

NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY

Minutes of the 191st Meeting

Held on June 18, 2007

Pursuant to notice and an agenda dated June 7, 2007, and a revised agenda dated June 14, 2007, the Annual Meeting (the 191st meeting) of the New York State Energy Research and Development Authority ("Authority") was convened on June 18, 2007, at 2:00 p.m. in the Authority's board room at 17 Columbia Circle, Albany, New York, and by video conference in the Authority's board room at 485 Seventh Avenue, 10th floor, New York, 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

William F. Edwards

Astrid C. Glynn

Jay L. Gottlieb

Alexander B. (Pete) Grannis

Parker D. Mathusa

Frank S. McCullough

Elizabeth W. Thorndike, Ph. D.

Member Acampora was unable to attend.

Also present were Peter R. Smith, President and Chief Executive Officer; Robert G. Callender, Vice President for Programs; Jeffrey J. Pitkin, Treasurer; Hal Brodie, Esq., Acting General Counsel and Acting Secretary; Cheryl Earley, Director of Contract Management; and various other members of the staff of the Authority. In addition, Richard Albertin and Lynn Werskopf from the New York State Department of Transportation; Judith Lee and James Austin from the New York State Department of Public Service; John V. Connorton, Jr., Esq., from Hawkins, Delafield & Wood, LLP; Sumi Somaskanda from Capital News 9; Jesse Mehavy from Fox 23 News; Matt DelSignore from WGY News Channel 6; John A. Breet from WNYT News Channel 13; Jessica Harding from Spotlight Newspapers; Jason Subik from the Schenectady Gazette; Bryon McKim; and Joseph Visalli were in attendance.

The Chair called the meeting to order and noted the presence of a quorum. He stated that the meeting notice and agenda were mailed to the Members and press on June 7, 2007, and that a revised agenda was mailed to the Members and press on June 14, 2007. He directed that a copy of the notice and agenda and the revised agenda be annexed to the minutes of the meeting.

Before beginning the formal agenda, the Chair welcomed Astrid C. Glynn, who was attending her first Authority meeting since being appointed Commissioner of the New York State Department of Transportation (“NYSDOT”). Ms. Glynn previously served as Director of Capital Planning for the Massachusetts School Building Authority, as Deputy Chief in the Massachusetts Office for Commonwealth Development, and in a number of capacities within the Massachusetts Executive Office of Transportation.

Mr. DeForio then turned to the first agenda item on the revised agenda, which was a report from the Program Planning Committee (“PPC”). Parker D. Mathusa, Chair of the PPC, explained that the PPC met to review and consider the draft integrated Multi-Year Program Plan (“Program Plan”) entitled, *Leading the Way in Energy Innovation A Three-Year Strategic Outlook 2007-2010*. The PPC meeting began with a report from the Authority’s President and Chief Executive Officer, Peter R. Smith, who described the Authority’s Statewide strategic goals of: improving the reliability and security of the State’s energy infrastructure; reducing energy costs; mitigating environmental and health impacts from energy use; and creating economic opportunities. The Program Plan details these goals and provides the Authority’s strategies toward meeting the goals.

At the PPC meeting, Energy Analysis Director Paul DeCotis reported that, in developing the Program Plan, three broad themes emerged -- climate change, economic development, and energy infrastructure reliability -- and that they cut across all program areas. The Program Plan describes how the Authority uses internal collaboration to address each of these themes and how it integrates its various programs so that it can realize greater synergy and program efficiencies Authority-wide.

As part of the PPC discussion, the PPC members agreed that the Program Plan should highlight the Governor’s new initiative of reducing electricity use below projected levels for 2015 by 15% and explain how Authority programs will help achieve that goal. Additionally, the Authority’s goal of reducing the energy cost burden on New Yorkers should be more clearly discussed as many programs have near-term costs, but produce lower energy costs and greater savings over the longer-term. The Program Plan should distinguish between such near-term costs and long-term benefits as they relate to energy efficiency and infrastructure improvements.

The PPC members were then updated on the Authority's evaluation process and the key evaluation elements.

Next, Brian Henderson, Director for the Energy Efficiency Services Program ("EES"), briefed the PPC members on a variety of energy efficiency programs specific to the schools sector, but representative of the type of programs offered by EES to all sectors of the economy. Schools have been an area of increasing program focus. Staff have worked with 650 schools in 140 districts across upstate New York; this represents about 25% of such schools. As a result of these efforts, upstate schools have achieved a 13% improvement in energy efficiency, despite growth of plug-in load from computers and air conditioners. This equates to approximately \$75 million in cost avoidance.

With respect to the commercial sector, by the end of this year, staff estimate that Authority programs will have induced over \$1 billion in private sector funding for energy projects at existing commercial and industrial buildings.

Mr. Henderson concluded his presentation to the PPC by stating that developing strategic partnerships with the utilities for accelerating programs is also a high priority.

At the PPC meeting, Mr. Catell stressed the need to work closely with the utilities and drew attention to on-going discussions concerning decoupling, which would eliminate utility disincentives with respect to improved energy efficiency.

