

**MINUTES OF THE REGULAR MEETING OF THE  
POWER AUTHORITY OF THE STATE OF NEW YORK**

**September 26, 2006**

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Minutes of the Regular Meeting of the Power Authority of the State of New York held at the Clarence D. Rappleyea Building, White Plains, New York, at 11:00 a.m.

Present: Frank S. McCullough, Jr., Chairman  
Michael J. Townsend, Vice Chairman  
Joseph J. Seymour, Trustee  
Elise M. Cusack, Trustee  
Robert E. Moses, Trustee  
Thomas W. Scozzafava, Trustee  
Leonard N. Spano, Trustee

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Timothy S. Carey	President and Chief Executive Officer
Joseph Del Sindaco	Executive Vice President and Chief Financial Officer
Thomas J. Kelly	Executive Vice President and General Counsel
Vincent C. Vesce	Executive Vice President – Corporate Services and Administration
Robert J. Deasy	Senior Vice President – Energy Resource Management
Steven J. DeCarlo	Senior Vice President – Transmission
Angelo S. Esposito	Senior Vice President – Energy Services and Technology
Louise M. Morman	Senior Vice President – Marketing and Economic Development
William J. Nadeau	Senior Vice President – Energy Resource Management and Strategic Planning
Brian Vattimo	Senior Vice President – Public and Governmental Affairs
Edward A. Welz	Senior Vice President and Chief Engineer – Power Generation
Anne B. Cahill	Corporate Secretary
Thomas P. Antenucci	Vice President – Project Management
Richard J. Ardolino	Vice President – Engineering
Arnold M. Bellis	Vice President – Controller
John M. Hoff	Vice President – Procurement and Real Estate
Donald A. Russak	Vice President – Finance
William V. Slade	Vice President – Environmental Management
Tom H. Warmath	Vice President and Chief Risk Officer
James H. Yates	Vice President – Major Account Marketing and Economic Development
Angela D. Graves	Deputy Corporate Secretary
Michael E. Brady	Treasurer
Dennis T. Eccleston	Chief Information Officer
Thomas A. Davis	Director – Financial Planning
James F. Pasquale	Director – Business Power Allocations, Regulations and Billing
Michael A. Saltzman	Director – Media Relations
Daniel Wiese	Inspector General and Director – Corporate Security
Mary Jean Frank	Associate Corporate Secretary
Lorna M. Johnson	Assistant Corporate Secretary
Daniel J. Cappiello	Manager – Performance Planning
Lesly Y. Pardo	Manager – Internal Audit
Jeffrey Carey	Special Assistant to President and Chief Executive Officer
William Helmer	Special Licensing Counsel
Jack Murphy	Special Advisor to President and Chief Executive Officer
Ricardo DaSilva	Associate Electrical Engineer
Oksana U. Karaczewsky	Senior Procurement Compliance Coordinator
Jennifer Mayadas-Dering	Senior Project Engineer
Guy Sliker	Senior Research and Technical Development Engineer
Edward Gibbs	Executive Director, County of Westchester Public Utility Service Agency

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Chairman McCullough presided over the meeting. Secretary Cahill kept the Minutes.

1. **Approval of the Minutes**

*The Minutes of the Regular Meeting of July 26, 2006 were unanimously adopted.*

2. **Financial Reports for the Eight Months Ending August 31, 2006**

*Mr. Bellis presented an overview of the reports to the Trustees.*

3. **Report from the President and Chief Executive Officer**

*President Carey asked Mr. Del Sindaco to introduce the newest member of the management team. Mr. Del Sindaco said that Mr. Deasy has decided to retire at the end of the year after 32 years of service to the Authority. He introduced Mr. William Nadeau, who will be the Authority's Senior Vice President – Energy Resource Management and Strategic Planning. Mr. Nadeau thanked Mr. Del Sindaco for the warm welcome.*

*President Carey said that the Authority has received a positive report from the Office of the State Comptroller ("OSC") regarding its recent audit of the Niagara plant. He stated that even though only a few issues had been raised by the OSC report, the Authority did not concur in total with the report and that the Authority had sent a letter to the OSC setting forth its position and requesting a meeting to discuss this issue.*

*President Carey also said that he had been asked to serve on the Board of Directors of the U.S. Green Building Council and that the Authority would be the only electric utility represented on the Council's Board. Chairman McCullough congratulated President Carey on his appointment to this Board, saying it was consistent with President Carey's goals for the Authority in this regard.*

**4. Power for Jobs Program – Extended Benefits**

The President and Chief Executive Officer submitted the following report.

**SUMMARY**

“The Trustees are requested to approve extended benefits for 60 Power for Jobs (‘PFJ’) customers as listed in Exhibit ‘4-A.’ These customers have been recommended to receive such extended benefits by the Economic Development Power Allocation Board (‘EDPAB’).

**BACKGROUND**

“In July 1997, the New York State Legislature and Governor George E. Pataki approved a program to provide low-cost power to businesses and not-for-profit corporations that agree to retain or create jobs in New York State. In return for commitments to create or retain jobs, successful applicants receive three-year contracts for PFJ electricity.

