

NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY

Minutes of the 201st Meeting

Held on December 22, 2009

Pursuant to notice and an agenda dated December 15, 2009, a Special Meeting (the 201<sup>st</sup> meeting) of the New York State Energy Research and Development Authority ("Authority") was convened on December 22, 2009, at 2:00 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, 10<sup>th</sup> floor, New York, New York; by video conference in the Authority's Buffalo Office at 726 Exchange Street, Suite 821, Buffalo, 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 in New York City)

David D. Elliman (by video conference in New York City)

Stanley Gee

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

Alexander "Pete" B. Grannis

Roger B. Kelley (by video conference in Buffalo)

Members Burke, Thorndike, and Townsend were unable to attend.

Also present were Francis J. Murray, Jr., President and CEO; Robert G. Callender, Vice President for Programs; Jeffrey J. Pitkin, Treasurer; Hal Brodie, Esq., General Counsel and Secretary; Janet Joseph, Director of Clean Energy and Market Development; and various other members of the staff of the Authority. In addition, John Zamurs from the New York State Department of Transportation; Tracy Hennige from Senate Finance Majority; Betsy Lowe from

the New York State Department of Environmental Conservation; and various members of the staff of the Authority 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 December 16, 2009. He directed that a copy of the notice and agenda be annexed to the minutes of the meeting.

Next, Chair DeLorio asked Francis J. Murray, Jr., the Authority's President and CEO, to address the Members. Mr. Murray began his remarks by saying that Authority staff continues to be busy. Approximately \$25 million in Federal funding provided under the American Recovery and Reinvestment Act has been awarded to schools and hospitals, not-for-profit organizations, and municipalities for energy-related improvements, and a recent \$50 million solicitation resulted in the receipt of 325 applications, which are currently under review.

An appliance rebate program is being developed and will be in effect during President's Week. Rebates will be available for refrigerators, clothes washer, and freezers, and will be available on a first come, first served basis. Funding for this initiative is \$16.8 million.

Other activities include the issuance of proposed regulations implementing a Green Residential Buildings Program to provide incentives for the construction and renovation of green residential buildings, and development of a Green Jobs – Green New York program to provide financing for energy efficiency improvements in residential and other buildings, and to develop training programs for the new, green economy.

The State Energy Planning Board recently approved a new State Energy Plan. Authority staff worked closely with staff of the Departments of Public Service, Environmental Conservation, Transportation, other State agencies, and the Governor's Office to complete this challenging project.

In addition, the New York State Battery and Energy Storage Technology initiative received \$22 million in funding requests, and the State received \$88 million in Federal funding

for Smart Grid programs for various proposers including Consolidated Edison Company of New York, Inc., the New York Power Authority, and the Long Island Power Authority. A recent Authority research and development solicitation regarding Smart Grid resulted in 71 proposals.

Moreover, the Public Service Commission ("PSC") recently authorized the Authority to issue a new \$200 million Renewable Portfolio Standard solicitation. Mr. Brown added that the PSC had also approved moving the State's renewable energy generation goal from "25 by 2013" to "30 by 2015", at a projected cost of \$2 billion.

Mr. Murray continued his presentation by saying that \$12 million from the Regional Greenhouse Gas Initiative ("RGGI") has been budgeted for State solar energy projects, including \$6 million for the Long Island Power Authority and \$6 million for Authority projects. In addition, an Energy Policy Institute is being established at the State University of New York at Stony Brook. Mr. Murray concluded his presentation by recognizing staff's charitable endeavors on behalf of the State Employees Federated Appeal and the Adopt-a-Family holiday program.

Mr. Catell commended Mr. Murray on his leadership, and added that he recognized that these accomplishments are also due to the many capable and qualified staff at the Authority. He said that he also appreciates the good working relationship between the PSC and the Authority, which contributes to the success of the State's programs. Mr. Grannis concurred, stating that the media and others do not give enough credit to State workers and all that they do on behalf of the State.

In response to inquiries by Mr. Grannis, Ms. Joseph, Director of Clean Energy and Market Development, responded that, currently, 21% of the State's energy accrues from renewable resources. Mr. Murray added that New York City remains a significant potential source for additional renewable resource projects.

Mr. DeLorio then turned to the first agenda item to be discussed, which was a resolution to convene in executive session to receive a report regarding the litigation with respect to RGGI.

