

MINUTES OF THE ONE HUNDRED TWELFTH MEETING OF THE  
AUDIT AND FINANCE COMMITTEE  
HELD ON APRIL 16, 2012

Pursuant to notice dated March 29, 2012, the one hundred twelfth (112<sup>th</sup>) meeting of the Audit and Finance Committee (“Committee”) of the New York State Energy Research and Development Authority (“Authority”) was commenced in the Authority’s New York City Office at 485 Seventh Avenue, 10th floor, New York, New York, and by video conference in the Authority’s Albany Office at 17 Columbia Circle, Albany, New York, on Monday, April 16, 2012, at 11:30 a.m.

The following members of the Committee were present in New York City, unless otherwise indicated:

Robert B. Catell, Chair

George F. Akel, Jr. (by video conference from Albany)

David D. Elliman

Also present were Francis J. Murray, Jr., President and CEO; Robert G. Callender, Vice President for Operations and Energy Services; Janet Joseph, Vice President for Technology and Strategic Planning; Jeffrey J. Pitkin, Treasurer; Hal Brodie, Esq., General Counsel; Sara L. LeCain, Esq., Senior Counsel and Secretary to the Audit and Finance Committee; Mark B. Mitchell, Director of Internal Audit; Ken Deon and Mike Redcross from KPMG, LLP; and various other staff of the Authority.

Mr. Catell called the meeting to order and noted the presence of a quorum. The first item on the agenda concerned the approval of the minutes of the one hundred eleventh (111<sup>th</sup>) meeting of the Committee held on January 30, 2012.

Whereafter, upon motion duly made and seconded, and by unanimous voice vote of the Committee members, the minutes of the one hundred eleventh (111<sup>th</sup>) meeting of the Committee held on January 30, 2012, were approved.

Mr. Catell said that the next item on the agenda concerned the independent audit of the Authority's financial statements for fiscal year 2011-12. Mr. Pitkin stated that, pursuant to Section 2802 of the Public Authorities Law, the Authority's independent auditor is required to report to the Committee on a timely basis: all critical accounting policies and practices to be used in conducting the independent audit; all alternative treatments of financial information within generally accepted accounting principles that have been discussed with management; and other material written communications between the auditors and management. Consistent with these requirements, Ken Deon, Audit Engagement Partner, and Mike Redcross, also from KPMG, LLP, addressed the Committee.

Mr. Deon discussed the timeline and the focus of the audit and gave a description of the accounting standards to be used. The independent auditors will review the Authority's financial statements for fiscal year 2011-2012, as well as the Authority's post-employment health insurance benefit trust. The independent audit will begin at the end of April 2012 and will be completed by the middle of May 2012. The audit will follow both Generally Accepted Auditing Standards and Governmental Auditing Standards promulgated by the Comptroller General of the United States. The audit will assess and test controls over investments, payroll procedures, procurement procedures, and disbursements relating to contracts; review revenues, receivables, and expenditures allocation by program; assess accrued liabilities; review cash and investments; and review financial reporting.

Mr. Catell then called upon Mark B. Mitchell, Director of Internal Audit, to provide the Committee with a report on his recent activities. Mr. Mitchell reported that three final audit reports have been completed since the January Committee meeting.

In February 2012, the audit of the Authority's Photovoltaic Program ("PV") was finalized. The audit evaluated the PV Program's internal practices and procedures as they are administered under the Customer-Sited Tier of the Renewable Portfolio Standard. Financial incentives are provided to PV installers for installation of new grid connected PV systems. The New York State Public Service Commission ("PSC") issued an Order with an effective date of January 1, 2010, which allocated \$2 million a month through December 31, 2015, for a total budget of \$144 million. As of March 31, 2012, \$54 million (37.5%) of the \$144 million allocated for this program had been committed.

The PV Program's design was evaluated by using regression analysis to forecast results. The analysis showed that if the PV Program remains at its current pace it should achieve 98% of its megawatt hour ("MWh") target of 116,735 MWh and 98% of the megawatt ("MW") target of 99.46 MW with its current level of funding. Therefore, the audit concluded the design of the PV Program is effective.

Generally, the PV Program's operating controls were found to be adequate, appropriate, and effective to provide reasonable assurance that risks are being managed and objectives should be met. However, a few specific control weaknesses were noted.

The PSC Order requires that, for residential customers who do not have an Energy STAR<sup>®</sup> home, installers conduct a walk-through energy audit and provide the customers with the results. The program audit found that more than half of the projects reviewed did not have any documentation showing that an energy audit had been performed. Internal Audit recommended that staff obtain proof that the energy audit was performed before paying the installer any funds.

Program Staff acknowledged that when the solicitation was first issued, applications were approved for and incentives paid on projects for which an energy audit was not submitted. At the time, the enforcement of the requirement was difficult due to the high volume of applications being received and the priority assigned to reducing the turnaround time between application submittal and approval. The PV Program has since been strictly enforcing the energy audit requirement, and any project applications submitted that do not include the energy audit are not approved. Program staff have indicated that they have obtained all of the missing energy audits, and the PV Program is now in compliance with the PSC Order.

