bank ended the fiscal year with \$609 million in total assets, an increase of \$38 million from the prior year. Operating revenues of \$22 million were 0.7% lower than budget revenues, which is 5.9% of average deployed capital, as compared to the

budgeted rate of 6.4% and 6.3% in the prior year. The slight variance in percentages is primarily due to lower average interest rates than what was assumed in the budget, and the variance from the preceding year was primarily due to lower closing fees earned resulting from lower capital committed than in the prior year. The operating expenses of \$11 million were only .3% higher than budgeted expenditures, which is 2.9% of average deployed capital, as compared to the budgeted rate of 3.1% and 3.0% in the prior year. As a result, NY Green Bank ended the year with a Net operating income of \$11.3 million or 3.0% of average deployed capital, as compared to the budgeted rate of 3.3% and 3.3% in the prior year.

Mr. Mahar explained that the net income for NY Green Bank for the year was \$17.3 million, \$3.8 million higher than budget. This was the third consecutive year of revenues in excess of expenses, and \$40.0 million on a cumulative basis. He noted that the Members' meeting packet included some additional reports issued by the independent auditors under governmental auditing standards. Management was pleased to report that the auditors disclosed no instances of noncompliance or material weaknesses, found reasonable management's estimates and financial disclosures, noted no uncorrected misstatements in the financial statements, noted no disagreements with management, and offered no management letter comments to address control weaknesses or suggestions for improvement.

Mr. Koh then stated that a motion for approving the financial statements will be considered after the Members had met in Executive session.

Whereafter, upon motion duly made and seconded, and by voice vote of the Members present, the following resolution was approved.

Resolution No.

RESOLVED, that pursuant to Section 105 of the Public Officers Law, the Members of the Audit and Finance Committee of the New York State Energy Research and Development Authority shall convene in executive session on June 23, 2020 for the purpose of reviewing the financial condition of the Authority.

The Members then left the public meeting and entered into an Executive session with the independent auditors for purposes of discussing the Authority's financial condition.

Following the Executive session, the meeting was reconvened in open session. No formal action was taken during the Executive session.

Whereafter, upon motion duly made and seconded, and by voice vote of the Members present, the following resolution was adopted.

Resolution No.

RESOLVED, that the Authority's Financial Statements and the Financial Statements of NY Green Bank as of March 31, 2020, as presented at this June 23, 2020 meeting is hereby recommended for approval by the Board as the financial reports required by Sections 1867(1) and 2800 of the Public Authorities Law.

Mr. Koh then indicated that the next item on the agenda considered the appointment of KPMG, LLP as the Authority's independent auditors for the fiscal year 2020-2021.

Mr. Pitkin stated that the Members are requested to approve a resolution appointing KPMG, LLP as the independent auditors of the Authority for the fiscal year ending March 31, 2021. KPMG would perform a financial statement audit and deliver an opinion about the Authority's consolidated financial statements, and separate stand-alone financial statements for NY Green Bank. The firm's fees and expenses for these services will not exceed \$119,160. The Authority competitively selected KPMG through Request for Proposal in 2016. This will be for year five of five under that RFP.

Whereafter, upon motion duly made and seconded, and by voice vote of the Members present, the following resolution was approved.

Resolution No.

RESOLVED, the Audit and Finance Committee recommends approval of a resolution authorizing the President and CEO to retain the firm of KPMG, LLP as independent auditors for the Authority and for NY Green Bank for the fiscal year ending March 31, 2021.

Mr. Koh indicated that the next item on the agenda was the Annual Bond Sales Report. Mr. Pitkin stated that pursuant to requirements of the Public Authorities Law, we are requesting

the Members to adopt a resolution approving submission of the Annual Bond Sale. The Annual Bond Sale Report indicates that during the year, the Authority completed no new issuances, refundings, or conversions. The schedule of Authority bonds outstanding provides a detailed listing of the Authority's bonds issued and outstanding as of March 31, 2020, totaling approximately \$1.6 billion.

Whereafter, upon motion duly made and seconded, and by voice vote of the Members present, the following resolution was approved.

Resolution No.

RESOLVED, that the Authority's Annual Bond Sales Report for the fiscal year April 1, 2019 through March 31, 2020, and the information contained therein, as presented at this June 23, 2020 meeting is hereby recommended for approval by the Board for submission pursuant to Section 2800 of the Public Authorities Law.

Mr. Koh indicated that the next item on the agenda was the review and approval of the Audit and Finance Committee Charter. The Authority's General Counsel, Peter Costello stated that pursuant to the Public Authorities Accountability Act of 2005, each of the Authority's Committees adopted Charters setting forth each Committee's responsibilities. One of those responsibilities is to periodically review its Charter and determine what, if any, amendments need to be made. These recommendations would then be presented to the full Board for approval at its meeting. A copy of the current Audit and Finance Committee Charter was included in the Members' meeting package. Management did not recommend any changes to the Audit and Finance Committee Charter at this time.

Whereafter, upon motion duly made and seconded, and by voice vote of the Members present, the following resolution was approved.

Resolution No.

RESOLVED, amendments to the Authority's Audit and Finance Committee Charter as presented for consideration at this June 23, 2020 meeting, with such non-substantive, editorial changes and grammatical changes as the President and Chief Executive Officer, in her discretion, may deem necessary or appropriate, is recommended for adoption and approval by the Board.

Mr. Koh indicated that the last item on the agenda was other business. There being no other business, the meeting was adjourned.

Respectfully Submitted,

A handwritten signature in black ink that reads "Sara L. LeCain". The signature is written in a cursive style with a long horizontal flourish extending to the right.

Sara L. LeCain

Secretary to the Committee