

NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY

Minutes of the 196th Meeting

Held on September 15, 2008

Pursuant to notice dated September 4, 2008, a Regular Meeting (the 196th meeting) of the New York State Energy Research and Development Authority ("Authority") was convened on September 15, 2008, at 1:00 p.m. in the Authority's Albany Office at 17 Columbia Circle, Albany, New York; by video conference in the Authority's New York City Office at 485 Seventh Avenue, 10th floor, New York, New York; and by webcast.

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

Vincent A. DeIorio, Esq., Chair
George F. Akel, Jr.
Garry A. Brown
Robert B. Catell (by video conference from New York)
Jay L. Gottlieb
Astrid C. Glynn
Alexander B. (Pete) Grannis
Roger B. Kelley
Parker D. Mathusa
Elizabeth W. Thorndike, Ph. D.
Michael J. Townsend

Member Edwards did not attend.

Also present were Robert G. Callender, Acting President and CEO and Vice President for Programs; Jeffrey J. Pitkin, Treasurer; Hal Brodie, Esq., General Counsel; Cheryl L. Earley, Director of Contract Management; Thomas Barone, Energy Efficiency Services Program Director; John Osinski from the New York Power Authority; Richard Giff from the New York State Department of Environmental Conservation; John Zamurs and Tedi Coleman from the New York State Department of Transportation; Sigmund Peplowski from the New York State Department of Public Service; Radmila Miletich from the Independent Power Producers of New York; Gunnar Walmet; Joseph Visalli; and various staff of the Authority.

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 the press on September 4, 2008. He

directed that a copy of the notice be annexed to the minutes of the meeting.

Mr. DeIorio indicated that the Board meeting was being webcast, allowing the public to watch the meetings through the internet from any location. This furthers the Authority's goal of conducting its business in an open and transparent manner and complies with the Governor's policies regarding open government.

Before turning to the formal agenda, Mr. DeIorio welcomed Roger Kelley and Michael Townsend, as new Board Members. Mr. Kelley is by profession an electrical engineer with over 30 years experience in the electric utility industry. He most recently served as the President and CEO of the New York Power Authority ("NYPA"). Mr. Townsend is the acting Chairman of NYPA and has served as a Trustee of NYPA since 2004. He is also a partner in the law firm Harris Beach, LLP, focusing on public finance and commercial real estate. Both men have expertise in the energy area and are bringing a diverse wealth of knowledge and experience to assist us in our deliberations. On behalf of the Authority, the Chair welcomed them both.

Mr. Kelley said that he was pleased to be a Member of the Authority and Mr. Townsend thanked the Chair for his kind words.

Chair DeIorio then announced that Dr. Thorndike was nominated to receive the Center for Environmental Information's 2008 Environmental Leadership Award. The Chair commended Dr. Thorndike, indicating that the award was well deserved.

Chair DeIorio then asked Bob Callender to address the Members. Mr. Callender explained that he wanted to update the Members on a few major initiatives currently underway. Authority staff is working diligently to ensure the Authority operates in a strategic, efficient, and economical manner while incorporating new initiatives. As an organization, staff is embracing both the opportunities being presented and the challenges of making these new initiatives a reality for New York's energy consumers.

As reported in the latest quarterly system benefits charge ("SBC") evaluation report, the New York Energy \$martSM programs are saving approximately 3,130 GWh of electricity annually. This equates to saving approximately \$590 million annually on customers' energy bills.

In addition, the **New York Energy \$martSM** programs continue to support and achieve

increased renewable energy generation, job creation, and significant emission reductions across the State. Staff continues to work closely with Department of Public Service (DPS) staff on the management and delivery of these programs.

With respect to the Energy Efficiency Portfolio Standard (“EEPS”), the Public Service Commission (“PSC”) issued an order effective June 23, 2008 (“Order”), establishing the EEPS, and approving new energy efficiency programs. Under the terms of the Order, the Authority will be receiving additional funding to administer fast track programs that were approved as part of the Order. A written summary of the order and the Authority’s implementation programs and allocation of funding under the Order was provided to the Members. Mr. Callender thanked Chairman Brown and the PSC for presenting the Authority with these new opportunities.

Mr. Callender then continued by stating that the Regional Greenhouse Gas Initiative (“RGGI”) is nearing full implementation. The first regional RGGI auction is slated for September 25, 2008, and the Authority and the New York State Department of Environmental Conservation (“DEC”) have been very actively involved in the development of the auction process and procedures. New York Allowances will be available at the next regional auction slated for December 17, 2008. Authority staff will be developing an operational plan to incorporate the anticipated auction revenues into the Authority’s program plan. The operational plan will be submitted to the Members for review and approval prior to any related activities taking place.

