

NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY

Minutes of the 189th Meeting

Held on April 23, 2007

Pursuant to notice dated April 12, 2007, a Regular Meeting (the 189th meeting) of the New York State Energy Research and Development Authority ("Authority") was convened on April 23, 2007, at 2:30 p.m. in the Authority's board room at 17 Columbia Circle, Albany, New York, and was available by video conference in the Authority's 10<sup>th</sup> floor conference room at 485 Seventh Avenue, New York, New York, and in the Authority's conference room at 617 Main Street, Suite 105, Buffalo, New York.

The following Members of the Authority were present in Albany, unless otherwise indicated:

Vincent A. DeIorio, Esq., Chair

George F. Akel, Jr.

Robert B. Catell (*by New York City video conference*)

Jay L. Gottlieb (*by New York City video conference*)

Alexander B. ("Pete") Grannis

Frank S. McCullough, Jr. (*by New York City video conference*)

Parker D. Mathusa

Elizabeth W. Thorndike, Ph.D.

Members Acampora and Edwards did not attend.

Also present were Peter R. Smith, President and CEO; Robert G. Callender, Vice President for Programs; Jeffrey J. Pitkin, Treasurer; and Hal Brodie, Esq., Acting General Counsel of the Authority. In addition, Thomas Congdon, the Governor's Special Assistant for Energy and Telecommunications; John Osinski from the New York Power Authority; James Austin from the New York State Department of Public Service; Richard Albertin from the New York State Department of Transportation; Joseph Rubino, from the New York State Department of

Environmental Conservation; and various members of the staff of the Authority were present.

The Chair called the meeting to order and noted the presence of a quorum. He stated that the meeting notice and agenda was mailed to the Members and press on April 12, 2007.

Before beginning the formal agenda, the Chair welcomed the Authority's newest Member, Alexander B. ("Pete") Grannis. Mr. Grannis has recently been confirmed by the Senate as the Commissioner of the New York State Department of Environmental Conservation, after serving as a member of the New York State Assembly since 1974. The Chair welcomed Mr. Grannis on behalf of all the Members.

Chair DeLorio then called upon Peter R. Smith, President and CEO of the Authority, to address the Members. President Smith stated that Governor Spitzer recently announced his "15 by 15" Clean Energy Strategy for New York State. This comprehensive strategy strives to reduce electricity consumption by 15% below the forecasted level in 2015. This reduction would primarily be achieved through increases in the use of more energy efficient products, processes, and applications. Additionally, any new supplies of electricity are to be developed in an environmentally sustainable way. This would involve enacting a clean power siting law and encouraging investments in clean energy production facilities. The strategy also calls for revenue decoupling, higher minimum equipment and appliance efficiency standards, and increased implementation of efficiency measures by State-owned facilities. The Authority provided input and analysis to support Governor Spitzer's proposal and staff will be working with Governor Spitzer's staff to implement this strategy.

Next, President Smith announced that the Authority recently completed its second Renewable Portfolio Standard ("RPS") procurement. A total of 21 new and upgraded electric generating facilities across New York State were competitively selected to provide renewable energy to New York consumers. The award group includes 10 hydroelectric facilities, 9 wind facilities, and 2 biomass facilities. Under the 21 contract awards, approximately \$295 million in performance incentives will be paid over a ten-year period, once the renewable electric energy is delivered to the New York electric grid. The performance incentives average approximately \$15 per megawatt hour

delivered. In total, these 21 facilities should provide 880 megawatts of in-State energy capacity, and produce approximately 2.6 million megawatt hours of renewable electricity, annually. This equates to enough clean energy to meet the energy needs of approximately 435,000 average-sized, single family homes.

Additionally, project developers will support the State's economy by investing an estimated \$1.4 billion to upgrade and construct the facilities. Upgrading or construction of the facilities is expected to be completed by the fall of 2008.

Staff was pleased with the number of proposals received and the overall results of this second RPS procurement. President Smith specifically thanked Public Service Commission Chairwoman Acampora and her staff for all of their hard work in making this procurement a major success. He also thanked the Authority's Energy Resources, Transportation, and Power Systems, and Environment Research and Development Program Director, Joseph R. Visalli, who led the RPS team at the Authority since the inception of the RPS Program, and who has done an outstanding job.

President Smith then provided the Members with an update on the recent activities at the Saratoga Technology + Energy Park ("STEP"). The STEP Site One developer, The United Group of Companies, Inc. ("United"), is constructing the Site One building, known as 107 Hermes Road. The building's foundation is complete and United expects to erect the building's steel frame by the end of April 2007. United also expects the building to be ready for occupancy in August 2007. This 105,000 square foot building will contain office, laboratory, and manufacturing space, and will be the new home to Starfire Systems Inc., Electrovaya, Inc. ("Electrovaya"), Building Performance Institute, the Center for Economic and Environmental Partnership, Inc., North American Board of Certified Energy Practitioners, GroSolar, Lockheed Martin Information Technology Systems, Inc., and Hudson Valley Community College. United is also working with other clean-energy technology companies to negotiate other leases for space at the Site One building.

