


CERTIFICATE AS TO MINUTES

The undersigned, Secretary to the New York State Energy Research and Development Authority (“Authority”), hereby certifies that attached hereto is a complete and accurate copy of the minutes of the 249th Meeting of the Authority, duly held on December 1, 2020.

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of the Authority this
2nd day of December 2020.



Peter J. Costello, Secretary



NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY
Minutes of the 249th Special Meeting
Held on December 1, 2020

Pursuant to a notice and agenda dated November 20, 2020 of the New York State Energy Research and Development Authority (“Authority”) a special meeting was convened on December 1, 2020 at 12:00 p.m. by videoconference.

The following Members of the Authority were present:

Richard Kauffman, *Chair*
Sherburne Abbott
Charles Bell
Kenneth Daly
Marie Therese Dominguez
Kate Fish
Jay Koh
Gil Quiniones, *Vice Chair*
John Rhodes
Basil Seggos
Mark Willis

Also present were Doreen Harris, Acting President and CEO; Janet Joseph, Senior Vice President for Strategy and Market Development; John Williams, Vice President for Policy and Regulatory Affairs; Jeffrey Pitkin, Treasurer; Peter Costello, Esq., General Counsel and Secretary; Sara LeCain, Senior Counsel; and various other staff of the Authority.

Mr. Kauffman called the meeting to order. The Notice and Agenda were forwarded to the Board members and the press on November 20, 2020. The meeting was held via videoconference and the Chair asked Peter Costello, to conduct a roll call. Each Member indicated their presence and Mr. Costello confirmed a quorum was present.

The Chair indicated that the first item on the agenda was proposed amendments to the Authority's Regional Greenhouse Gas Initiative ("RGGI") Regulations. Acting President and CEO, Doreen Harris explained that the Members are requested to adopt a resolution approving proposed revisions to the Authority's component of New York's RGGI Program. Specifically, the changes are to 21 New York Codes, Rules, and Regulations ("NYCRR") Part 507, CO₂ Allowance Auction Program. These changes are contemporaneous to action by the New York State Department of Environmental Conservation ("DEC") on its proposed revisions to 6 NYCRR Part 242, CO₂ Budget Trading Program, and 6 NYCRR Part 200, General Provisions Governing the Prevention and Control of Air Contamination and Air Pollution. The Members will be asked to consider an amendment to the Authority's RGGI Operating Plan, which will identify a three-year budget for program activities.

Ms. Harris then asked John Williams, Vice President for Policy and Regulatory Affairs to provide the Members with a summary of the proposed amendments. Mr. Williams explained that changes to the Authority's CO₂ Allowance Auction Program are the result of an agreement among the participating states in the RGGI Program, following a Program Review that was completed in December 2017. The proposed revisions to the Authority's regulations are consistent with those agreed-upon changes, and those being advanced by DEC, amending its regulations with respect to aspects of the program administered by DEC.

Mr. Williams reminded the Members that the Authority maintains responsibility for the administration of the Allowance Auction Program, which establishes procedures for engagement in regional auctions, as well as for administration of proceeds realized from the sale of allowances at those auctions. With respect to auction procedures, the proposed revisions allow for use of two mechanisms. One provides for the Authority's authorization to implement a Cost Containment Reserve, which is a regulatory flexibility and market stability mechanism consisting of a reserve of allowances that may be sold in the market if a predefined allowance price level is triggered. The second provides for the Authority's authorization to implement an Emissions Containment Reserve, which is a market mechanism designed to maintain allowances from an auction, in order to secure emissions reductions if allowances fall below an established trigger price.

Mr. Williams noted that in addition to the auction procedure provisions, the Authority has also proposed a change that incorporates Section 75-0117 of the Climate Leadership and Community Protection Act (“CLCPA”), which established a goal for disadvantaged communities to receive 40%, and no less than 35%, of the overall benefits from the investment in energy efficiency and clean energy. With this incorporation, the Authority’s program planning will account for this goal in investments supporting the established investment authorization for RGGI funds of energy efficiency, renewable or non-carbon emitting technologies, and innovative carbon abatement technologies.