“The PFJ program originally made 400 megawatts (‘MW’) of power available. The program was to be phased in over three years, with approximately 133 MW made available each year. In July 1998, as a result of the initial success of the program, the Legislature and Governor Pataki amended the PFJ statute to accelerate the distribution of the power, making a total of 267 MW available in Year One. The 1998 amendments also increased the size of the program to 450 MW, with 50 MW to become available in Year Three.

“In May 2000, legislation was enacted that authorized another 300 MW of power to be allocated under the PFJ program. The additional MW were described in the statute as ‘phase four’ of the program. Customers that received allocations in Year One were authorized to apply for reallocations; more than 95% reapplied. The balance of the power was awarded to new applicants.

“In July 2002, legislation was signed into law by Governor Pataki that authorized another 183 MW of power to be allocated under the program. The additional MW were described in the statute as ‘phase five’ of the program. Customers that received allocations in Year Two or Year Three were given priority to reapply for the program. Any remaining power was made available to new applicants.

“Chapter 59 of the Laws of 2004 extended the benefits for PFJ customers whose contracts expired before the end of the program in 2005. Such customers had to choose to receive an ‘electricity savings reimbursement’ rebate and/or a power contract extension. The Authority was also authorized to voluntarily fund the rebates, if deemed feasible and advisable by the Trustees.

“PFJ customers whose contracts expired on or prior to November 30, 2004 were eligible for a rebate to the extent funded by the Authority from the date their contract expired through December 31, 2005. As an alternative, such customers could choose to receive a rebate to the extent funded by the Authority from the date their contract expired as a bridge to a new contract extension, with the contract extension commencing December 1, 2004. The new contract would be in effect from a period no earlier than December 1, 2004 through the end of the PFJ program on December 31, 2005.

“PFJ customers whose contracts expired after November 30, 2004 were eligible for rebate or contract extension, assuming funding by the Authority, from the date their contracts expired through December 31, 2005.

“Approved contract extensions entitled customers to receive the power from the Authority pursuant to a sale-for-resale agreement with the customer’s local utility. Separate allocation contracts between customers and the Authority contained job commitments enforceable by the Authority.

“In 2005, provisions of the approved State budget extended the period PFJ customers could receive benefits until December 31, 2006. In 2006, a new law (Chapter 645 of the Laws of 2006) included provisions extending program benefits until June 30, 2007.

“Section 189 of the New York State Economic Development Law, which was amended by Chapter 59 of the Laws of 2004, provided the statutory authorization for the extended benefits that could be provided to PFJ customers. The statute stated that an applicant could receive extended benefits ‘only if it is in compliance with and agrees to continue to meet the job retention and creation commitments set forth in its prior power for jobs contract.’

“Chapter 313 of the Laws of 2005 amended the above language to allow EDPAB to consider continuation of benefits on such terms as it deems reasonable. The statutory language now reads as follows:

*An applicant shall be eligible for such reimbursements and/or extensions only if it is in compliance with and agrees to continue to meet the job retention and creation commitments set forth in its prior power for jobs contract, **or such other commitments as the board deems reasonable.** (emphasis supplied)*

“At its meeting of October 18, 2005, EDPAB approved criteria under which applicants whose extended benefits EDPAB had reduced for non-compliance with their job commitments could apply to have their PFJ benefits reinstated in whole or in part. EDPAB authorized staff to create a short-form application, notify customers of the process, send customers the application and evaluate reconsideration requests based on the approved criteria. To date, staff has mailed 200 applications, received 109 and reviewed 108.

#### DISCUSSION

“At its meeting on September 26, 2006, EDPAB recommended that the Authority’s Trustees approve the electricity savings reimbursement rebates to the 60 businesses listed in Exhibit ‘4-A.’ Collectively, these organizations have agreed to retain more than 54,000 jobs in New York State in exchange for rebates. The rebate program will be in effect until December 31, 2006, the program’s sunset. The power will be wheeled by the investor-owned utilities as indicated in the Exhibit.

“The Trustees are requested to approve the payment and funding of rebates for the companies listed in Exhibit ‘4-A’ in a total amount currently not expected to exceed \$4,800,000. Staff recommends that the Trustees authorize a withdrawal of monies from the Operating Fund for the payment of such amount, provided that such amount is not needed at the time of withdrawal for any of the purposes specified in Section 503(1)(a)-(c) of the General Resolution Authorizing Revenue Obligations, as amended and supplemented. Staff expects to present the Trustees with requests for additional funding for rebates to the companies listed in the Exhibit in the future.

#### FISCAL INFORMATION

“Funding of rebates for the companies listed on Exhibit ‘4-A’ is not expected to exceed \$4,800,000. Payments will be made from the Operating Fund. To date, the Trustees have approved \$48.5 million in rebates.