Progress has also been made on the development of the New York State Department of Environmental Conservation's ("DEC") Alternative Fuel Vehicle Research Laboratory ("Lab"). The

building design is nearly complete, and the documents were reviewed by the design team, comprised of DEC and the New York State Office of General Services (“OGS”). It is expected that the plans will be complete in early summer 2007. After review by DEC and OGS, the project will be bid in late summer 2007, with the Lab under construction by end of the year. An early 2008 completion date is expected. Staff believes that this state-of-the-art Lab will be a perfect fit for STEP, and it will help attract to STEP private companies involved in alternative transportation technologies.

Staff has also been meeting with the chip manufacturer, Advanced Micro Devices (“AMD”), a potential tenant at the adjoining Luther Forest Technology Campus (“Luther Forest”). Discussions have focused on what types of companies the Authority should be attracting to STEP to support AMD’s business needs. This cooperation will allow both STEP and Luther Forest to grow in accordance with their missions and master plans. Staff is also working with AMD and Hudson Valley Community College to facilitate the development of education and training programs that will help AMD meet its future employment needs in New York.

Lastly, in 2006, the Authority announced a \$10 million plug-in hybrid program, under which 600 hybrid vehicles in the State fleet would be retrofitted to plug-in hybrids. To launch this program, the Authority issued a competitive solicitation and made awards to: A123 Systems, Hymotion, Electrovaya, and Energy Control Systems Engineering. A total of six vehicles, three Ford Escapes, two Toyota Priuses, and one Honda Civic, will be used for the initial testing. President Smith concluded by informing the Members that once testing has been completed, staff will be working with the State fleet owners to convert the 600 State-owned hybrid vehicles to plug-in hybrid vehicles.

The Chair congratulated President Smith, staff, and the Members on all their hard work.

Chair DeIorio then turned to the first agenda item which concerned a resolution commending Roger D. Avent, Esq., for his services on behalf of the Authority. Mr. Avent recently retired as the Authority’s General Counsel, after ten years of service. The Chair said that it is fitting that the Authority memorialize Mr. Avent’s past dedication and commitment and let him know how much

the Authority appreciated his counsel. Therefore, the first action item before the Members is a resolution commending Mr. Avent for his services to the Authority.

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

Resolution No. 1135

WHEREAS, Roger D. Avent, Esq., has served with distinction on the staff of the New York State Energy Research and Development Authority for more than ten years, serving as its General Counsel, providing to the Members, Officers, and staff, all legal assistance necessary for the performance of their respective duties as prescribed by the New York State Energy Research and Development Authority's enabling legislation and other relevant Federal, State, and local laws, executive orders, rules and regulations; and

WHEREAS, Mr. Avent's management and leadership, marked by attentiveness and foresight, furthered: the promotion of the New York State Energy Research and Development Authority's mission of using innovation and technology to solve some of New York's more difficult energy and environmental problems; the implementation of significant public benefit energy efficiency programs; and carrying out vital responsibilities for radioactive waste management in harmony with the best interests of the People of the State of New York; and

WHEREAS, the Members of the Authority, assembled on this twenty-third day of April, two thousand seven, have voted unanimously to commend Mr. Avent for his distinguished service to the People of the State of New York and his contributions to the Authority and to memorialize that commendation;

NOW, THEREFORE, the Members of the New York State Energy Research and Development Authority commend Roger D. Avent, Esq., and express their appreciation for his dedicated and distinguished service on behalf of the Authority.

Mr. Mathusa thanked Mr. Avent for his leadership and counsel.

The Chair added that Hal Brodie is serving as the Authority's Acting General Counsel and Acting Secretary on an interim basis.

The Chair indicated that the next item on the agenda was a report from the Governance

Committee (“GC”). George Akel, the GC Chair, stated that the GC received a report from Jeffrey J. Pitkin, the Authority’s Treasurer, on recent guidance issued by the State Authority Budget Office (“ABO”) on public authority board member independence. This guidance makes clear that *ex officio* board members may sit on audit and governance committees and be considered independent members.

Mr. Akel indicated that the next item on the GC agenda, which would have incorporated the ABO guidance into guidelines concerning board member qualifications, has been postponed until a later date so that staff can consult with the ABO and other public authorities on their approach to establishing guidelines.

Chair DeIorio said that the next item on the agenda was a report from the Audit and Finance Committee (“A&FC”). Mr. Catell, Chair of the A&FC, reported that the independent auditors briefed the A&FC in detail on the proposed procedures for conducting the independent audit of the Authority’s financial statements for fiscal year 2007-08. The A&FC was satisfied that the approach was reasonable and that the end product would meet the requirements of the Public Authorities Accountability Act and the State Comptroller’s regulations, including the delivery of all required opinions.

The Chair indicated that the next agenda item concerned the internal audit activities of the Director of Internal Audit. Mr. Catell stated that the A&FC received a report from Mark B. Mitchell, the Authority’s Director of Internal Audit, on his activities over the past year. In addition, the A&FC reviewed and approved the proposed 2007-08 internal audit plan. The plan continues to address those areas of Authority operations that were determined to have the highest internal control risks. The plan includes audits of specific programs such as the Assisted Multifamily Program and the New Construction Program and specific program operations such as project management and invoice approval procedures.

