MINUTES OF THE FIRST MEETING OF THE
GOVERNANCE COMMITTEE
HELD ON JANUARY 29, 2007

Pursuant to notice dated January 16, 2007, the first (1st) meeting of the Governance Committee of the NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY ("Authority") was convened at 1:00 p.m. on Monday, January 29, 2007, in the Authority's board room at 17 Columbia Circle, Albany, New York, and was available by video conference in the Authority's 10th floor conference room at 485 Seventh Avenue, New York, New York, and in the Authority's conference room at 617 Main Street, Suite 105, Buffalo, New York.

The following members of the Committee were present:

George F. Akel, Jr., Chair
Vincent A. DeIorio, Esq., ex officio
Jay L. Gottlieb

Also present were Authority Members William F. Edwards, Parker D. Mathusa, and Dr. Elizabeth W. Thorndike; Peter R. Smith, President and CEO; Robert G. Callender, Vice President for Programs; Jeffrey J. Pitkin, Treasurer; Roger D. Avent, Esq., General Counsel; Jacquelyn L. Jerry, Esq., Associate Counsel and Secretary to the Governance Committee; and various other staff of the Authority.

Mr. Akel called the meeting to order and noted the presence of a quorum.

Mr. Akel said that the first item on the agenda concerned approval of the Authority's Governance Committee Charter ("Charter"). At Mr. Akel's request, Mr. DeIorio, the Authority's Chair, explained that specific responsibilities for public authority audit committees are set forth in the Public Authorities Accountability Act of 2005 ("Accountability Act") and that the Authority's By-laws mirror the statutory language. Recently, more detailed guidance was provided by the State's

Authority Budget Office ("ABO"), which was created by the Accountability Act. Under the Accountability Act, the ABO is authorized to issue guidelines and standards that serve as the framework for accepted public authority governance principles. A model charter was issued by the ABO and was a consideration in developing the proposed Charter.

Staff reviewed the ABO's model charter and the charters of various private corporations and other public authorities. Staff also considered the historical responsibilities of the other standing committees and how this committee would integrate with the roles and responsibilities of those other committees.

Using the information gathered, a proposed strategy for defining the role and responsibilities of the Governance Committee was developed. This proposed strategy would define the role of the Governance Committee as that of the "rule maker" and the "operational policy and procedure" developer. Such rules and operational policies and procedures would then be implemented by staff and more detailed review of the results of implementation would be the responsibility of the other standing committees – the Audit and Finance Committee, the Program Planning Committee, and the Waste and Facilities Management Committee.

This strategy should be consistent with an Authority goal of ensuring the accountability, transparency, and openness of Authority operations and ensuring that the Authority continues to conduct its business in an ethical manner. By limiting its responsibilities to establishing the rules, the Committee can be the overseer of an over-arching independent process that regularly develops, reviews, monitors, and re-evaluates governance principles and practices for addressing transparency, independence, accountability, fiduciary responsibilities, and management oversight.

Consistent with all of these considerations, Mr. DeIorio recommended that the Committee take on the responsibilities laid out in the Governance Committee Charter, including identifying individuals qualified to become Members of the Authority, consistent with the qualifications established in its enabling statute and any other established criteria; developing, reviewing, monitoring, and re-evaluating the Authority's governance principles and practices and, when

appropriate, recommending changes to such principles and practices; reviewing and establishing ethics standards and whistle blower protections; reviewing compensation of Officers and senior management; and performing such other functions as may be assigned.

In response to an inquiry from Mr. Akel, Mr. Pitkin explained that staff will continue to look at the role of the Committee and its responsibilities as set forth in the Charter vis-a-vis additional ABO guidance, its relationship with the Authority's other standing committees, and any developing trends. The Chair explained that the ABO guidance indicates that the governance charter must be considered in the context of each individual public authority, and that it is up to the Committee to define its role and to determine how best to incorporate this new Committee with the current Authority structure. Mr. Avent explained that the proposed Charter is based on the law and ABO guidance, but it can be amended in the future. Mr. Pitkin added that staff would continue to evaluate and consult with the Committee members on how best to handle any overlap in responsibilities among the various Committees.

Dr. Thorndike said that, while the initial Charter is directly based upon the enabling legislation and the Authority's By-laws, the Committee may re-evaluate its role and the division of responsibilities among the various other standing committees, whenever the Committee deems it advisdable.

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

Resolution No. 1

RESOLVED, that the Governance Committee recommends that the Members of the Authority adopt a resolution in substantially the same form as the resolution submitted to the Committee (attached as Exhibit A), approving the Authority's Governance Committee Charter, as presented at this meeting (attached as Exhibit B).

Mr. Akel explained that, next, the Committee members should discuss their expectations as a Committee and what Authority staff can do to assist the members. Mr. Akel suggested that the

Committee ask staff to perform a number of related functions on a continuing basis, such as monitoring related State and Federal legislation relating to governance; monitoring publications and reports issued on governance matters; consulting with the independent auditors, Director of Internal Audit, and others on any emerging issues; interacting with and keeping informed of activities of, as appropriate, the ABO; and monitoring and keeping the Committee members apprised on standards relating to ethics and whistle blower protections. Staff would report to the Committee all significant matters. Items of interest would then be brought to the Committee for discussion and possible implementation. Each Committee member would also keep abreast of these general topics and bring items of interest to the Committee.

The Committee members indicated that they concurred with this list of expectations. For the next meeting, staff was asked to assist in implementing the Committee's first responsibility, which is to identify individuals qualified to become Members of the Authority.

Mr. Akel said that the next item on the agenda concerned amendments to the Authority's Internal Control Manual and he called upon Peter R. Smith, the Authority's President and CEO, to discuss the matter. President Smith explained that on January 1, 2007, Governor Spitzer issued several Executive Orders that apply to all public authorities, including the Authority. The Executive Orders clarify some of the provisions of the Public Officer's Law and add prohibitions on asking questions relating to political party affiliations as part of hiring and contracting processes.

President Smith explained that while the Authority is generally in compliance with most of the subject matters referenced in the Executive Orders, amendments to the Authority's Internal Control Manual, including the Code of Conduct, are proposed to mirror and incorporate some of the more detailed language of the Executive Orders.

One change being proposed is that, while Authority Members have always been subject to the Code of Ethics found in the Public Officers Law, one of the Executive Orders requires that a Code of Conduct be in place that applies to the Members. The Authority's Code of Conduct, which applies to employees, is being amended to also apply to the Members. Essentially, the Code of

Conduct mirrors the Code of Ethics found in the Public Officers Law, which the Members are required to follow under the Authority's enabling statute. The amendments provide more detail on what are considered acceptable behaviors and practices.

The other significant change coming from the Executive Orders is that all Board and Committee meetings, and any other meetings that are subject to the Open Meetings Law, are to be broadcast on the Internet no later than July 1, 2007. Staff will be working with the State Office of Technology to effectuate this requirement.

In response to an inquiry from Mr. Gottlieb, President Smith volunteered to act as liaison between the Governance Committee members and staff.

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

Resolution No. 2

RESOLVED, that the Governance Committee recommends that the Members of the Authority adopt a resolution in substantially the same form as the resolution submitted to the Committee (attached as Exhibit C), approving the amendments to the Internal Control Manual (attached as Exhibit D).

Mr. Akel indicated that the last agenda item concerned other business. There being no further business, upon motion duly made and seconded, and by unanimous voice vote of the Committee members, the meeting was adjourned.

Respectfully submitted,

Jacquelyn L. Jerry

Jacquelyn L. Jerry
Secretary to the Committee