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

Minutes of the 68th Meeting
Held on January 12, 2009

Pursuant to a Notice and Agenda dated January 5, 2009, a copy of which is annexed hereto, the 68th meeting of the Program Planning Committee ("Committee") of the NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY was convened at 10:30 a.m. on Monday, January 12, 2009, at the Authority's Board Room at 17 Columbia Circle, Albany, New York, and by video conference in the Authority's New York City office at 485 7th Avenue, 10th Floor, New York, New York.

The following members of the Committee were present:

Vincent A. DeIorio, Esq., ex officio, and interim Committee Chair
Robert B. Catell
Elizabeth W. Thorndike, Ph. D.

Also in attendance were Authority Board member Kevin Burke (via video conference from NYSERDA's NYC Office); Robert G. Callender, Vice President for Programs; Jeffrey J. Pitkin, Treasurer; Hal Brodie, General Counsel and Secretary to the Board; David A. Munro, Deputy Counsel and Secretary to the Program Planning Committee; John Williams, Director; Tom Barone, Director; Karen Villeneuve, Director; Michael Colgrove, Director; Janet Joseph, Director; Peter Douglas, Director; and various members of the Authority staff.

Chair DeIorio called the meeting to order, noted the presence of a quorum, and stated that a Notice of the meeting (see Exhibit A) was mailed to the Members and the press on January 5, 2009. He stated that the meeting was being webcast to give the public access to watch the meeting through the internet from any location. Each of the Committee members introduced themselves. Chair DeIorio thanked NYSERDA management and staff for their recent hard work.

The first agenda item concerned the approval of the minutes of the 67th meeting of the Committee held on September 8, 2008. Upon motion duly made and seconded, and by unanimous voice vote, the minutes of the 67th meeting of the Committee were approved.

Brief Update on Some Major Program Initiatives

Chair Deiorio then introduced Robert Callender, who provided Committee members with a brief update on some of the major program initiatives presently underway at NYSERDA. He began

with the System Benefits Charge program, explaining that NYSERDA is in the third year of the five year updated program. As the metrics for the program continue to grow, so too do the needs and interests of New York's ratepayers. Some of the program accomplishments to date show more than $590 million in annual energy bill savings, significant reductions of air pollutants, enhanced system reliability through 106 gigawatt-hours of renewable resources, and 4,700 jobs created or retained. NYSERDA also continues to work closely with the Department of Public Service (DPS) staff on administering the SBC program efficiently and economically.

Under the Renewable Portfolio Standard program, Mr. Callender reported that by the end of 2009, NYSERDA will see more than 1,300 megawatts (MW) of new renewable capacity operating. There are also currently 8,000 additional MWs of new wind energy projects in various stages of development throughout New York State; however, as a result of the current economic conditions across the nation, some of the wind developments may not be moving forward due to the lack of private capital. Mr. Callender promised to keep the Committee members advised on this situation.

The Energy Efficiency Portfolio Standard program, pursuant to a June 2008 Order of the Public Service Commission (PSC), is moving forward. NYSERDA is working with the DPS staff on implementing six "fast track" energy efficiency programs totaling roughly $277 million, and this initiative is expected to commence in the very near future.

In respect to the Regional Greenhouse Gas Initiative (RGGI) program, the second auction was held in December of 2008, which marked the first time that New York allowances were made available. New York's share of the auction proceeds totaled approximately $42 million, based on $3.38 price per allowance, and all of New York's allowances were sold. It was a robust auction and the proceeds from the auction will be used to fund energy efficiency and renewable energy programs and services, as well as other greenhouse gas reduction strategies.