The A&FC directed Mr. Mitchell to proceed with implementing the proposed 2007-08 Internal Audit Plan.

The Chair then indicated that the next two agenda items call for the Members to convene in executive session. The first concerned a discussion of some matters involving the employment history of a particular person. The second concerned a report on the litigation involving the Western New York Nuclear Service Center (“West Valley”).

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

Resolution No. 1136

RESOLVED, that pursuant to Section 105 of the Public Officers Law, the Members of the New York State Energy Research and Development Authority shall convene in executive session for the purpose of discussing matters involving the employment history of a particular person.

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

Resolution No. 1137

RESOLVED, that pursuant to Section 105 of the Public Officers Law, the Members of the New York State Energy Research and Development Authority shall convene in executive session for the purpose of discussing litigation in relation to the Western New York Nuclear Service Center.

The Members then met in the executive session concerning the employment history of a particular person with the Officers, the Director of Internal Audit, and the Assistant Secretary to the Authority. In the executive session concerning the litigation at West Valley, the Program Director for West Valley Program Management joined the group.

Thereafter, Chair Delorio reconvened the meeting in open session. The Chair announced that no formal action was taken during either executive session.

The Chair then called on Cheryl Earley, Director of Contract Management, to address the next agenda item. Ms. Earley explained that Public Authorities Law Section 2879 and the Authority's Procurement Contracts Guidelines, Operative Policy and Instructions provide for the periodic review and approval of contracts in excess of one year. The Periodic Procurement Contracts Report presently before the Members is the report covering the period December 16, 2006, through March 15, 2007. The report summarizes the 813 procurement contracts initiated or modified during the period. About 96% of the procurement contracts were competitively selected and about 98% of the total dollar amounts committed were selected on a competitive basis. The report also summarizes an additional 275 procurement contracts that are expected to be executed by the Authority and that have a period of expected performance in excess of one year; they total approximately \$340 million in potential funding. The Authority is in compliance with the guidelines.

A general discussion then ensued on minority and women-owned business enterprise ("M/WBE") participation in Authority programs. Mr. Grannis indicated that there is a heightened awareness concerning participation in, and accessibility to, State programs and procurements by M/WBEs. The Members agreed that the Authority should encourage M/WBEs whenever possible and should use new and existing opportunities to improve participation. Mr. Catell concluded this discussion by stating that his company employs an individual to focus on recruiting M/WBEs and offered to share this knowledge and expertise with the Authority.

Mr. Mathusa then pointed out that the procurements listed in Section 2 of the Periodic Procurement Contracts Report, when combined with the Authority's recent RPS contract awards, includes over \$2 billion in renewable and energy efficiency initiatives under active consideration or management by the Authority.

Whereafter, upon motion duly made and seconded, and by unanimous voice vote of the Members, the following resolution was adopted. Mr. Catell abstained from the vote on the KeySpan Engineering Associates, Inc., contracts and did not participate in the discussion.

Resolution No. 1138

RESOLVED, that the Periodic Procurement Contracts Report covering the period August 16, 2006 through December 15, 2006, as presented at this meeting, including but not limited to the contracts identified therein which have been, or are expected to be, executed and which do have, or are expected to have, a period of performance in excess of one year, is hereby approved in accordance with Public Authorities Law Section 2879(3)(b)(ii).

The Chair asked if there was any further business.

Thereafter, being no further business, upon motion duly made and seconded, and by unanimous voice vote of the Members, the meeting was adjourned.

  
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Hal Brodie  
Acting Secretary



April 12, 2007

NOTICE AND AGENDA

TO THE MEMBERS OF THE NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY:

PLEASE TAKE NOTICE that a regular meeting (189<sup>th</sup> meeting) of the New York State Energy Research and Development Authority will be held in the Authority's Albany Office at 17 Columbia Circle, Albany, New York, and by video conference 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 Buffalo Office at 617 Main Street, Suite 105, Buffalo, New York, on Monday, April 23, 2007 commencing at 2:00 p.m. for the following purpose:

1. To consider and act upon a resolution commending Roger D. Avent, Esq., for services on behalf of the Authority.
2. To receive reports from the Governance Committee and to consider guidelines concerning the membership of the Authority.
3. To receive reports from the Audit and Finance Committee and to:
  - (a) discuss the independent audit of the Authority's financial statements for fiscal year 2006-07;
  - (b) discuss internal audit activities of the Director of Internal Audit; and
  - (c) consider and act upon a motion to convene in executive session for the purpose of discussing matters involving the employment history of a particular person.
4. To consider and act upon a motion to enter into executive session to discuss litigation involving the Western New York Nuclear Services Center.

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5. To consider and act upon a resolution approving a periodic procurement contracts report.
6. 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.

A handwritten signature in black ink, appearing to read 'H. Brodie', is written over a horizontal line.

Hal Brodie  
Acting Secretary