#### RECOMMENDATION

“The Executive Vice President and Chief Financial Officer and the Director – Business Power Allocations and Regulation recommend that the Trustees approve the payment of electricity savings reimbursements to the Power for Jobs customers listed in Exhibit ‘4-A.’

“The Executive Vice President and General Counsel, the Senior Vice President – Marketing and Economic Development, the Vice President – Major Account Marketing and Economic Development, the Senior Vice President – Public and Governmental Affairs and I concur in the recommendation.”

*Mr. Pasquale presented the highlights of staff’s recommendations to the Trustees. Chairman McCullough explained that when Power for Jobs customers’ benefits are identified for reduction due to noncompliance with their job commitments, Authority staff notifies the customers of the reconsideration procedures that are in place to allow these customers to ask for EDPAB reconsideration based on special*

*circumstances. Mr. Pasquale said that 109 customers have sent in requests for reconsideration of their reduced power allocations to date.*

The following resolution, as submitted by the President and Chief Executive Officer, was unanimously adopted.

**WHEREAS, the Economic Development Power Allocation Board has recommended that the Authority approve electricity savings reimbursements to the Power for Jobs customers listed in Exhibit "4-A";**

**NOW THEREFORE BE IT RESOLVED, That to implement such Economic Development Power Allocation Board recommendations, the Authority hereby approves the payment of electricity savings reimbursements to the companies listed in Exhibit "4-A" and that the Authority finds that such payments for electricity savings reimbursements are in all respects reasonable, consistent with the requirements of the Power for Jobs program and in the public interest; and be it further**

**RESOLVED, That based on staff's recommendation, it is hereby authorized that payments be made for electricity savings reimbursements as described in the foregoing report of the President and Chief Executive Officer in the aggregate amount of up to \$4.8 million, and it is hereby found that amounts may properly be withdrawn from the Operating Fund to fund such payments; and be it further**

**RESOLVED, That such monies may be withdrawn pursuant to the foregoing report upon the certification on the date of such withdrawal by the Vice President – Finance or the Treasurer that the amount to be withdrawn is not then needed for any of the purposes specified in Section 503 (1)(a)-(c) of the General Resolution Authorizing Revenue Obligations, as amended and supplemented; and be it further**

**RESOLVED, That the Senior Vice President – Marketing, Economic Development or her designee be, and hereby is, authorized to negotiate and execute any and all documents necessary or desirable to effectuate the foregoing subject to the approval of the form thereof by the Executive Vice President and General Counsel; and be it further**

**RESOLVED, That the President and Chief Executive Officer and all other officers of the Authority are, and each of them hereby is, authorized on behalf of the Authority to do any and all things and take any and all actions and execute and deliver any and all certificates, agreements and other documents to effectuate the foregoing resolutions, subject to the approval of the form thereof by the Executive Vice President and General Counsel.**

