NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY

Minutes of the 200th Meeting

Held on September 21, 2009

Pursuant to notice dated September 14, 2009, a Regular Meeting (the 200th meeting) of the New York State Energy Research and Development Authority ("Authority") was convened on September 21, 2009, at 1:30 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; 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
Kevin Burke
Robert B. Catell
David D. Elliman
Stanley Gee
Jay L. Gottlieb (by video conference in New York City)
Alexander B. (Pete) Grannis
Elizabeth W. Thorndike, Ph. D.

Members Kelley and Townsend did not 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; Cheryl L. Earley, Director of Contract Management; John Williams, Energy Analysis Program Director; John Osinski from the New York Power Authority; John Zamurs and Tedi

Coleman from the New York State Department of Transportation; 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 14, 2009. 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, and all of the members and Officers identified themselves for the webcast.

Chair DeIorio then introduced Stanley Gee, Acting Commissioner of the New York State Department of Transportation, as the Authority's newest Member. As Acting Commissioner, Mr. Gee becomes an *ex officio* Member and the Chair welcomed him on behalf of all the Members.

The Chair then commended Mr. Catell on his 50 years as an industry executive and a prominent and significant leader in the community. A reception in honor of those years will be held at the Intrepid Sea, Air & Space Museum, with the proceeds benefiting the Brooklyn Law School. The Chair read a letter into the record, attached as Appendix A, commending Mr. Catell for his career achievements and signed by the Chair and Francis J. Murray, Jr., President and CEO.

Mr. Murray added that he has known Mr. Catell for a great number of years, first benefiting from Mr. Catell's knowledge on the workings of the gas industry, followed by an increasing appreciation of Mr. Catell's commitment to public service.

Mr. Catell thanked the Chair, Mr. Murray, and the Members for their good wishes.

The Chair then called on Francis J. Murray, President and CEO, to update the Members on recent Authority activities. Mr. Murray began by thanking the Members and the Chairs of the

Authority's various committees for their continued support. He also thanked Public Service Commission ("PSC") Chairman Garry Brown for his leadership in fostering cooperative efforts between the two State agencies and for his assistance in supporting resources for the Authority to implement many of its programs.

The past few months have been an incredibly busy and productive period at the Authority. Staff remains committed to implementing the Authority's organizational mission and serving the ever-growing needs of New York's citizens. In April 2008, Governor Paterson issued an Executive Order requiring the completion of a State Energy Plan ("Plan"). Members of the Energy Planning Board and the Energy Coordinating Working Group have been developing strategies and recommendations for the 10-year energy planning horizon. In August 2009, a draft Plan was issued. President Murray and Vice President Callender, along with Authority staff, have been participating in a series of nine public hearings conducted by the Energy Planning Board across the State. Public interest in the Plan has been robust. The Plan is expected to be finalized within the next several months.

In addition, the Governor recently signed into law a new statutory energy planning process. This new process will now make permanent four-year energy planning cycles, and the Authority's President and CEO will serve as the Chair of the reconstituted Energy Planning Board. The new law requires that the next State Energy Plan be completed in 2013.

In September 2009, New York participated in its fourth Regional Greenhouse Gas Initiative ("RGGI") auction. This auction made available approximately 12.6 million tons in 2009 and 2012 New York allowances. The price for 2009 allowances was $2.19 per unit and the price for 2012 allowances was $1.87 per unit. This yielded approximately $27 million in proceeds from this auction (and approximately $155 million in proceeds, to date).

Last week, as required by the RGGI Operating Plan, Authority staff distributed the first RGGI quarterly report. The report describes how the water and wastewater program initiatives

are moving forward to take advantage of matching funds available through the American Reinvestment and Recovery Act ("Recovery Act").

In a related action, the State Legislature recently passed the Green Jobs – Green New York Act of 2009. The bill directs the Authority to use $112 million from RGGI auction proceeds: (1) to provide energy audits for eligible applicants; (2) to establish a revolving loan fund to finance energy efficiency measures in residential, multifamily, and certain non-residential structures; (3) to provide job training to assist in implementing these programs; and (4) to provide program outreach to boost enrollment in these programs. It is expected that the bill will be delivered to the Governor for signature in the near future.

In addition, Authority staff continues to administer a host of additional programs across all sectors of the energy economy funded through the System Benefits Charge ("SBC"), which runs through June 30, 2010.

On August 21, 2009, a PSC Order authorized the Authority to issue a new competitive solicitation for renewable resource generation under the Renewable Portfolio Standard Program ("RPS"). The Authority has issued this solicitation, and assuming developers submit acceptable bids, about 25-30 contracts with total funding of up to $95 million are expected to be executed in December 2009.