The Clean Air Interstate Rule program (known as CAIR) is once again viable. In January 2008, NYSERDA's Board approved a Cooperation Agreement with the Department of Environmental Conservation (DEC) under which NYSERDA agreed to sell nitrogen oxide allowances as part of DEC's NOx cap-and-trade program promulgated under the Environmental Protection Agency's (EPA's) Clean Air Interstate Rule, and use the proceeds for energy efficiency and renewable energy programs. Last July a federal appeals court invalidated the EPA program; however, in a December 2008 decision, that court allowed the EPA program to remain in effect until the EPA has an opportunity to promulgate a new rule to remedy the defects. NYSERDA will resume its efforts to sell the allowances, and to support this effort, NYSERDA has competitively selected a nationally-recognized environmental commodity broker who will sell the allowances in the existing market where such allowances are regularly traded. Given the legal uncertainties surrounding the CAIR program, allowance prices have been extremely volatile and it is difficult to predict prices; however, we are anticipating that the proceeds will be on the order of $20 to $40 million. NYSERDA staff is currently developing a draft plan detailing how to spend the proceeds and anticipates that a plan will be submitted to the Board at its April 2009 meeting.

Mr. Callender noted that in his State of the State address, Governor Paterson unveiled one of the most ambitious clean energy agendas in the Nation. From his "45 by 15" energy efficiency initiative, to making New York State the home to hybrid electric batteries and energy storage technologies, Mr. Callender stated that NYSERDA is well positioned to support and help lead New York's Clean Energy Economy.

In closing, Mr. Callender stated that 2008 was a year of both great productivity for NYSERDA, as well as substantial challenges. The level of productivity is a testament to the efforts of NYSERDA's dedicated and committed staff, while the challenges represent unparalleled opportunities. Mr. Callender stated that in 2009, NYSERDA's staff will continue to work diligently to serve the energy consumers of New York, and further the growth of an efficient, sustainable, and environmentally sound clean energy economy.

The Authority's Proposed Budget for Fiscal Year 2009-10

Chair DeIorio then introduced Authority Treasurer Jeff Pitkin, who presented the proposed FY 2009-10 Budget. Mr. Pitkin stated that the proposed Budget projects revenues totaling $618.6 million, an increase of $195.3 million (46.1%) from the current year; and expenditures totaling $543.5 million, an increase of $64.8 million (13.5%).

Mr. Pitkin then presented highlights from the proposed Budget, as follows:

The *New York Energy $mart program*, created by an Order of the PSC, helps to reduce the energy cost burden on residents and businesses by providing financial incentives, technical assistance and market development services through NYSERDA. Next year a total of $174. 2 million will be transferred to NYSERDA under a PSC Order. The Budget also includes funding expected to be received as a result of the PSC's June 23, 2008 Order under the Energy Efficiency Portfolio Standard proceeding; this funding totals approximately $276.5 million for six "Fast Track" programs being administered by NYSERDA, with a total of $85,090,000 to be received during the next budget year. As of November 2008, NYSERDA had approximately $252.5 million in outstanding contractual obligations funded through the Energy $mart Program.

NYSERDA's *Renewable Portfolio Standard (RPS) program* is designed to increase the percentage of electric generation from renewable sources. The Budget for next year reflects the amount to be received under a PSC Order, totaling $87,171,000. As of November 2008, NYSERDA had approximately $539.2 million in outstanding multi-year contractual obligations, which will be satisfied with restricted funds currently available and additional future RPS surcharge collections.

New York is working with nine other states to implement the *Regional Greenhouse Gas Initiative (RGGI) program.* RGGI is a carbon cap-and-trade program, under which allowances to emit carbon dioxide are sold at auctions. The proceeds from auctions of New York allowances will be used to fund investments in energy efficiency, renewable energy, and

programs to reduce greenhouse gas emissions in various sectors of the economy and other initiatives. On December 17, 2008, all ten RGGI states participated in an auction, and New York received proceeds of almost $42 million. Next year's Budget projects that auctions will include almost 53 million in New York allowances, and further assumes an overall average clearing price of $3 per allowance. However, it is difficult to predict the amount to be received for the auctioning of future allowances and so this revenue source may be volatile. The Budget assumes that a substantial portion of the funds received will be committed during the next fiscal year but, due to the multi-year and performance-based nature of programs expected, a substantial amount of proceeds will not be expended during the fiscal year and will therefore be maintained as restricted funds and used to meet obligations in future fiscal years.

