

NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY

Minutes of the 233<sup>rd</sup> Meeting

Held on January 24, 2017

Pursuant to notice and an agenda dated January 13, 2017, the 233<sup>rd</sup> meeting of the New York State Energy Research and Development Authority (“Authority” or “NYSERDA”) was convened on January 24, 2017, at 1:00 p.m., at the office of the New York State Dormitory Authority (“DASNY”), One Penn Plaza, 52<sup>nd</sup> Floor, New York, New York, and in the Authority’s Albany Office at 17 Columbia Circle, Albany, New York. The two locations were connected by videoconference.

The following Members of the Authority were present:

Richard L. Kauffman, *Chair of the Authority*

Charles Bell

Kenneth D. Daly

Jay L. Koh

John McAvoy

Gil C. Quiniones

Jigar Shah

Elizabeth W. Thorndike, Ph. D.

Mark A. Willis

Member Sherburne Abbott participated via telephone, but did not vote on any of the resolutions. Members Matthew J. Driscoll, Basil Seggos, and Audrey Zibelman were unable to attend.

Also present were John B. Rhodes, President and CEO; David L. Margalit, Chief Operating Officer; Janet Joseph, Vice President for Technology and Strategic Planning; Jeffrey J. Pitkin, Treasurer; Noah C. Shaw, General Counsel and Secretary; Cheryl M. Glanton, Director of Contract Management; Alfred Griffin, President of NY Green Bank; Margaret Neville, New York State Department of Public Service; Michael Bailey; and various other staff of the Authority.

Mr. Kauffman 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 on January 13, 2017 and to the press on January 17, 2017. Mr. Kauffman directed that a copy of the notice and agenda be annexed to the minutes of the meeting.

Before turning to the formal agenda, the Chair asked the Authority's President and CEO John B. Rhodes to provide the Members with an update on the Authority's recent activities.

The Chair stated that the first item on the agenda was the Authority's proposed fiscal year 2017-18 Budget (the "Budget"). Mr. Kauffman asked Mark Willis, Chair of the Program Planning Committee ("PPC") to provide the Members with a report on the portions of the Budget considered by the PPC. Mr. Willis stated that the PPC received a report and recommendation from the Authority's Treasurer Jeffrey J. Pitkin on the Budget, the details of which were included in the meeting package.

Based upon the presentation and discussion, the PPC unanimously recommended that the Members adopt the resolution approving the Budget.

Mr. Kauffman then asked Dr. Elizabeth Thorndike, Chair of the Waste and Facilities Management Committee ("W&FMC"), to report on the portions of the Budget considered by the W&FMC. Dr. Thorndike stated that the W&FMC met earlier that day and received a full report from Mr. Pitkin describing the significant Budget items related to both the Western New York Nuclear Service Center Site Management Program and radioactive waste policy and nuclear coordination activities, the details of which were included in the meeting package.

Based upon the presentation and discussion, the W&FMC unanimously recommended that the Members adopt the resolution approving the Budget.

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

Resolution No. 1479

RESOLVED, that the proposed fiscal year 2017-18 Budget and Financial Plan 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 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.

Mr. Kauffman stated that the next item on the agenda was a report on the remaining items considered by the PPC including proposed revisions to the plan entitled *Operating Plan for Investments in New York Under the CO<sub>2</sub> Budget Trading Program and the CO<sub>2</sub> Allowance Auction Program* (the “RGGI Operating Plan”).

The PPC’s Chair, Mr. Willis, stated that the PPC received a report and recommendation from John Williams, Director of Policy and Regulatory Affairs on revisions to the Authority’s RGGI Operating Plan.

Based upon the presentation and discussion, the PPC unanimously recommended that the Members adopt the resolution approving the revisions to the Authority’s RGGI Operating Plan.

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

Resolution No. 1480

RESOLVED, that revisions to the “Operating Plan for Investments in New York Under the CO<sub>2</sub> Budget Trading Program and the CO<sub>2</sub> 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 revised operating plan incorporating such revisions as soon as reasonably possible.