Next, Acting Director Karen Villeneuve reported to the PPC on the Residential Efficiency and Affordability Program ("REAP"). In 2006, there were more than 2,000 new **ENERGY STAR*** homes constructed in New York, and the market share of new homes receiving the **ENERGY STAR*** label is increasing. Eleven percent of new homes received the **ENERGY STAR*** label in 2006. Additionally, more than 4,200 existing homes participated in the Home Performance with **ENERGY STAR*** Program ("HPWESP") reaching a major milestone of \$100 million in homeowner investments for energy efficiency improvements. Currently, there are more than 300 homes participating in HPWESP each month.

With respect to the low-income sector, since the start of the Assisted Multifamily Buildings Program, efficiency work on more than 13,750 low-income units has been completed. Staff have been focusing on: collaborating with utilities and local governments to promote natural gas

efficiency programs, on local marketing and outreach support, and on taking the lead in initiating changes to the ENERGY STAR® and federal energy efficiency programs.

The PPC next received a report from Director Gunnar Walmet on the Building and Industry (“Buildings and Industry”) Program. Sales of energy efficient products supported by the Buildings and Industry Program have been strong. During 2006, sales reached \$98.5 million, creating an estimated 510 new jobs and providing the Authority with \$1.1 million in recoupment payments. When these sales numbers are combined with other research, development, and demonstration (“RD&D”) programs, total sales of products supported by the Authority’s RD&D programs are almost \$200 million with almost 1,000 new jobs created.

The superconducting cable installed in Albany, New York, has been working well since July 2006. A second generation cable will be installed during Summer 2007 and energized later in the year. Second generation cable will also be energized in Long Island Power Authority’s territory later in the year. In addition, Consolidated Edison Company of New York, Inc. (“Con Edison”) and the U.S. Department of Homeland Security recently announced a \$40 million project for New York City. Superconducting cable is expected to be particularly useful in New York City where construction costs are high and in places where rights-of-way for increased capacity are unavailable.

Acting Director Janet Joseph followed with a report on the RD&D program for Energy Resources, Transportation and Power Systems, and Environmental Research, including the Renewable Portfolio Standard (“RPS”). Staff recently completed the second procurement of renewable energy projects under the RPS Program. Combined with the first RPS procurement, incentives for 844 megawatts (“MW”) of renewable energy development will have been provided and the total renewable energy developed from these projects is expected to exceed 1,000 MW. These projects are estimated to provide total economic benefits to New York of over \$700 million – which far exceeds the program’s cost.

Work is also underway to promote New York’s cellulosic ethanol industry. Staff are managing two large-scale, cellulose-to-ethanol projects. The intent is to help develop a renewable fuel for the transportation sector focusing on cellulose, which is plentiful in New York State.

Staff are also launching a climate change research initiative. The Authority co-sponsored a workshop which was able to attract 40 policy and science experts, who helped identify research needs related to climate change in New York State. This workshop is one part of Authority efforts

to identify and support research that assesses potential climate impacts in New York, including identifying opportunities to promote benefits to, and possible effects on, New York's natural resources, coastal environments, agricultural base, and economy. The Authority is also seeking to support research that helps identify adaptation strategies specific to New York that can better manage any adverse effects and that can identify strategies that mitigate or lessen the production of greenhouse gases.

Next, the PPC heard from the Authority's Vice President for Programs, Robert G. Callender, who discussed the Saratoga Technology + Energy Park ("STEP"). The competitively-selected developer, The United Group of Companies, Inc. ("United"), has secured financing for, and began construction of, Site One. Site One will be a 105,000 sq. ft. Green Buildings Leadership in Energy and Environmental Design ("LEED") rated manufacturing, laboratory, and office multi-tenant building. This \$15 million building will be constructed without any financial guarantees or collateral from the Authority. It will be the home to Starfire Systems, Inc. and a number of other clean-energy-technology companies. United expects to complete the building by August 2007.

With respect to STEP, the Authority has received a utility hook-up fee of approximately \$632,000 and an initial ground lease payment of \$30,000. The Authority has also received roughly \$200,000 from tree harvesting. In addition, STEP received a Community Development Block Grant of \$750,000. These funds, combined with future hook-up fees and future ground lease payments, will be used to support the continued, market-driven, phased build-out of the infrastructure at STEP.

The Authority has also made good progress with its partners at the New York State Department of Environmental Conservation ("DEC") on the design and development of DEC's Alternative Fuel Vehicle Research Laboratory ("Lab"). The final design and construction documents for the Lab should be completed by early August 2007. This state-of-the-art DEC Lab will be used to test vehicle emissions, conduct RD&D on new transportation fuels and technologies, and promote public and private partnerships and educational programs at STEP.

Mr. Mathusa concluded his report by stating that, based on all the reports and discussions, the PPC unanimously recommended that the Members adopt the resolution approving the Program Plan and the associated fiscal expenditures.

Dr. Thorndike added that she encourages the Authority to also consider: an increase in efforts to add an educational requirement into all project agreements; that Authority contracts

include a plan to inform the public of the contractor's activities; that the Authority recognize that wind energy has become a controversial subject and that it be both conscious of the debate and conscientious in its promotion of the technology; that the Authority regularly report the total number of program applications received, and the ratio of proposals funded to the number of proposals received under a solicitation; and that the Authority obtain additional details on the Authority's role in implementing the Governor's "15 by 15" energy initiative. Lastly, Dr. Thorndike encouraged the Authority to place additional emphasis on its climate change initiatives and give serious consideration to increasing funds in this area.