With respect to the New York Battery and Energy Storage Technology Consortium ("NY-BEST"), the three working groups – governance, market-driven research needs, and testing facility needs – have held their initial meetings. With input from stakeholders, the research strengths and needs of NY-BEST collaborators have been identified and will be used to establish short- and long-term research goals and priorities.

With respect to greenhouse gases, Governor Paterson recently issued Executive Order No. 24 ("EO 24") that establishes the goal of reducing New York greenhouse gas emissions by 80% by the year 2050. EO 24 also creates a Climate Action Council ("Council"), comprised of

private and public sector constituents, including the Authority's President and CEO. The Council will prepare a Climate Action Plan for reducing greenhouse gas emissions and adapting to climate change. Janet L. Joseph, Director of Clean Energy Research and Market Development, will serve as the co-director of the Council's staff effort.

The Authority is deeply involved in implementation of a wide range of energy programs under the Recovery Act. The Authority recently received $123 million in Recovery Act funds from the United States Department of Energy ("DOE") to implement the State Energy Program. Of that amount, $74 million is earmarked for energy efficiency improvements in schools, universities, hospitals, municipal buildings, and not-for-profits. 426 proposals were received by the Authority in response to the first round of a Request for Proposals ("RFP"). Awards will be announced in October, and additional rounds are anticipated. State Energy Program funds are also being used for a photovoltaic capacity-based program ($9 million), and for training and code enforcement related to the State Energy Conservation Construction Code.

DOE has also approved New York's $29 million Energy Efficiency and Conservation Block Grant program under the Recovery Act. This program, which the Authority will administer, will help support local governments (cities and towns with a population of less than 35,000 and counties with a population of less than 200,000) to implement projects and strategies that bolster energy efficiency, create jobs within the clean energy sector, reduce energy costs, and protect the environment. DOE has also approved $13 million for the Clean Cities program to finance alternative fuel vehicle projects. The Authority has submitted additional funding proposals to DOE, which are still pending, and is working closely with its partners in academia and the private sector through letters of support and cost-sharing offers to attract additional Federal funds to New York for other projects.

Mr. Murray concluded his remarks by stating that Authority staff continues to work diligently and cooperatively with stakeholders on behalf of New York citizens and energy consumers.

The Chair stated that the first agenda item related to Declarations of Intent on behalf of National Grid and, since the Chair of the Audit and Finance Committee ("A&FC") is the former Chair of National Grid, Mr. Catell would recuse himself from the discussion. Chair DeIorio continued by explaining that the Members are asked to approve two Declarations of Intent, one on behalf of National Grid Generation LLC of up to $200 million in tax-exempt debt for an Electric Project, and one on behalf of National Grid NY of up to $500 million in tax-exempt debt for a Gas Project.

Pursuant to the Internal Revenue Code, a Declaration of Intent must take place no later than 60 days after an expenditure is made in order to preserve the eligibility of such expenditure for later tax-exempt financing. Though adoption of a Declaration of Intent represents an intent to finance the Projects under the Internal Revenue Code, it does not constitute a commitment to finance. Both utilities would need to receive an allocation of Private Activity Bond Ceiling ("State Cap") for any subsequent financing, and financing documents would have to be prepared and approved by the Members before any bonds could be issued.

The Electric Project would consist of facilities for the local furnishing of electric energy constructed during National Grid Generation LLC's fiscal years 2011 through 2013 and would be located within Suffolk and Nassau Counties as part of the company's electric production system. The Gas Project would consist of facilities for the local furnishing of gas constructed during National Grid NY's fiscal years 2010 through 2012 and would be located within the City of New York as part of the company's gas distribution system. Interest cost savings would accrue to the respective companies' ratepayers.

The Committee unanimously recommended approval of the two Declarations of Intent.

Whereafter, upon motion made and seconded, and by voice vote of the Members, except Mr. Brown and Mr. Catell, the Members approved the execution of a Declaration of Intent on behalf of National Grid Generation LLC. Mr. Brown and Mr. Catell abstained from the discussion and from voting.

Resolution No. 1228

RESOLVED, that the Members approve the execution of a Declaration of Intent, on behalf of National Grid Generation LLC, as presented at this meeting.

Whereafter, upon motion made and seconded, and by voice vote of the Members, except Mr. Brown and Mr. Catell, the Members approved the execution of a Declaration of Intent on behalf of National Grid NY. Mr. Brown and Mr. Catell abstained from the discussion and from voting.

Resolution No. 1229

RESOLVED, that the Members approve the execution of a Declaration of Intent, on behalf of National Grid NY, as presented at this meeting.

