

NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY

Minutes of the 216<sup>th</sup> Meeting

Held on January 28, 2013

Pursuant to notice and an agenda dated January 11, 2013, and revised notice and agenda dated January 28, 2013, the 216<sup>th</sup> meeting of the New York State Energy Research and Development Authority (“Authority”) was convened on January 28, 2013, at 11:30 a.m., in the Authority’s Albany Office at 17 Columbia Circle, Albany, New York; by video conference in the Authority’s New York City Office at 485 Seventh Avenue, 10<sup>th</sup> floor, New York, New York; and by video conference in the Authority’s West Valley Office at 9030-B Route 219, West Valley, New York.

The following Members of the Authority were present in Albany, unless otherwise indicated:

Francis J. Murray, Jr., President and CEO (acting as Chair for this meeting)

George F. Akel, Jr.

Garry A. Brown

Kevin Burke

Robert B. Catell (by video conference in New York City)

David D. Elliman (by video conference in New York City)

Joan McDonald

Elizabeth W. Thorndike, Ph. D.

Mark A. Willis (by video conference in New York City)

Members John R. Koelmel and Joseph Martens were unable to attend.

Also present were Janet Joseph, Vice President for Technology and Strategic Planning; Thomas Barone, Acting Vice President for Operations and Energy Services; Jeffrey J. Pitkin, Treasurer; Hal Brodie, Esq., General Counsel and Secretary; Sara L. LeCain, Esq., Senior Counsel; Allyson S. Zipp, Esq., Assistant Counsel; Mark Watson, Environment and Energy

Resources Program Manager; Jennifer Meissner, Evaluation Program Manager; and various other members of the staff of the Authority. In addition, Jared Snyder from the Department of Environmental Conservation and C. Vane Lashua from the New York State Bridge Authority were in attendance at the Albany location.

Mr. Murray explained that as President and CEO, he is authorized by the Authority's Bylaws to exercise the powers of the Authority's Chair when that position is vacant, as it is now. He stated that he was chairing the Board meeting and participating as a voting Member of the Authority. Mr. Murray then 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 and press on January 11, 2013, and that a revised meeting notice and agenda were provided on January 28, 2013. Mr. Murray directed that a copy of the notice and agenda and the revised notice and agenda be annexed to the minutes of the meeting.

Mr. Murray updated the Members on the numerous activities of the Authority over the last couple of months. First, Mr. Murray reported that during the State of the State, the Governor announced the appointment of Richard Kauffman as Chair of the Energy Policy and Finance Subcabinet. Mr. Kauffman previously worked at the United States Department of Energy ("DOE") where he served as an advisor to Secretary Steven Chu and has a well-rounded background in the investment community. The Authority will be working with Mr. Kauffman on a number of initiatives including the proposed New York Green Bank ("Green Bank").

Next, Mr. Murray explained that the Governor convened a commission as authorized under the Moreland Act ("Moreland Commission") to review the utilities' response to Superstorm Sandy, as well as the State's utility regulatory practices. In its interim report, the Moreland Commission put forth four recommendations that could have an effect on the Authority. The first recommendation is to have the New York State Department of Public Service ("DPS") and the Authority under a unified management structure, which would help to provide greater efficiencies and coordination with respect to policy-making and direction. The Moreland Commission indicated that the two entities could remain separate, but with the

common functions coordinated to provide a more streamlined approach to energy planning policy and implementation.

The second recommendation was to synchronize the clean energy program administration efforts between DPS and the Authority. The Moreland Commission stated that this would bolster both organizations' ability to meet their core functions.

Third, the Moreland Commission suggested that a single office of combined Authority and DPS staff related to energy markets, policy and planning, and emergency response could provide for more unified and effective implementation of these activities. This would also allow for streamlining of the energy planning and policy process for which further consideration is necessary by the State to ensure an efficient and productive process.

Finally, the Moreland Commission recommended that the New York State Public Service Commission ("PSC") clearly delineate the responsibilities between the Authority and the utilities with respect to energy efficiency activities. This would reduce program redundancy, as well as any overlap in efficiencies that may reduce the overall impact of the State's energy efficiency efforts.

Next, Mr. Murray reported that the Governor's State of the State address included a number of initiatives that would impact the Authority. Most importantly, the Governor announced the creation of the \$1 billion Green Bank, which will be funded by leveraging funds from the Energy Efficiency Portfolio Standard ("EEPS"), the Renewable Portfolio Standard ("RPS"), and the system benefits charge to attract greater private investment. The State will support new borrowing by the Green Bank to provide new loans for energy efficiency improvements. In addition to its loans and intermediary role, the Green Bank will engage in contract standardization, data collection and dissemination, and project aggregation so that green opportunities can be matched with investments.

The Governor also proposed an extension of the New York Sun Program ("NY Sun") to encourage installation of solar photovoltaic ("PV") generation. Currently, NY Sun is authorized

through 2015. The Governor has proposed to extend NY Sun through 2023 at existing annual funding levels. The Authority funds this program through the Customer Sited Tier of RPS. The extension is designed to provide greater certainty to solar developers and is expected to attract significant, additional private investment in PV systems.