The Chair stated that the next item on the agenda was a report on the remaining items considered by the W&FMC by its Chair, Dr. Thorndike. Dr. Thorndike stated that the W&FMC received a status report from West Valley Program Director Paul Bembia on West Valley Site Management Program activities.

Dr. Thorndike commented that the U.S. Department of Energy (“DOE”) recently issued a response to a letter from fourteen members of the New York State Congressional delegation urging DOE to reclassify the Western New York Nuclear Service Center (“West Valley”) waste as defense waste. The DOE response states that there are several legal and policy questions that need to be resolved. However, DOE indicated that a conversation on reclassifying is timely and it would welcome a dialogue with the State.

In response to an inquiry from Dr. Thorndike, Mr. Shaw indicated that there is always a chance that DOE may change its thinking with the new administration, but the Authority will continue to work with DOE staff both at the headquarters Office of Environmental Management staff level and at the West Valley site to make the case for reclassification.

In response to an inquiry from Mr. Willis, Mr. Shaw explained that DOE’s characterization of the waste at West Valley as commercial appears to be based upon a DOE Office of Inspector General’s report from 1986. The Authority has maintained the position that the West Valley waste was waste related to defense activities, not commercial activities. Over the last couple of years DOE commenced a formal process to look at interim facilities or “defense waste” only facilities, which allowed the Authority to make a formal statement regarding its position; there was a willingness from DOE to shift from the traditional philosophy regarding the characterization of waste; and NYSERDA staff have reviewed documents from the 1960’s and 1970’s to determine where the material originated, ultimately tracing it back to defense activities.

Mr. Shaw commended Mr. Bembia's work on the soil sampling process. He added that not only was the work professional and excellent from a technical point of view, but Mr. Bembia and his staff built relationships with the Seneca Nation. It not only bolstered the Authority's analysis, but Mr. Shaw believes it will lead to even better work and communications going forward because the relationship with the Seneca Nation is extremely important for West Valley and the stakeholder community.

Mr. Koh stated that on behalf of the other Members, he wanted to commend Mr. Bembia and his staff on this matter. It is a long process and a sophisticated analysis on an important responsibility.

Mr. Kauffman stated that the next item on the agenda was a report from the Audit and Finance Committee (the "A&FC"). Mr. Kauffman turned to Jay Koh, Chair of the A&FC to provide the report.

Mr. Koh stated that the A&FC met just before the Board meeting and a quorum was present throughout the meeting. The A&FC met in executive session to discuss the Authority's Information Technology and Cyber Security internal controls. No action was taken during the executive session. However, Mr. Koh stated that the discussion reflected the Board's long standing emphasis on cyber security because the Authority has a substantial amount of information including financial and sensitive information regarding West Valley and its oversight. Mr. Koh commended the internal controls audit process and the Information Technology staff on their oversight on this kind of analysis and the ongoing commitment to the security of the Authority's systems.

Next, Mr. Koh stated that Mark Mitchell, Director of Internal Audit, provided A&FC with a report on his recent activities. Mr. Mitchell discussed the results of a recently completed audit. The A&FC had a thorough discussion and was pleased with the results of the audit.

Lastly, Mr. Koh stated that the Committee received a status report from the Authority's Treasurer, Jeff Pitkin, on a recently completed audit of the NY Sun Program by the Office of the

State Comptroller. The Committee was able to ask questions and was satisfied with the discussion. Mr. Koh commended staff as the results of the NY Sun Program audit indicated that Authority staff are performing well and the controls are excellent.

Mr. Kauffman stated that the next item on the agenda was the periodic contracts report. Mr. Kauffman called on Cheryl Glanton, Director of Contract Management, to discuss this item.