In addition, to further efforts to strengthen its management and administrative systems and processes, the Authority is implementing two distinct initiatives. The first initiative involves installation and implementation of a new financial management system. System design began in May 2008 and the implementation contractor completed a preliminary system design and is now configuring the system for initial testing. It is anticipated that the system will be operational no later than April 1, 2009. The system is expected to provide for improved efficiencies in Authority processes and in Authority interactions with its contractors and customers. The system will also result in improved integration with other database systems which are used to collect and report on the results of various programs.

The second initiative consists of an organizational assessment. The Authority has engaged The Public Strategies Group, an independent consultant, to assist in assessing corporate communication patterns, goals, and objectives, and in performing a general review on how the Authority operates. This exercise will allow senior management to take a facilitated look at how

business is conducted internally and what improvements might be adopted to further efficiencies as part of a strategic plan for the organization as it takes on new programs.

Although very busy, Authority staff remain committed and dedicated to the organization's mission. Mr. Callender concluded his presentation by thanking the Members for their continued support and the Chair for his continued support and accessibility.

The Chair then called the first item on the agenda, a resolution commending Paul D. Tonko. Mr. Tonko served with distinction, in his former capacity as President and CEO of the Authority. His knowledge and advice was most welcome and the Authority benefitted from his counsel.

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

Resolution No. 1193

WHEREAS, the Honorable Paul D. Tonko, has served with distinction on behalf of the New York State Energy Research and Development Authority as President and Chief Executive Officer of the Authority; and

WHEREAS, during his tenure, the Authority furthered its national prominence in its energy research, development, and demonstration and deployment programs; safely managed its responsibilities at the Western New York Nuclear Service Center, including its radioactive waste management responsibilities; continued to implement a Renewable Portfolio Standard program with contracts approaching 1,103 megawatts in new renewable energy production facilities; assisted in the development of a Renewable Greenhouse Gas Initiative; and fostered the Authority's goal of being an accountable, open, and cost-effective New York State public authority; and

WHEREAS, Mr. Tonko's service on behalf of the Authority has been distinguished by his unceasing and constant commitment, high standards, and invaluable expertise and 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 Paul D. Tonko 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 15th day of September, 2008, unanimously express to Paul D. Tonko their commendation and deep appreciation for his dedicated and exemplary service to the Authority and the State.

The Chair indicated that the next agenda item is a resolution commending Frank S.

McCullough for his services as a Member of the Authority. Frank resigned as chair of the NYPA and this resolution memorializes his contribution to the Authority's mission.

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

Resolution No. 1194

WHEREAS, the Honorable Frank S. McCullough, Chairman of the New York Power Authority, has served with distinction as a Member of the New York State Energy Research and Development Authority; and

WHEREAS, Chairman McCullough's diligence, high standards, and invaluable counsel defined his participation in the affairs of the New York State Energy Research and Development Authority; and

WHEREAS, Chairman McCullough continuously established his commitment to promoting the mission of the New York State Energy Research and Development Authority in harmony with the best interests of the People, the environment, and the economy of the State of New York; and

NOW, THEREFORE, BE IT RESOLVED THAT, the Members of the New York State Energy Research and Development Authority, assembled on this 15th day of September, 2008, commend the Honorable Frank S. McCullough, and express their appreciation, for his committed and meaningful service as a Member of the New York State Energy Research and Development Authority.

The Chair indicated that the next item on the agenda was a report from the Audit and Finance Committee ("A&FC"). Mr. Catell, the A&FC's Chair, explained that Mr. Pitkin updated the Members on the status of the Authority's financing program. Since June, staff have worked with New York State Electric & Gas Corporation ("NYSEG") and Rochester Gas and Electric Corporation ("RG&E") to refinance various auction rate securities. Since the June 2008 meeting, staff have assisted in converting 3 Series of NYSEG bonds, totaling \$174.5 million, from auction rate securities to weekly rate bonds. NYSEG estimates annual savings of approximately \$3.5 million as a result of the 3 conversions.

Both NYSEG and RG&E have also started participating in their own auctions. As a result, NYSEG had purchased \$70.7 million and RG&E has purchased \$22.7 million of their own bonds, through the auctions. Although these are stopgap measures, NYSEG estimates that, compared to what it was paying for failed auctions, it will save \$3.7 million annually as a result of participating in the auctions and RG&E estimates it will save \$1.3 million annually. In the meantime, both companies are analyzing their options for permanently restructuring their auction rate securities.