At the Chair's request, Mr. Catell reported on the A&FC's receipt of a report from Hal Brodie, General Counsel, on a proposed amendment to Resolution No. 819, authorizing the execution of Declarations of Intent. Under Resolution No. 819, the Chair of the Authority was the person authorized to make Declarations of Intent on behalf of the Authority, after approval by the A&FC. Declarations of Intent preserve the qualification of expenditures for future tax-exempt financing.

The Public Authority Accountability Act amended the Authority's enabling statute to assign a different role to the Chair and designate the President as the chief executive officer of the Authority. The proposed amendment to Resolution No. 819 would substitute the President and CEO as the person authorized to execute Declarations of Intent, consistent with this statutory change.

The Committee unanimously recommended approval of the amendment to Resolution No. 819.

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

Resolution No. 1230

RESOLVED, that Resolution No. 819 is amended to add the President and CEO, the chief executive officer, as the person designated and authorized to make declarations of intent on behalf of the Authority, upon favorable action by the Audit and Finance Committee, under the circumstances set forth in such Resolution No. 819.

The Chair then asked Mr. Catell to report on the next agenda item, the appointment of Hawkins Delafield & Wood LLP ("Hawkins") as Bond Counsel to the Authority. Mr. Catell explained that, under the Authority's Financial Services Guidelines, the Authority is required to issue an RFP for bond counsel services every five years. In accordance with those guidelines, the Authority issued a solicitation for engaging bond counsel services in June 2009. A technical evaluation panel comprised of staff from the legal department and the finance unit met to review the 12 proposals received in response to the RFP and recommends that Hawkins be appointed as the Authority's Bond Counsel.

Bond Counsel is responsible for advising and assisting in the implementation of the Authority's financing program. In addition, under the RFP, Bond Counsel may be asked to provide guidance and support with respect to other financial matters.

In accordance with past practice, the Authority does not pay for Bond Counsel services performed in connection with conduit financing. Instead, the utility or other entity on whose behalf the bonds are issued will be responsible for the costs of issuing the bonds. Therefore, no funds are currently being budgeted for these services.

If the Members approve this appointment, staff will enter into a letter agreement with Hawkins to serve as Bond Counsel for the period January 1, 2010 through December 31, 2014.

The Committee unanimously recommended approval of the appointment of Hawkins as Bond Counsel.

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

Resolution No. 1231

RESOLVED, that the President and CEO is authorized to engage the firm of Hawkins Delafield & Wood, LLP to serve, as the President and CEO may determine is required from time to time, as bond counsel for the Authority on its financings, and provide legal advice and counsel as may be necessary or desirable on matters involving trusts and other financial related services.

The Chair then asked Mr. Catell to discuss post-retirement health insurance benefits. Mr. Catell explained that, under Governmental Accounting Standards Board Statement 45 ("GASB45"), the Authority is required to recognize the costs of health insurance during the period when the related employment services are rendered, on an accrual basis, rather than when the costs of the benefits are paid on behalf of retirees. At the June 2009 meeting, staff discussed the benefits of establishing a segregated trust account that would hold and invest assets put aside for these benefits. The A&FC received a report from Jeff Pitkin, the Authority's Treasurer, on the status of staff's efforts to look into establishing such a trust.

The Authority has engaged a consultant, Milliman, Inc., to assist in establishing a trust account, in developing an investment strategy for trust assets, and in implementing ongoing investment monitoring processes. Milliman, Inc. has provided initial draft documents and a simulation of different asset allocation scenarios, which staff is reviewing. In addition, staff has had initial discussions with staff from the New York State Department of Taxation and Finance, the Authority's statutory fiscal agent. Mr. Catell concluded this presentation by stating that staff anticipates presenting an implementation strategy to the Members at the January meeting.

At Chair DeIorio's request, Mr. Catell continued his report from the A&FC by discussing an audit report issued by the Office of the State Comptroller ("OSC"). Mr. Catell indicated that the audit related to the Authority's reporting of the results of its achievement in SBC-funded programs. The audit report found that achievements and performance measures reported by the Authority are well documented and verifiable and are based on data verified by independent

program evaluators. The audit report also notes that the reporting of SBC program goals and achievements has improved over time to enable users to assess program results, and Authority management is actively monitoring program progress.

Mr. Catell concluded this discussion item by stating that the audit report also includes minor recommendations for improving the accuracy of reported achievements, which management has agreed to implement.

Dr. Thorndike commented that she believes that this was a superb report given the statement in OSC's press release that, "for a decade, NYSERDA has met this mission and shown how a State program should be run to benefit consumers and taxpayers." Dr. Thorndike remarked that this statement exemplifies the organization and its contributions to the State.