For the *Energy Research and Development program*, the State appropriation funding included in the Governor's Executive Budget is about $11.9 million, of which $691,000 would be transferred to the University of Rochester Laboratory for Laser Energetics. Both of these amounts reflect a decrease in funding, based on annualizing across-the-board budget cuts enacted during this fiscal year. An additional $1.6 million in funding is anticipated from both NYPA and LIPA. NYSERDA will need to enter into funding agreements with each company.

The Budget for the *Energy Efficiency Deployment program* includes funding from a variety of state appropriations, federal grants, utility-funded gas efficiency programs, and monies received under various settlement agreements administered on behalf of the Attorney General's Office.

For the *Saratoga Technology + Energy Park (STEP)*, the Budget includes $11.6 million anticipated to be received under a $13.5 million appropriation provided in the current year State Budget for construction of the TEC-SMART facility on behalf of Hudson Valley Community College.

For the *Energy Analysis* function, the Budget includes $4.1 million in State appropriation funding, reflecting a decrease from the prior year based on non-recurring costs included in the current year Budget for updating the State Energy Plan.

The Budget includes salary costs estimated at $26 million, an increase of about $5.3 million from this year. The increase is due to a proposed increase of 95 staff – about 69 full-time equivalents – including 76 additional staff for programs to be administered using RGGI funding, which will be added over the next year on a ramp-up basis. The actual number of staff to be added to administer RGGI-funded programs will not be determined until a full Operating Plan is presented to the Board at the April 2009 meeting. Due to the potentially volatile nature of the revenue source, Mr. Pitkin advised that management will strive to leverage off existing staff resources and achieve economies of scale to the maximum extent possible.

The Budget does not include State cost-of-living adjustments originally scheduled to occur on April 1, 2009, based on the Governor's Executive Budget recommendation to rescind these increases, and also does not include performance-based salary increases.

The Budget for fringe benefit costs is $12.8 million, an increase of $3.2 million from FY 2008-09, primarily due to the increase in budgeted staff and also due to an increase in an accrued expense recorded for retiree health insurance under Governmental Accounting Standard Board Statement No. 45 (GASB45).

The Budget includes $5.6 million for Other Operating Costs, a decrease of $521,000 from the prior year, primarily due to non-recurring costs included in the prior year budget for updating the State Energy Plan, offset in part by increased costs associated with the higher staff levels.

Finally, the Budget for the SBC and EEPS-funded programs includes program administrative costs totaling approximately $21.3 million, or about 8% of funding. Included in this is an additional cost of $2.4 million to cover the program's share of the cost of retiree health insurance under GASB45. Mr. Pitkin explained that although this accounting standard was not in effect or its impact quantified at the time the administrative budget for SBCIII was established, management determined that it would absorb this additional cost into the 7% funding limit in place under the SBC-funded programs (including additional funding provided through EEPS proceeding), rather than seek an increase in the funding limit from the PSC. Although the costs included in the FY 2009-10 Budget are in excess of 7%, it is anticipated that administrative costs on a cumulative basis will be at or less than 7% of funding through June 30, 2011.

Chairman DeIorio asked if there was any further discussion or questions regarding a recommendation by the Committee that the Board approve the resolution regarding the proposed budget for FY 2009-10. There being none and based on all the reports and discussions 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 proposed budget for FY 2009-10. A copy of said resolution is attached hereto as Exhibit B.

Two Proposed Leases at STEP

Chairman DeIorio then called on Robert Callender to report on developments regarding the Saratoga Technology + Energy Park (STEP), including two proposed leases with Applied NanoWorks, Inc. (Applied Nano) and TEC-SMART FACILITY CORPORATION.

Mr. Callender explained that as a result of NYSERDA's anchor tenant Starfire Systems moving into its new office, lab, and manufacturing space at the new building located at STEP, Starfire's existing space at NYSERDA's 10 Hermes Road facility became available. Notice of the availability of space at 10 Hermes Road was advertised by NYSERDA in the Contract Reporter and on NYSERDA's website. As a result of this marketing effort, Applied Nano, a clean energy company located in the RPI Incubator in Rensselaer, New York, and NYSERDA negotiated a lease for space at STEP.