New York Power Authority  
Power for Jobs Extended Benefits

Exhibit "4-A"  
September 26, 2006

Recommendation for Electricity Savings Reimbursements

Line	Company	City	County	IOU	KW	Job Committed	Jobs in			Compliance	Recommended		Type	Service
							Application	Over (under)	% Over (under)		KW	Jobs/Mw		
1	Belmont Metals, Inc.	Brooklyn	Kings	Con Ed	400	88	84	-4	-5%	Yes	400	210	Large	Manufacturer of non-ferrous metals
2	Charmer Industries, Inc.	Astoria	Queens	Con Ed	750	732	810	78	11%	Yes	750	1,080	Large	Distributors of wines and spirits
3	Edison Price Lighting, Inc.	New York	New York	Con Ed	400	160	157	-3	-2%	Yes	400	393	Large	Manufacturer and sales of lighting fixtures
4	Greater Jamaica Development Corp.	Jamaica	Queens	Con Ed	375	121	136	15	12%	Yes	375	363	NFP	Urban & Community Development
5	International Business Machines	White Plains	Westchester	Con Ed	4,400	1,989	1,748	-241	-12%	No	3,870	452	Large	Computer Manufacturer
6	Lincoln Center for the Performing Arts	New York	New York	Con Ed	3,000	2,312	2,328	16	1%	Yes	3,000	776	NFP	Performing Arts Center
7	Long Island Jewish Medical Center	Manhasset	Nassau	Con Ed	2,000	6,143	6,009	-134	-2%	Yes	2,000	3,005	NFP	Healthcare Center
8	Manhattan School of Music	New York	New York	Con Ed	200	176	343	167	95%	Yes	200	1,715	NFP	International conservatory of music
9	Mount Sinai Medical Center	New York	New York	Con Ed	2,000	10,787	11,261	474	4%	Yes	2,000	5,631	NFP	Medical Center
10	New Museum of Contemporary Art	New York	New York	Con Ed	50	41	47	6	15%	Yes	50	940	NFP	Art Center
11	New York Presbyterian Hospital	New York	New York	Con Ed	5,000	6,958	7,765	807	12%	Yes	5,000	1,553	NFP	Medical care
12	Norampac New York City, Inc.	Maspeth	Queens	Con Ed	600	267	195	-72	-27%	No	600	325	Large	Manufacturers of corrugated paper packaging
13	S. R. Guggenheim Museum	New York	New York	Con Ed	475	356	358	2	1%	Yes	475	754	NFP	Art Museum
14	The Brooklyn Historical Society	Brooklyn	Kings	Con Ed	30	16	17	1	6%	Yes	30	567	NFP	Community Services
15	The Museum of Modern Art	New York	New York	Con Ed	1,000	741	757	16	2%	Yes	1,000	757	NFP	Museum
	<b>Con Ed</b>		<b>Subtotal</b>	15	<b>20,680</b>	<b>30,887</b>	<b>32,015</b>				<b>20,150</b>			
16	Ametek Hughes-Treitler	Garden City	Suffolk	LIPA	500	189	181	-8	-4%	Yes	500	362	Large	Manufacturer of heat exchangers
17	Augros, Inc.	Ronkonkoma	Suffolk	LIPA	500	150	132	-18	-12%	No	440	300	Large	Manufacturer of molded plastic container caps
18	Good Samaritan Hospital	West Islip	Suffolk	LIPA	800	2,651	2,914	263	10%	Yes	800	3,642	NFP	Healthcare Center
19	John Hassall, Inc.	Westbury	Nassau	LIPA	450	111	106	-5	-5%	Yes	450	236	Large	Manufacturer specialty metal fasteners
20	Ultimate Precision Metal	Farmingdale	Suffolk	LIPA	250	107	122	15	14%	Yes	250	488	Small	Manufactures controlled enclosures
	<b>LIPA</b>		<b>Subtotal</b>	5	<b>2,500</b>	<b>3,208</b>	<b>3,455</b>				<b>2,440</b>			
21	Borg Warner Morse Tech Corp	Cortland	Cortland	Nat Grid	1,500	266	242	-24	-9%	Yes	1,500	161	Large	Manufacturer of Auto Components
22	Bristol-Myers Squibb Company	East Syracuse	Onondaga	Nat Grid	5,000	936	1,069	133	14%	Yes	5,000	214	Large	Manufacturer of bulk antibiotics
23	Cascades Tissue Group	Waterford	Saratoga	Nat Grid	600	110	159	49	45%	Yes	600	265	Large	Large Industrial towel manufacturer
24	Clarkson University	Potsdam	St. Lawrence	Nat Grid	1,500	621	652	31	5%	Yes	1,500	435	NFP	Higher education
25	Cooper Hand Tools	Cortland	Cortland	Nat Grid	2,200	190	115	-75	-39%	No	1,330	86	Large	Metal machining and casting
26	CWM Chemical Services, LLC	Model City	Niagara	Nat Grid	400	100	83	-17	-17%	No	330	252	Small	Treatment, storage & disposal of Industrial Waste
27	Edward John Noble Hospital	Gouverneur	St. Lawrence	Nat Grid	100	252	258	6	2%	Yes	100	2,580	NFP	Healthcare center
28	Fiber Glass Industries Inc.	Amsterdam	Herkimer	Nat Grid	700	142	137	-5	-4%	Yes	700	196	Large	Produces high strength woven fabrics
29	Fitzpatrick & Weller, Inc.	Ellicottville	Cattaraugus	Nat Grid	1,000	230	107	-123	-53%	No	1,000	107	Large	Lumber & wood components
30	Ford Motor Company	Buffalo	Erie	Nat Grid	5,000	1,706	1,685	-21	-1%	Yes	5,000	337	Large	Automotive components stamping
31	Interface Solutions, Inc.	Fulton	Oswego	Nat Grid	1,000	187	180	-7	-4%	Yes	1,000	180	Large	Makes backing for vinyl flooring and fiber gaskets
32	Kilian Manufacturing Corporation	Syracuse	Onondaga	Nat Grid	400	345	214	-131	-38%	No	400	535	Large	Mfr. ball bearings
33	Lewis County General Hospital	Lowville	Lewis	Nat Grid	200	382	389	7	2%	Yes	200	1,945	NFP	Medical Center
34	McLane Eastern	Baldwinsville	Onondaga	Nat Grid	1,000	1040	783	-257	-25%	No	875	895	Large	Wholesale grocery distributor