The Chair said that the next item was a report on the financing program. Mr. Catell said that, in April 2009, the Members adopted a resolution authorizing Authority bonds to be issued in a term interest rate mode for a period in excess of 13 months, without also requiring that a liquidity facility be in place. Consistent with that resolution, in August 2009, amendments were made to a $10.5 million series of bonds issued on behalf of Rochester Gas and Electric Corporation ("RG&E"). Thereafter, RG&E converted these bonds from an auction interest rate to a term interest rate of 4.75% for the period August 5, 2009, through July 1, 2016.

With respect to a series of bonds issued on behalf of RG&E in 1997, after receiving approval from the Public Authorities Control Board, RG&E converted an additional $33.9 million series of bonds from an auction interest rate to a term interest rate for the period August 5, 2009, through July 31, 2016, at an interest rate of 5%.

With respect to both series of bonds, at the end of the term rate period, a new term interest rate may be set or RG&E may convert the bonds to bear interest at a different interest rate mode, based on then current market conditions.

Mr. Catell continued his presentation, as requested by the Chair, by summarizing the A&FC's next item of discussion, a report from Mark Mitchell, the Authority's Director of Internal Audit. Mr. Mitchell first reported that he had performed a benchmark comparison of the Authority's internal audit resources to those of similarly-sized organizations and requested additional staffing consistent with his findings. As a result, Margaret Elvin, the Authority's contracts auditor since 2005, was reassigned to Internal Audit. This year's revised budget has also been amended to add one new internal audit position. Moreover, Internal Audit's resources were increased over the last two years when KPMG LLP was hired to conduct a series of Information Technology ("IT") internal audits, which were necessary due to the Authority's implementation of a new financial management system.

Mr. Mitchell then provided a report on recent audit activities, including a report on an audit of the Home Performance with ENERGY STAR® Program conducted by Ms. Elvin. The audit found that verification processes appear to be working as intended to ensure claimants meet eligibility guidelines; to ensure incentive claims are substantiated by appropriate documentation and accurately calculated; and to ensure that claims are properly coordinated with the Authority for proper payment. Overall, the processing systems were found to be effective. The audit report also contained recommendations for making minor improvements.

During the period, Mr. Mitchell co-chaired a sub-committee of New York's Recovery Act Internal Controls and Fraud Working Group, which was formed to develop and publish a risk assessment tool for use in connection with Recovery Act funds. The risk assessment template and guidance were published in early September.

In addition, Mr. Mitchell reported that audit work continues to be conducted on the Flexible Technical Assistance Program and the Multifamily Building Performance Program.

The A&FC also reached consensus on changes to the Audit Plan for the rest of the fiscal year.

With respect to the "NYSERDA Enterprise Information System ("NEIS")," payment functions are returning to normal and the Authority is closer to processing invoices at its regular rate. Staff is still experiencing minor issues with the implementation of the system, but it is not uncommon for an organization to have this experience with the installation of a system of this size and scope.

Mr. Catell reported that the Committee concurred with the recommendation that a follow-up IT Controls audit be postponed until the NEIS system has been performing for a period of time. He also reported that the upcoming risk assessment will include an assessment of IT risks. Based on the Authority's needs, an IT internal audit plan and resource allocation plan will then be developed.

Mr. Catell concluded his presentation by explaining that the A&FC was satisfied with management's report on NEIS implementation activities; progress is being made and identified issues are being given appropriate attention. In addition, reasonable resources are being assigned to Internal Audit. Lastly, the A&FC concurred with the planned Internal Audit efforts over the next few months.

The Chair then called upon Mr. Akel, Chair of the Program Planning Committee ("PPC"), to discuss revisions to the Authority's Fiscal Year 2009-10 Budget ("Revised Budget"). Mr. Akel indicated that, overall, the revisions increase the budgeted revenues from $618.7 million to $661.3 million and increase budgeted expenditures from $543.5 million to $581.2 million. These amounts include $185.9 million in Recovery Act funds for formula-based awards for energy efficiency and renewable energy, an Energy Efficiency and Conservation Block Grant program for municipalities, an appliance rebate initiative, and a competitive award for Clean Cities alternative fuel vehicles. Additional funding may result if the Authority is successful in receiving awards under other Recovery Act competitive solicitations. The Recovery Act requires all funds to be obligated within 18 months of award and to be expended within 36 months of award. Of the total amount awarded, the Authority expects to spend about $35 million this fiscal year, so this amount has been added to the Revised Budget.