At its September 2008 meeting, the Board authorized the execution of a lease with Applied Nano for approximately 6,797 square feet of space at STEP. Since that time, Applied Nano has expressed a desire to rent approximately 3,000 square feet of additional space, which would bring the total leased space to 9,795 square feet.

Mr. Callender explained that the proposed resolution seeks approval to modify the previously authorized lease agreement with Applied Nano to add the additional 3,000 square feet of space. The modified lease will be for a three year term, commencing January 1, 2009, through December 31, 2011, with an option to renew provided the company offers evidence that it will remain at STEP at the end of the option year. The key terms and conditions of the lease that were approved by the Board at the September 2008 meeting remain unchanged.

The Committee unanimously recommended that Authority Members adopt the resolution authorizing the Authority to modify the lease agreement with Applied Nano. A copy of said resolution is attached hereto as Exhibit C.

Mr. Callender then explained the second resolution, authorizing the execution of a lease agreement between NYSERDA and TEC-SMART FACILITY CORPORATION to construct the TEC-SMART facility at STEP.

TEC-SMART will be operated by the TEC-SMART FACILITY CORPORATION, an affiliate of Hudson Valley Community College (HVCC). TEC-SMART is designed to serve the region, state and nation as the premier workforce training and education center to support the anticipated growth in employment in the clean energy and semiconductor manufacturing sectors. As it is currently being designed, the TEC-SMART facility will contain 8 to 10 traditional classrooms, a 200 seat auditorium and lab space to train clean room, automotive, and wind turbine technicians, as well as photovoltaic and geothermal installers. HVCC expects to educate 500 to 600 technicians over the first 5 to 10 years to keep pace with industry employment needs in the Capital Region alone.

Mr. Callender explained that in response to a Program Opportunity Notice issued by NYSERDA entitled "Development at STEP", HVCC submitted a proposal to construct and operate an approximately 40,000 square foot workforce training center on roughly four acres of land at STEP. The building is known as the Training and Education Center for Semiconductor Manufacturing and Alternative and Renewable Technologies (TEC-SMART), and will be operated by TEC-SMART FACILITY CORPORATION. Funding for the design, construction and fit-up of TEC-SMART were appropriated by the New York State Legislature in the amount of $13,500,000.

Mr. Callender explained that HVCC and NYSERDA have entered into a Program Management Agreement (PMA). Through the PMA, NYSERDA is responsible for the design and construction of the facility including competitively selecting and contracting with the design team and the Construction Manager, using the appropriated $13,500,000. The facility is

expected to be operational in January 2010. Both solicitations have been issued and the contracts have been awarded. The design team includes the architectural firm of Perkins + Will, and Bergmann Associates as the civil engineer, and the selected Construction Manager is LeChase Construction Services, LLC, which will act as NYSERDA's agent in the construction of TEC-SMART. HVCC will pay a project management fee of $175,000 to NYSERDA.

Mr. Callender stated that the resolution seeks approval to execute a lease agreement with TEC-SMART FACILITY CORPORATION, the Tenant. The lease will be for 49 years and the Tenant will initially pay rent of $4,000 per acre per year, or approximately $19,840 annually, through December 2014. Rent will increase by the same percentage as the cost of living on January 1, 2015, and on January 1 every 5th year thereafter. Once construction is completed, the Tenant will be responsible for all operating and capital expenses associated with the building, and its proportional share of all STEP common area charges. The tenant will also pay a utility hook-up fee of $6.20 per gross square foot to reimburse NYSERDA for the cost of installation of the infrastructure.

The Committee unanimously recommended that the Board adopt the resolution authorizing the Authority to execute a lease agreement with TEC-SMART FACILITY CORPORATION. A copy of said resolution is attached hereto as Exhibit D.

Program Director Reports

Each of the Program Directors also presented a brief report regarding current activities and planned changes in emphasis moving forward.

