

NEW YORK STATE

ENERGY RESEARCH AND DEVELOPMENT AUTHORITY BY-LAWS

As Amended through April 2017

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ENERGY RESEARCH AND DEVELOPMENT AUTHORITY

BY-LAWS

ARTICLE I

Offices

SECTION 1. Principal Office. The principal office of the Authority shall be located at such place within the State of New York as the Authority shall designate.

SECTION 2. Other Offices. The Authority may also have offices at such other place or places within the State of New York as the Authority may from time to time determine to be necessary or appropriate for the conduct of its operations.

SECTION 3. Books and Records. Except as otherwise directed by the Authority or as the operations of the Authority may require, all the books and records of the Authority shall be kept at the principal office of the Authority.

ARTICLE II

Members and Meetings

SECTION 1. Members. The powers of the Authority, including, but not limited to Section 2824 of the Public Authorities Law, shall be vested in and exercised by the Members of the Authority who shall be selected as provided in the New York State Energy Research and Development Authority Act and shall hold office subject to the terms and conditions therein set forth.

SECTION 2. Annual Meetings. The Annual Meeting of the Authority shall be held without notice on the second Monday in June in each year or on such other date in each calendar year as the Chair may designate by notice given to the other Members.

SECTION 3. Regular Meetings. Regular meetings of the Authority shall be held without notice on the second Monday in January, April, and September of each year or on such other dates as the Chair may designate by notice given to the other Members.

SECTION 4. Special Meetings. Special meetings of the Authority may be called by the Chair and shall be called by the Secretary at the request of the Chair or upon the written request of any three Members.

SECTION 5. Place of Meetings. The Annual Meeting of the Authority shall be held at the principal office of the Authority unless the Chair shall designate a different place or places for attendance in person or through videoconferencing by notice given to the other Members. Other meetings of the Authority may be held either within or without the State of New York at such places for attendance in person or through videoconferencing as may be designated in the respective notice of meeting or waiver thereof or as may be fixed by the Authority in the case of regular meetings of the Authority.

SECTION 6. Notices. Except as otherwise provided by these By-Laws, whenever a meeting is scheduled at least one week in advance, written notice of that meeting of the Authority, specifying the time, place, and purposes thereof, shall be given to each Member by mail, e-mail, telephonic facsimile transmission, or other electronic means at least five days before such meeting. For every other meeting, notice shall be given in person or by email, or telephonic facsimile transmission at least twenty-four hours before such meeting, to the extent practicable. Notices by mail shall be deemed to have been given at the time when mailed to such Member at his or her address on the records of the Authority; notices by email shall be deemed to have been given at the time when transmission of such notice to the Member's email address on the records of the Authority has been completed, with no notice of a failure to deliver being received; notices by telephonic facsimile transmission shall be deemed to have been given at the time when transmission to such Member at his or her telephonic facsimile transmission number on the records of the Authority has been completed. If videoconferencing is used to conduct a meeting, the notice shall state that the public has the right to attend the meeting at any location.

SECTION 7. Waiver of Notice. In lieu of the notice prescribed in Section 6 of this Article II a waiver thereof in writing, signed by the Member or Members entitled to such notice whether before or after the time stated therein, shall be deemed equivalent to such notice for purposes of these By-Laws. No notice to or waiver by any Member with respect to any meeting shall be required if such Member is present at such meeting.

SECTION 8. Quorum and Voting. A majority of the whole number of the Members, gathered together in the presence of each other or through the use of videoconferencing, shall constitute a quorum for the transaction of any business or the exercise of any power or function of the Authority. Any act taken at any meeting by a majority of the whole number of the Members shall be the act of the Authority. For the purposes of these By-Laws, the words "whole number" shall mean the total number of the Members if there were no vacancies and if none of the Members are disqualified from acting.

SECTION 9. Approval of Governor. Except to the extent the Governor of the State of New York has, by order filed with the Authority, relieved the Authority from the duty of procuring his or her approval of any action upon a particular matter or class of matters, no action taken at any meeting of the Authority shall have force or effect until the Governor shall have had an opportunity to approve or veto the same in accordance with the provisions of Section 1853 of the Public Authorities Law.