The third major initiative discussed by the Governor is to create the Charge New York Plan. The Governor proposes to invest \$50 million over the next five years, including funding from the Authority, the New York Power Authority, and State tax credits to create a statewide network of 3,000 public and workplace plug-in electric vehicle (“PEV”) charging stations. The goal over the next five years is to lay the foundation for greater private investment in and deployment of PEVs. This investment will be coupled with initiatives to implement regulations at the State and local level to facilitate PEV charging and to educate consumers and policy makers about the benefits of PEVs.

The Governor’s fourth initiative is to strengthen the Regional Greenhouse Gas Initiative (“RGGI”) by setting emission caps at a level that ensures a continuing reduction of emissions below current levels. The Governor also indicated that with lower caps, additional revenue from the sale of greenhouse gas allowances would be available to help repower existing power plants to reduce carbon emissions, as well as to assist local communities which may lose a significant portion of their tax proceeds from the closure of coal-fired power plants.

In addition, the Governor announced three economic development initiatives that touch upon activities in which the Authority has been engaged with respect to the clean energy economy. The first is a proposal to create ten high-tech incubators. Second, the Governor called for the creation of the Innovation New York Network, which is a collaboration of government, academia, and the private sector to promote clean technology and high-tech across the State. Lastly, the Governor announced the establishment of a \$50 million Innovation Venture capital fund that will be administered through the Empire State Development Corporation.

With respect to the day-to-day operations of the Authority, Mr. Murray reported that the Authority has awarded \$15 million to support the development of three proof-of-concept centers

across the State: Columbia University; the Polytechnic Institute at New York University; and High-Tech Rochester. This is a five-year cost-sharing arrangement to create incubators for early stage entrepreneurs to link them with business leaders and scientists.

Mr. Murray also reported on some recent initiatives of the Authority. In December 2012, the Authority issued the latest RPS solicitation, which offered \$250 million in funding. In addition, the Governor announced the award of the latest round of the Regional Economic Development Council process, which included \$12 million in RGGI funds. Also in December, the Authority helped to dedicate a new co-generation facility in downtown Utica. Before the close of the year, the Governor accepted the final report from the Energy Highway Task Force, which put forth a blueprint that calls for a \$5.7 million public and private sector investment in the State's energy infrastructure.

Mr. Murray indicated that the Authority has been recognized for its good work with two awards for its work from the Clean Energy States Alliance. The awards recognized the Authority's Clean Energy Business Incubator Program, as well as the Authority's Small Wind Development Program.

Finally, Mr. Murray concluded his report by introducing Donna Rabito, the Authority's new Director of Human Resources. Ms. Rabito most recently worked for Albany Medical Center and has a distinguished background in human resources.

Mr. Murray stated that the first item on the agenda was a resolution reappointing Robert B. Catell, George F. Akel, Jr., and David D. Elliman to the Audit and Finance Committee and to reappoint Robert B. Catell as the Chair of the Audit and Finance Committee; to reappoint David D. Elliman to the Governance Committee and to reappoint him as the Chair of the Governance Committee; and to reappoint Kevin Burke and David D. Elliman to the Program Planning Committee and to appoint Mark A. Willis as the Chair of the Program Planning Committee.

Whereafter, upon motion duly made and seconded, and by voice vote of the Members present, Robert B. Catell, George F. Akel, Jr., and David D. Elliman were reappointed to the

Audit and Finance Committee and Robert B. Catell was reappointed as the Chair of the Audit and Finance Committee; David D. Elliman was reappointed to the Governance Committee and reappointed as the Chair of the Governance Committee; and Kevin Burke and David D. Elliman were reappointed to the Program Planning Committee and Mark A. Willis was appointed as the Chair of the Program Planning Committee.

Mr. Murray then asked Sara LeCain, Senior Counsel, to discuss the Periodic Procurement Contracts Report. Ms. LeCain stated that pursuant to Public Authorities Law Section 2879, the Members are requested to adopt a resolution approving the Periodic Procurement Contracts Report covering the period August 16, 2012 through December 15, 2012.

The report summarizes 1,966 procurement contracts exceeding \$5000 that were initiated or modified during the period. Over 98% of the procurement contracts were competitively selected and 99% of the dollars committed resulted from competitive procurement. Ms. LeCain advised that all of the actions were in compliance with the procurement contract guidelines. The report also summarizes an additional 1,221 procurement contracts that are expected to be executed by the Authority, that have a period of expected performance in excess of one year. These contract actions total approximately \$274 million.

In addition, Ms. LeCain indicated that the Members have been provided with a periodic report on Authority compliance with Article 15-A of the Executive Law which requires public authorities to make a good faith effort to solicit active participation by Minority and Women-Owned Business Enterprises (“M/WBE”) in certain contracts. Of the 16 contracts subject to Article 15-A which were initiated or modified during the reporting period, 38% of the total number of contracts were awarded to certified M/WBEs, representing 55% of the total contract amounts.