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

Resolution No. 1236

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 the Regional Greenhouse Gas Initiative.

The Members then met with the Officers, Director Janet Joseph, Deputy Counsels Jacquelyn L. Jerry and David Munro, and Program Manager Mark Torpey.

The Chair reconvened the meeting in open session. Mr. DeLorio announced that no formal action was taken during the executive session. He then asked Hal Brodie, the Authority's General Counsel, to discuss RGGI on the record. Mr. Brodie explained the process going forward. The Attorney General's Office will first lodge the proposed Consent Decree with the court. Although not mandated by law to do so, the State will then solicit public input on the settlement document for 30 days. Comments will be collected, reviewed, and summarized for consideration in the court's approval process. Mr. Brodie concluded by stating that, if public comments reveal issues that necessitate revision of the settlement, the parties will discuss revising the Consent Decree accordingly. Changes will be brought to the Members for their approval.

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

Resolution No. 1237

RESOLVED, that the Members authorize the Attorney General's Office to enter into a Consent Decree on behalf of the Authority with respect to Indeck Corinth, L.P. v Paterson, the New York State Energy Research and Development Authority, et al., an action challenging regulations promulgated by the Authority and the Department of Environmental Conservation establishing the Regional Greenhouse Gas Initiative (RGGI) program, in accordance with the terms and conditions presented to and discussed with and by the Members.

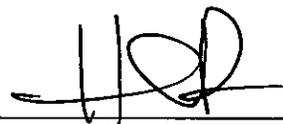
The Chair indicated that the next item on the agenda was a report on public authority reform. Mr. Brodie reported that recently enacted legislation creates a new public authority budget office within the Department of State. This office will be responsible for conducting reviews of public authority operations and practices; making recommendations for improvement in areas such as performance, structure, and oversight; and receiving and acting upon complaints regarding any public authority, among other duties.

In addition, the legislation codifies board member requirements, including a requirement to perform their duties "in good faith and with that degree of diligence, care and skill which an ordinarily prudent person in like position would use under similar circumstances, and may take into consideration the views and policies of any elected official or body, or other person and ultimately apply independent judgment in the best interest of the authority, its mission and the public." It also requires board members to sign an acknowledgement that the member understands his or her duties, fiduciary obligations, and duty of loyalty and care.

With respect to contracts, the Comptroller may now notify a public authority that contracts in excess of \$1 million awarded to a single source, a sole source, or other method of procurement that is not competitive or that are to be paid in whole or in part from monies appropriated by the State, must be submitted to the Comptroller for approval.

Mr. Brodie concluded his presentation by stating that the new law also requires the Authority's Members, Officers, and employees to record all contacts by lobbyists attempting to influence the adoption or rejection of any rule or regulation having the force and effect of law.

The Chair then asked if there was any other business. Thereafter, there being no further business, the Chair thanked the Members, Officers, and employees for their yeoman's efforts on behalf of the Authority, and upon motion duly made and seconded, and by unanimous voice vote of the Members, the meeting was adjourned.



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Hal Brodie  
Secretary

December 15, 2009

NOTICE AND AGENDA

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

PLEASE TAKE NOTICE that a Special Meeting (the 201<sup>st</sup> meeting) of the New York State Energy Research and Development Authority will be held in the Authority's Albany Office at 17 Columbia Circle, Albany, New York, and by video conference in the Authority's New York City Office at 485 Seventh Avenue, 10<sup>th</sup> floor, New York, New York, by video conference in the Authority's Buffalo Office at 726 Exchange Street, Suite 821, Buffalo, New York, and by webcast, on Tuesday, December-22, 2009, commencing at 2:00 p.m., for the following purposes:

1. To consider and act upon a motion to convene in executive session to receive a report regarding the litigation with respect to the Regional Greenhouse Gas Initiative.
2. To consider and act upon a resolution approving a Consent Decree with respect to the Regional Greenhouse Gas Initiative.
3. To receive a report on recently enacted public authorities reform legislation and other related matters.
4. To transact such other business as may properly come before the meeting.

Members of the public may attend the meeting at any of the above locations. The meeting is also available through webcast at <http://www.nysesda.org/governancemeetings.asp>.

  
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Hal Brodie  
Secretary

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