Energy Analysis Director John Williams reported on activities regarding:

- State Energy Planning and Forecasting, including the extensive work that is being done by NYSERDA staff on the State Energy Plan that was initiated by Governor Paterson's Executive Order in April 2008. A final Energy Plan will be issued in the Fall of 2009.
- Program Evaluation, which is especially important in light of the heightened level of scrutiny that is being applied by the PSC and DPS staff regarding the energy savings that are being realized via various NYSERDA programs, and the associated costs.

Mr. Williams also reported on a new working group program within Energy Analysis, called the Energy Policy and Program Development group. The functions of this new program will include:

- serving the research and analytical needs of state agencies and policymakers, NYSERDA management and NYSERDA programs; and
- providing a foundation of sound information, accurate data and analysis that is needed to support decision-making and consideration of strategic and tactical alternatives.

Energy Efficiency Services (EES) Director Tom Barone reported that EES is aggressively pursuing energy efficiency and demand response goals. To date, EES is responsible for 2.2 million kilowatt hours (KWh) reductions and 1,000 MW, which is the equivalent of 288,000 cars removed from state roads or the equivalent amount of energy to power 358,000 homes. Actual energy reductions are running approximately 6% above staff projections, mostly due to the performance-based nature of the programs. EES will be emphasizing efficiency work in the municipal and wastewater treatment sectors in the coming year to align with Governor Paterson's State of the State address, RGGI plans, and the potential economic stimulus package. Mr. Barone stated that EES was looking at several options for streamlining and expediting services, including process re-engineering, restructuring some departments, and automating some functions.

Residential Efficiency and Affordability Program (REAP) Director Karen Villeneuve reported that in the streamlined Multifamily Performance Program, NYSERDA has more than 67 partners – nearly tenfold more than NYSERDA had two years ago; resulting in more than 150 new and 480 existing buildings in the pipeline, 70% of which are affordable housing. REAP is also successfully collaborating with National Grid and Con Edison to include funding for gas measures in the downstate market. Ms. Villeneuve also reported on developments in other REAP programs, which are generally doing well despite the challenging economy. Moving forward, changes in REAP program emphasis will include a dramatic increase in workforce development, in order to meet the Governor's new "45 by 15" initiative; integration of multiple funding sources for all-fuels, whole-building programs; better integration of new technology; and more collaboration with utilities and New York City. Ms. Villeneuve stated that "lessons learned" include the need for strict enforcement of performance requirements and program rules, which has led to the suspension and even removal of contractors from the program (Ms. Villeneuve advised that one contractor challenged his suspension, but State Supreme Court upheld NYSERDA's actions); and the need to address customer and contractor confusion related to multiple, uncoordinated programs that are now being offered by both NYSERDA and the utilities.

Michael Colgrove, Director of NYSERDA's New York City Office, reported that that office is very focused on achieving the EES and REAP program goals in the Con Ed utility territory. The NYC Office is also expanding staff and office space in order to effectively meet New York City and Westchester's needs in a flexible, responsive manner. Mr. Colgrove stated that it is essential that NYSERDA further develop and solidify key relationships with City government, utilities and key stakeholder organizations – all of which are requesting a more direct, local presence of NYSERDA in the New York City Office. Ultimately, improved tracking and reporting of NYSERDA's efforts and successes in New York City will help the Authority better present itself to the public and our partners.

Janet Joseph, Director of the Clean Energy Research and Market Development program, reported that demand remains strong for the photovoltaic program despite the decline in the economy. Work continues in the plug-in hybrid program, and with the Governor's announcement in his State of the State on increasing investment in electric battery research, Ms. Joseph expects

that this program will only increase in visibility. The Clean Energy program remains very involved in converting NYSERDA's emission allowances under both RGGI and CAIR into revenue for future programs. There are exciting new opportunities with RGGI funding. Examples include renewables such as off-shore wind, bioenergy, tidal; carbon capture and sequestration technology; and advanced transportation technology and systems, especially electric transportation. Ms. Joseph explained that these opportunities provide some significant challenges – plans for expenditure of RGGI monies will result in doubling the Research & Development program at NYSERDA in one year. Ultimately, New York State has a unique opportunity to develop a Clean Energy Economy, but this will be difficult in light of the financial crisis and the current low price of petroleum. A sustained market pull, a skilled workforce, targeted clean energy economic development funds, a significantly accelerated pace of energy technology innovation, and a high-level coordination among New York State agencies is needed.