Mr. Murray stated 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 the Authority to the list of contracts in the Periodic Procurement Report. Counsel’s office reports just a few potential conflicts. Specifically, the Authority has entered

into or anticipates entering into contracts with Broome County Community College, identified by George Akel; Consolidated Edison Company, identified by Garry Brown; Con Edison Solutions, Consolidated Edison Company, Honeywell International Inc., and Orange and Rockland Utilities Inc., identified by Kevin Burke; various SUNY campuses and affiliates, identified by Robert Catell; Urban Electric Power, identified by David Elliman; the Center for Environmental Information, Cornell University, and the University of Rochester, identified by Liz Thorndike; and JP Morgan Chase and New York University, identified by Mark Willis.

Whereafter, upon motion duly made and seconded, and by voice vote of the Members present, the following resolution was adopted. Mr. Brown, Mr. Burke, Mr. Catell, Mr. Elliman, Dr. Thorndike, and Mr. Willis each abstained from the vote solely with regard to contracts involving the respective entities identified by each of them above.

#### Resolution No. 1351

RESOLVED, that the Periodic Procurement Contracts Report, covering the period August 16, 2012 through December 15, 2012, 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(3)(b)(ii).

Mr. Murray then said that the next item on the agenda was a report on the Authority's proposed Fiscal Year 2013-14 Budget ("Budget"). Mr. Murray asked Mr. Willis, Chair of the Program Planning Committee ("PPC"), to summarize discussions on the portion of the proposed Budget relating to programs that the PPC oversees. Mr. Willis stated the PPC heard a presentation from Treasurer Jeff Pitkin regarding the Authority's Budget and that the details of the Budget are summarized in the memo in the Board package. Mr. Willis then summarized some of the significant items.

Mr. Willis stated that Authority revenues are budgeted at \$672.6 million for fiscal year 2013-14, an increase of \$91.3 million (15.7%) from the prior year. The significant changes include: an increase in scheduled collections under EEPS pursuant to a PSC Order which extended EEPS and deferred some collections until 2013; and an increase in scheduled

collections under RPS. These increases are partially offset by reductions in the New York Energy Smart system benefits charge (“SBC III”) program collections, as well as reductions in federal grants revenue due to the wind down of activities funded with federal stimulus funding.

Mr. Willis reported that the Budget expenditures total \$820.9 million, an increase of \$80.6 million (10.9%) over the prior year.

The Budget includes salary costs of \$28.8 million, an increase of \$2.8 million from the prior year. The majority of the increase is due to annualization of salary costs for vacancies which existed in fiscal year 2012-13. In addition, an increase is proposed to fund performance-based salary increases and payments comparable to those which may be authorized for State employees, in the event that these are approved. Lastly, there is a proposed increase to fund six additional positions.

Mr. Willis stated that the Budget for fringe benefit costs is \$15.4 million, an increase of \$1 million from the prior year, primarily from an increase in projected pension contributions based on estimates provided by the New York State Retirement System, and increases in benefit costs commensurate with the increase in number of employees and salary costs. These increases were offset by an anticipated reduction in costs for post-employment health insurance under Governmental Accounting Standards Board Statement 45 based on a reduction in the percentage of employee and retiree health insurance paid by the Authority. This was implemented in 2012 based on the latest round of State employee collective bargaining agreements.

The Budget for program expenditures is \$745.7 million, an increase of \$74.3 million from the prior year primarily due to anticipated increases in expenditures for the RPS and EEPS programs.

Lastly, Mr. Willis reported that the Budget includes \$11.6 million for the New York State Cost Recovery Fee assessment, an increase of \$897,000 from the prior year based on an increase in the assessment imposed by the Division of the Budget this year. In addition, it includes a payment of up to \$913,000 to the State general fund, assuming this will be included in the State



Budget Article VII budget bill language as in years past. The Budget anticipates a balance of unrestricted net assets of \$3.3 million as of March 31, 2014, representing approximately 0.5% of total funding, about the same as the prior year. Management believes that this amount will provide sufficient resources to meet working capital needs and unanticipated expenditures necessary to maintain public health and safety at Western New York Nuclear Service Center (“West Valley”).

Mr. Willis concluded his report by stating that the PPC unanimously recommended that the Members approve the Budget with respect to those portions that fall under the purview of the PPC.

Mr. Murray then asked Dr. Thorndike, Chair of the Waste and Facilities Management Committee (“W&FMC”), to report on the portion of the Budget considered by her Committee.

Dr. Thorndike stated that the W&FMC met on January 15, 2013. The Committee received a report from Treasurer Jeff Pitkin describing the more significant Budget items that relate to the West Valley Site Management Program and to Radioactive Waste Policy and Nuclear Coordination activities. The Budget for the West Valley Site Management Program totals \$12 million, a decrease of \$400,000 from the prior year. Funding for the Radioactive Waste Management Program remains unchanged at \$150,000.