The Revised Budget also incorporates funding increases associated with recent PSC Orders in the Energy Efficiency Portfolio Standard proceeding. This proceeding approved an additional $48.4 million in new program funds for installation of geothermal heat pumps, a program for reducing electricity in master-metered public buildings, workforce development, and the Multifamily Building Performance program. A total of $11.2 million will be received during this fiscal year, and this has been included in the Revised Budget.

The Revised Budget also includes a slight reduction in available RGGI funding based on a change in the number of allowances expected to be auctioned during the fiscal year, and an increase in funding expected from the sale of allowances under the Clean Air Interstate Rule program.

Salaries and benefits decreased by approximately $3 million due to a reduction in the number of staff to be assigned to RGGI-funded programs. As a result, the total staffing level is now projected at 361 positions, 18 fewer than originally budgeted. Based upon phased-in staffing that will occur once the RGGI litigation is resolved and the Authority fully implements the programs outlined in the RGGI Operating Plan, the budgeted number of full-time equivalent employees is expected to be 321.9, a decrease from the 338.5 originally projected.

The Revised Budget also includes a reduction of $1.2 million in costs for post-retirement health insurance benefits under GASB45, based on an assumed reduction in the Authority's annual contribution from establishing a segregated trust account.

With respect to New York State assessments, the Authority's State Cost Recovery Fee expenditure increased by $2 million.

The Authority has historically maintained a balance of unrestricted net assets of not less than $2 million, which Authority management has heretofore believed is fiscally prudent and reasonable. The funds are necessary to meet general working capital needs, and provide reserves in the event that additional unanticipated expenditures are necessary to protect public health and

safety at West Valley. However, the Authority ended Fiscal Year 2008-09 with a balance of unrestricted net assets of only $1.3 million, in large part due to the increase in the State Cost Recovery Fee. In addition, the Authority made a payment of $913,000 to the State pursuant to State Budget Article VII appropriation language. This payment obligation is an annual obligation that began in FY2003-04, and requires a payment of "up to" $913,000.

The Revised Budget anticipates that the balance of unrestricted net assets at the end of the fiscal year will decrease further to $1.1 million, or about .2% of budgeted expenditures. Authority staff has discussed with New York State Division of the Budget ("DOB") staff whether it would be possible to receive relief from at least some portion of the $913,000 payment obligation for this fiscal year. DOB advised that the payment has been assumed in the State's Financial Plan and any shortfall in this payment will further strain the State's fiscal condition. Therefore, the Revised Budget continues to include this payment.

Mr. Akel then called upon Mr. Pitkin to provide more detail on this issue. Mr. Pitkin explained that, at the PPC's request, staff has reviewed the financial reports for several public authorities and found that, in general, the level of unrestricted funds maintained by these public authorities was considerably larger, as a percentage of annual expenditures, than the level proposed in the Revised Budget and in the Preliminary Spending Plan, both of which are estimated to be about .2%. However, information on other public authorities' rationales for maintaining their unrestricted fund balances has not yet been obtained. Mr. Pitkin said that he recognizes that some of these public authorities have significantly larger assets and that this could affect their need for higher levels of reserves.

Historically, the Authority has maintained that it is prudent to maintain a level of unrestricted funds necessary to meet obligations at West Valley, as well as to provide general working capital. The Authority also needs working capital to meet obligations at the Saratoga Technology + Energy Park, as well as costs related to owned facilities and equipment. It is reasonable to assume that, in any given year, these costs could require several hundreds of thousands of dollars to meet unanticipated needs.

Lastly, the Authority's assessment for the State Cost Recovery Fee for the previous fiscal year was increased by about $2 million, as a result of the State increasing its assessments on all public authorities. This unanticipated increase resulted in the use of about $400,000 of additional unrestricted funds to pay the increased assessment – the balance coming from the proportionate allocation of various restricted program funds. Changes in the annual assessment could have an even higher adverse effect on working capital levels.

There is no accounting standard that can serve as the basis for calculating an appropriate level of reserves. Each organization must evaluate its individual circumstances to determine what amount is fiscally prudent. In the past, the Authority had determined that a $2 million reserve balance is minimally acceptable, given the Authority's programmatic responsibilities and obligations.

Mr. Pitkin concluded his remarks by stating that the PPC concurred that it would be appropriate for staff to have further discussions with DOB on appropriate levels of unrestricted funds.

Mr. Akel then concluded his presentation on the Revised Budget by stating that the PPC recommended that the Members adopt the resolution approving the Revised Budget.

The Chair then asked Dr. Thorndike to report on the portion of the Revised Budget considered by the Waste and Facilities Management Committee ("W&FMC"). Dr. Thorndike said that, for the West Valley program, total program expenditures remain at $13,500,000, with minor changes being made among expenditure categories.