ARTICLE III

Officers

SECTION 1. In General. The officers of the Authority shall be a Chair, Vice Chair, President and CEO, Chief Operating Officer, Vice President for Energy Services, Vice President for Innovation and Strategy, Secretary, and Treasurer, and such additional officers as may be appointed pursuant to Section 2 of this Article III. Except for the Chair and the Vice Chair, who shall each be a Member of the Authority, no officer need be a Member of the Authority. Any two offices, other than those of the Chair and Vice Chair, may be held by the same person.

SECTION 2. Appointment. The Chair shall be the Member of the Authority so designated by the Governor of the State of New York. The Authority shall appoint persons to fill the other offices of the Authority established in Section 1 of this Article III, and may from time to time appoint such additional officers as it may deem advisable and prescribe their respective powers and duties.

SECTION 3. Terms and Compensation. The Chair shall serve as Chair at the pleasure of the Governor of the State of New York. All officers of the Authority other than the Chair shall hold office at the pleasure of the Authority and shall receive such compensation as may be authorized by the Authority, subject to applicable provisions, if any, of the Civil Service Law and the regulations of the Civil Service Commission of the State of New York.

SECTION 4. Removal. The Chair may be removed as Chair, with or without cause, at any time, by the Governor of the State of New York acting at his pleasure. Any officer, other than the Chair, may be removed, with or without cause, at any time, by the Authority at any meeting called for that purpose.

SECTION 5. Resignation. Any officer may resign at any time by giving written notice to the Chair or to the Secretary, except that, in the case of the resignation of the Chair or a Member, such notice shall be given to the Governor of the State of New York. Any such resignation shall take effect upon the receipt of such notice or any later time specified therein, and, unless otherwise specified therein, the acceptance of resignation of an officer other than the Chair or a Member shall not be a condition to its effectiveness.

SECTION 6. Vacancies. A vacancy in any office shall be filled in the manner prescribed in these By-Laws for appointment to such office.

ARTICLE IV

Duties and Powers of the Officers

SECTION 1. The Chair. The Chair shall preside over meetings of the Authority and shall serve as the primary liaison between the Members and Authority staff. The Chair shall be primarily responsible for overseeing the discharge of the executive and administrative functions of the Authority. The Chair shall be responsible for the management, development, and effective performance of the Members and provide leadership to the Members for all aspects of their work. The Chair shall act in an advisory capacity to the President and CEO and to the other management staff in all matters concerning the interests of the Members and the relationships between management and the Members. The Chair shall have the power to assign any officer to exercise the powers of any other officer during the period of any absence, disability or vacancy in any office. The Chair shall have all such other powers pertaining to the position of Chair or as may be assigned to the Chair by the Members of the Authority.

SECTION 2. The Vice Chair. The Vice Chair shall have the powers and shall perform the duties of the Chair during the period of any absence (including vacancy in office) or disability of the Chair. The Vice Chair shall perform such other duties as may be assigned from time to time by the Authority or the Chair.

SECTION 3. The President and CEO. The President and CEO shall be the chief executive officer of the Authority and shall be primarily responsible for the discharge of the executive and administrative functions of the Authority. The President and CEO shall report to the Chair on the day-to-day executive and administrative functions of the Authority. The President and CEO shall be responsible for the overall supervision of the other Officers, except the Chair and the Vice Chair, and staff and the implementation of policies, procedures, and directions, consistent with the guidance provided by the Members and the Chair. Subject to the provisions of the Authority's Procurement and Program Contracts Guidelines, Operative Policy and Instructions ("Contracting Guidelines"), the President and CEO shall have power to execute contracts, agreements, and other instruments in the name and on behalf of the Authority, including instruments encumbering funds; power to requisition checks from the State Commissioner of Taxation and Finance, pursuant to Section 1859 of the Public Authorities Law; power to certify official rules and regulations of the Authority; and power to assign additional duties to any other Officer of the Authority except the Chair and the Vice Chair, and designate acting officers to perform necessary duties. The President and CEO shall also be authorized to exercise the powers of the Chair during the period of any absence (including vacancy in office) or disability of the Chair and the Vice Chair. The President and CEO shall have the power to assign any other officer to exercise the powers of any officer, including the President and CEO,

during the period of any absence, disability or vacancy in any office. The President and CEO shall perform such other duties as may be assigned from time to time by the Authority or the Chair.