35	Mohawk Paper Mills	Cohoes	Albany	Nat Grid	2,250	389	426	37	10%	Yes	2,250	189	Large	Manufacturer of text and cover papers
36	Nathan Littauer Hospital & Nursing Home	Gloversville	Fulton	Nat Grid	400	662	677	15	2%	Yes	400	1,693	NFP	Hospital and Nursing Home
37	Natrium Products, Inc.	Cortland	Cortland	Nat Grid	90	20	20	0	0%	Yes	90	222	Small	Manufacturer of sodium bicarbonate (baking soda)
38	Organichem, Inc.	Rensselaer	Rensselaer	Nat Grid	1,000	183	330	147	80%	Yes	1,000	330	Large	Manufacturing of active pharmaceutical ingredients
39	Quad Graphics, Inc.	Saratoga Springs	Saratoga	Nat Grid	4,000	1,420	1,118	-302	-21%	No	4,000	280	Large	Printing services
40	Queensboro Farm Products, Inc.	Canastota	Madison	Nat Grid	500	79	81	2	3%	Yes	500	162	Large	Milk manufacturing and processing plant
41	Robison & Smith, Inc.	Gloversville	Fulton	Nat Grid	384	176	190	14	8%	Yes	384	495	Small	Linen & Laundry Supply
42	Sorrento Lactalis, Inc.	Buffalo	Erie	Nat Grid	1,500	358	464	106	30%	Yes	1,500	309	Large	Produces cheese as well as whey products
43	Specialized Packaging Radisson, Inc	Baldwinsville	Onondaga	Nat Grid	200	190	148	-42	-22%	No	180	822	Small	Produces printed folding cartons
44	Standard Manufacturing Co., Inc.	Troy	Rensselaer	Nat Grid	160	152	30	-122	-80%	No	30	1,000	Small	Apparel
45	Syracuse China Company	Syracuse	Onondaga	Nat Grid	500	434	371	-63	-15%	No	460	807	Large	Manufactures restaurant china
46	Syracuse Plastics, Inc.	Liverpool	Onondaga	Nat Grid	400	123	57	-66	-54%	No	400	143	Large	Maker of plastic parts and components
47	Turbine Components Technologies	Whitesboro	Oneida	Nat Grid	1,200	395	225	-170	-43%	No	1,200	188	Large	Precision forging plant
48	Vicks Lithograph & Printing	Yorkville	Oneida	Nat Grid	750	169	165	-4	-2%	Yes	750	220	Large	Book printer & distribution
49	Welch Allyn Data Collection Inc.	Skaneateles Falls	Onondaga	Nat Grid	2,000	1,294	1,257	-37	-3%	Yes	2,000	629	Large	Medical and dental diagnostic equipment
	<b>National Grid</b>		<b>Subtotal</b>		<b>29</b>	<b>35,934</b>	<b>12,551</b>	<b>11,632</b>			<b>34,679</b>			
50	Agri-Mark, Inc	Chateaugay	Franklin	NYSEG	500	106	116	10	9%	Yes	500	232	Large	Cheese Manufacturer
51	Air-Flo Manufacturing	Prattsburgh	Steuben	NYSEG	130	117	119	2	2%	Yes	130	915	Small	Mfr. of ice control equipment and truck bodies
52	Audio Sears	Stamford	Delaware	NYSEG	187	105	74	-31	-30%	No	190	389	Small	Makes audio equipment
53	Borg Warner Automotive Morse	Ithaca	Tompkins	NYSEG	4,000	1,360	1,416	56	4%	Yes	4,000	354	Large	Manufacture of automotive components
54	Candlelight Cabinetry, Inc.	Lockport	Niagara	NYSEG	400	200	185	-15	-8%	Yes	400	463	Large	Manufacture custom cabinets
55	Endicott Interconnect Technologies	Endicott	Broome	NYSEG	5,000	5,500	3,852	-1,648	-30%	No	3,500	1,101	Large	
56	Vail Ballou Press, Inc.	Binghamton	Broome	NYSEG	1,800	500	426	-74	-15%	No	1,800	237	Large	Book printer and distributor
	<b>NYSEG</b>		<b>Subtotal</b>		<b>7</b>	<b>12,017</b>	<b>7,888</b>	<b>6,188</b>			<b>10,520</b>			
57	Flower City Printing, Inc.	Rochester	Monroe	RGE	650	245	257	12	5%	Yes	650	395	Large	Commercial printer
58	Gorbel Corp.	Fishers	Ontario	RGE	450	176	137	-39	-22%	No	350	391	Small	Produces jibs, overhead workstations & crans
59	International Business Machines	Rochester	Monroe	RGE	2,800	1,495	610	-885	-59%	No	1,150	530	Large	Computer Manufacturer
60	Jada Precision Plastics Co.	Rochester	Monroe	RGE	375	91	56	-35	-38%	No	300	187	Small	Custom injection molder
	<b>RG&amp;E</b>		<b>Subtotal</b>		<b>4</b>	<b>4,275</b>	<b>2,007</b>	<b>1,060</b>			<b>2,450</b>			

<b>Total</b>	<b>60</b>	<b>75,406</b>	<b>56,541</b>	<b>54,350</b>
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<b>70,239</b>	<b>774</b>
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Note: Some of the companies listed above have had part or all of their allocation restored though the reconsideration process.

**5. Allocation of 3,800 kW of Hydro Power**

The President and Chief Executive Officer submitted the following report.

**SUMMARY**

“The Trustees are requested to approve one allocation of available Replacement Power (‘RP’) totaling 600 kW to Silver Eagle Technology, Inc. and one allocation of available Expansion Power (‘EP’), totaling 3,200 kW to HSBC Technology & Services Inc.