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

Resolution No. 1140

RESOLVED, that the three-year plan for New York's energy, economic, and environmental future submitted to the Members for consideration at this meeting (2007-10) with such non-substantive, editorial changes and supplementary schedules as the Chair, in his or her discretion, may deem necessary or appropriate, is adopted and approved as the Authority's updated multiyear energy research, development, and demonstration, energy efficiency deployment, and economic development program plan, and

BE IT FURTHER RESOLVED, that, to effectuate the purposes, aims, and goals described in that plan, the Members approve the expenditure in fiscal year 2007-08 of \$181,423,000 for the **New York Energy SmartSM** program; \$49,410,000 for the renewable portfolio standard program; \$20,180,000 for the energy research, development, and demonstration program; \$29,136,000 for energy efficiency deployment programs; \$53,213,000 for the Con Edison System Wide Demand Reduction programs; \$18,900,000 for the investment in conservation and efficiency pilot program; \$29,400,000 for the fuel diversification and energy efficiency program; \$8,679,000 for the Saratoga Technology + Energy Park; and \$2,907,000 for energy analysis policy and planning; from various funds anticipated to be available and such additional amounts, as may be determined appropriate by the President, as may become available and not required for other purposes; and

BE IT FURTHER RESOLVED, that the information contained therein is adopted and approved for submission, in whole or in part, pursuant to Section 2800 of the Public Authorities Law.

The Chair said that the next agenda item was a report from the Governance Committee ("GC"). George F. Akel, Jr., the GC Chair, discussed the proposed Code of Conduct for NYSERDA Contractors, Consultants, and Vendors ("Vendor Code of Conduct"). The Vendor Code of Conduct details the ethical standards that are to be met by the Authority's contractors. The vendor standards are consistent with the Code of Conduct already in place for the Authority's Members and

employees. It requires vendors to submit bids and perform their work in an ethical manner.

The GC unanimously recommended approval of the Authority's Vendor Code of Conduct.

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

Resolution No. 1141

RESOLVED, that the Code of Conduct for NYSERDA Contractors, Consultants, and Vendors presented to the Members of the Authority at this meeting is adopted and approved, and

BE IT FURTHER RESOLVED, that the President and CEO, in his or her discretion, is hereby authorized to make such further and additional additions, modifications, clarifications, and other changes, as he or she may deem necessary or appropriate, consistent with changes in law, rules, and regulations, and Authority policies and procedures.

Mr. Delorio indicated that the next item considered by the GC is the Authority's compensation schedule. Mr. Akel reported that, pursuant to Section 2800 of the Public Authorities Law, the Authority's Annual Report must include a compensation schedule reporting the name, title, salary, and total compensation for all employees in decision-making or managerial positions with salaries in excess of \$100,000. The compensation schedule was reviewed by the GC. The GC unanimously recommended approval of the compensation schedule.

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

Resolution No. 1142

RESOLVED, that the Authority's compensation schedule presented at this meeting, is adopted and approved as the compensation schedule to be submitted pursuant to Section 2800 of the Public Authorities Law.

The Chair then asked Mr. Akel to report on the remainder of the GC meeting. Mr. Akel explained that Jeffrey J. Pitkin, the Authority's Treasurer, discussed conducting Board and Committee self-assessments. Mr. Pitkin described staff's approach to developing a self-assessment plan and the Committee provided direction on how to proceed. Mr. Akel concluded his presentation by stating that the GC plans to continue discussing this matter at future meetings.

The Chair said that the next agenda item was a report from the Audit and Finance Committee (“A&FC”). Mr. DeIorio called on Robert B. Catell, the A&FC Chair, to discuss the Annual Investment Report and Investment Guidelines, Operative Policy, and Instructions (June 2007) (“Investment Guidelines”). Mr. Catell explained that the A&FC reviewed the Annual Investment Report for the fiscal year ended March 31, 2007, both in open session and in executive session with only the A&FC members and the independent auditors present. The factual details are outlined in the informational packet sent to the Members. The Annual Investment Report indicates that the Authority’s overall investments increased from \$339.7 million to \$433.3 million, principally due to funds received for specific energy efficiency programs administered by the Authority, but not yet expended. As a result of higher average balances available for investment, interest earnings were \$16.3 million, as compared to \$10.2 million for the prior year. The rate of return on the Authority’s investments was about 4.3%, a slight increase from the 4.0% return in the prior year.

The Annual Investment Report also includes a summary of fees paid by the Authority related to investments. For the fiscal year ended March 31, 2007, NYSERDA was billed about \$204,000 by the New York State Department of Taxation and Finance, the Authority’s statutory fiscal agent, and was billed \$3,750 by the trustee for the West Valley State Service Contract Revenue bonds.

The Annual Investment Report was reviewed by the Authority’s independent auditors, who indicated that nothing came to their attention indicating that the Authority was not in compliance with the Investment Guidelines.

No changes to the Investment Guidelines for the upcoming fiscal year are recommended.

The A&FC unanimously recommended that the Members approve the Annual Investment Report and the Investment Guidelines, Operative Policy and Instructions (June 2007).

