

PROGRAM PLANNING COMMITTEE
OF THE
NEW YORK STATE
ENERGY RESEARCH AND DEVELOPMENT AUTHORITY

Minutes of the 61st Meeting
Held on September 11, 2006

Pursuant to a Notice and Agenda dated September 6, 2006, a copy of which is annexed hereto, the 61st meeting of the Program Planning Committee of the NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY was convened at 10:30 a.m. on Monday, September 11, 2006, in the Board Room of the Authority's New York City office, 485 7th Avenue, 10th Floor, Suite 1006, New York, New York, and by video conference in the Authority's Albany office, 17 Columbia Circle, Albany, New York, and by video conference in the Authority's Buffalo Office, 617 Main Street, Suite 105, Buffalo, New York.

The following members of the Committee were present:

Vincent A. Delorio, Esq., ex officio
Parker D. Mathusa, Committee Chair
Robert B. Catell
Elizabeth W. Thorndike, Ph. D.

Also in attendance were Peter R. Smith, President and Chief Executive Officer; Robert G. Callender, Vice President for Programs; Jeffrey J. Pitkin, Treasurer; Roger D. Avent, General Counsel; Mitchell Khosrova, Associate Counsel and Secretary to the Program Planning Committee; and various members of the Authority staff.

Committee Chair Mathusa called the meeting to order, noted the presence of a quorum and stated that a Notice of the meeting was mailed to the Members and the press on September 6, 2006.

The meeting then commenced with the first agenda item which concerned the approval of the minutes of 60th meeting of the Committee held on June 9, 2006. Whereafter, upon motion duly made and seconded, and by unanimous voice vote, the minutes of 60th meeting of the Committee were approved.

Vice President for Programs Robert Callender then discussed the continued development of Saratoga Technology + Energy Park (STEP). Mr Callender requested that the Members act upon the resolution that was contained in the meeting package that authorizes NYSERDA's President to execute any necessary agreements to effectuate NYSERDA's acceptance of an Industrial Access Program Grant and Interest Free Loan in the amount of \$618,500 from the New York State Department of Transportation. This funding will be used to fund various infrastructure costs at STEP.

Mr. Callender reminded the Members that NYSERDA competitively selected a new development team made up of the United Group, Einhorn Yaffee & Prescott, and Saratoga Associates, to develop, construct, finance, and manage a 100,000 sq. ft. LEED rated building with Starfire Systems as its anchor tenant, and a 100,000 sq. ft. LEED rated building exclusively for DayStar Technologies. As a result of this market driven, public-private partnership, staff successfully negotiated and executed two new ground leases with the United Group for these developments, and the NYSERDA Board approved the 2 ground leases at the January 2006 and April 2006 Board Meetings.

With respect to the building for Starfire Systems, Mr. Callender reported that United and Starfire have worked together to complete the design of building, and executed a lease for Starfire's office, lab and manufacturing space. United has also executed leases with Building Performance Institute (BPI), and Center for Economic and Environmental Partnership, Inc. as well. United has also secured the financing for the building, NYSERDA will not be providing any guaranty or collateral, and, most importantly, United expects to be breaking ground on this new building in a few weeks.

With respect to Starfire's business, Starfire recently signed a significant agreement with General Motors to supply friction components. Starfire's silicon carbide material was also approved by NASA as the single source for repairing tiles on the space shuttle and Starfire just signed a contract to supply material and components to a major cell phone manufacturer to support chip packaging for the next generation of cell phones.

United is also working with DayStar on finalizing the design of its building, anticipates signing a lease with DayStar soon, and hopes to break ground on this building in the very near future. DayStar's business also continues to grow at a rapid pace. In early September 2006, DayStar announced that it had expanded its agreement to supply photovoltaic (PV) panels to a PV integrator in Germany, from 30 MW of PV panels to up to 130 MW of PV panels. The original agreement for 30 MW of PV panels was valued at \$60,000,000. DayStar has grown from 4 employees in 2004, to over 70 today.