Ms. Glanton stated that the Members are requested to adopt a resolution approving a periodic contracts report, covering the period August 16, 2016 through December 15, 2016. The report summarized 140 procurement contracts exceeding \$5,000 that were initiated or modified during the period. These contracts total approximately \$441 million. Over 89% of the procurement contracts were competitively selected, and 94% of the dollars committed resulted from competitive procurement. The report also summarizes an additional 36 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 contract actions total approximately \$6 million. In addition, the Members were provided with a report summarizing the Authority's efforts to engage Minority and Women-Owned Business Enterprise ("MWBE") participation in accordance with Article 15-a of the Executive Law. Of the 50 contracts subject to Article 15-a which were initiated or modified during the reporting period, 39% of the total number of contracts were awarded to certified MWBEs, representing 52% of the total contracted amount.

Ms. Glanton stated that there were 947 program contracts executed exceeding \$5,000 that were initiated during the period. Of these, 99% of the program contracts were competitively selected, and 95% of the dollars committed resulted from competitive selection.

The breakouts by Market Focus, Regional Economic Development Council, and County, and Electric Utility are included, including a Map representation of the program contracts executed during the period.

Note that the total count of contracts varies from table to table and some projects have more than one Market Focus, County or Electric Utility associated. Each association is counted

separately. However, the dollars are only included for the portion of the designation, therefore the total Committed this period is consistent from table to table.

Mr. McAvoy commended staff on the notable MWBE progress.

Mr. Daly thanked Ms. Glanton for providing the sorted data as it helped with understanding the direction of the Authority's contracting.

Dr. Thorndike stated that the new reporting provided better detail on where the Authority funding is being spent and under which programs.

Mr. Kauffman indicated that counsel's office has compared the lists provided by Members of entities with which each Member is associated and which he or she believes may enter into contracts with NYSERDA to the list of contracts in the periodic contracts report for contracts 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. Counsel's office reports just one potential conflict. Specifically, the Authority has entered into or anticipates entering into a contract with Cornell University, identified by Dr. Thorndike.

Whereafter, upon motion duly made and seconded, and by voice vote of the Members present, the following resolution was passed. Dr. Thorndike abstained from voting.

#### Resolution No. 1481

RESOLVED, that the Periodic Contracts Report, covering the period August 16, 2016 through December 15, 2016, 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.

The Chair indicated that the next item on the agenda concerned an executive session to discuss the employment history of a particular person.

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

Resolution No. 1482

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 on January 24, 2017 for the purpose of discussing the employment history of a particular person.

The Board took no action during the executive session. At the conclusion of the executive session, the Chair reconvened the meeting in open session.

The Chair stated that the next item on the agenda was a report on NY Green Bank (“Green Bank”) activities from Alfred Griffin, President of NY Green Bank. Mr. Griffin provided the Members with a status report on the activities of Green Bank, including recently closed transactions.

In response to an inquiry from Mr. Daly, Mr. Griffin explained that for any items that are brought to the Investment Review Committee, Green Bank staff ensure that the items clearly satisfy the investment criteria. With each transaction, Green Bank is working to create replicability and scale within the market that can be used by private sector actors. Mr. Griffin indicated that often transactions do not even make it to the approval process. Green Bank has received formal proposals totaling approximately \$1.6 billion. However, only \$200 million in transactions have been approved. In some cases, the proposers will resubmit after working with Green Bank staff to refine their proposals and include additional financial guards. Mr. Rhodes added that one version of saying, “no” to a transaction is to indicate a possible approval, but only if certain conditions are met.

In response to an inquiry from Mr. Shah, Mr. Griffin stated that there is no specific minimum for Green Bank transactions. Instead, size is based upon whether the transaction is replicable.



In response to an inquiry from Mr. Shah, Mr. Griffin explained that Green Bank is taking the approach that it is a long-term investor and is going to securitize against its own holdings. Mr. Griffin indicated that Green Bank has mechanics in place to force an issuer to refinance if deemed necessary.

Mr. Kauffman thanked Mr. Griffin and commended Green Bank staff for helping to establish Green Bank as a national and global leader in innovative financing.