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

Resolution No. 1143

RESOLVED, that the “Investment Guidelines, Operative Policy and Instructions (June 2007),” as presented at this meeting, are approved and adopted; and

BE IT FURTHER RESOLVED, that the Authority's "2006-07 Annual Investment Report," for the year ended March 31, 2006, as presented at this meeting, is approved and adopted as the annual investment report of the Authority required by Section 2925(6) of the Public Authorities Law.

Mr. Catell, at Chair Delorio's request, then discussed the financial statements for the recently completed fiscal year. Mr. Catell recounted that Peter Mahar, the Authority's Controller and Assistant Treasurer, summarized significant fluctuations in balance sheet, revenue, and expenditure amounts from the prior year. The notable changes and fluctuations are described in detail in the Members' informational packet.

Also included in the Members informational packet is a management letter from the independent auditors and the Authority's response to the items mentioned in such letter. The management letter discusses the effective dates for two emerging accounting standards: (1) GASB Statement No. 45 Accounting and Financial Reporting by Employers for Postemployment Benefits Other than Pensions, and (2) GASB Statement No. 49 Accounting and Financial Reporting for Pollution Remediation Obligations. Both standards have previously been discussed with the Members and will need to be addressed in the financial statements, beginning next year. Additionally, the management letter states that the Authority satisfactorily addressed all of the prior year's recommendations and that there are no current comments or negative findings.

Following Mr. Mahar's presentation, the A&FC met in executive session with the independent auditors. Mr. Catell reported that there was ample and detailed review of the Authority's investments and financial condition. No substantive problems were identified. The independent auditors confirmed compliance with internal controls, financial reporting, and the Investment Guidelines. It was an excellent meeting and the A&FC members were given a full report. The A&FC was pleased with the results of the report in both the cooperation and professionalism of the Authority staff in responding to requests from the independent auditors and the results of the audit. The independent auditors will issue an unqualified opinion on the financial statements.

The A&FC unanimously recommended that the Members approve the financial statements.

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

Resolution No. 1144

RESOLVED, that the Authority's Financial Statements as of March 31, 2007, as presented at this meeting, are adopted and approved as the financial reports required by Sections 1867(1) and 2800 of the Public Authorities Law.

Chair Delorio then asked Mr. Catell to discuss the appointment of independent auditors for fiscal year 2007-08. Mr. Catell reported that Lumsden & McCormick, LLP ("Lumsden"), has served as the Authority's independent auditors since fiscal year 2003-04. As a result of a recently issued mini-bid through the New York State Office of General Services' ("OGS") list of approved auditors, they have been competitively selected to continue in this role. The term of the OGS contract expires January 11, 2011, so the proposed agreement includes two possible extensions for fiscal years ending March 31, 2009, and March 31, 2010. The proposed fee for fiscal year 2007-08 will not exceed \$39,580, which is equal to the fee that Lumsden charged for this year's audit services.

Staff have been fully satisfied with the audit services provided by Lumsden, and recommend their reappointment as auditors for the fiscal year ending March 31, 2008. The A&FC members are also satisfied with Lumsden's thoroughness and unanimously recommended their reappointment.

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

Resolution No. 1145

RESOLVED, that the Chair is authorized to retain the firm of Lumsden & McCormick, LLP as independent auditors for the Authority for the fiscal year ending March 31, 2008.

Mr. Delorio then called upon Mr. Catell to discuss the Annual Bond Sales Report. Mr. Catell explained that the Annual Bond Sales Report is required to be approved by the Members pursuant to Public Authorities Law Section 2800 and the Authority's Financial Services Firm Guidelines. The report explains that there were no bond issuances during fiscal year 2006-07 and has attached a schedule of bonds outstanding as of March 31, 2007.

The A&FC unanimously recommended approval of the Annual Bond Sales Report.

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

Resolution No. 1146

RESOLVED, that the Authority's Annual Bond Sales Report for the fiscal year April 1, 2006 through March 31, 2007, and the information contained therein, as presented at this meeting, is adopted and approved for submission pursuant to Section 2800 of the Public Authorities Law.

The Chair then asked Mr. Catell to discuss the next agenda item, a report from the Director of Internal Audit, Mark Mitchell. Mr. Catell reported that the review of the Authority's monitoring of indirect contractor rates is nearly complete. In addition, Mr. Mitchell reported on a matter previously discussed at the April 2006 meeting. At that time, the Authority had received an anonymous call alleging, among other things, that an electronics recycling contractor in the R&D Program had submitted fictitious invoices to the Authority. At the time of the call, the contractor had billed the Authority \$215,873.15 in total and the Authority had paid the contractor \$206,383.12. The Authority was retaining approximately \$9,500 in funds, pending receipt and review of a final report.

A panel comprised of staff from the RD&D program unit, Counsel's Office, and the finance unit, joined by the Associate Contracts Auditor, investigated the complaint. After conducting site visits, reviewing key financial documents, and receiving a sworn affidavit from the contractor's President affirming the use of Authority funds only for project purposes, the panel determined, and management concurred, that the retainage would not be paid due to lack of certain back-up documentation, but that no further action was necessary. The contractor agreed to these terms. The caller has been informed of the panel's findings and is satisfied with the panel's conclusions and how the matter is being resolved.