Mr. Williams indicated that on May 13, 2020, the Authority published these draft revisions to NYCRR Part 507, with supporting papers, in the *State Register* with comments due by July 13, 2020. Over 900 comments were received, both in writing and on the Authority’s website. Most commenters are generally supportive of the revisions to the Program. Several comments sought additional information on the implementation of the investments towards CLCPA goals. The detail on how the portfolio will meet the CLCPA requirements will be addressed in the annual Operating Plan Amendment process, as well as through emerging activities that are underway with the Climate Justice Working Group. Further, the Authority’s Energy Affordability and Equity Program will serve both as a technical resource and stakeholder liaison to the portfolio planning process. Other comments included aspects of the program cap, as well as the size of the generating units covered by the regulations. These issues are addressed in the DEC rule-making process, and were shared with DEC. Finally, other comments sought program support for specific technologies or projects. The Authority will take these comments under advisement in future program planning.

Mr. Williams stated that no changes to the proposed language were made because of the comments process.

Mr. Williams concluded his summary, stating that with the Members’ approval, the Resolution, along with the revisions and an assessment of public comments, will be submitted to the New York State Department of State for publication in the *State Register* in time for the revisions to become effective by the end of 2020.

At this time, Commissioner Dominguez joined the meeting.

In response to an inquiry from the Chair, Mr. Williams indicated that there are two different processes at work. First, to have these revisions effective by the end of 2020 in order for the New York State RGGI Program rules and regulations to synchronize with the other regional RGGI Program rules as the RGGI Program assumes a new cap in January 2021 with an auction being held during the first quarter of 2021. Second, the Authority will look to its own RGGI Program planning, which is done on a routine basis typically at the January Board meeting. This involves having the Members review and approve a proposed budget and program plan for the upcoming year, as well as the next two fiscal years. The program plan is developed after outreach to interested stakeholders.

Mr. Daly commended Mr. Williams and his team on the stakeholder process was very well done.

In response to an inquiry from Mr. Daly, Mr. Williams explained that the Cost Containment Reserve and the Emissions Containment Reserve were developed to help ensure that the appropriate number of allowances are in the market and that they do not overly affect the cap. If the price of allowances seems to be going too high, it would indicate that there are not enough allowances being offered and the Cost Containment Reserve would be activated to provide more allowances for the market. Conversely, if too many allowances in the market would have a depressive impact on price, the Emissions Containment Reserve would be used to remove some of the allowances from the auction. Both reserves will be used to manage the supply and demand for allowances.

In response to an inquiry from Mr. Willis, Mr. Williams stated that a trigger price was based upon the agreement of the participating states as set forth in the 2017 program review, thus if the market is saturated, allowances will be withheld from the market to make sure the amount of emissions is not too high. The allowances would be held in reserve until the market adjusts to appropriate levels. Mr. Williams noted that the trigger prices are announced prior to the auction.

In response to an inquiry from the Chair, Mr. Williams confirmed that the trigger prices are determined by the RGGI participating states and not just New York State. The Regional Administrator conducts the auction on behalf of all the states in that region and through that process each of the states review the outcomes and determine whether any of the reserves need to be accessed.

In response to an inquiry from Mr. Koh, Mr. Williams stated that each of the participating states have undergone their own process to implement these collectively agreed upon changes.

In response to an inquiry from Ms. Abbott, Mr. Williams indicated that the states routinely meet to make sure the RGGI Program is meeting the needs of each of the states climate policies, as well as the expectations of the cap. The states do recognize that circumstances change and will adjust, as necessary.

In response to an inquiry from Ms. Fish, Mr. Williams noted that comports with CLCPA is a New York State-specific provision and guides how New York will be using the proceeds. Each of the other states look at their own policies and investing in disadvantaged communities is a discussion piece among the states.

In response to an inquiry from Mr. Koh, Mr. Williams confirmed that these mechanisms were intended to ensure that the states can look at the amount of allowances in the market and use the auction prices as an indicator of the balance of supply and demand in the market and ensuring the states are responsive to those market indicators.