The audit also identified an issue with regard to the accuracy of the data being maintained in the PV Program's project management database. Even though a change order had been processed, records were not always being updated to reflect modifications to the project. As a result, incentive amounts in the project management database did not agree with the amounts actually paid. Additionally, the actual capacity installed did not agree with the capacity shown in the project management database. To ensure that the quality of data is accurate, the audit recommended that the PV Program improve its data quality controls.

Program Staff concurred and indicated that they have revised the system for processing change orders so that the information in the project management database would be accurate.

Lastly, the audit recommended that the PV Program improve its process for monitoring whether or not installers are submitting meter readings on schedule, as required by the PV Program's terms and conditions. This should provide a higher degree of assurance that, when it is time to evaluate the PV Program, the required information will be on hand to facilitate the evaluation.

Mr. Mitchell indicated that the audit made eleven recommendations and management concurred with all of them.

In response to an inquiry from Mr. Catell, Mr. Murray indicated that management was satisfied with the response of program staff.

The second audit reviewed the Authority's process for managing changes made to its Information Technology ("IT") infrastructure. The audit focused on three key computer applications: the NYSERDA Enterprise Information System ("NEIS"), which is the Authority's contracting and accounting system; the Buildings Portal database, which maintains data on commercial and industrial energy savings projects for the Authority's Energy Efficiency Services ("EES") programs; and the CRIS database, which the Residential Energy Services ("RES") programs use to maintain data on residential energy savings projects.

Without carefully controlling the Authority's IT environment, it becomes more difficult to support the required changes that enable the Authority to comply with regulatory requirements, respond to program and administrative information needs, and enhance program and administrative productivity.

The audit identified varying degrees of evolution and consistency in the design and execution of IT change controls. However, the Authority could benefit from continued efforts to strengthen existing change controls associated with NEIS. The audit also concluded that the Authority could benefit from simultaneously designing and implementing baseline IT change controls in the Buildings Portal database and the CRIS database.

Mr. Mitchell commended the Authority and the IT Department for recognizing the importance of establishing IT change controls. The audit found clear evidence of the Authority's commitment to implementing and improving change controls using automation, manual procedures, and dedicated resources.

Management concurred with all of the recommendations contained in the report.

Lastly, Mr. Mitchell reported on an audit of the internal controls associated with the Authority's Green Jobs-Green New York ("GJGNY") financing program. The program is administered by two external contractors, Energy Finance Solutions ("EFS") and Concord Servicing Corporation ("CSC"). The audit evaluated the effectiveness of their controls by obtaining and auditing a sample of records maintained by the two contractors.

EFS is responsible for loan processing and evaluating each loan application in accordance with NYSERDA's established criteria. In addition, once an application is approved, EFS disperses the loan funds to the customer's contractor, and then the completed loan is sent to CSC for servicing. Once CSC receives the loan, they are responsible for billing the customer, collecting, and applying payments, and any customer service inquiries related to the loan.

The audit concluded that the effectiveness of the program's internal control activities is adequate. This conclusion is not only applicable to NYSERDA's management and staff oversight activities, but also to the controls in place at EFS and CSC.

The audit reviewed the credit and loan criteria used to evaluate loan applications; the interest rate applied to the two classes of loans; approval of income-based subsidy requests; billing of origination fees; receipt of loan repayments; loan servicing of past-due accounts; and review of NYSERDA's approval of invoices received from the two contractors who administer the program. The audit found that the program was designed well and no recommendations were issued.

In response to an inquiry from Mr. Elliman, Mr. Mitchell indicated that the audit considered the on-bill recovery financing component, but while the same controls are in place, the recent implementation of the on-bill recovery financing component has not allowed it to produce enough data for review.

Mr. Catell indicated that the next item on the agenda was a report on the status of the GJGNY financing program. Mr. Pitkin explained that the implementation of on-bill recovery financing component ran into challenges with compliance with State Banking Law regulations, which has given rise to some changes in the design of the program.

The authorizing legislation required that consumers provide a mortgage in connection with the on-bill recovery loan to ensure that notice was provided to any subsequent purchaser of the property, who would assume responsibility for future loan installment billings through their utility bill if the remaining loan obligation was not satisfied prior to the sale or transfer of the property. State Banking Law regulations prohibit individuals from assisting consumers with mortgage applications unless they are licensed mortgage loan originators.

Staff determined that these restrictions would apply to the activities performed by the participating energy performance contractors, constituency based organizations and other partners (other than our loan originator), who assist the consumer with the application for an on-bill recovery loan. Therefore, the Authority's contractors and partners were unable to explain the details of the financing or assist consumers with the application process and instead had to refer consumers to the Authority's loan originator.

Working with outside counsel and the Governor's Office, staff developed a legislative change to address this by replacing the mortgage with the filing of a declaration. The declaration is not a lien on the property, but it is recorded in the county or city recording office in the same way as a mortgage, thereby providing notice to a subsequent purchaser in the same manner. In addition, since the declaration is not a lien, its recording would not be restricted by a current mortgage on the property and may be less likely to require satisfaction of the loan by a new mortgagee in connection with the sale or transfer of the property. The Governor introduced this legislative amendment in his 30-day amendment to the Executive Budget, and the provisions were enacted upon signing of the State Budget on March 30.