On August 3, 2006 at a press conference held at STEP, the Governor announced that the New York State Department of Environmental Conservation (DEC) Alternative Fuel Vehicle Research Lab will be located at STEP. The design of the facility is being completed by Affiliated Engineers Inc. and the design of the lab will be completed later this Fall. Once the design has been accepted by DEC, a request for proposals will be issued for the construction of the lab.

Staff continues to market STEP to clean energy technology companies in New York State and outside of the State so we can continue to grow the Park.

As a result of the progress with these projects, NYSERDA must complete certain infrastructure improvements at STEP. In an effort to fund these costs, senior management had advised the Board that staff would work to find outside sources of funding to support our infrastructure costs.

To that end, in December 2005, NYSERDA submitted an application to the New York State Department of Transportation's (DOT) Industrial Access Program (IAP), seeking \$618,500 in infrastructure funding and we were recently advised that we received the award. The funding will be used to clear, excavate and construct the Phase I Access Road, as delineated in the STEP Master Plan and Land Plan, provide access to both the Site One Starfire building and the Site Two DayStar building and complete other roadway improvements, storm water management, drainage, grading, lighting and landscaping in the park.

The award of \$618,500 will be provided to NYSERDA for use at STEP in the form of a grant in the amount of \$371,100 and an interest free loan in the amount of \$247,400. The grant portion of the award does not have to be repaid. The \$247,400 loan must be repaid after the work has been completed and it will be repaid under a 5-year interest- free, graduated payment schedule. This loan repayment schedule is contained in the memo that is included in the meeting package.

It was previously reported to the Committee and the full Board that the Authority received a \$750,000 Community Block Grant through the Governor's Office for Small Cities for various infrastructure improvements at STEP. NYSERDA also received a \$75,000 Shovel Ready grant from Empire State Development and staff continues to look for other sources of funding to help fund our STEP infrastructure efforts.

Responding to Mr. Catell's question, Mr. Pitkin stated that NYSERDA budgets funds for the fiscal year in order to build the infrastructure at STEP but it is anticipated that these funds would be reimbursed upon receipt of outside grant funding, as discussed above in addition to receiving "hook-up" fees payments from the developers pursuant to the ground leases.

Mr. Callender concluded by stating that the Members are requested to recommend that the full Board adopt a resolution approving the acceptance of this IAP award to help fund a portion of the infrastructure costs required to support the continued development of STEP.

Based on all the reports and discussions regarding the grant and loan as presented, upon motion duly made and seconded, and by unanimous voice vote the Committee recommended that the full Board adopt the Resolution approving the execution by the President of any necessary agreements to effectuate the grant under the IAP administered by the DOT a grant in the amount of \$371,100 and the related interest- free loan in the amount of \$247,400, totaling \$618,500. A copy of said resolution is attached hereto as Exhibit A.

The next item on the agenda was to consider and act upon a resolution recommending approval of revisions to the Authority's Fiscal Year 2006-07 Budget. Treasurer Jeff Pitkin reported that the original Budget, approved by the Members in April 2006, included \$30 million in State appropriations for certain energy transportation programs included in the Executive Budget. The final enacted State budget included that \$30 million plus an additional \$30 million in appropriations, including \$15 million for establishing an international nanotechnology photovoltaic center at STEP, and \$15 million for a New York Investment in Conservation and

Efficiency Pilot Program to install energy efficiency measures in public sector buildings. The \$60 million included in the enacted budget for all these programs was appropriated to the Urban Development Corporation in the Capital Projects Fund budget, but is expected to be sub-allocated to NYSERDA to administer.

Additionally, the revised Budget eliminates \$700,000, which had been included in the Executive Budget for energy efficiency programs funded by petroleum overcharge restitution (POCR) funds. The enacted Budget provided these funds to the New York Power Authority (NYPA) to administer, as has been done in prior years.