Dr. Thorndike reported that based on Mr. Pitkin’s report, the Committee unanimously recommended that the Members approve the Budget for the West Valley Site Management Program and Radioactive Waste Policy and Nuclear Coordination activities.

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

#### Resolution No. 1352

RESOLVED, that the proposed fiscal year 2013-14 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 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. Murray then asked Mr. Willis to report on other items addressed during the PPC meeting. Mr. Willis stated that the PPC met on January 15, 2013 and considered and discussed several items in addition to Mr. Pitkin's Budget presentation. Mr. Willis stated that the PPC received a report from Hal Brodie, the Authority's General Counsel, regarding a resolution authorizing the Authority to enter into three agreements to effectuate the transfer to the Saratoga County Sewer District No. 1 ("Sewer District") of sewer lines and ancillary equipment associated with a new building at 20 Tech Trail at the Saratoga Technology + Energy Park ("STEP").

In April 2011, the Members approved a ground lease with STEP Tech, LLC, a company associated with the Jersen Construction Group ("Jersen"), to build 20 Tech Trail. The lease called for Jersen to extend the sewer line and to connect the extended line to the building. In 2011 and 2012, Jersen constructed the extension. Once constructed, it is common practice to transfer these lines to the county sewer district for permanent maintenance. The Members have approved similar transactions on two previous occasions for sewer lines at STEP.

In order to effectuate the transfer, the District requires the execution of three documents: a Deed of Dedication, a Permanent Right of Way and Easement, and a Guaranty. Under the Deed of Dedication, the Authority agrees to dedicate "all rights, title and interest in and to those pipes, conduits, manholes, pumps, sanitary sewer pump station and other related equipment and fixtures, exclusive of grinder pumps, constituting the sanitary sewer system installed within the easement areas..." to the Sewer District. In the Permanent Right of Way and Easement, the Authority grants the Sewer District a "permanent non-exclusive right of way and easement for the installation, maintenance, inspection, repair, relining, removal, replacement, improvement, use and operation of a sanitary sewer line." The Guaranty obligates the Authority to reimburse the Sewer District for any repair expenses incurred in the first year of transfer in excess of \$3,000. After this one-year period, the Sewer District will bear sole responsibility for all costs to maintain and repair the sewer system.

The PPC unanimously recommended that the Members approve the resolution to transfer ownership of the sewer system at STEP to the Sewer District.

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

Resolution No. 1353

RESOLVED, that the Deed of Dedication between the Authority and Saratoga County Sewer District No. 1 for the transfer of title of sewer-related ancillary equipment at the Saratoga Technology + Energy Park (STEP) as presented to the Members at this meeting, are hereby approved with such changes as the President and Chief Executive Officer, in his discretion, may deem necessary or appropriate, provided such changes do not substantially increase the Authority's financial obligations under the agreement; and

RESOLVED, that the Permanent Right of Way and Easement between the Authority and Saratoga County Sewer District No. 1 for the installation, maintenance, inspection, repair, relining, removal, replacement, improvement, use and operation of a sanitary sewer line and appurtenances at STEP as presented to the Members at this meeting, are hereby approved with such changes as the President and CEO, in his discretion, may deem necessary or appropriate, provided such changes do not substantially increase the Authority's financial obligations under the agreement; and

RESOLVED, that the Guaranty pursuant to which the Authority guaranties payment for certain repair and maintenance expenses of the Saratoga County Sewer District No. 1, as presented to the Members at this meeting, is hereby approved with such changes as the President and CEO, in his discretion, may deem necessary or appropriate, provided such changes do not substantially increase the Authority's financial obligations under the agreement.

Mr. Murray then advised that the next item on the agenda is a motion to enter into executive session for the purpose of discussing potential litigation concerning the RPS Program.

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

Resolution No. 1354

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 for the purpose of discussing potential litigation concerning the Renewable Portfolio Standard Program.

Mr. Murray then asked everyone but the Members, the Officers, Associate Counsel Peter Keane, Clean Energy Research and Market Development Program Director Mark Torpey, Energy and Environmental Markets and Smart Grid Program Manager John Saintcross, and Jared Snyder from the Department of Environmental Conservation to leave the room.

Thereafter, Mr. Murray reconvened the meeting in open session and reported that no action was taken while in executive session.

Mr. Murray then asked Mr. Willis to report on the next item on the agenda, revisions to the RGGI Operating Plan. Mr. Willis stated that the Members are asked to approve the allocation of \$14.6 million in RGGI funds to support the solar programs administered by the Long Island Power Authority (“LIPA”).

The PPC received a report from Energy Analysis Assistant Director David Coup on the impacts of Superstorm Sandy, which were unprecedented and have imposed significant financial hardship on several New York utilities and their ratepayers. During its recent 2013 budget review, LIPA requested that RGGI funding be made available to help sustain support for its growing PV market. Mr. Willis indicated that the use of RGGI funds to support LIPA PV initiatives has precedent. The Authority previously provided funding to support LIPA’s Solar Pioneer Program under an earlier version of New York’s RGGI Operating Plan.