Mr. Koh thanked Mr. Griffin for sharing information in response to requests from the Members for additional detail on Green Bank transactions and outlook.

The Chair stated that the next item on the agenda was a report on the Authority's Offshore Wind Program from Large-Scale Renewables Program Manager, Doreen Harris. Ms. Harris provided an update on the recent activities of the Offshore Wind Program, including its participation in the auction of New York's first offshore wind energy area off the coast of Long Island, which was won by Statoil, a Norwegian company.

In response to an inquiry from Mr. Shah, Ms. Harris explained that the Authority was awarded a DOE grant in partnership with Rhode Island, Massachusetts, and Maine for a regional effort to fundamentally establish areas for development of offshore wind. Since that time, there have been very significant developments in Massachusetts and New York. However, Ms. Harris indicated that the State and the Authority are open to working with other states as their interest in offshore wind work evolves.

Mr. Rhodes explained that the Authority seeks to gain further stakeholder involvement. However, some of the stakeholders are groups of people that have reasons to be cautious. Mr. Rhodes indicated that some stakeholders are worried about the obstruction of their view, the effect on commercial and recreational fisheries, and the effect on marine life. Other stakeholder groups are optimistic that jobs will be created because of these efforts. In addition, Mr. Rhodes further stated that there are still questions as to siting, cost, the price of energy and infrastructure.

Mr. Kauffman added that this development in offshore wind is a testament to the leadership across the State as it is the first demonstration of how offshore wind has become economical.

The Chair stated that the last item on the agenda was other business.

Thereafter, there being no other business, upon motion duly made and seconded, and by unanimous voice vote of the Members, the meeting was adjourned.

A handwritten signature in black ink, appearing to read 'Noah C. Shaw', written over a horizontal line.

Noah C. Shaw  
Secretary



**NYSERDA**

**ANDREW M. CUOMO**  
Governor

**RICHARD L. KAUFFMAN**  
Chair

**JOHN B. RHODES**  
President and CEO

January 13, 2017

**NOTICE OF MEETING AND AGENDA**

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

PLEASE TAKE NOTICE that a regular (the 233<sup>rd</sup>) meeting of the New York State Energy Research and Development Authority (“Authority”) will be held at the office of the New York State Dormitory Authority (“DASNY”), One Penn Plaza, 52<sup>nd</sup> floor, New York, New York, and in the Authority’s Albany Office at 17 Columbia Circle, Albany, New York, on Tuesday, January 24, 2017, commencing at 1:00 p.m., for the following purposes:

1. To receive reports on the proposed FY 2017-18 Budget of the Authority from the Program Planning Committee and from the Waste and Facilities Management Committee and to consider and act upon a resolution approving the Authority’s FY 2017-18 Budget.
2. To receive a report from the Program Planning Committee and to consider and act upon a resolution approving revisions to the plan entitled *Operating Plan for Investments in New York Under the CO<sub>2</sub> Budget Trading Program and the CO<sub>2</sub> Allowance Auction Program*.
3. To receive a report from the Waste and Facilities Management Committee.
4. To receive a report from the Audit and Finance Committee.
5. To consider and act upon a resolution approving a periodic contracts report.
6. To consider and act upon a resolution to enter into an executive session to discuss the employment history of a particular person.
7. To receive a status report on NY Green Bank activities.
8. To receive a report on one of the Authority’s ongoing programs.
9. To transact such other business as may properly come before the meeting.

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Members of the public may attend the meeting at either of the above locations. In order to expedite the entry procedures established by the building management, any members of the public planning to attend the meeting at DASNY's office should notify DASNY's receptionist at 212-273-5000, 24 hours in advance of the meeting, and must be prepared to show valid photo identification upon arrival at One Penn Plaza.

Video conferencing will be used at both locations and the Authority will be posting a video of the meeting to the web within a reasonable time after the meeting. The video will be posted at <http://www.nyserda.ny.gov/About/Board-Governance/Board-and-Committee-Meetings>.



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Noah C. Shaw  
Secretary