For Radioactive Waste and Nuclear Coordination activities, budgeted expenditures decreased from $322,000 to $262,000, due to changes in staff allocations and indirect expense allocations.

The W&FMC unanimously recommended that the Revised Budget be approved.

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

Resolution No. 1232

RESOLVED, that the Fiscal Year 2009-10 Budget and Financial Plan (Revised September 2009) submitted to the Members for consideration at this meeting, 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.

Chair Delorio then asked Mr. Akel to report on the Preliminary Spending Plan and the State Appropriation Request for Fiscal Year 2010-11. Mr. Akel said that a State Appropriation Request is submitted to DOB annually and it sets forth the Authority's requests for State appropriations for the following fiscal year. For Fiscal Year 2010-11, the Authority is requesting appropriations totaling $35,452,000, an increase from $29,705,000 in the current fiscal year. No change is recommended for the Research and Development or Energy Analysis program areas. The increase is solely attributable to an increase in the State's 10% cost-sharing for West Valley, commensurate with the increase in Federal funding.

In addition, the State Appropriation Request seeks re-appropriation of amounts included in the current fiscal year's Revised Budget, but not fully expended.

The Preliminary Spending Plan ("PSP") for Fiscal Year 2010-11 includes all revenues and expenses by program area. Overall, the PSP estimates total expenditures at $686.3 million, compared to $581.2 million in the 2009-10 Revised Budget. The increase is primarily due to the annualization of additional funding provided in this fiscal year for the Energy Efficiency Portfolio Standard program, as well as an increase in Recovery Act-funded programs.

The PSP includes annual salaries for all positions included in the Revised Budget. The PSP also includes amounts for cost-of-living adjustments and performance-based salary

increases in the event that they are approved for State Management/Confidential employees for next year.

The PSP estimates an unrestricted net assets balance of approximately $1.3 million at the end of next fiscal year. As previously discussed, this amount is less than the $2 million historic balance.

The PPC recommended that the Members adopt the resolution approving the State Appropriation Request for Fiscal Year 2010-11.

The Chair then asked Dr. Thorndike to summarize the W&FMC deliberations on this item. Dr. Thorndike explained that the State Appropriation Request includes an increase in funding for the West Valley program from $13,500,000 to $19,247,000. This increase is due to: (1) the receipt by DOE of an additional $74 million in Recovery Act funding, which requires a 10% cost-share contribution by the State; (2) an increase in costs for the West Valley Demonstration Project ("Project") due to the cost-sharing arrangement agreed upon in the proposed settlement agreement with DOE; and (3) an increase in costs at the State-Licensed Disposal Area ("SDA") for implementing erosion controls and initiating replacement of the geomembrane covers over the trenches.

No change is requested for the Low-Level Radioactive Waste program, which seeks an appropriation of $145,000. As in prior years, funds to cover this expense are expected to be provided from an assessment on operating nuclear power plant licensees.

The W&FMC unanimously recommended approval of the proposed State Appropriation Request.

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

Resolution No. 1233

RESOLVED, that the proposed State Appropriation Request for Fiscal Year 2010-11 submitted to the Members for consideration at this meeting, 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, and at the request of, the New York State Division of the Budget.

Chair DeIorio then asked Dr. Thorndike to continue her report on discussions at the W&FMC meeting. Dr. Thorndike explained that the W&FMC received a status report from Director Paul Bembia on West Valley Site Management Program activities. A significant storm event occurred on August 9-10, 2009, with rainfall totals in the range of 4-5 inches. Following this event, Cattaraugus County was declared a Federal disaster area. Although many roads and bridges were significantly damaged and there was erosion damage on the West Valley site, there were no releases of any low-level radioactive waste or contamination from any facility at the site. The erosion near the disposal areas will be repaired this year, with more extensive erosion controls being installed next year. Immediately after the event, engineers also inspected the on-site dams and determined that, although the dams sustained erosion damage, they were not in danger of failing. DOE will, however, be conducting repairs of the erosion damage on one of the dam faces and one of the spillways. DOE has asked the Army Corps of Engineers, which has experience in such matters, to provide recommendations on making the repairs. The Authority has also reported the storm damage to the State Emergency Management Office and the Federal Emergency Management Office, and will file damage claims, if appropriate.

Next, the W&FMC discussed potential transfers of property. The first transfer would result in an erosion-control, buffer zone being established around the SDA, as required by the New York State Department of Environmental Conservation ("DEC")-issued Radiation Control Permit ("Permit"). The Permit requires the Authority to maintain around the active portions of the site a buffer zone of sufficient size to allow mitigation and remediation of erosional impacts to the site and its immediate surroundings. In order for the Authority to comply with the Permit, it is necessary that 15 acres currently under DOE's possession be returned to the Authority.