It was also reported that various large investment firms have agreed to purchase auction rate securities from certain classes of investors, at par, thus allowing these classes to exit the auction rate market. Staff anticipates that this will alleviate some bondholders' concerns that they were unable to liquidate their investments.

At the Chair's request, Mr. Catell then reported on the activities of the Director of Internal control. Mr. Mitchell reported that, since April, an entity-wide disbursements review has been on-going. Overall, the results appear to be good. The preliminary version of the draft report is expected to be delivered shortly. To date, no obvious errors, irregularities, or duplicate payments have been identified. Minimal changes in procedures will likely be recommended to further secure personal information and to assign uniform invoice designations and numbers.

Mr. Mitchell also reported that the internal audit of the Information Technology (IT) controls has begun. The accounting firm of KPMG LLP was selected to perform the audit. In Phase I, there will be a review of certain components of the Authority's implementation of a new financial system software design, and an evaluation of IT security controls and internal controls. In Phase II, the controls evaluated in Phase I will be tested. Mr. Mitchell said that he will be reviewing the adequacy of KPMG LLP's work to ensure that the information obtained is sufficient to afford a reasonable basis for the conclusions reached and any recommendations made.

The Chair stated that next item on the agenda concerns revisions to the Authority's budget for Fiscal Year 2008-09 ("Revised Budget"). Parker Mathusa, Chair of the Program Planning Committee ("PPC"), reported that the Authority's Treasurer, Jeffrey J. Pitkin, reported to the PPC on the Revised Budget. In the Revised Budget, total budgeted expenditures increased from \$457 million to \$479 million.

With respect to State Appropriations, revenue decreased by \$20.7 million. Funding for the research, development, and demonstration ("RD&D") and Energy Analysis programs was reduced by about \$1.1 million and funding of \$18.9 million for the Investment in Energy Conservation and Efficiency Pilot program was eliminated. Mr. Mathusa added that, in his view, cutting funds for the RD&D program should be discouraged given the current need to increase the efficient use of energy worldwide. Counterbalancing these decreases was an increase of \$4.1 million for 3 new projects including \$2 million for building a Jamestown-area, geological, stratigraphic test well and core sample analysis; \$13.5 million for building the Hudson Valley Community College

TECSMART facility at the Saratoga Technology + Energy Park (“STEP”); and \$2 million for solar training initiatives.

The Revised Budget also adds \$21.3 million in EEPS funding for five fast track programs; eliminates funding for a United States Environmental Protection Agency (“EPA”) Clean Air Interstate Rule program, which is no longer viable; and increases to \$26.1 million the amount of revenue projected from sales of allowances under RGGI based upon current assessments. Other more current changes are proposed for interest income revenues and salaries and benefits.

As Staff has discussed with the Members in the past, the Authority’s program administration costs for the system benefits program (“SBC”) programs are capped at 7% of total funding, including the additional funding received for the fast track programs. As Staff previously reported, a new accounting standard (GASB45) was implemented effective April 1, 2007, which increased the Authority’s program administration costs for post-employment health insurance benefits, and this additional cost was not included in the 7% administration budget originally established for the program. GASB45 costs are budgeted at about \$3.1 million for fiscal year 2008-09 for the Authority as a whole, of which about \$1.6 million is allocated to the SBC programs. This amount represents about .8% of SBC funding.

The Authority has signed a new Memorandum of Understanding with DPS and the PSC for administration of the SBC programs that continues to cap administration costs at not more than 7%, including the costs associated with GASB45. Staff reported that this limitation will place pressure on staffing levels and will require the organization to continue monitoring its processes and programs to make sure they are efficient and focused.

Lastly, the Revised Budget includes an increase of approximately \$2.9 million for capital asset additions, primarily associated with installing new software to replace and enhance the Authority’s financial management system and a new telecommunications system.

It is projected that the Authority will end the fiscal year with a balance of unrestricted net assets of \$2 million. This amount, representing about .4% of budgeted expenditures, is generally in line with the Authority’s historical, fiscally prudent level of reserve funds.

Mr. Mathusa concluded his presentation by stating that the PPC recommends that the Members adopt the resolution approving these revisions to the FY 2008-09 Budget.