Mr. Pitkin further explained that the revised Budget increases State appropriation revenue by \$100,000 for a General Fund appropriation included in the enacted State budget for expenses of a Conservation Coordination Task Force. The purpose of the Task Force is to facilitate coordination of energy programs among agencies and authorities. The Task Force is to be comprised of at least the Chairs of NYSERDA, Public Service Commission, NYPA, and the Long Island Power Authority and the Commissioners of State Education Department, DEC, and the Division of Housing & Community Renewal. The Task Force is to meet monthly and to submit a report on its activities to the Governor and the Legislature no later than January 30, 2007.

Additionally, the State appropriation revenue was increased by \$3.9 million due to an additional General Fund appropriation included in the enacted budget for the Investment in Conservation and Efficiency Pilot Program and the revised Budget also includes funding from the Industrial Access Program (IAP) grant recently awarded to NYSERDA by DOT for reimbursement of costs for roadways and other infrastructure at STEP. As discussed above, the total IAP award of approximately \$619,000 is structured as a grant of approximately \$372,000 and a 5-year, interest-free loan of approximately \$247,000.

Mr. Pitkin also reported that the revised Budget includes an increase of \$129,000 from leases revenues for an anticipated extension of a lease agreement with Entergy for cooling water facilities at the Indian Point 2 Nuclear Generating Station. This 1971 lease agreement is being extended to March 2007 to provide for the ability to obtain an appraisal of the facilities to determine an appropriate lease payment for a new lease agreement to be entered into, or at Entergy's option, to determine a purchase price for the facilities.

Lastly, the Budget approved by the Members in April 2006 included an anticipated balance of unrestricted net assets as of March 31, 2006 which was approximately \$548,000 higher than the actual balance, so the revised Budget reflects this change.

The combined effects of these changes to the Budget was a slight increase in unrestricted net assets anticipated as of March 31, 2007 from \$2,895,000 to \$3,101,000.

Based on all the reports and discussions regarding the revisions to the Authority's Fiscal Year 2006-07 Budget as presented, upon motion duly made and seconded, and by unanimous voice vote the Committee recommended that the full Board adopt the Resolution approving revisions to the Authority's fiscal year 2006-07 Budget. A copy of said resolution is attached hereto as Exhibit B.

Next President and CEO Peter Smith reported that for next fiscal year, and in the years to follow, the Authority will face several budgetary challenges. NYSERDA will face significant added costs due to a change in the accounting treatment for health insurance benefits provided to retirees. The Authority will also face the challenges of balancing our limited unrestricted revenues with requests for budgetary payments and assessments made by the State. Mr. Smith also stated that NYSERDA will face the challenge of continuing to provide effective administration of our programs within the limits of our administrative funding.

Mr. Pitkin then discussed the Preliminary Spending Plan and the State Appropriations Request for Fiscal Year 2007-2008. He stated that historically, the Members have approved the Authority's annual operating Budget at the September meeting in conjunction with approving the State Appropriation Request. Staff is recommending that approval of the Budget be changed to the January meeting each year, so that it can be consistent with the contents of the Governor's Executive Budget released in January each year and also so that it is closer to the start of the fiscal year. As a result, at this meeting the Board is being asked to review the Preliminary Spending Plan and approve the State Appropriations Request for Fiscal Year 2007-08.

The Preliminary Spending Plan includes all reasonably anticipated revenues and expenses for the upcoming year. Overall, the Preliminary Spending Plan includes expenditures estimated at approximately \$341.9 million, as compared to \$363.8 million in the revised Budget for Fiscal Year 2006-07. The following are explanations for some of the more significant differences from the Fiscal Year 2006-07 Budget:

State appropriation revenue is expected to decrease by approximately \$66.7 million, primarily from the "new" appropriations provided in the enacted Fiscal Year 2006-2007 State budget for energy transportation and other programs.

SBC revenue will increase by \$14 million due to scheduled utility payments and the implementation of the increase in funding provided from the renewal of the programs effective July 2006. Also, the Renewable Portfolio Standard revenue will increase \$19 million due to the schedule of utility payments.

