

NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY

Minutes of the 203rd Meeting

Held on March 1, 2010

Pursuant to notice and an agenda dated February 23, 2010, a Special Meeting (the 203rd meeting) of the New York State Energy Research and Development Authority ("Authority") was convened on March 1, 2010, at 12:30 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 (by video conference in New York City)

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

Alexander "Pete" B. Grannis

Roger B. Kelley (by video conference in Buffalo)

Elizabeth W. Thorndike, Ph. D.

Michael J. Townsend (by video conference in Buffalo)

Members Elliman and Gee were unable to attend.

Also present were Francis J. Murray, Jr., President and CEO; Robert G. Callender, Vice President for Operations and Energy Services; Janet Joseph, Vice President for Technology and Strategic Planning; Jeffrey J. Pitkin, Treasurer; Hal Brodie, Esq., General Counsel and Secretary; and various other members of the staff of the Authority. In addition, John Zamurs from the New

York State Department of Transportation and Radmila Miletich from the Independent Power Producers of New York 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 February 23, 2010. He directed that a copy of the notice and agenda be annexed to the minutes of the meeting.

Mr. DeIorio then turned to the first agenda item to be discussed, which was a resolution approving proposed regulations establishing a residential green buildings program. Karen Villeneuve, Residential Efficiency and Affordability Program Director, explained that Public Authorities Law Section 1872 ("PAL §1872"), signed by Governor Paterson on September 25, 2008, authorizes the Authority to develop and administer a green residential building program ("Program"). The Program will provide incentives for the construction of new, and the substantial renovation of existing, residential buildings that meet standards established by the Authority.

PAL §1872 requires that the Authority promulgate rules and regulations for the administration of the Program. The proposed regulations would further the goals of the Program which are to promote smart growth and smart site planning, reduce greenhouse gas emissions, achieve energy efficiency and reduce energy consumption, facilitate the incorporation of environmentally responsible products, promote efficient use of natural resources, promote the conservation of materials and resources, reduce waste, and create a healthier indoor living environment.

Under the Program, an owner of a residential building with one to eleven dwelling units who receives a Certificate of Occupancy, or other evidence of completion of construction or renovation, on or after January 1, 2010, but before October 31, 2013, is eligible to apply for an incentive. Consistent with PAL §1872, the regulations establish maximum incentives for individual dwelling units, and set a maximum annual incentive for individual owners.

Although not required by PAL §1872, the Authority established an Advisory Group consisting of State agencies, technical experts, and stakeholders to assist in the development of the regulations. The Advisory Group acknowledged that there are already existing standards in the marketplace that could achieve the purposes of PAL §1872, and the proposed regulations incorporate those standards.

In addition to receiving input from the Advisory Group, the proposed regulations were published in the State Register on December 23, 2009, and the public had forty-five days to submit comments.

The proposed regulations, a summary of the Advisory Group's discussions, and the Authority's responses to the public comments it received are contained in the Board packet. A technical amendment was also placed before the Members.

Ms. Villeneuve explained that the Program would be funded by \$16 million of Regional Greenhouse Gas Initiative ("RGGI") auction proceeds, and is included in the Revised RGGI Operating Plan to be considered later in the meeting. The budget for the Program was developed following a review of the trends in residential new construction, including the steady increase in market share of energy efficient, New York ENERGY STAR® Homes.

In response to an inquiry from Mr. Burke, Mr. Brodie indicated that any future change to the regulations, including updating the referenced standards, must be completed through the formal State Administrative Procedure Act process and may not be delegated by the Members to staff.

Mr. Gottlieb commended staff on their ability to use existing standards to further the goals of the Program. Dr. Thorndike concurred and added that the goal of improving 5,000 dwelling units is a step in the right direction.

Whereafter, upon motion duly made and seconded, and by unanimous voice vote, the Members adopted the following resolution. Mr. Brown indicated that his vote was for the

approval of the proposed regulations did not constitute an endorsement of any specific implementation measures that may come before the New York State Public Service Commission ("PSC").

Resolution No. 1247

RESOLVED, that Part 508 of Chapter XI of Title 21 of New York Codes, Rules and Regulations as set forth in Exhibit A, annexed hereto, be, and the same hereby is, adopted as the rules and regulations of the Authority; and

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

The Chair indicated that the next item on the agenda 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. Mr. Burke recused himself from voting on the resolution and did not attend the executive session.

Resolution No. 1248

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, and Deputy Counsels Jacquelyn L. Jerry and David Munro.

The Chair reconvened the meeting in open session. Mr. DeIorio announced that no formal action was taken during the executive session. He then asked Mr. Murray to discuss the next item on the agenda. Mr. Murray explained that the Members are requested to adopt a resolution approving revisions to the RGGI Operating Plan. The Members approved an

“Operating Plan for Investments in New York under the CO₂ Allowance Auction Program” (“Original Operating Plan”) on April 27, 2009.

Litigation concerning RGGI resulted in postponement of program implementation. In addition, the Original Operating Plan required that staff initiate a six-month review of program operations. As a result of this review and the proposed settlement of the litigation, staff has proposed changes to the Original Operating Plan, which are set forth in the “Summary of Proposed Changes to the Operating Plan for Investments in New York under the CO₂ Budget Trading Program and the CO₂ Allowance Auction Program” (“Summary Document”).