The Authority conducted a review of existing RGGI programs to identify a way to facilitate this transfer that would have the least adverse impact on the overall portfolio. The proposed approach allows for existing program elements to remain intact on a scaled-back or deferred basis for those initiatives that are impacted by the transfer. Funding for the Cleaner Greener Communities Program will be replenished from future auction proceeds, and the

Authority will also seek to replenish funding to other affected programs using proceeds from future auctions.

Additionally, the adjustments will be factored into the development of the forthcoming 2013 RGGI Operating Plan Amendment that will be developed and reviewed with the RGGI Advisory Group, the PPC, and the Members.

The PPC unanimously recommended approving the revisions to the RGGI Operating Plan.

Mr. Burke expressed concern that RGGI funds would be used to offset budget shortfalls at LIPA that occurred as a result of Superstorm Sandy.

Whereafter, upon motion duly made and seconded, and by voice vote of the Members present, the following resolution was adopted. Mr. Burke abstained from voting.

#### Resolution No. 1355

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.

Mr. Murray then asked Mr. Willis to summarize the rest of the items discussed by the PPC. Mr. Willis stated that Janet Joseph, Vice President for Technology and Strategic Planning, and Thomas Barone, Acting Vice President for Operations and Energy Services, highlighted some of the factors that are anticipated to have a major effect on Authority programs going forward. Three factors in particular were identified: operating in a post-Sandy world, impacts

and opportunities from natural gas markets, and the trend toward more clean energy financing options.

Mr. Willis reported that the Authority is examining various programs to address the needs for both resiliency and sustainability in a post-Sandy world. Staff is working with the Governor's office on a proposal for backup generation at petroleum terminals, pipelines, and retail gas stations in the New York City area. In addition, staff is working with Consolidated Edison Company of New York, Inc. staff on preparing a filing due on February 1, 2013 to the PSC that will present contingency plans in the event that the Indian Point nuclear reactor is shut down.

Mr. Willis reported that Ms. Joseph identified the areas that are most affected by natural gas market trends and presented some strategies for dealing with these changes.

In the area of financing, Mr. Willis indicated that the Authority views financing as one of several tools that could be made available to consumers. However, financing should not be the only tool used to stimulate clean energy adoption in all market segments.

Next, Mr. Willis indicated that Ms. Joseph and Mr. Barone presented the PPC with an overview of the more significant program adjustments anticipated over the next year in the RPS, Technology and Market Development, RGGI, and EEPS programs.

RPS has several upcoming milestones including the 2013 evaluation. Ms. Joseph discussed the recent petition submitted by the Authority to change the eligibility requirements for bidders under the Main Tier to allow only in-state power producers to participate. With respect to the Customer Sited Tier of RPS, she mentioned that the first year of NY Sun was off to a good start and that the PV industry in New York State is very active. Ms. Joseph did note that there are some renewable markets that appear to be lagging in New York, such as solar thermal and fuel cells.

With respect to RGGI, Ms. Joseph discussed the proposed funding reallocation that is being considered to help sustain the thriving solar industry in Long Island. She also gave a brief update on some adjustments and milestones for the Cleaner Greener Communities and Green Jobs efforts that are funded by RGGI.

Mr. Barone continued by discussing the impacts of recent PSC Orders on the Authority's programs funded by EEPS. Mr. Barone noted that electric targets were reduced by approximately 1 million megawatt hours and natural gas targets were reduced by approximately 1.6 million dekatherms.

In an effort to learn more about how the Authority incorporates evaluation results to further inform its program designs as a means of engaging in the "continuous improvement" of its program offerings, the PPC heard a presentation from Program Manager Brian Platt on the Authority's Industrial and Process Efficiency ("IPE") Program. Mr. Platt discussed the IPE Program's objectives, budget, and energy savings targets. Mr. Platt also described the stakeholder process that informs program design and further development of this and other Authority programs.

The primary IPE Program objectives are customer-focused on process improvements; leveraging future economic activity; and fostering the implementation of dramatically more efficient technologies that reduce energy bills for its participants. The IPE Program has the largest electric target (800,000 megawatt hours) and gas target (2,940,000 million British thermal units) of any program in the EEPS portfolio. The Program delivers energy savings at the lowest cost per megawatt hour than any other program in the EEPS portfolio.

Mr. Willis reported that Program Manager Jennifer Meissner concluded the presentation on the IPE Program by presenting detailed information on the Process and Impact Evaluation activities conducted during 2011 and 2012. The purpose of these efforts was to assess the effectiveness of the IPE Program's outreach, marketing, and operational processes, as well as to determine the electric and natural gas savings attributable to the Program.

Mr. Murray then asked Dr. Thorndike to report on items addressed during the W&FMC meeting. Dr. Thorndike stated that the W&FMC received a status report from Director Paul Bembia on West Valley Site Management Program activities.