Peter Douglas, Director of the Energy Efficiency Research Program, reported on current research activities regarding transmission and development projects, industrial processes, biofuels, and high performance buildings. Like Ms. Joseph, Mr. Douglas discussed a number of new opportunities as a result of RGGI funding. These include a "smart grid" to enable greater penetration of renewable, storage and demand management. RGGI monies can also be used to fund university-industry partnerships to advance clean technologies and businesses, as well as local government strategies for high performance buildings and land use planning.

Mr. Delorio 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 68th meeting of the Program Planning Committee was adjourned.

Respectfully submitted,

David A Munro

David A. Munro
Secretary to the Program Planning Committee

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

Vincent A. DeIorio, Esq., ***Chairman***

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Exhibit A

NOTICE OF MEETING AND AGENDA

January 5, 2009

TO THE MEMBERS OF THE PROGRAM PLANNING COMMITTEE:

PLEASE TAKE NOTICE that a meeting of the Program Planning Committee (the 68th 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, on Monday, January 12, 2009, commencing at 10:30 a.m., for the following purposes:

1. To consider and act upon the minutes of the 67th meeting of the Program Planning Committee held on September 8, 2008.

2. To receive an overview from the Vice President for Programs on the status of various programs and activities.

3. To receive a report from the Treasurer and to consider and act upon a resolution recommending the approval of the Authority's fiscal year 2009-2010 Budget.

4. To receive a report from the Vice President for Programs on the status of current and future activities to support the development of the Saratoga Technology + Energy Park (STEP).

5. To consider and act upon a resolution recommending the modification of a lease with Applied NanoWorks, a tenant at STEP, authorizing it to lease approximately three thousand square feet of additional space at 10 Hermes Road.

6. To consider and act upon a resolution recommending the execution of a Lease Agreement between the Authority and the TEC-SMART Facility Corporation for building space and land at STEP, located at 345 Hermes Road.

7. To receive a report from the Director of the Energy Analysis Program on the status of current activities and planned changes in emphasis for future activities.

8. To receive a report from the Director of the Energy Efficiency Services Program on the status of current activities and planned changes in emphasis for future activities.

9. To receive a report from the Director of the Residential Efficiency and Affordability Program on the status of current activities and planned changes in emphasis for future activities.

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10. To receive a report from the Director of the New York City Regional Office on the status of current activities and planned changes in emphasis for future activities.

11. To receive a report from the Director of the Clean Energy Research & Market Development Program on the status of current activities and planned changes in emphasis for future activities.

12. To receive a report from the Director of the Energy Efficiency Research Program on the status of current activities and planned changes in emphasis for future activities.

13. To transact such other business as may properly come before the Committee.

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

David A. Munro

David A. Munro
Secretary to the Program Planning Committee

Exhibit B

Resolution No. ___

RESOLVED, that the proposed fiscal year 2009-10 Budget submitted to the Members for consideration at this meeting, with such non-material, editorial changes and supplementary schedules as the President and Chief Executive Officer, in his/her discretion, may deem necessary or appropriate, be and it hereby is approved for submission to the persons designated in Sections 1867(4) and 2801 of the Public Authorities Law.

Exhibit C

Resolution No. ____

RESOLVED, that the modification to the lease agreement between the Authority and Applied NanoWorks for premises located at 10 Hermes Road at the Saratoga Technology + Energy Park is approved as presented at this meeting. The President or his/her designee is hereby authorized to make such changes to the modification as may be necessary and appropriate, provided such changes do not substantially increase the Authority's financial obligations under the modification.

Exhibit D

Resolution No. ____

RESOLVED, that the lease agreement between the Authority and the TEC-SMART FACILITY CORPORATION for building space and land located at 345 Hermes Road at the Saratoga Technology + Energy Park is approved as presented at this meeting. The President or his/her designee is hereby authorized to make such changes to the modification as may be necessary and appropriate, provided such changes do not substantially increase the Authority's financial obligations under the modification.