As of March 31, 2012, over 4,000 applications for financing have been received, and over 2,300 applications have been approved. Of the approved applications, approximately 92% of the applications have been approved under the conventional (Tier 1) standards for loans expected to be financed through the capital markets, and approximately 8% of the applications have been approved

through the alternate (Tier 2) standards, which will be funded from the revolving loan fund until they have a demonstrated performance that would allow them to be financed through the capital markets.

The Authority's loan originator has closed on 1,329 loans for a total of approximately \$12.0 million. This includes the first two on-bill recovery loans which closed at the end of March. An additional 247 loans are approved and pending closing, for a total of approximately \$14.3 million.

In addition, 1,300 loans are outstanding with a balance of \$11.4 million. There are two accounts which are past due, representing less than .1% of the portfolio. Both of these accounts have been referred to the Attorney General's Office for collection.

Since the Committee's last meeting, the Authority has made the first loans in the multifamily buildings and the small business/not-for-profit components of the GJGNY financing program. These first loans were made through loans offered by participating lenders. Staff are currently working on the standards and approach for offering on-bill recovery loans to these sectors, which is expected to commence by May 30 as required by legislation. These loans are expected to be offered through the same participating lenders.

Lastly, Mr. Pitkin provided the Committee with an update on the first bond issuance to support the GJGNY financing program. Staff worked with the Authority's financial advisor and bond underwriting team on structuring approaches. In late summer 2012, the proposed issuance will be presented to one or more rating agencies for an indicative rating on the proposed structure. Mr. Pitkin anticipates bringing an issuance to the Committee and the Board for approval at the September meetings.

In response to an inquiry from Mr. Elliman, Mr. Pitkin indicated that staff have had a number of discussions with the Authority's underwriters who feel that the On-Bill Recovery Loans may receive a AAA rating. In light of this, staff are reviewing the proposed structure and may separate the secured and unsecured loans. To assist with this decision, the Authority has submitted a request to Fannie Mae to obtain all data from the Authority's previous loan program which wrote down loans provided through Fannie Mae. However, it would be premature to offer an estimate on the interest rate.

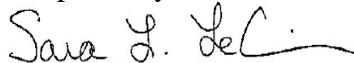
Mr. Pitkin indicated that the Qualified Energy Conservation Bond (“QECCB”) provides approximately 70% of the interest on the bonds as a subsidy not a guarantee. The Authority would pay the bondholders the earned interest, and semi-annually the federal government would reimburse the Authority for the interest payment. Mr. Pitkin explained that the percentage is based on the volume cap, which the federal government could withdraw.

In response to an inquiry from Mr. Catell, Mr. Pitkin indicated that the Authority’s first issuance would be at least \$25 million, which is the same as the QECCB volume cap allotted to the Authority.

In response to an inquiry from Mr. Elliman, Mr. Pitkin indicated that staff would need to reevaluate the GJGNY financing program once the QECCB subsidy is used. Adjustments would have to be made to the interest rate offered on future issuances. Any reduction in the interest rates offered could affect interest from consumers.

Mr. Catell stated that the last agenda item concerned other business. There being no further business, upon motion duly made and seconded, and by unanimous voice vote, the meeting was adjourned.

Respectfully submitted,



Sara L. LeCain  
Secretary to the Committee

**NOTICE OF MEETING AND AGENDA**

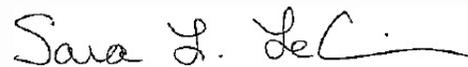
March 29, 2012

TO THE MEMBERS OF THE AUDIT AND FINANCE COMMITTEE:

PLEASE TAKE NOTICE that the one-hundred twelfth (112<sup>th</sup>) meeting of the AUDIT AND FINANCE COMMITTEE of the New York State Energy Research and Development Authority (“Authority”) will be held in the Authority’s New York City Office at 485 Seventh Avenue, 10<sup>th</sup> floor, New York, New York, and by video conference in the Authority’s Albany Office at 17 Columbia Circle, Albany, New York, and by video conference in the Authority’s Buffalo Office at 726 Exchange Street, Suite 821, Buffalo, New York, on Monday, April 16, 2012, commencing at 11:00 a.m., for the following purposes:

1. To consider the Minutes of the 111<sup>th</sup> meeting held on January 23, 2012.
2. To discuss the independent audit of the Authority’s financial statements and the Authority’s OPEB Trust for fiscal year 2011-12.
3. To receive a report on the recent activities of the Director of Internal Audit.
4. To receive a report on the Green Jobs-Green New York program.
5. To transact such other business as may properly come before the meeting.

Members of the public may attend the meeting at any of the above locations. The Authority will be posting a video of the meeting to the web within two business days of the meeting. The video will be posted at <http://www.nysesda.ny.gov/en/About/Board-Governance/Board-and-Committee-Meetings.aspx>.



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Sara L. LeCain  
Secretary to the Committee

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