First, regarding the Fiscal Year 2013 federal funding picture, the West Valley Demonstration Project will continue to be funded at a level of \$50 million through the end of March 2013. Until the President's Federal Fiscal Year 2014 budget request is released, the Authority will not know what level of funding has been requested for West Valley. If funding remains at \$50 million, Phase 1 decommissioning will be impacted. The local DOE office believes that a minimum of \$60 million per year is needed to continue to make progress on the cleanup.

Mr. Bembia explained to the W&FMC that Phase 1 decommissioning activities at West Valley are presently focused in three main areas: preparation for the construction of the new interim High Level Waste Storage Facility, building demolition, and waste processing and shipping.

In addition, Mr. Bembia discussed the Phase 1 Studies which the Authority is conducting jointly with DOE in an effort to resolve the technical concerns Authority staff raised with the 2010 decommissioning Environmental Impact Statement. Staff is working closely with DOE staff and the Authority's contractors and advisors on these studies.

Dr. Thorndike concluded her report by stating that all of the Authority's monitoring and inspection data show that the State-Licensed Disposal Area is continuing to perform very well.

Mr. Murray then stated that next on the agenda is a report on items considered by the Audit and Finance Committee ("A&FC"). Mr. Murray asked Robert Catell, Chair of the A&FC, to discuss a report on various audits and investigations of the Authority. Mr. Catell advised that the A&FC meeting was held just before the Board and a quorum was present throughout. Mr. Catell reported that the A&FC received a report from Mr. Pitkin and the Authority's General



Counsel, Hal Brodie, on various audits and investigations of the Authority. The audits and investigations are all still ongoing and will be presented to the Board when complete.

Mr. Murray stated that next on the agenda was a report on recent activities of Internal Audit. Mr. Murray asked Mr. Catell to discuss the report. Mr. Catell reported that the Committee heard from Mark Mitchell, the Director of Internal Audit. At the beginning of the month the Members were sent the results of an audit of GMMB, Inc.'s ("GMMB") agreement with the Authority. Under the agreement, the Authority administers the contract by performing procurement and billing payment functions, while DPS's Office of Consumer Policy ("OCP") provides program oversight, as well as invoice review and approval.

The audit evaluated the contractor's performance and compliance with the agreement's billing terms and conditions, as well as reviewed the effectiveness of program staff's oversight of the agreement. It found that management and staff from OCP and from GMMB are doing a commendable job of monitoring the activities and expenses. In addition, GMMB has good internal control over its billing practices. Direct expenses were reasonable and supported.

The audit concluded that OCP had implemented effective contract monitoring controls. There were no questioned costs that resulted from this audit, and there were no significant exceptions. There were no recommendations. Management from both DPS and the Authority concurred with the report.

Lastly, Mr. Mitchell provided the A&FC the status of three audits currently in progress. Once each of these audits is complete, the final audit report will be provided to the Members.

Mr. Murray stated that the next agenda item was a report on the implementation of Project Sunlight by Assistant Counsel, Allyson Zipp. Ms. Zipp explained that Project Sunlight is a component of the Public Integrity Reform Act of 2011. It is intended to provide the public with an opportunity to see when outside individuals and entities are interacting with—and attempting to influence—state government decision-makers in particular ways. Project Sunlight requires the Authority to report certain interactions in an on-line, publicly available database.

Reportable interactions are those that qualify as “appearances” between “covered individuals” inside the Authority and “covered individuals” outside the Authority concerning one of five designated Project Sunlight subject areas.

Under Project Sunlight, an “appearance” is an in-person meeting, telephonic conversation, or video conference that is a substantive interaction meant to influence Authority decision-making. The location, formality, and initiator of the interaction are irrelevant. Certain types of interactions, including all written communications, administrative or ministerial interactions, purely informational exchanges, interactions regarding legislation or the budget, and meetings that are open to the public, are excluded from being reported as appearances.

For Project Sunlight purposes, “covered individuals” inside the Authority are Directors, Officers, and Board Members.

Covered individuals outside the Authority include internal and external representatives of outside entities, individuals representing themselves, and representatives of advocacy groups. Covered individuals do not include: (1) other government employees, whether of state or local government agencies and authorities, tribal governments, or the federal government; (2) state elected officials and executive and legislative employees, and judges and employees of the judiciary; (3) representatives of the media; or (4) persons under the age of 18.

Project Sunlight only requires reporting of an appearance between covered individuals if the appearance concerns one of five designated subject areas: procurement, regulatory matters, rule making, judicial or quasi-judicial proceedings, or rate making. Given the nature of the Authority’s operations, appearances concerning procurement will be most common.