The Chair said that the next item concerns the text of the Annual Report. Mr. Smith indicated that, pursuant to Public Authorities Law Sections 1867(1) and 2800, the Authority is required to prepare a fiscal report at the end of each fiscal year and submit it to the Governor, Comptroller, and the Legislature, among others. In past years, the Annual Report has centered on a specific theme. However, this year's Annual Report provides a general overview of the accomplishments of the Authority over the past year.

Mr. McCullough commended staff on their hard work and Dr. Thorndike added that it was well-presented.

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

Resolution No. 1147

RESOLVED, that the text of the Annual Report of the Authority, as presented at this meeting, with such non-substantive, editorial changes and supplementary schedules as the President and Chief Executive Officer, in his or her discretion, may deem necessary or appropriate, is adopted and approved; and that the text of such report of the Authority shall be submitted as required by Sections 1867(1) and 2800 of the Public Authorities Law for the fiscal year ending March 31, 2007.

Next, the Chair asked Mr. Pitkin to discuss the Authority's Annual Report on the Disposition of Real and Personal Property. Mr. Pitkin explained that the Members are requested to adopt a resolution approving an Annual Report on Disposition of Real and Personal Property, as required by Title 5-A of the Public Authorities Law. The report covers the fiscal year ended March 31, 2007. The report lists the three parcels of real property held by the Authority as well as a parcel of underwater land held by the Authority at the Indian Point Nuclear Generating Station. The report indicates that the only personal property that was disposed of and had a value exceeding \$15,000 was a piece of surplus equipment that had been acquired as part of an RD&D project. The equipment was sold through public bid, resulting in \$45,000 in proceeds.

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

Resolution No. 1148

RESOLVED, that the Annual Report on Disposition of Real and Personal Property (June 2007), as presented at this meeting, is adopted and approved as the Annual Report on Disposition of Real and Personal Property required by Section 2800 of the Public Authorities Law.

Mr. Delorio said that the next agenda item concerns the Authority's Procurement Contract Guidelines, Operative Policy and Instructions (June 2007) ("Procurement Guidelines") and the Annual Procurement Contracts Report. At Mr. Delorio's request, Cheryl Earley, Director of Contract Management, explained that Public Authorities Law Section 2879 requires the Members

to review and approve, annually, procurement contracts guidelines and a procurement contracts report. The Procurement Guidelines set forth the Authority's operative policy and procedures to guide staff on the use, award, monitoring, and reporting of contracts. No changes were recommended to the Procurement Guidelines for the upcoming fiscal year.

The Annual Procurement Contracts Report covers the contracting period of April 1, 2006, through March 31, 2007, and lists the contracts the Authority initiated or modified during that period with individual values of \$5,000 or more. There are 4,165 contract actions listed. A total of 2,392 contracts have terms longer than one year. Over 96% of the contract actions were competitively bid and 97% of the dollar amount committed resulted from competitive procurement. The Authority is in compliance with the Procurement Guidelines in its contracting.

Mr. Mathusa commented that the number of contract actions has increased significantly since creation of the many system benefits charge programs and that staff has done an excellent job in meeting the increased work load requirements.

In response to an inquiry from the Members, Hal Brodie, the Authority's Acting General Counsel, indicated that potential conflicts of interest arise only when the Members have a direct relationship to a specific contract, but the Members are still permitted to vote on all other contracts with which they do not have a direct relationship.

Whereafter, upon motion duly made and seconded, and by voice vote, the Members adopted the following resolution. Mr. Catell abstained from the vote on any contracts involving KeySpan Corporation and National Grid, Mr. Edwards abstained from the vote on any contracts involving National Grid, Dr. Thorndike abstained from the vote on any contracts for organizations where she has a fiduciary duty, and Mr. McCullough abstained from the vote on any contracts involving the New York Power Authority.

Resolution No. 1149

RESOLVED, that the "Procurement Contract Guidelines, Operative Policy and Instructions, June 2007," as presented at this meeting, are approved and adopted; and

BE IT FURTHER RESOLVED, that the Authority's 2006-07 Annual Procurement Contracts Report, as presented at this meeting, is adopted and approved as the annual report of the Authority required by Section 2879 of the Public Authorities Law.

The Chair said that the next agenda item concerns the Authority's Periodic Procurement Contracts Report. Ms. Earley explained that the Periodic Procurement Contracts Report covers the contracting period beginning March 16, 2007, and ending May 15, 2007. The Periodic Procurement Contracts Report is divided into two sections. The first section includes a list of contracts modified or executed during the period and the second section includes a list of contracts anticipated to be executed or modified and having a proposed period of performance in excess of one year. The first section indicates that the Authority initiated or modified 886 procurement contracts, which include 321 program contract actions, 540 subscription-based program contract actions, 19 personal services contract actions, 4 goods contract actions, and 2 other administrative contract actions. Over 97% of these contract actions were competitively selected, and 99% of the dollar amount committed this period resulted from competitive procurement.

The second section lists an additional 255 procurement contracts pending execution by the Authority where the period of performance by the contractor is expected to exceed one year. These contracts total approximately \$39 million.

Whereafter, upon motion duly made and seconded, and by unanimous voice vote, the Members adopted the following resolution. Mr. Catell abstained from the vote on any contracts involving KeySpan Corporation and National Grid, Mr. Edwards abstained from the vote on any contracts involving National Grid, Dr. Thorndike abstained from the vote on any contracts for organizations where she has a fiduciary duty, and Mr. McCullough abstained from the vote on any contracts involving the New York Power Authority.