The Chair then called upon Dr. Elizabeth Thorndike, Chair of the Waste and Facilities Management Committee (“W&FMC”), to discuss the Revised Budget. Dr. Thorndike explained that, for the West Valley program, the Revised Budget did not change the total program expenditures, which remain at \$13.5 million. Only minor changes among the expenditure categories were included. In addition, although there was no change in total budgeted expenditures, the funding expected to be received from the State is decreased by about \$3.9 million due to funds available from the prior year’s appropriation.

For Radioactive Waste and Nuclear Coordination activities, the total budgeted expenditures decreased by \$8,000, to \$301,000, due to changes in indirect expense allocations. In addition, State appropriations for the Low-Level Radioactive Waste (LLRW) program was reduced by \$5,000, to \$145,000, as a result of across-the-board budget cuts enacted by the Governor and the legislature.

The W&FMC unanimously recommended approval of the Revised Budget for the West Valley Site Management Program and Radioactive Waste Policy and Nuclear Coordination activities.

Whereafter, upon motion duly made and seconded, and by voice vote of the Members present, except Mr. Brown, the following resolution was adopted. Mr. Brown recused himself from voting.

Resolution No. 1195

RESOLVED, that the revisions to the Fiscal Year 2008-09 operating budget submitted to the Members for consideration at this meeting, with such non-material, editorial changes and supplementary schedules as the President and Chief Executive Officer, in his discretion, may deem necessary or appropriate, be and it hereby is approved.

The Chair indicated that the next item on the agenda was a review of the Authority's Preliminary Spending Plan and approval of its State Appropriation Request, for Fiscal Year 2009-10. Mr. Mathusa explained that the State Appropriation Request for FY 2009-10 is \$30.6 million, a decrease of \$1.3 million (4.1%) from the FY 2008-09 State Budget. The appropriations requested for the energy research, development and demonstration (“RD&D”) and Energy Analysis programs are \$412,000 lower than the prior year, due to nonrecurring costs associated with updating the State Energy Plan. Mr. Mathusa reiterated his concern on reductions in RD&D funding, given the current state of energy markets. Staff is consulting with New York State Division of Budget staff to ensure that the amount requested is consistent with the administration’s fiscal planning, prior to the

submission of the request. There is no appropriation request for West Valley bond debt service since all payments to the debt service reserve fund are due this fiscal year and the bonds have reached their maturity.

The State Appropriation Request also includes reappropriations for amounts included in the State FY 2008-09 Budget that have not been fully expended, except that no reappropriation is requested for the Investment in Conservation and Efficiency Pilot program.

The Preliminary Spending Plan for FY 2009-10 includes expenses of approximately \$568 million, compared to this year's expenses of \$479 million. The increase is primarily due to implementation of the new EEPS fast track programs and RGGI.

The preliminary estimates for salaries and benefits include all positions budgeted in FY 2008-09, as well as sixty-three additional positions. These positions have been included based on an estimate of staffing needed for administering RGGI, assuming these programs are operated at the same administrative level as the SBC funded programs. The Authority expects to refine these staffing levels and costs once the revenues and programs to be administered are more clearly determined. A revised amount will be included in the Budget presented to the Members for approval in January 2009.

The Preliminary Spending Plan projects that the balance of unrestricted net assets at the end of FY 2009-10 will be approximately \$2.7 million, or about .5% of budgeted expenditures. Staff believes that this amount is both fiscally prudent and reasonable.

The PPC unanimously recommended that the Members approve the State Appropriation Request for Fiscal Year 2009-10.

Mr. DeIorio then asked Dr. Thorndike to report on the portions of the State Appropriations Request and the Preliminary Spending Plan discussed by the W&FMC. Dr. Thorndike explained that no change is requested for the West Valley program, which seeks an appropriation of \$13,5 million, and no change is requested for the LLRW program, which seeks an appropriation of \$145,000. The W&FMC unanimously recommended that the Members approve the proposed State Appropriation Request for Fiscal Year 2009-10.

Whereafter, upon motion duly made and seconded, and by voice vote of the Members present, except Mr. Brown, the following resolution was adopted. Mr. Brown recused himself from voting.

Resolution No. 1196

RESOLVED, that the proposed State Appropriation Request for Fiscal Year 2009-10 submitted to the Members for consideration at this meeting, as amended, with such non-material, editorial changes and supplementary schedules as the President and CEO, in his discretion, may deem necessary or appropriate, be and it hereby is approved for submission to the New York State Division of the Budget.