SECTION 4. The Chief Operating Officer. The Chief Operating Officer shall be responsible to the President and CEO and shall work with the other officers to develop and implement a strategic approach to operations of the Authority to achieve intended outcomes, to optimize market responsiveness and generally to perform with efficiency and effectiveness. The Chief Operating Officer shall be responsible for performance management and evaluation systems. Subject to the provisions of the Authority's Contracting Guidelines, the Chief Operating Officer shall have power to execute contracts, agreements, and other instruments in the name and on behalf of the Authority, including instruments encumbering funds in an amount not to exceed \$1,000,000; and power to requisition checks from the State Commissioner of Taxation and Finance, pursuant to Section 1859 of the Public Authorities Law. The Chief Operating Officer shall perform such other duties as may be assigned from time to time by the Authority or the President and CEO.

SECTION 5. The Vice Presidents. There shall be a Vice President for Energy Services and a Vice President for Innovation and Strategy.

(A) The Vice President for Energy Services. The Vice President for Energy Services shall be responsible to the President and CEO for the discharge of the Authority's energy services programs. Subject to the provisions of the Authority's Contracting Guidelines, the Vice President for Energy Services shall have power to execute contracts, agreements, and other instruments in the name and on behalf of the Authority, including instruments encumbering funds in an amount not to exceed \$1,000,000; and power to requisition checks from the State Commissioner of Taxation and Finance, pursuant to Section 1859 of the Public Authorities Law. The Vice President for Energy Services shall perform such other duties as may be assigned from time to time by the Authority or the President and CEO.

(B) The Vice President for Innovation and Strategy. The Vice President for Innovation and Strategy shall be responsible to the President and CEO for the energy research, planning, and analysis functions of the Authority. The Vice President for Innovation and Strategy shall advise and assist the President and CEO in the design of Authority programs. Subject to the provisions of the Authority's Contracting Guidelines, the Vice President for Innovation and Strategy shall have power to execute contracts, agreements, and other instruments in the name and on behalf of the Authority, including instruments encumbering funds in an amount not to exceed \$1,000,000; and power to requisition checks from the State Commissioner of Taxation and Finance, pursuant to Section 1859 of the Public Authorities Law. The Vice President for Innovation and Strategy shall perform such other duties as may be assigned from time to time by the Authority or the President and CEO.

SECTION 6. The Treasurer. Subject to the provisions of the New York State Energy Research and Development Authority Act and the State Finance Law, the Treasurer shall be the chief financial officer and shall have the care and custody of and be responsible for all the funds and securities of the Authority and receive and give receipts for moneys paid to the Authority from any source. The Treasurer shall administer the system of accounts prescribed by the Authority and shall render a statement of the condition of the finances of the Authority as at the end of the first three quarterly periods in each fiscal year, and at such other times as may be required and shall render a full financial report at the Annual Meeting of the Authority held in June of each year. The Treasurer shall be responsible for information technology activities as well as for the disposition of real and personal property. The Treasurer shall perform such other duties as may be assigned from time to time by the Authority or the President and CEO. The Treasurer shall give such bond, if any, for the faithful discharge of his or her duties as may be required by the Authority or by any provision of law. Subject to the provisions of the Authority's Contracting Guidelines, the Treasurer shall have power to execute contracts, agreements, and other instruments in the name and on behalf of the Authority, including instruments encumbering funds in an amount not to exceed \$1,000,000; and power to requisition checks from the State Commissioner of Taxation and Finance, pursuant to Section 1859 of the Public Authorities Law.

SECTION 7. The Secretary. The Secretary shall act as recording secretary at all meetings of the Authority and keep the minutes thereof in a book or books to be provided for that purpose; shall see that all notices of meetings required to be given are duly given; and shall see that all reports, statements, and other documents required by law are properly kept and filed. The Secretary shall transmit all rules and regulations adopted by the Authority to the Secretary of State pursuant to the provisions of Section 102 of the Executive Law. Subject to the provisions of the Authority's Contracting Guidelines, the Secretary shall have power to execute contracts, agreements, and other instruments in the name and on behalf of the Authority, including instruments encumbering funds in an amount not to exceed \$1,000,000; and power to requisition checks from the State Commissioner of Taxation and Finance, pursuant to Section 1859 of the Public Authorities Law. The Secretary shall have power, when necessary or appropriate, to certify all documents and records of the Authority and to affix and attest to the corporate seal of the Authority on all contracts, agreements, and other instruments of the Authority. The Secretary shall perform such other duties as may be assigned from time to time by the Authority, the Chair, or the President and CEO.