Resolution No. 1150

RESOLVED, that the Periodic Procurement Contracts Report, dated as of May 15, 2007, covering the period March 16, 2007 through May 15, 2007, 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 then asked Ms. Earley to discuss the Authority's efforts to encourage minority and women-owned business enterprises ("M/WBE"). Ms. Early explained that, at the last meeting, Commissioner Grannis asked about M/WBE participation with respect to the Authority's periodic procurement contracts report. Historically, the Authority has participated in events targeted to the M/WBE community. This has included booths at the Black and Puerto Rican Caucus and the Somos El Futuro Annual Conference. Since the April meeting, the Authority has accepted Mr. Catell's offer

and reached out to KeySpan's Diversity Office. Ms. Earley had a lengthy and detailed discussion with KeySpan staff on their approach for promoting M/WBE participation in KeySpan procurements. The Authority has also reached out to a diverse group of other State public authorities for the purpose of identifying additional actions that might be taken to encourage further M/WBE participation. In addition, the Authority has taken a look at its existing list of contractors to assess the number of women and minority owned firms who are participating in Authority programs, but have not received M/WBE certification from the Empire State Development Corporation.

Currently under consideration are a more focused approach to identifying M/WBE procurement opportunities within NYSEERDA's existing programs, assisting known minority and women-owned firms to obtain M/WBE certification, and implementing more robust outreach efforts within the M/WBE community.

Staff is also monitoring the activities of the Executive Leadership Council and the Corporate Roundtable created by Governor Spitzer to promote opportunities for M/WBEs. The Authority will continue along this path and hopes to provide a positive report on these efforts in connection with subsequent procurement contract reports.

Mr. Grannis thanked Ms. Earley for her effort and indicated that the Authority seemed to be heading in the right direction with respect to M/WBEs. Mr. DeIorio indicated that both NYSDOT and New York City have detailed plans to promote the use of M/WBEs and that staff should reach out to these organizations. Commissioner Glynn concurred, offering her staff as another resource, and indicating that NYSDOT is also in the process of reviewing its processes with the goal of providing more opportunities for M/WBEs.

Next on the agenda was the Annual Prompt Payment Policy Report, and Mr. DeIorio called on Mr. Pitkin. Mr. Pitkin explained that Section 2880 of the Public Authorities Law and the Authority's implementing regulations require preparation of an annual report on the implementation of the Authority's prompt payment policy. Under its policy, the Authority is required to make payment to contractors and vendors within 30 days of the receipt of a valid invoice. If payment is not made when due, interest on the late payment must be paid, if the amount of interest exceeds ten dollars. During the past fiscal year, no interest payments were made in connection with the over 15,700 payments that were processed.

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

Resolution No. 1151

RESOLVED, that the Annual Prompt Payment Policy Report presented to the Members of the Authority at this meeting is adopted and approved as the annual report required by Section 2880 of the Public Authorities Law.

The Chair indicated that the next agenda item concerned proposed changes to the Authority's regulations and asked Mr. Brodie to discuss this item. Mr. Brodie explained that the Public Authorities Law and other statutes authorize the Authority to promulgate rules and regulations to fulfill various corporate and legislative purposes. The purpose of the proposed amendments is to update several sections of the Authority's regulations regarding Freedom of Information Law and Low-Level Radioactive Waste Generator Report requirements; to update the main office's address; to incorporate the President's role as CEO, consistent with the Public Authorities Accountability Act; to authorize the General Counsel to certify Board meeting minutes; and to make various grammatical edits.

On April 4, 2007, the draft regulations were published in the State Register. One comment was received recommending further changes to the Freedom of Information Law regulations to make them consistent with recently enacted statutory changes to the law. Staff is already in the process of drafting those changes.

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

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

Resolution No. 1152

RESOLVED, that the amendments to Parts 500, 501, 502, 504, and 505 of Chapter XI of Title 21 of the Official Compilation of Codes, Rules and Regulations of the State of New York as set forth in Exhibit A, annexed hereto, be, and the same hereby are, adopted as the amended rules and regulations of the Authority; and

BE IT FURTHER RESOLVED, that the President and Chief Executive Officer be, and he hereby is, authorized and empowered on behalf of the Authority to execute, certify, and deliver all such documents, and to take all such other actions necessary or appropriate to promulgate the aforesaid amended rules and regulations.

Mr. DeIorio stated that the next agenda item is a resolution to convene in executive session for the purpose of discussing matters leading to the appointment 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. 1153

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 leading to the appointment of a particular person.

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

The Chair indicated that the next item on the agenda was a resolution commending Peter R. Smith for his service to the Authority. Mr. DeIorio stated that he has enjoyed working with Mr. Smith over the last 10 years. Mr. DeIorio said he has been thankful for Peter Smith's breadth of knowledge, openness to new ideas, and dedication to making this organization as successful as it is. From the professional perspective, the number of people who have sought out Mr. DeIorio to relate their positive experiences with the Authority have been personally rewarding and is a tribute to Mr. Smith's leadership. His accomplishments are exceptional.