**BACKGROUND**

“Under the RP Settlement Agreement, National Grid (‘Grid’) (formerly Niagara Mohawk Power Corporation), with the approval of the Authority, identifies and selects certain qualified industrial companies to receive delivery of RP. Qualified companies are current or future industrial customers of Grid that have or propose to have manufacturing facilities for the receipt of RP within 30 miles of the Authority’s Niagara Switchyard. RP is up to 445,000 kW of firm hydro power generated by the Authority at its Niagara Power Project that has been made available to Grid, pursuant to the Niagara Redevelopment Act (through December 2005) and Chapter 313 of the 2005 Laws of the State of New York.

“Under Section 1005 (13) of the Power Authority Act, as amended by Chapter 313, the Authority may contract to allocate or reallocate directly, or by sale for resale, 250 MW of firm hydroelectric power as EP and up to 445 MW of RP to businesses in the State located within 30 miles of the Niagara Power Project, provided that the amount of power allocated to businesses in Chautauqua County on January 1, 1987 shall continue to be allocated in such county.

**DISCUSSION**

“On October 22, 2003, the Authority, Grid, Empire State Development Corporation and the Buffalo Niagara Enterprise signed a Memorandum of Understanding (‘MOU’) that outlines the process to coordinate marketing and allocating Authority hydro power. The entities noted above have formed the Western New York Advisory Group (‘Advisory Group’) with the intent of better using the value of this resource to improve the economy of Western New York and the State of New York. Nothing in the MOU changes the legal requirements applicable to the allocation of hydro power.

“Based on the Advisory Group’s discussions, staff recommends that the 600 kW of available Replacement Power be allocated for Silver Eagle Technology, Inc. and 3,200 kW of available Expansion Power be allocated for HSBC Technology & Services Inc. These projects will help maintain and diversify the industrial base of Western New York and provide new employment opportunities.

**RECOMMENDATION**

“The Director – Business Power Allocations and Regulation recommends that the Trustees approve an allocation of available Replacement Power totaling 600 kW to Silver Eagle Technology Inc. and an allocation of available Expansion Power, totaling 3,200 kW to HSBC Technology & Services Inc.

“The Executive Vice President and General Counsel, the Senior Vice President – Marketing and Economic Development, the Vice President – Major Accounts Marketing and Economic Development and I concur in the recommendation.”

The following resolution, as submitted by the President and Chief Executive Officer, was unanimously adopted.

**RESOLVED, That the allocation of 600 kW of Replacement Power to Silver Eagle Technology, Inc. and 3,200 kW of Expansion Power to HSBC Technology & Services Inc., be, and hereby is, approved on the terms set forth in the foregoing report of the President and Chief Executive Officer; and be it further**

**RESOLVED, That the Chairman, the President and Chief Executive Officer and all other officers of the Authority are, and each of them hereby is, authorized on behalf of the Authority to do any and all things and take any and all actions and execute and deliver any and all agreements, certificates and other documents to effectuate the foregoing resolution, subject to the approval of the form thereof by the Executive Vice President and General Counsel.**

**6. Steuben Rural Electric Cooperative –  
Increase in Retail Rates – Notice of Adoption**

The President and Chief Executive Officer submitted the following report.

SUMMARY

“The Board of the Steuben Rural Electric Cooperative (‘Cooperative Board’) has requested the Trustees to approve revisions in the Steuben Rural Electric Cooperative’s (‘Cooperative’) retail rates for each customer service classification. These revisions will result in additional total annual revenues of about \$378,500, or 6.1%.

BACKGROUND

“The Cooperative Board has requested the proposed rate increase primarily to provide revenues to allow for sufficient working funds, meet forecasted increases in operation and maintenance expenses and meet federal regulatory financial ratio level requirements. Current rates have been in effect since March 1988.

“The management of the Cooperative has planned additions to plant-in-service amounting to \$1.2 million. The capital program consists of a major upgrade of the Cooperative’s extensive distribution lines and conductors and an increase to its substation capacity.

“Under the new rates, an average residential customer who currently pays about 9.4 cents per kWh will pay about 10.0 cents per kWh. A commercial customer that currently pays 8.5 cents per kWh will pay 9.0 cents after the increase. Industrial customers that presently pay 8.8 cents will pay 8.9 cents after the increase. A new service class, ‘Large, Separated, Electric Cold Storage or Processing Plant’ was created, to serve only large industrial customers from a different metering point. The creation of this new class allows the cooperative to explicitly calculate and monitor the cost of serving this unique load. The estimated average rate for this new class is 5.3 cents per kWh.

DISCUSSION

“The proposed rate revisions are based on a cost-of-service study prepared by the Cooperative and reviewed by Authority staff. Two public hearings were held by the Cooperative, on July 18 at the Cherry Creek district office and another on July 19, 2006 at the Bath main office. No rate payer comments were received at the public hearing. The Cooperative Board has requested that the proposed rates be approved. No comments concerning the proposed action have been received by the Authority’s Corporate Secretary.