Mr. DeIorio introduced the next action item, a resolution approving a Lease between the Authority and Applied NanoWorks, Inc. (“Applied Nano”). Mr. Mathusa explained that Vice President for Programs, Robert G. Callender, briefed the PPC on the proposed Lease between the Authority and Applied Nano for space at 10 Hermes Road at STEP. Applied Nano, a clean energy company currently located in the Rensselaer Polytechnic Institute’s Incubator in Rensselaer, New York, would like to relocate its business to STEP and would occupy approximately 6,797 square feet of lab, manufacturing, and office space.

Applied Nano’s primary market includes the oil refinery industry, photovoltaic thin film application market, and light emitting diode markets. The conductive materials it produces are used to reduce energy consumption in the processing stage.

The proposed Lease is for a three-year term, commencing on January 1, 2009, and ending on December 31, 2011, with a one year renewal option. The initial annual rent would be \$7.50 per square foot, then increasing annually to \$10.50 per square foot for calendar year 2011. A local real estate professional has advised that this proposed rent payment structure is in the fair market value range for such space in the area. The proposed rental terms are consistent with other STEP leases.

Applied Nano has a staff of 10, and anticipates hiring an additional 40 new employees in the next three years, for a total of 50 full-time hires. The PPC unanimously recommended that the Members adopt the resolution approving the Lease.

In response to an inquiry by Mr. Kelley, Mr. Brodie responded that the proposed Lease does not require that the estimated number of jobs be maintained, as would be the case in a deal with the Empire State Development Corporation. A description of the potential job impact is included here

because the economic development impact must be considered under the Public Authorities Accountability Act due to the Lease terms being established through negotiation rather than public bid.

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

Resolution No. 1197

RESOLVED, that the execution of a lease agreement between the Authority and Applied NanoWorks, Inc. for premises located at 10 Hermes Road at the Saratoga Technology + Energy Park is approved on the terms presented at this meeting. The President or his/her designee is hereby authorized to execute such documents as may be necessary and appropriate to effectuate such lease agreement.

Mr. DeIorio then asked Dr. Thorndike to report on the remainder of the W&FMC meeting. Dr. Thorndike explained that Paul Bembia, Director of the West Valley Demonstration Program, provided a thorough status report on the activities at West Valley. The Core Team, which was convened by the United States Department of Energy (“DOE”), was unable to resolve the outstanding technical issues surrounding the 2005 preliminary draft environmental impact statement, and Authority staff continues to believe that the long-term performance assessment is not technically defensible. Authority staff recently completed a review of a revised preliminary draft environmental impact statement (“2008 Draft EIS”), with the assistance of an Independent Expert Review Team (“IERT”) of ten internationally recognized experts in erosion, groundwater, seismic hazards, engineering, and risk assessment. Staff and the IERT have identified a number of significant issues associated with the new 2008 Draft EIS, including problems with the erosion modeling, the groundwater flow modeling analysis, and the assumptions for the performance of the engineered containment barriers. In summary, while the current monitoring and management practices provide assurance that the short-term risk of a significant release of radiation at locations accessible to the public is very low, the 2008 Draft EIS does not provide defensible estimates of potential long-term risks following decommissioning.

As previously reported, while no agreement was reached on the technical issues, the Core Team identified a preferred alternative, including a phased approach, that would include significant near-term removal actions that are not dependent on the long-term analysis. Those removal actions include demolition and off-site disposal of the Main Plant Process Building, excavation and offsite disposal of the source area of the plume, and excavation and offsite disposal of the water treatment

lagoon system. Under this alternative, the Authority would manage the State-licensed Disposal Area (SDA) for up to an additional 30 years.

DOE now plans to issue a draft EIS for public review by the end of December 2008. In order to allow the important near-term removal actions to move forward, the Authority has agreed to issuance of the draft EIS, with the stipulation that DOE will include the Authority's view on the draft EIS analyses and results as a "Foreword" to the document. DOE has stated its intention to publish a record of decision by the end of 2009.

With respect to the deer hunting program the Authority administers on the West Valley property, laboratory analysis of deer meat samples collected in 2007 revealed concentrations of Cesium 137 above historic levels. This information was reviewed by the New York State Department of Health, which found no public health hazard. The Authority will be informing hunters and the community of this issue through a press release and other means. Additional venison samples will be obtained and analyzed.