DOE has agreed to the transfer; the Nuclear Regulatory Commission ("NRC") has approved the transfer; and a letter agreement between DOE and the Authority will document the transfer.

On a different topic, community leaders have had a long-standing request that the Authority allow as much of the site to be returned to the tax rolls as may be prudent. Consistent with this position, the Authority has received a request to transfer ownership of an empty warehouse and to consider opening up more land for private business use. The warehouse was originally used to store plutonium storage containers but has since been emptied, surveyed, and determined to be safe. A number of clean, empty storage containers were disposed in a shallow trench near the warehouse with approval by DEC.

Also, the Authority has recently identified a 375-acre parcel that might be suitable for redevelopment. This parcel was identified based on groundwater hydrology, surface water flow, erosion potential, knowledge of current and potential future site contamination, access to the area by road and railroad, and agreement from DOE that the release of the property will not negatively impact the Project.

In order to allow either of these properties to be developed, the Authority must submit a request to NRC for release of the parcels for unrestricted use, identify environmental impacts, and demonstrate that radiation doses to the public would meet the requirements for unrestricted release.

In response to an inquiry by Mr. Burke, Mr. Bembia responded that staff is looking at the costs associated with the property release process, but the exhumation of the empty storage containers would be a pre-requisite to transferring that part of the property.

Dr. Thorndike then continued her presentation by explaining that the W&FMC also heard a report on the removal of leachate and a leachate storage tank from the SDA. There is currently on-site 8,000 gallons of water contaminated with radioactive material and hazardous chemicals (leachate) stored in a tank. In 1991, this material was pumped out of one of the disposal trenches

in order to reduce the water level and lessen the possibility of a release from the trench. Disposal of the water, tank, and any ancillary equipment has begun. The work is expected to be complete by the end of calendar year 2009.

Lastly, the W&FMC was advised that the comment period on the 2008 draft environmental impact statement ("EIS") on site closure was extended to September 8, 2009, to allow for additional comments. As part of this process, a number of environmental and community groups have strongly advocated site-wide removal of all waste. These groups have been critical of the Authority's and DOE's preferred alternative of phased decision-making. Recently, the Authority modified its position; it no longer supports the concept that the ongoing assessment period could be up to 30 years. Instead, the Authority maintains that the assessment period should run concurrent with the Phase 1 decommissioning work, which will take about eight to ten years. Dr. Thorndike concluded her presentation by stating that a final EIS will be issued in January 2010.

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, 2009, through August 15, 2009. The report summarizes the 967 procurement contracts exceeding $5,000 that were initiated or modified during the period. About 98% 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 124 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 $24 million.

In addition, because of the State's interests in promoting minority and women-owned businesses ("M/WBEs"), Ms. Earley discussed the 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

14 contracts subject to Article 15-a that were initiated or modified during this reporting period, none of the contracts were awarded to certified M/WBEs.

In response to an inquiry from Mr. Gee, Ms. Earley responded that the Authority had set a goal of 3% participation by M/WBE firms and that, to date, approximately 10% of the number and dollar amount of Article 15-a contracts have gone to M/WBEs. Unlike all other reports this fiscal year, it was just this period where no contracts were issued.

Mr. Murray reported that the Authority has two contracts with the Association of Community Organizations for Reform Now ("ACORN") relating to the construction of multifamily housing. ACORN is currently under investigation for allegedly providing advice on conducting illegal activities. Construction under the Authority's contracts is complete in accordance with contract requirements, and nothing has come to the Authority's attention indicating there was any misuse of funds. Accordingly, payments are being made in accordance with the contract. In addition, the Authority is cooperating with the State Inspector General in his investigation of ACORN activities.

Whereafter, upon motion duly made and seconded, and by voice vote of the Members present, except Mr. Burke and Mr. Catell, the following resolution was adopted. Mr. Burke and Mr. Catell recused themselves from voting on any contracts with Consolidated Edison Company of New York, Inc. and National Grid, respectively.

Resolution No. 1234

RESOLVED, that the Periodic Procurement Contracts Report, covering the period May 16, 2009 through August 15, 2009, 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 RGGI.

Whereafter, upon motion duly made and seconded, and by unanimous voice vote of the Members present, the following resolution was adopted. Mr. Burke recused himself from the executive session and did not attend.

Resolution No. 1235

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 Chair reconvened the meeting in open session and stated that no official action was taken during executive session. At this time, Mr. Catell and Mr. Grannis had to leave to attend to other pressing business.