“Pursuant to the approved procedures, the Senior Vice President – Marketing and Economic Development requested the Corporate Secretary to file a notice for publication in the New York State Register of the Cooperative’s proposed revision in retail rates. Such notice was published on August 2, 2006.

“An expense and revenue summary, comparisons of present and proposed total annual revenues and their corresponding rates by service classification are attached as Exhibits ‘6-A,’ ‘6-B’ and ‘6-C,’ respectively.

RECOMMENDATION

“The Director – Business Power Allocations and Regulation recommends that the attached schedule of rates for the Steuben Rural Electric Cooperative be approved as requested by the Board of the Steuben Rural Electric Cooperative to take effect beginning with the first full billing period following the date this resolution is adopted.

“It is also recommended that the Trustees authorize the Corporate Secretary to file a notice of adoption with the Secretary of State for publication in the New York State Register and to file such other notice as may be required by statute or regulation.

“The Executive Vice President and General Counsel, the Senior Vice President – Marketing and Economic Development and I concur in the recommendation.”

*Mr. Pasquale presented the highlights of staff's recommendations to the Trustees. In response to a question from Trustee Seymour regarding the Board's jurisdiction to consider such matter, Mr. Pasquale said that the Authority regulates the rates of the municipal utilities and rural electric cooperatives under provisions of our contract and State law.*

The following resolution, as submitted by the President and Chief Executive Officer, was unanimously adopted.

**RESOLVED, That the proposed rates for electric service for the Steuben Rural Electric Cooperative, Inc., as requested by such Cooperative Board, be approved, to take effect with the first full billing period following this date, as recommended in the foregoing report of the President and Chief Executive Officer; and be it further**

**RESOLVED, That the Corporate Secretary of the Authority be, and hereby is, authorized to file a notice of adoption with the Secretary of State for publication in the New York State Register and to file any other notice required by statute or regulation; and be it further**

**RESOLVED, That the President and Chief Executive Officer and all other officers of the Authority are, and each of them hereby is, authorized on behalf of the Authority to do any and all things and take any and all actions and execute and deliver any and all agreements, certificates and other documents to effectuate the foregoing resolution, subject to the approval of the form thereof by the Executive Vice President and General Counsel.**

**Steuben Rural Electric Cooperative**  
Expense and Revenue Summary

	<u>Average</u>	Five-Year <u>Proposed</u> <sup>1</sup>
Purchase Power Expense (NYPA hydro, incremental & ISO charges)	\$1,217,713	\$1,595,691
Distribution Expense (Coop-owned facilities)	1,926,045	2,179,797
Transmission Expense	0	17,007
Depreciation Expense (on all capital facilities and equipment)	957,365	1,033,118
General & Administrative Expenses (salaries, insurance, mgmt services & adm. expenses)	679,298	796,256
Rate of Return – (Average 4.6%, Proposed 4.0%) (includes debt service on current & planned debt, federal regulatory financial ratio level requirement, Coop members' patronage capital distribution and cash reserves for contingencies)	<u>956,826</u>	<u>966,649</u>
Total Cost of Service	<u>\$5,737,247</u>	<u>\$6,588,518</u>
Revenue at Present Rates		\$6,210,065
Deficiency at Current Rates		378,453
Revenue at Proposed Rates		\$6,588,518
Increase % at Proposed Rates		6.1%

<sup>1</sup> Based on five years of historical and projected data.

**Steuben Rural Electric Cooperative**  
Comparison of Present and Proposed Annual Total Revenues

<u>SERVICE CLASSIFICATION</u>	<u>PRESENT REVENUE</u>	<u>PROPOSED REVENUE</u>	<u>% INCREASE</u>
Residential, Schedule 1	\$5,342,984	\$5,686,487	6.4%
Commercial Service, Schedule 2	267,948	285,257	6.5%
Industrial Service, Schedule 3	455,355	459,393	0.9%
Security Lighting, Schedule 4	<u>143,778</u>	<u>157,381</u>	<u>9.5%</u>
Total	<u>\$6,210,065</u>	<u>\$6,588,518</u>	6.1%

**Steuben Rural Electric Cooperative**  
Comparison of Present and Proposed Net Monthly Rates

<u>Present <sup>1</sup></u> <u>Rates</u>		<u>Proposed <sup>1</sup></u> <u>Rates</u>
<b><u>Residential, Schedule 1</u></b>		
\$ 9.75	Customer Charge	\$ 10.33
\$ .0789	Energy Charge, per kWh.	\$ .0841
<b><u>Commercial Service, Schedule 2</u></b>		
\$ 9.75	Customer Charge	\$ 10.33
\$ .0789	Energy Charge, per kWh.	\$ .0841
<b><u>Industrial Service, Schedule 3</u></b>		
\$ 3.81	Demand Charge, per kW	\$ 3.81
\$ .0612	Energy Charge, per kWh.	\$ .0619
<b><u>Security Lighting, Schedule 4</u></b>		
	(Charge per lamp, per month)	
\$ 7.84	100 Mercury Vapor	\$ 8.60
<b><u>Large, Separated, Electric Cold Storage or Processing Plant Service, Schedule 5</u></b>		
<b>New Service Class</b>		
N/A	Demand Charge, per kW	\$ 4.84
N/A	Energy Charge, per kWh.	\$ .0216

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<sup>1</sup> Average annual purchased power adjustment (PPA) reflected in present and proposed rates.