At STEP, the Authority has a new building under construction, which will be "home" to a number of energy-related companies and which will complement the other activities that are advancing the success of New York State's new Tech Valley. At the Western New York Nuclear Service Center, the Authority has commenced a suit against the United States Department of Energy ("DOE"), which staff hopes will result in DOE both living up to its statutory obligations and helping complete the clean-up of radioactive materials at the site.

The Authority's budget is now over \$400 million, with implementation of a new RPS Program that will bring new, environmentally-friendly generating sources to New York and bring billions of dollars of new investment to New York State's economy. The Authority has grown a much more robust market for energy service companies, for new and improved energy efficient appliances, for new and improved housing, for increasing the number of green buildings in New York State, and for other programs that reduce energy costs and provide environmental benefits.

The Authority has produced a number of energy-related reports and studies relating to the status of cooperation among New York State agencies on implementing energy efficiency programs, on how to address greenhouse gases, and on the status of the petroleum infrastructure, among others.

The Authority has leveraged hundreds of millions of dollars to assist thousands of low-income households reduce their energy costs and to offer financial or technical assistance to every sector of New York State's economy to help them in reducing their energy costs.

Lastly, in the RD&D programs, the Authority has sought to make energy and environmental improvements in transportation technologies and in business processes, to encourage new generation technologies such as fuel cells, to transport electricity more efficiently through new technologies such as through superconducting cable; and to learn more about how energy use affects our environment.

As with every organization, however, one person cannot do it all and each new Authority President and Chief Executive Officer inherits the organization's culture that was created by the previous President. Mr. Smith benefitted from a legacy which was set by past Presidents and which has been the Authority's foundation. He was supported by top-shelf, dedicated staff, who were with him every step of the way. For this, the Members, should take great pride. Mr. DeLorio concluded by stating that he is thankful for being associated with the Authority and grateful to every Member of the Authority.

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

Resolution No. 1154

WHEREAS, over the past twelve years, the honorable Peter R. Smith has served with distinction on behalf of the New York State Energy Research and Development Authority, rising to the appointed position of President and Chief Executive Officer of the Authority, after serving as its Vice President for Programs and Director of Energy Analysis; and

WHEREAS, during his tenure, on behalf of the citizens of New York State, the Authority continued and expanded its national prominence in its energy research, development, and demonstration program, with related annual product sales exceeding \$100 million; safely managed its responsibilities at the Western New York Nuclear Service Center, including its radioactive waste management responsibilities; implemented and delivered nationally recognized State energy and public benefit deployment programs displacing over 2,490 gigawatt in annual electricity production, providing consumers with

over \$350 million in energy savings, and creating or retaining over 3,700 jobs; initiated a Renewable Portfolio Standard program with contracts approaching 1,162 megawatts in new renewable energy production facilities; developed a strong economic development program; and assisted in ensuring that NYSERDA is an accountable, open, and cost-effective New York State public authority; and

WHEREAS, Mr. Smith's service on behalf of the Authority has been distinguished by his unwavering commitment, high standards, and invaluable expertise and his dedication to furthering the policies and programs of the Authority in harmony with the best interests of the People, the environment, and the economy of the State of New York; and

WHEREAS, the Members of the Authority wish to bestow special recognition on Peter R. Smith for his exemplary service to the People of the State of New York and outstanding contributions to the mission of the Authority and the State and to memorialize that recognition;

NOW, THEREFORE, BE IT RESOLVED THAT, the Members of the New York State Energy Research and Development Authority Board, assembled on this 18th day of June, 2007, unanimously express to Peter R. Smith their commendation and deep appreciation for his dedicated and exemplary service to the Authority and the State.

Mr. DeIorio announced that the next agenda item concerned the appointment of the Honorable Paul D. Tonko as President and Chief Executive Officer of the Authority. The Chair described Assemblyman Tonko's breadth of qualifications and experiences for the position. Assemblyman Tonko is a graduate of Clarkson University with a degree in mechanical and industrial engineering, and was employed as an engineer by NYSDOT and served on the staff of the New York State Department of Public Service. In 1983, Assemblyman Tonko was elected to the New York State Assembly ("Assembly") and has been serving the 105th Assembly District ever since. He has been reelected to this seat, every two years, by people who know him. In 1992, he became Chairman of the Assembly's Standing Committee on Energy and has gained a national reputation as an expert on energy and utility issues. In this position, he has authored important energy legislation affecting utilities and electric customers.

During his legislative career, Assemblyman Tonko has also assumed important roles in promoting educational programs; developing agricultural and private sector economies; advocating the use of New York's natural resources as economic development tools; securing clean water legislation; and advocating on behalf of low-income and senior citizens. The Chair concluded this discussion by saying that Assemblyman Tonko has also received numerous honors in recognition of his legislative efforts and is known for, and has been recognized for, his very active community involvement.

Mr. Gottlieb added that the Members met with Assemblyman Tonko in a special meeting and discussed the position with him, asked questions, and listened to his ideas and thoughts as they relate to the Authority's mission. During the meeting, Assemblyman Tonko addressed all of the Members questions. Mr. Gottlieb concluded by stating that Assemblyman Tonko has a good vision for the future of the Authority.