Dr. Thorndike then reviewed a report to the W&FMC from Jack Spath concerning radioactive waste policy and nuclear coordination. In 2007, fifty-one facilities reported shipping low-level radioactive waste ("LLRW") to out-of-State disposal facilities, including all 6 of the State's nuclear power plants. The LLRW totaled approximately 75,000 cubic feet and contained 50,000 curies of radioactivity. As was anticipated, access to the Barnwell, South Carolina facility, the only disposal facility accepting Class B and Class C LLRW from New York generators, ceased accepting all LLRW on July 1, 2008. Nuclear power plants are now having to store their LLRW on-site until a new option becomes available. Staff will continue to monitor the progress of a licensing proceeding for a new disposal facility to be constructed in Texas.

The W&FMC was also updated on a proposal by UniStar Nuclear ("Unistar"), a joint venture of Constellation Nuclear and a French reactor manufacturer, AREVA. UniStar announced its intention to submit, in September 2008, an application for a license to construct and operate a new 1600 MW nuclear power plant at the Nine Mile Point site. The Authority hosted an informational meeting in August 2008 with UniStar and various State agencies, at which UniStar gave a presentation outlining its proposal and the associated regulatory requirements. Dr. Thorndike said that this concluded her presentation and that Authority staff will continue to monitor the status of this proposal as well as the progress of license renewals for the FitzPatrick and Indian Point nuclear generating facilities.

The Chair then called on Hal Brodie, General Counsel, to discuss the next agenda item concerning the administration and implementation of a carbon dioxide allowance auction program. Mr. Brodie indicated that the Members were being asked to approve a new Authority regulation, Part 507 to the Official Compilation of Codes, Rules and Regulations of the State of New York. The regulations and associated materials were provided to the members by mail. A Copy of DEC's certified SEQR Findings and the Authority's memorandum of concurrence were provided at the meeting.

The Regional Greenhouse Gas Initiative ("RGGI") is a cooperative effort among ten Northeastern and Mid-Atlantic States (Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, and Vermont) to reduce carbon dioxide emissions from power plants. RGGI is the first mandatory, market-based greenhouse gas reduction program in the United States.

New York's participation in RGGI is to be effectuated through two separate but related new rulemakings -- this item, the CO₂ Allowance Auction Program, and a CO₂ Budget Trading Program, which was adopted by the DEC, and will become effective October 9. The Authority's CO₂ Allowance Auction Program, is the operational arm of New York's participation in RGGI.

Generally, the DEC's Budget Trading rule establishes a cap, in tons, on CO₂ emissions by New York fossil-fueled electric generating stations with capacity in excess of 25 MW, for each of the years 2009, 2010, and 2011. The cap will decrease over subsequent years. Under the DEC rule, the affected generators will be required to acquire one CO₂ allowance for each ton of CO₂ emitted during the 2009 through 2011 period. The DEC rule creates one CO₂ allowance for each ton within the cap, and places nearly 100% of those allowances into an account to be administered by the Authority. These allowances will be available for sale through an auction process, and the Authority will use the proceeds to implement programs in energy efficiency, renewable or non-carbon emitting technologies, and innovative carbon emissions abatement technologies with significant carbon reduction potential.

The rule creates an Auction Advisory Committee comprised of the Authority's President and CEO, the DEC Commissioner, and the PSC Chairman. The Committee will advise and consult with the Authority on various decisions regarding the auction process, including whether to participate in regional or New York only auctions. Participating in regional auctions will depend on whether the regional option will further the objectives of New York's auction program. Mr. Brodie indicated

that it appears that the regional auction will meet this requirement. If the Auction Advisory Committee concurs, New York expects to participate in the second quarterly auction, which is scheduled for December 17, 2008. It is anticipated that approximately 12 million in New York Allowances will be made available for sale in December 2008.

The DEC rule establishes a reserve, or minimum price at which the Allowances will be sold, and limits to 25% of the total available the number of Allowances that an individual bidder may bid on. The minimum price for the first auction is \$1.86.

With respect to auction proceeds, the Authority will convene an advisory group of stakeholders representing a broad array of energy, economic development, and environmental interests to advise the Authority on possible uses of the funds with a primary goal being to bring about sustained reductions in CO₂ emissions across all energy using sectors. Authority staff will create an Operating Plan that identifies and describes the individual programs to be supported with the auction proceeds. The Authority expects that a significant portion of the auction proceeds will be used to support greenhouse gas reduction efforts in the non-electric sector, such as transportation or end-use fossil fuel efficiency, as well as through the demonstration of advanced energy technologies such as carbon capture and sequestration; areas that we have not been able to address effectively due to eligibility limitations that apply to existing funding sources such as the System Benefits Charge. The RGGI proceeds will also be used to increase renewable energy efforts and for electric energy efficiency activities to help the State to achieve the 15% reduction in electricity use by 2015 – which is an important goal of the Administration.