ARTICLE V

Advisory Committees

SECTION 1. Appointment. The Authority may appoint one or more advisory committees consisting of not more than seven Members each to consider and advise the Authority on matters submitted to them by the Authority.

SECTION 2. Terms. Upon the appointment of an Advisory Committee, the Authority shall specify the terms, not to exceed four years, of each Member thereof.

SECTION 3. Salaries. Members of Advisory Committees shall serve without salary, but shall be entitled to reimbursement for their actual and necessary travel expenses incurred in the performance of their official duties.

SECTION 4. Audit and Finance Committee. The Audit and Finance Committee shall be a standing advisory committee of the Authority. The Committee shall have not fewer than three nor more than six Members. The Committee shall consist of not less than three independent Members who shall constitute a majority on the Committee and who shall possess the necessary skills to understand the duties and function of the Committee, provided, however, that in the event that there are less than three independent Members, the Members may appoint non-independent Members, provided that the independent Members constitute a majority of the Members of the Committee. In addition, the membership of the Committee shall include the Chair of the Authority who shall serve ex-officio and who shall enjoy all the rights and privileges of membership, including the right to vote. A majority of the members of the Committee then in office, not including the Chair of the Authority, gathered together in the presence of each other or through the use of videoconferencing, shall constitute a quorum, and the Chair of the Authority if present shall be counted toward a quorum. Members of the Committee shall be familiar with corporate financial and accounting practices.

The Audit and Finance Committee shall recommend the hiring of a certified independent accounting firm, establish the compensation to be paid, and provide direct oversight of the performance of the independent audit performed, shall review the annual financial statements of the Authority prior to submission for approval to the Members of the Authority, shall review proposals for the issuance of debt by the Authority and make recommendations, and may examine and consider such other matters in relation to the internal and external audit of the Authority's accounts, the Authority's financings, and in relation to the financial affairs of the Authority and its accounts as the Audit and Finance Committee may determine to be desirable.

SECTION 5. Program Planning Committee. The Program Planning Committee shall be a standing advisory committee of the Authority. The Committee shall have not fewer than three nor more than ten Members, who shall be elected from among the Members of the Authority other than the Chair. A majority of these committee members shall be other than Members of the Authority who serve ex-officio. In addition, the membership of the Committee shall include the Chair of the Authority, who shall serve ex-officio and who shall enjoy all the rights and privileges of membership, including the right to vote. A majority of the members of the Committee then in office, not including the Chair, gathered together in the presence of each other or through the use of videoconferencing, shall constitute a quorum, and the Chair of the Authority if present shall be counted toward a quorum.

The Program Planning Committee shall review the annual updating of the Authority's strategic plan; and preparation of the portions of the Authority's annual budget related to energy research and innovation, market development, clean energy financing, and other related programs and initiatives; shall provide guidance to the Authority's officers and employees in the preparation of those plans and those portions of the budget; and shall consider such other matters related to the Authority's portfolios as the officers of the Authority may refer to the Committee.

SECTION 6. Waste and Facilities Management Committee. The Waste and Facilities Management Committee shall be a standing advisory committee of the Authority. The Committee shall have not fewer than three nor more than six members, who shall be elected from among the Members of the Authority other than the Chair. A majority of these committee members shall be other than Members of the Authority who serve ex-officio. In addition, the membership of the Committee shall include the Chair of the Authority, who shall serve ex-officio and who shall enjoy all the rights and privileges of membership, including the right to vote. A majority of the members of the Committee then in office, not including the Chair of the Authority, gathered together in the presence of each other or through the use of videoconferencing, shall constitute a quorum, and the Chair of the Authority if present shall be counted toward a quorum.