Next, the Chair called on Director John Williams, Energy Analysis, to give an update on development of the State Energy Plan. Mr. Williams explained that energy planning has been conducted in a collaborative fashion though the efforts and expertise of the New York State Department of Public Service ("DPS"), DEC, the New York Power Authority, the Long Island Power Authority, and other State agencies, and the New York Independent System Operator. He described the modeling process in detail and then proceeded in describing the five Energy Plan strategies to achieve system reliability, greenhouse gas emissions reductions in the energy sector, energy affordability and economic competitiveness, public health and environmental impact risk mitigation, and energy independence.

Strategy 1 is to produce, deliver, and use energy more efficiently, with one identified benefit being a net .4 to .9 cent reduction in kilowatt hour costs to ratepayers as a result of attaining the Governor's "15 by 15" goal. Strategy 2 is to support development of in-State energy supplies, including achieving a "30 by 15" renewable goal. Strategy 3 is to invest in energy and transportation infrastructure to advance the "80 by 50" carbon emission reduction goal. Strategy 4 is to focus on the need to stimulate innovation in the clean energy economy and develop a clean energy workforce. Strategy 5 is to engage others in achieving the State's policy objectives. The final plan is expected to be issued by the end of the year.

Dr. Thorndike stressed the need to emphasize that there is an important connection between energy efficiency and cost savings and that New Yorkers should be advised on these benefits from the beginning.

Chair DeIorio then advised that the Members would be contacted shortly with the dates for the Board and Committee Meetings for 2010.

The Chair 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

NYSERDA **New York State Energy Research and Development Authority**
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September 14, 2009

NOTICE AND AGENDA

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

PLEASE TAKE NOTICE that a regular (the 200th) 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, by video conference in the Authority's Buffalo Office at 726 Exchange Street, Suite 821, Buffalo, New York, and by webcast, on Monday, September 21, 2009, commencing at 1:30 p.m., for the following purposes:

1. To receive from the Audit and Finance Committee:

(a) a report on and to consider and act upon a resolution amending Resolution No. 819, to substitute the title of President and CEO, as the person authorized to make Declarations of Intent on behalf of the Authority;

(b) a report on and to consider and act upon Declarations of Intent on behalf of National Grid Generation LLC and National Grid NY to finance facilities for the local furnishing of electric energy and gas, respectively;

(c) a report on and to consider and act upon the appointment of Bond Counsel for the Authority;

(d) a status report on implementation of Governmental Accounting Standards Board ("GASB") Statement No. 45, Accounting for Post-Employment Health Insurance Benefits; and

(e) a report on an audit of System Benefits Charge achievements by the Office of the State Comptroller;

(f) a report on the Authority's financing program; and

(g) a report on a presentation by the Director of Internal Audit.

2. 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 2009-10 budget.

3. To receive from the Program Planning Committee and the Waste and Facilities Management Committee reports concerning the Authority's Fiscal Year 2010-11 Preliminary Spending Plan and the Authority's State Appropriation Request For Fiscal Year 2010-11, and to consider and act upon a resolution approving the State Appropriation Request for Fiscal Year 2010-11.

4. 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.

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

6. 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.

7. To receive a report on the Energy Efficiency Research and Development Program.

8. 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.nyserda.org/governancemeetings.asp.

Hal Brodie
Secretary

APPENDIX A

NYSERDA **New York State Energy Research and Development Authority**

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September 21, 2009

Mr. Robert B. Catell
Chairman
Advanced Energy Research & Technology Center
387 Park Avenue South, 3rd Floor
New York, NY 10016

Dear Mr. Catell:

We are writing to congratulate you on your fifty years of leadership, philanthropy, and public service. Both of us are honored to join with National Grid Chairman Sir John Parker and Chief Executive Officer Steve Holliday in recognizing your career accomplishments at the Intrepid Sea, Air, & Space Museum on the twenty-third of September. On behalf of all of your friends at NYSERDA, we salute your achievements. It is without question you deserve an enormous amount of praise and recognition for your work.

You have played an invaluable role as a member of NYSERDA's Board of Directors, ensuring that decisions and planning are in the best interests of the energy consumers of New York State. Your expertise and insight continue to be of great benefit to us.

Your vast influence on corporations such as Brooklyn Union Gas, KeySpan and National Grid, is commendable and inspiring. Furthermore, your work with the New York State Foundation of Science, Technology and Innovation, the New York State Smart Grid Consortium, and Advanced Energy Research & Technology Center will help keep New York at the forefront of scientific research and innovation. In addition, your position on the boards of directors of numerous foundations is admirable. Your distinguished career is one to be honored and celebrated.

Once again, congratulations on your achievements. We look forward to continuing our work with you.

Sincerely,

Vincent A. Delorio
Chairman

Francis J. Murray, Jr.
President and CEO

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