Given that the minimum acceptable price for the December auction will be \$1.86 per Allowance, if all of New York's 12 million Allowances are sold at the December auction at the minimum price, the resulting revenue will total \$22,320,000. It is expected that subsequent auctions are to be conducted quarterly, in March, June, September, and December of each calendar year.

Commissioner Grannis added that this was a huge undertaking, involving a complex set of rules that had to be acceptable to a large number of states. All involved New York staff are to be congratulated for their efforts. The model that has evolved from this process is expected to become the national model and staff should know that their efforts are appreciated.

Commissioner Glynn added that the new York State Department of Transportation (“NYSDOT”) strongly supports the implementation of RGGI in New York. RGGI is a bold,

innovative approach for dealing with the global issue of climate change. The Authority and DEC are to be congratulated for working cooperatively with the other northeastern states to craft a workable and practical mechanism to address climate change. Climate change is an issue that affects everyone. NYSDOT is committed to working collaboratively and cooperatively with the Authority, DEC, and other affected stakeholders to identify cost-effective measures to reduce greenhouse gas emissions. The transportation sector is responsible for 39% of the total CO₂ emissions in the State. NYSDOT recognizes that it is part of the problem and it intends to be a significant part of the solution.

Because on-road tailpipe emissions are a significant source of greenhouse gas emissions, NYSDOT intends to take the necessary actions to reduce CO₂ emissions. But this does come at a cost. NYSDOT wants to work with the Authority, DEC, the PSC and others to ensure an appropriate allocation of auction revenues to the transportation sector to provide the resources so that this intention will yield significant CO₂ reductions. Intercity rail and transit projects, as well as some other projects that do not expand the capacity of highways, can offer substantial reductions in greenhouse gas emissions, as well as more liveable communities.

Commissioner Glynn concluded by stating that she believes NYSDOT's full inclusion to the RGGI process will add value to the effort and she hopes that it can be helpful in the stakeholder advisory process in the near future. NYSDOT applauds today's step to implement RGGI in the State and it looks forward to working in partnership with the Authority, DEC, and other stakeholders to continue and expand the effort.

PSC Chair Brown added that the process involved a unique combination and cooperation among a variety of states, legislatures, and state attorney generals. It was a remarkable process and he also thanked the staff from the various involved agencies.

Mr. Gottlieb added that the Authority should be complimented on the regulations' broad and open process for allocating auction proceeds. Acceptance by the involved parties of a process that will allocate funds in more detail at a later date is a compliment to the Authority's integrity and processes and allows the program to move forward.

Chair DeIorio commended the time and efforts of all involved staff. He commended the foresight of the original creators of the Authority, who recognized that this particular combination of private and public sector leaders could result in such a coordinated and credible program.

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

Resolution No. 1198

RESOLVED, that a new Part 507 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 C.E.O. be, and is hereby, authorized and empowered on behalf of the Authority to execute, certify, and deliver all such documents, and to take all such other actions necessary or appropriate to promulgate the aforesaid amended rules and regulations.

The Chair then called on Cheryl Earley, the Director of Contract Management. Ms. Earley explained that the Members are requested to adopt a resolution approving the Periodic Procurement Contracts Report covering the period May 16, 2008, through August 15, 2008. The report summarizes the 988 procurement contracts exceeding \$5000 that were initiated or modified during the period. About 96% of the procurement contracts were competitively selected and 99% of the dollars committed resulted from competitive procurement. All of the actions were in compliance with the procurement contract guidelines. The report also summarizes an additional 227 procurement contracts that are expected to be executed by the Authority and that have a period of expected performance in excess of one year. These contracts totaled approximately \$41 million.

In addition, because of the State's interests in promoting minority and women-owned businesses, the Members will also be provided with a periodic report on Authority compliance with Article 15-a of the Executive Law ("Article 15-a"). Article 15-a requires public authorities to make a good faith effort to solicit active participation by M/WBEs for certain contracts. Of the 20 contracts subject to Article 15-a that were initiated or modified during the reporting period, 10% of the total number of contracts were awarded to certified M/WBEs, representing 11.3 % of the total contract amounts.

Commissioner Grannis thanked Ms. Earley and the Authority for their efforts in this area.

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

Resolution No. 1199

RESOLVED, that the Periodic Procurement Contracts Report, covering the period May 16, 2008 through August 15, 2008, 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).

Chair DeIorio stated that the next agenda item was a resolution to convene in executive session for the purpose of discussing the litigation with respect to West Valley against the United States and DOE.