Project Sunlight broadly defines a procurement appearance as an appearance for the purpose of procuring a state contract. The appearance can be unsolicited and need not relate to a specific procurement—indeed, no procurement need be planned. However, this broad definition is limited in several significant ways. First, open enrollment programs are not considered procurement for the purposes of Project Sunlight. Second, an interaction that is purely an

exchange of factual information is not an appearance and such an interaction is not reportable even if it relates to procurement. Third, an appearance that occurs after the earliest solicitation of a proposal—that is, after the Procurement Lobbying Law’s reporting requirements have been triggered—is not reportable under Project Sunlight. Also not reportable is an appearance that occurs after a contract has been awarded and relates to that contract. For example, contract negotiations with an awardee or debriefing of a non-awardee are not reportable. Finally, appearances relating to procurements of less than \$25,000 or to emergency procurements are not reportable.

At the Authority, appearances relating to the other four designated subject areas will be much less common and warrant only brief mention here. Of relevance to the Authority, an appearance concerning regulatory matters would seek to influence the Authority’s implementation of regulations where the Authority exercises discretion in that implementation. Likewise, an appearance concerning rule making would seek to influence the Authority’s adoption, amendment, or repeal of a regulation, where the Authority exercises discretion in that rule making decision. At the Authority, the possibility of an appearance concerning a judicial or quasi-judicial proceeding is limited to appearances seeking to influence the decision in Article 10 siting proceedings. Finally, the Authority does not engage in rate making, so there can be no rate making appearances.

When a reportable appearance occurs, the covered individual will communicate the reportable information by email to the Authority’s Project Sunlight liaison, designated by the General Counsel. At this time, Ms. Zipp is the Project Sunlight liaison. The information that must be reported includes the date of the appearance; the type of appearance (whether it was in-person, a telephone call, or a video conference); the meeting location; the designated subject area of the meeting (whether it regarded procurement, a regulatory matter, a rule making, a judicial/quasi-judicial proceeding, or a rate making); the Authority participant(s); other state government participant(s), if any; and information regarding the outside entity on whose behalf the appearance was made, including the company or organization’s name and address, the individual(s) attending, and if an outside representative attended, that company name, address, and names(s) of the individual(s).

Ms. Zipp will review the submitted information, ensure that it is properly reportable under Project Sunlight, and if so complete the necessary report in the Project Sunlight database. Appearances should be recorded in the Project Sunlight database in a timely fashion, within five business days of their occurrence.

Ms. Zipp concluded her report by stating that she will be reaching out to each Member to schedule an individual meeting or discussion to answer any detailed questions.

In response to an inquiry from Mr. Burke, Ms. Zipp indicated that she would provide the Members with a copy of her presentation and her contact information.

In response to an inquiry from Mr. Brown, Ms. Zipp explained that generally communications between Members are considered intra-agency and therefore would not be an appearance. However, if a Member is acting in a capacity other than as an Authority Member, then it may be an appearance.

In response to an inquiry from Mr. Elliman, Ms. Zipp explained that this is an ongoing obligation and that a form will be provided to the Members for completion when there is an appearance that must be reported.

In response to an inquiry from Mr. Catell, Ms. Zipp indicated that there will be grey areas, but the Members are permitted to give general factual information. Mr. Murray indicated that the Members should err on the side of caution and contact Ms. Zipp should they have any questions about a contact regarding the Authority.

Mr. Murray stated that the next agenda item is a report on the Authority's Environmental Monitoring, Evaluation and Protection Program ("EMEP") from Program Manager, Mark Watson. Mr. Watson explained that EMEP was created in 1998 with several goals and objectives. It seeks to enhance understanding of energy-related environmental issues in New York State with a focus on electric generation. EMEP supports accountability through analysis of long-term monitoring records and modeling. The program also examines the health and

ecological co-benefits of alternative energy and technology solutions. Lastly, EMEP supports an environmental research capability to better address the critical problems facing New York State.

EMEP's research areas include air quality and related health research; ecosystem response to deposition of sulfur, nitrogen, and mercury; climate change; alternative energy environmental impacts; and cross-cutting research. This focus is determined through comprehensive research planning which is updated approximately every five years. The process draws from program and science advisors, as well as external stakeholders. The final plan guides targeted solicitations and other program initiatives.

Mr. Watson explained that the results of EMEP research are disseminated through various outreach avenues using four outreach and technical transfer contractors. EMEP staff participate in conferences and meetings with program and science advisors and stakeholders, as well as provide briefings and testimony to regulators and policymakers. In addition, EMEP issues final reports, journal articles, and topical papers.

Next, Ms. Meissner provided the Members with an overview of the EMEP evaluation process. Ms. Meissner explained that the goal of the evaluation was to assess the effectiveness and perceived value of the information exchange component of EMEP. The evaluation was conducted through interviews of program staff and participants, phone surveys of conference attendees, and email surveys. It revealed no major problems and both scientists and policymakers have a positive view of EMEP. EMEP's linking of science and policy encourages researchers to consider policy implications. In addition, EMEP's research findings are relevant to scientists and considered of comparable quality to research produced by much larger, federally funded organizations.

The evaluation did make a few key recommendations, which are already being implemented. First, EMEP is considering strategies for simplifying the review process for finalizing reports and more clearly defining the purpose of its quarterly reporting requirements. Second, the roles and responsibilities of Program Advisory Group members have been defined with a specific work statement to avoid overlap. Third, EMEP is using its outreach contractors

to focus on networking and encouraging others involved in the program to provide information about EMEP to their peers. Lastly, EMEP is working to improve constituent tracking in order to help improve its overall outreach strategy.