These changes include revised funding expectations. The Original Operating Plan set forth expenditures of \$607 million over three years. The Summary Document, however, reduces that number to \$446 million over three years, due to lower revenues received from the most recent auctions. Initial projections were based on the sale of allowances at a price of \$3 each, but recent auction prices have decreased with the most recent auction resulting in the sale of allowances at \$2.13 each.

The Summary Document also incorporates the requirements of the recently enacted budget deficit reduction plan which directs the Authority to transfer \$90 million of auction proceeds to the General Fund. Available funds were further reduced by \$7.6 million in recognition of the projected impact of the consent decree previously approved by the Members as part of the settlement of RGGI-related litigation. Therefore, approximately \$302 million remain for program funding.

In addition, the Summary Document details several primary programmatic changes including addition of the Green Jobs - Green New York Program; inclusion of a multifamily carbon emission reduction component; consolidation and prioritization of transportation activities; reduction in the scope of the Statewide photovoltaic program to provide only critical bridge funding for the existing program; further definition of the Carbon Capture, Recycling, and Sequestration subprogram; and development of a \$15 million industrial sector pilot under the Competitive Greenhouse Gas Reduction Program.

Mr. Brown commented that the existing PSC-approved programs ensure that electric ratepayer funds are only used with respect to electric efficiency measures. This is consistent with the goal of the "15 by 15" initiative to reduce customers' electric energy costs. RGGI funding will now fill the gap between the existing programs and the energy efficiency opportunities that are available across all energy resources. This will allow whole house energy audits to address all energy uses in a comprehensive approach and is in furtherance of overall State energy conservation policies.

In response to an inquiry from Mr. Grannis, Mr. Murray indicated that if more than the \$1.86 threshold price is received, the Summary Document sets forth a list of priority allocations by program area. Mr. Murray confirmed that funds in excess of this amount would be allocated to the development of clean technologies and so on down the list. Additional allocations would be included in a revised operating plan that would be presented to the Members for approval.

In response to an inquiry from Mr. Akel, Mr. Murray explained that the programs and specific funding levels included in the Summary Document were determined following a program-by-program review by staff. As a result of this review and the reduction in projected funding levels, fewer programs are proposed for funding in the Summary Document.

In response to an inquiry from Mr. Catell, Mr. Murray explained that despite the reductions in funding for the New York Smart Grid Consortium ("Consortium"), staff is confident that the Authority will still be able to meet the Consortium's goals. Ms. Joseph added that the Consortium will have to be more careful with respect to the selection of projects, since the budget was reduced from \$27 million to \$15 million. Even with the reductions, Ms. Joseph said, she believed the goals of the Consortium are still reasonable.

In response to an inquiry from Dr. Thorndike, Mr. Murray stated that the \$90 million included in the deficit reduction plan was proposed at a time when the State's economy was in turmoil. Mr. Murray said that the Authority has received no indication that the legislature is looking to reduce the RGGI budget further, but that staff will continue to investigate opportunities to supplement the RGGI-funded programs with Federal grants.

Mr. Grannis added that the current RGGI plans are consistent with the funding expectations projected prior to the first RGGI auction, albeit at the lower range.

The Chair stated that staff, in consultation with the Members, will continue to make administrative adjustments as necessary to ensure the integrity of the programs.

Whereafter, upon motion duly made and seconded, and by unanimous voice vote of the Members then present, the Members adopted the following resolution. Mr. Brown indicated that his vote was for the approval of the proposed changes and did not constitute an endorsement of any implementation measures that may come before the PSC.

Resolution No. 1249

RESOLVED, that revisions to the "Operating Plan for Investments in New York Under the CO₂ Budget Trading Program and the CO₂ Allowance Auction Program" as presented to the Members for consideration at this meeting, with such non-substantive, editorial changes and supplementary schedules as the President and Chief Executive Officer, in his discretion, may deem necessary or appropriate, are adopted and approved;

AND BE IT FURTHER RESOLVED, that the Members direct the President and Chief Executive Officer to develop a full revised operating plan incorporating such revisions as soon as reasonably possible.

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



Hal Brodie
Secretary

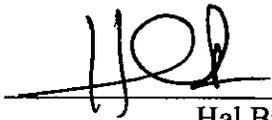
February 23, 2010

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

PLEASE TAKE NOTICE that a Special Meeting (the 203rd meeting) of the New York State Energy Research and Development Authority will be held in the Authority's Albany Office at 17 Columbia Circle, Albany, New York, and by video conference in the Authority's New York City Office at 485 Seventh Avenue, 10th floor, New York, New York, and by video conference in the Authority's Buffalo Office at 726 Exchange Street, Suite 821, Buffalo, New York, on Monday, March 1, 2010, commencing at 12:30 p.m., for the following purposes:

1. To consider and act upon a resolution adopting new Part 508 of Chapter XI of Title 21 of New York Codes, Rules and Regulations, establishing a green residential building program.
2. 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.
3. To consider and act upon a resolution approving revisions to the "Operating Plan for Investments in New York under the CO₂ Budget Trading Program and the CO₂ Allowance Auction Program."
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 will also be made available through webcast at <http://www.nyserdera.org/webcast.asp>.



Hal Brodie
Secretary

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

West Valley Site
Management Program
10282 Rock Springs Road
West Valley, NY 14171-9799
Phone: (716) 942-9960
Fax: (716) 942-9961

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

Buffalo
Larkin at Exchange Building
726 Exchange Street, Suite 821
Buffalo, New York 14210
Phone: (716) 842-1522
Fax: (716) 842-0156