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

Resolution No. 1155

RESOLVED, that pursuant to Section 1852(9) of the Public Authorities Law and Section 2 of Article III of the By-laws of the Authority, the Authority hereby appoints Paul D. Tonko as President and Chief Executive Officer of the Authority, effective July 1, 2007, to serve at the pleasure of the Authority and to perform the duties of the President and Chief Executive Officer as set forth in Section 3 of Article IV of the By-laws and other duties as assigned by the Authority or the Chair; and

BE IT FURTHER RESOLVED, that the Members of the Authority do hereby approve the salary of the President and Chief Executive Officer, effective July 1, 2007, in the amount of \$148,888; and

BE IT FURTHER RESOLVED, that, with respect to such position, the Members do hereby approve the application of such rules for time, attendance, and compensation as were previously approved pursuant to Resolution No. 1102.

The Chair said that the last item was other business and asked Mr. Brodie to update the Members on the Authority's lawsuit against DOE concerning clean-up at the Western New York Nuclear Service Center. Mr. Brodie indicated that, during the previous week, the federal court in the Western District of New York signed a Stipulation and Order staying the litigation and submitting claims in the litigation to non-binding mediation. The goal of the mediation is to create an early, neutral evaluation of the claims and use that evaluation to attempt to reach a settlement. Mr. Brodie concluded by stating that updates will be provided.

The Chair then asked if there was any further business. There being no other business, upon motion duly made and seconded, and by unanimous voice vote of the Members, the meeting was adjourned.



Hal Brodie
Acting Secretary



New York State Energy Research and Development Authority

Vincent A. DeIorio, Esq., *Chairman*

Peter R. Smith, *President*

Toll Free: 1 (866) NYSERDA

www.nyserdera.org • info@nyserdera.org

June 14, 2007

REVISED NOTICE AND AGENDA

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

PLEASE TAKE NOTICE that the Annual Meeting (the 191st 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, on Monday, June 18, 2007, commencing at 2:00 p.m., for the following purposes:

1. To receive a report from the Program Planning Committee and to consider and act upon the multi-year program plan for New York's energy, economic, and environmental future: "Leading the Way in Energy Innovation: A Three-Year Strategic Outlook 2007-2010."
2. To receive a report from the Governance Committee and:
 - (a) to consider and act upon a Code of Conduct for NYSERDA Contractors, Consultants, and Vendors; and
 - (b) to consider and act upon a compensation schedule.
3. To receive a report from the Audit and Finance Committee and:
 - (a) to consider and act upon an Annual Investment Report of the Authority and the "Investment Guidelines, Operative Policy and Instructions (June 2007)";
 - (b) to consider and act upon Financial Statements of the Authority for FY 2006-07;
 - (c) to consider and act upon the appointment of the Authority's independent auditors for fiscal year 2007-08;
 - (d) to consider and act upon an annual bond sale report; and
 - (e) to receive a report on a presentation by the Director of Internal Audit.

Main Office
Albany
17 Columbia Circle
Albany, NY 12203-6399
Toll Free: 1 (866) NYSERDA
Phone: (518) 862-1090
Fax: (518) 862-1091

West Valley Site
Management Program
10282 Rock Springs Road
West Valley, NY 14171-9799
Phone: (716) 942-4387
Fax: (716) 942-2148

New York City
485 Seventh Ave., Suite 1006
New York, NY 10018
Phone: (212) 971-5342
Fax: (212) 971-5349

Buffalo
617 Main Street, Suite 105
Buffalo, NY 14203
Phone: (716) 842-1522
Fax: (716) 842-0156

4. To consider and act upon the text of the Annual Report of the Authority for 2006-07.
5. To consider and act upon the Annual Report on Disposition of Real and Personal Property (June 2007).
6. To consider and act upon the Annual Report on Procurement Contracts and the "Procurement Contracts Guidelines, Operative Policy and Instructions (June 2007)".
7. To consider and act upon the periodic procurement contract report.
8. To consider and act upon an annual report on the implementation of the Authority's prompt payment policy.
9. To consider and act upon amendments to the Authority's regulations regarding procedures, public access to records, reports by generators of low level radioactive waste, prompt payment policy, and personal privacy.
10. To receive a report on efforts to encourage minority and women-owned business enterprises (m/wbe).
11. To consider and act upon a motion to convene in executive session for the purpose of discussing matters leading to the appointment of a particular person.
12. To consider and act upon a resolution commending Peter R. Smith for his service to the Authority.
13. To consider and act upon a resolution appointing the Honorable Paul D. Tonko as President and Chief Executive Officer of the Authority.
14. To transact such other business as may properly come before the meeting.


Hal Brodie
Acting Secretary to the Board

June 7, 2007

NOTICE AND AGENDA

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

PLEASE TAKE NOTICE that the Annual Meeting (the 190th 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, on Monday, June 18, 2007, commencing at 2:00 p.m., for the following purposes:

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 - (a) to consider and act upon a Code of Conduct for NYSERDA Contractors, Consultants, and Vendors; and
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 - (a) to consider and act upon an Annual Investment Report of the Authority and the "Investment Guidelines, Operative Policy and Instructions (June 2007)";
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- (c) to consider and act upon the appointment of the Authority's independent auditors for fiscal year 2007-08;
 - (d) to consider and act upon an annual bond sale report; and
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 12. To receive a report on efforts to encourage minority and women-owned business enterprises (m/wbe).
 13. To transact such other business as may properly come before the meeting.

Members of the public may attend the meeting at either of the above locations.



Hal Brodie
Acting Secretary to the Board