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

Resolution No. 1200

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 receiving a report regarding the litigation with respect to West Valley against the United States and the Department of Energy.

The Chair reconvened the meeting in open session and stated that no official action was taken during executive session. He said that, consistent with the discussion in executive session, the proposed resolution approving a settlement agreement with respect to West Valley would be postponed until a later meeting.

Next, the Chair called on Thomas Barone, Director of Energy Efficiency Services. Mr. Barone explained that, three years ago, the schools sector asked the Authority if it could assign a staff person dedicated to helping facility managers participate in its energy efficiency reduction programs. The “Account Executive” concept was developed for the schools and was a large success. The program was called the Sector Focus on Schools and became the primary advocate for change agent for an entire sector.

Building on that success, the Authority now has dedicated staff providing individualized services to the following sectors: colleges, data centers, hospitality, healthcare, industry, local government, retail, schools, and water and wastewater systems. The focus programs provide a single portal for each sector in the Authority’s programs. Sector staff are responsible for researching their assigned sector, identifying the major participants in that sector, and determining the barriers to efficiency program implementation. Partnering with trade associations, the Authority is able to

effectively gain access to a large number of similar customers. Staff help customers understand their energy use through bench marking services (seeing the energy consumption of similar buildings) and technical assistance services. Through the sector focus programs, facility staff are also trained on effective building management.

The focus programs also help customers implement projects by creating energy analysis tools, providing educational resources, and preparing design guidelines. Authority contractors are also available to assist customers in filling out program applications.

The New York Presbyterian Hospital (“NYPH”) is an excellent example of how the Authority has worked within the healthcare system to bring about substantial change in energy management. NYPH has completed eighteen projects, under 6 different Authority programs. To date, the Authority has provided \$1.8 million in incentives. NYPH estimates that it is reducing its energy use by more than 7 percent beginning in 2007, resulting in an annual savings of more than \$2 million. This is equivalent to generating \$43 million in new revenues. Additional planned projects with the Authority could result in an additional \$7 million in annual savings. Mr. Barone concluded by stating that NYPH is the only healthcare facility to receive two consecutive years of EPA Energy Star® Sustained Excellence Awards.

Chair DeIorio said that the Members would be contacted shortly with the dates for the Board and Committee Meetings for 2009.

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
Secretary

September 4, 2008

NOTICE AND AGENDA

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

PLEASE TAKE NOTICE that a regular meeting (the 196th) 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, September 15, 2008, commencing at 1:00 p.m., for the following purposes:

1. To consider and act upon a resolution commending Paul D. Tonko as President and Chief Executive Officer of the Authority.
2. To consider and act upon a resolution commending Frank S. McCullough, Jr., as a Member of the Authority.
3. To receive from the Audit and Finance Committee:
 - (a) a report on the Authority's financing program; and
 - (b) a report on a presentation by the Director of Internal Audit.
4. To receive from the Program Planning Committee and the Waste and Facilities Management Committee reports concerning, and to consider and act upon a resolution approving, revisions to the Authority's Fiscal Year 2008-09 budget.
5. To receive from the Program Planning Committee and the Waste and Facilities Management Committee reports concerning the Authority's Fiscal Year 2009-10 Preliminary Spending Plan and the Authority's State Appropriation Request For Fiscal Year 2009-10, and to consider and act upon a resolution approving the State Appropriation Request for Fiscal Year 2009-10.

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6. To consider and act upon a resolution approving the execution of a Lease Agreement between the Authority and Applied NanoWorks, Inc. for space located at 10 Hermes Road at the Saratoga Technology + Energy Park ("STEP").
7. To receive from the Waste and Facilities Management Committee a report on additional activities related to West Valley Site Management and Radioactive Waste Policy and Nuclear Coordination.
8. To consider and act upon a resolution adopting a new Part 507 to Chapter XI of Title 21 of the Official Compilation of Codes, Rules and Regulations of the State of New York, concerning the administration and implementation of a CO₂ Allowance Auction Program.
9. To consider and act upon a resolution approving a periodic procurement contracts report.
10. To consider and act upon a motion to convene in executive session to receive a report regarding the litigation with respect to West Valley against the United States and the Department of Energy.
11. To receive a report on the Energy Efficiency Services Program.
12. To transact such other business as may properly come before the meeting.

Members of the public may attend the meeting at either location. The meeting is also available through webcast at <http://www.nyserda.org/governancemeetings.asp>



Hal Brodie
Secretary