In response to an inquiry from Mr. Koh, Mr. Williams stated that the RGGI Program has experienced some periods of volatility, but it is now moving toward a new compliance period and there will be an adjustment of the regional cap. Therefore, the states will need to see how the market is responding to these new components.

In response to an inquiry from Mr. Willis, Mr. Williams explained that the reserves do not create minimum or maximum prices. These mechanisms are intended to use price as an indicator

as to whether we need to add or remove allowances from the market. If the price is indicating that there is a constraint on the allowances, the Cost Containment Reserve would be released at the trigger price. Once the trigger price is hit, the allowances are released. The Emissions Containment Reserve has the same authorization that if a trigger price is hit on the way down, then allowances would be withheld from the market. Mr. Williams stated that the states have agreed on what the trigger prices will be. There is only one market and only one auction. Each state has its own containment pool and contributes to the same auction.

In response to an inquiry from Mr. Koh, Mr. Williams explained that the states need to collectively agree on where to set the trigger prices. Any change to those prices would need to be agreed to by all the participating states. Then to implement, each state would need to follow its own legislative or administrative process. If the states did not come to an agreement in time, then the prices agreed to in the 2017 program review would remain in effect.

In response to an inquiry from the Chair, Mr. Williams indicated that New York is the crowning action on regional implementation.

In response to an inquiry from the Chair, Mr. Williams confirmed that the states do not intervene in the market and are not purchasing any of the allowances. Instead, they are adjusting the amount of allowances available.

Mr. Willis stated that the implication on the RGGI Budget is that if allowances are withheld, then fewer are purchased, which would mean less revenue is received. However, Mr. Williams noted that the Authority's RGGI Budget is based upon a three-year perspective, taking into account each auction held during that time. It could mean that one auction has an imbalance, but then the market reorganizes and therefore no changes would need to be made to the Authority's RGGI Budget.

In response to an inquiry from Mr. Koh, Mr. Williams indicated that as New York engaged in the 2017 program review, it took into account its own reasons for participating and how RGGI fits in with the rest of New York's overall policies and strategies. The negotiated agreement at the

end of the program review includes each of the states individualized needs and differing outcomes. In New York, these program changes will allow RGGI to serve an integral part of the State's environmental and energy work.

In response to an inquiry from Mr. Willis, Mr. Williams explained that if a regulated entity does not have enough allowances, it may either purchase additional allowances through auction or through a secondary market. If the entity is unable to purchase enough allowances, then it would be subject to penalties at the end of the compliance period. However, if an entity has unused allowances at the end of the compliance period, it may bank those allowances for use during a future compliance period.

Next, Ms. Harris indicated that Mr. Williams and his team worked closely with DEC and asked Commissioner Seggos to address the Members. Commissioner Seggos thanked the Authority's team for their assistance. DEC is filing its regulations to go into effect at the same time as the Authority's. Though not exactly the same, the DEC revisions are aligned and include the reduction in cap as well as the containment reserves. DEC is also including peaking units of 25 megawatts or less that are largely downstate. This is part of DEC's commitment to reducing emissions within environmental justice and disadvantaged communities around the State.

Mr. Bell noted that the ability to reach back to these communities through these proposed changes is a very positive thing for the implementation of CLCPA.

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

Resolution No. 1605

RESOLVED, that the amendments to Part 507 of Chapter XI of Title 21 of the Official Compilation of Codes, Rules and Regulations of the State of New York, as presented at this December 1, 2020 meeting, be, and the same hereby are, adopted as the amended rules and regulations of the Authority; and

BE IT FURTHER RESOLVED, that the Acting President and CEO be, and is hereby, authorized and empowered on behalf of the Authority to execute, certify, and deliver all such documents, and to take all such other actions and make such

other changes, omissions, insertions, revisions, or amendments to the documents necessary or appropriate to promulgate the aforesaid amended rules and regulations.

Mr. Kauffman indicated that the next item on the agenda was other business. There being no other business, Mr. Kauffman called for a motion to adjourn. Whereafter, upon motion duly made and seconded, and by voice vote of the Members present, the meeting was adjourned.