Con Edison Rate Settlement revenue funding is estimated to decrease by \$20.3 million, reflecting the schedule of payments due from Con Edison for implementation of the System Wide Demand Reduction Program, but this does not include a final reconciliation payment which would occur at the end of the rate plan in March 2007.

Mr. Pitkin further reported that while salary costs are anticipated to increase by a relatively

modest amount, fringe benefit costs are anticipated to increase by nearly \$3.5 million. The majority of this is an increase of about \$2.9 million due to the implementation of Governmental Accounting Standards Board Statement No. 45 (GASB45). GASB45 changes the reporting of the employer's share of health insurance benefits provided to retirees by recognizing these costs in the period when employees provide services on an accrual basis, rather than the current process which recognizes these costs on a pay-as-you-go basis when the benefits are paid.

In accordance with the requirements of the GASB45, NYSERDA retained an actuary to determine the actuarial present value of total projected benefits, which estimated this amount at approximately \$23.6 million. GASB45 permits this amount to be recorded over a 30-year amortization period, which results in recording an expense of approximately \$1.5 million per year over the next 30 years. In addition, the Authority must recognize a current period expense accrual, which was estimated by the actuary as approximately \$1.6 million.

Mr. Pitkin noted that the Authority's normal costs on a pay-as-you-go basis has been about \$230,000 annually, so the impact on next year's budget is to record an additional expense of approximately \$2.9 million.

As discussed in the memorandum in the Board package, this additional cost has a significant impact on our ability to maintain a fiscally prudent level of unrestricted net assets. The Preliminary Spending Plan assumes that NYSERDA will not continue to provide the \$913,000 payment to the State which was initiated several years ago, as we do not have sufficient unrestricted revenues available. The Preliminary Spending Plan estimates that the unrestricted net assets as of March 31, 2008 would be \$1,471,000, \$529,000 below the \$2 million minimum balance historically maintained. Senior Management has discussed this with Division of the Budget staff and are exploring various options, including the possibility of requesting an increase in State appropriation funding for the Energy Analysis function, which has never been fully funded since taking this function over from the former State Energy Office in 1995, thereby requiring the use of limited unrestricted revenues.

Chair Mathusa also expressed a deep concern that the unrestricted net assets will be \$529,000 below the \$2 million minimum balance historically maintained in order to "take care of emergencies" that may arise. He suggested that the Audit & Finance Committee discuss this issue and make a recommendation to the Board on how to proceed in the future.

NYSERDA will also monitor and report back to the Members on the impact that this \$2.9 million additional expense will have on the proportionate share of our administrative costs for the SBC-funded programs, which is limited to 7% by Order of the PSC.

The Preliminary Spending Plan does not require approval by the Members. As previously discussed, it has been provided for review and comment. The final Budget will be presented to the Members at the January 2007 meeting.

The State Appropriation Request enclosed for approval includes no changes in State appropriations for programs under the PPC's purview. It does request reappropriation of the \$60 million in Capital Fund appropriations for the energy and environmental programs discussed previously, as well as the \$4 million in General Fund appropriations for the Conservation and Coordination Task Force (\$100,000) and the Investment in Conservation and Efficiency Pilot Program (\$3.9 million) to provide for the ability to spend in Fiscal Year 2007-08 any unspent funds remaining as of March 31, 2007.

Based on all the reports and discussions regarding the Authority's State Appropriation Request for Fiscal Year 2007-08 as presented, upon motion duly made and seconded, and by unanimous voice vote the Committee recommended that the full Board adopt the Resolution approving the Authority's State Appropriation Request for Fiscal Year 2007-08. A copy of said resolution is attached hereto as Exhibit C.

Mr. Mathusa asked if there was any other business before the Committee. There being none, upon motion duly made and seconded, and by unanimous voice vote of the Members, the 61st meeting of the Program Planning Committee was adjourned.

Respectfully submitted,

A handwritten signature in cursive script that reads "Mitchell Khosrova".

Mitchell Khosrova
Secretary to the Program Planning Committee