In response to an inquiry from Mr. Burke, Mr. Watson explained that EMEP does have metrics, but because the overarching mission of EMEP is to inform policy decisions, the metrics are often difficult to quantify, unlike those of the Authority's energy efficiency programs. Ms. Joseph indicated that environmental metrics are included in the Authority's overall portfolio with generic kilowatt-hours translated to air quality impacts.

Dr. Thorndike encouraged staff to develop metrics that more clearly demonstrate the impact of EMEP work. She added that the \$3.7 million EMEP budget should be increased. Ms. McDonald concurred, adding that the Governor indicated in the State of the State that New York State is far behind in the area of technology transfer. Mr. Murray explained that while the budget for EMEP is small, R&D is the heart of the Authority. EMEP funds are used to focus research on energy consumption and its impact on New York State.

In response to an inquiry from Mr. Willis, Ms. Meissner indicated that an outside contractor conducts the EMEP evaluation. Mr. Watson explained that the EMEP plan is written every five years, but that it is often revised during that period as new needs arise.

Mr. Murray stated that the last item on the agenda is other business. Mr. Murray advised that he had two announcements. First, with recent changes to the Public Authorities Law in the last few years, the Authorities Budget Office has asked that the Members participate in a new training. The training is conducted as a webinar, and Members may register for sessions on the Authorities Budget Office's website. All Members must complete the training by March 31, 2013. The Members will be provided with the registration information.

Mr. Murray stated that the second announcement concerns the Annual Board Member Evaluation. As has been the Authority's practice in recent years, Board Members will be sent

the evaluations in early February with a self-addressed stamped envelope. Members are asked to complete and return the evaluations by March 1, 2013.

Mr. Murray then asked if there was any further 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 'H. Brodie', written over a horizontal line.

Hal Brodie  
Secretary

January 28, 2013

**REVISED NOTICE OF MEETING AND AGENDA**

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

PLEASE TAKE NOTICE that the two hundred sixteenth (216<sup>th</sup>) 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, 10<sup>th</sup> floor, New York, New York, and by video conference in the Authority's West Valley Office at 9030-B Route 219, West Valley, New York, on Monday, January 28, 2013, commencing at 11:30 a.m., for the following purposes:

1. To consider and act upon a resolution: reappointing Robert B. Catell, George Akel, and David Elliman to the Audit and Finance Committee and to reappoint Robert B. Catell as the Chair of the Audit and Finance Committee; reappointing David Elliman to the Governance Committee and to reappoint him as the Chair of the Governance Committee; and reappointing Kevin Burke and David Elliman to the Program Planning Committee and to appoint Mark Willis as the Chair of the Program Planning Committee.
2. To consider and act upon a resolution approving a periodic procurement contracts report.
3. To receive reports on the proposed FY 2013-14 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 2013-14 Budget.
4. With respect to matters considered by the Program Planning Committee:
  - (a) to consider and act upon a resolution approving a transfer of title of sewer-related ancillary equipment and for a Permanent Right-of-Way and Easement between the Authority and the Saratoga County Sewer District No. 1 at STEP;
  - (b) to consider and act upon a motion to enter into executive session for the purpose of discussing potential litigation concerning the Renewable Portfolio Standard Program; and

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

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**Management Program**  
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- (c) to consider and act upon a resolution recommending that the Board approve revisions to the Regional Greenhouse Gas Initiative (RGGI) Operating Plan.
- 5. To receive a report from the Waste and Facilities Management Committee.
- 6. With respect to matters considered by the Audit and Finance Committee:
  - (a) to receive a report on various audits and investigations of the Authority; and
  - (b) to receive a report on recent internal audit activities.
- 7. To receive a report on the implementation of Project Sunlight.
- 8. To receive a report on program highlights of the Authority's Environmental Monitoring, Evaluation and Protection Program.
- 9. To transact such other business as may properly come before the meeting.

Members of the public may attend the meeting at any of the above locations. The Authority will be posting a video of the meeting to the web within two business days of the meeting. The video will be posted at <http://www.nyserda.ny.gov/en/About/Board-Governance/Board-and-Committee-Meetings.aspx>.



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Hal Brodie  
Secretary

January 11, 2013

**NOTICE OF MEETING AND AGENDA**

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  - (b) to consider and act upon a motion to enter into executive session for the purpose of discussing potential litigation concerning the Renewable Portfolio Standard Program; and
  - (c) to consider and act upon a resolution recommending that the Board approve revisions to the Regional Greenhouse Gas Initiative (RGGI) Operating Plan.
4. To receive a report from the Waste and Facilities Management Committee.

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

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6. To consider and act upon a resolution approving a periodic procurement contracts report.
7. To receive a report on the implementation of Project Sunlight.
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Hal Brodie  
Secretary