The Waste and Facilities Management Committee shall review the Authority's program and plans for management of the Western New York Nuclear Service Center, including the West Valley Demonstration Project, and for radioactive waste policy and nuclear coordination; shall review the preparation of the Authority's annual West Valley site management program and radioactive waste policy and nuclear coordination budgets; shall provide guidance to the Authority's officers and employees in the preparation of the plans and in preparation of such annual program budgets; and shall consider such other matters related to West Valley site management and radioactive waste policy and nuclear coordination as the officers of the Authority may refer to such Committee.

SECTION 7. Governance Committee. The Governance Committee shall be a standing advisory committee of the Authority. The Committee shall have not fewer than three nor more than six Members. The Committee shall consist of not less than three independent Members who shall constitute a majority on the Committee and who shall possess the necessary skills to understand the duties and function of the Committee, provided, however, that in the event that there are less than three independent Members, the Members may appoint non-independent Members, provided that the independent Members constitute a majority of the Members of the Committee. In addition, the membership of the Committee shall include the Chair of the Authority who shall serve ex-officio and who shall enjoy all the rights and privileges of membership, including the right to vote. A majority of the members of the Committee then in office, not including the Chair of the Authority, gathered together in the presence of each other or through the use of videoconferencing, shall constitute a quorum, and the Chair of the Authority if present shall be counted toward a quorum.

The Governance Committee shall keep the Members informed of current best practices, review corporate governance trends, update the Authority's corporate governance principles, as necessary, recommend updates to the corporate governance principles, advise appointing authorities on the skills and experiences required of Members, examine ethical and conflict of interest issues, perform Board self-evaluation, and recommend By-laws which include rules and procedures for conduct of Board business.

ARTICLE VI

Miscellaneous

SECTION 1. Seal. The official seal of the Authority shall consist of a circle within which shall be inscribed the name of the Authority, and in the center of which shall be inscribed the words "Established April 1, 1962," and such seal may include such other insignia as may be approved by the Authority.

SECTION 2. Fiscal Year. The fiscal year of the Authority shall begin on the first day of April and end at the close of business on the thirty-first day of March in each year.

SECTION 3. Annual and Budget Reports. The President and CEO shall prepare or cause to be prepared under the Chair's supervision the Annual Report, Budget Report and other reports required by Sections 1867, 2800, and 2801 of the Public Authorities Law. All such reports shall be prepared for submission to and action by the Authority, and, after action by the Authority, shall be submitted by the President and CEO within the times provided for and to the persons specified in such sections of the Public Authorities Law.

SECTION 4. Director of Contract Management. Subject to the provisions of the Authority's Contracting Guidelines, the Director of Contract Management shall have the power to execute contracts, agreements, and other instruments in the name and on behalf of the Authority, including instruments encumbering funds in an amount not to exceed \$100,000 and for low variability, low complexity contracts issued as offer letters or similar straightforward standard agreements the amounts of which are based upon a formulaic calculation dictated by program, not to exceed \$1,000,000.

SECTION 5. The President of NY Green Bank. The President of NY Green Bank shall have power to execute contracts, agreements, or other instruments not encumbering Authority funds in excess of \$250,000; the power to execute contracts, agreements, or other instruments related to financial investments for any dollar amount, so long as the terms and conditions of such contracts, agreements, or other instruments are within parameters set by NY Green Bank's Investment and Risk Committee; and the power to execute any modifications to Investment and

Risk Committee-approved financial investment documents not encumbering Authority funds in excess of \$50,000. During the period of any absence or disability, the President of NY Green Bank shall have the power to assign his aforementioned powers to the Chief Operating Officer of NY Green Bank or one or more NY Green Bank Managing Directors for Investment and Portfolio Management, provided that such delegee is not the Managing Director assigned to the subject transaction.

SECTION 6. The Managing Directors of NY Green Bank. Each of the Managing Directors of NY Green Bank shall have power to execute contracts, agreements, modifications, or other instruments not encumbering Authority funds in excess of \$50,000.

ARTICLE VII

Amendments

SECTION 1. Amendments. These By-Laws may be amended, supplemented or repealed by the affirmative vote of a majority, but not less than five, of the Members then in office, at any regular or special meeting if either all Members of the Authority then in office are present at such meeting or notice of the proposed amendments, supplement or repeal shall have been included in the notice of such meeting or in the waiver of notice thereof.