7. **Productivity Improvement Request Reductions**

The President and Chief Executive Officer submitted the following report.

**SUMMARY**

“It is requested that the Trustees approve reductions to the employment commitments for each of the five companies listed in Exhibit ‘7-A.’ These customers have clauses in their contracts that allow them to request a reduction in their commitments if the reduction is due to productivity improvements. Each of the five companies that made the productivity improvement requests met the appropriate criteria.

**BACKGROUND**

“Each year, Authority staff initiates a review of all business power allocations and the customers’ performance against agreed-upon job commitments. In 2005, the Authority had 289 contracts with 210 business customers, excluding Power for Jobs (‘PFJ’) agreements. In 2005, five customers (with 12 contracts) requested a reduction to their base employment commitments due to productivity improvements made during the reporting period.

“The contracts contain a customer commitment to retain or add a specific number of jobs. A company may request a productivity review to have its job commitment reduced if the reduction in employment is due to increased efficiency or improved technology. Relocation of specific activities away from the facility will not be considered an increased efficiency, improved technology or productivity improvement. Employment reductions made due to reduced production or sales volume will not be considered as an increased efficiency, improved technology or productivity improvement.

“A recommendation to lower a customer’s job commitment due to productivity improvements is made when:

1. The customer submits documentation of procedural or operational change, and
2. Staff conducts a site visit to verify the improvement(s) and the resulting reduction(s) in jobs.

“The most common types of productivity improvements are automation, job consolidation, rebalancing and new process/design change.

“Automation reduces employment by increasing efficiency or improving technology. Job consolidation and rebalancing are similar improvements – job consolidation takes two jobs and eliminates one by giving the other job the duties of that job, while rebalancing redistributes work among many workers while eliminating one or two workers. New process/design change is a new method of doing something or a new design for a part that requires fewer workers to produce the same amount of work or product.

**DISCUSSION**

“Staff recommends that the Trustees approve action regarding the five customers meeting the productivity improvement requirement for a reduction to their employment commitments in 12 contracts. Brief descriptions of those companies that meet the productivity improvement employment reduction requirements are listed in Section I.

“A summary of all contracts discussed in this item is provided as Exhibit ‘7-A.’

## Section I.

**Allocations To Continue with Job Commitment Changes for Productivity Improvements****E.I. Du Pont De Nemours & Co., Inc.**, Niagara Falls, Niagara County

**Allocation:** 790 kW of Expansion Power ('EP') and 31,700 kW of Replacement Power ('RP')

**Jobs Commitment:** 254 jobs and 201 jobs, consecutively

**Background:** E. I. Du Pont De Nemours & Co., Inc. ('DuPont') has been in the chemicals business for more than 200 years and has been producing sodium chloride and lithium at this plant for more than 100 years. Both allocations are 'vintage' contracts, meaning that they have an 80% job ratio and a two-year job average. For the past two years, DuPont averaged 262.96 jobs, i.e., 103.53% and 130.83% of its contractual commitments, respectively. The company was able to reduce three jobs due to productivity improvements in 2005 made through new, more reliable equipment.

**Recommendation:** Staff recommends that the Trustees reduce DuPont's employment commitments for both its EP and RP allocations by 3 jobs, to 251 and 198 positions, respectively.

**Ford Motor Company**, Buffalo, Erie County

**Allocation:** 4,300 kW of EP and 2,900 kW of EP

**Jobs Commitment:** 1,869 jobs and 1,869 jobs, consecutively

**Background:** Ford Motor Company ('Ford') opened its Buffalo Stamping Plant in 1950. Currently, Ford stamps doors, floor pans, quarter panels and some inner body components for the Windstar, Taurus and Crown Victoria models. The components then go to other Ford assembly plants and distribution centers throughout the U.S. and Canada. For the past year, Ford averaged 1,667.67 jobs, i.e., 89.23% of its contractual commitment. The company requested a productivity improvement reduction of its job commitment by 97 jobs. Ford's reduction comes from automating the inspection of parts and various handling processes, as well as from new manufacturing processes.

**Recommendation:** Staff recommends that the Trustees reduce Ford's EP allocation employment commitments by 97 jobs to 1,772 positions each.

**General Motors Corporation – Powertrain**, Buffalo, Erie County

**Allocation:** 13,800 kW, 1,100 kW and 800 kW of EP and 2,000 kW and 725 kW of RP

**Jobs Commitment:** 3,404 (13,800, 1,100 kW, 800 kW and 725 kW), and 3,404 base jobs and 44 created jobs (2,000 kW)

**Background:** General Motors Corporation – Powertrain ('GM Powertrain') manufactures engines for several of GM's automobile models, including the Chevy Colorado and Canyon pick-up. The company requested a productivity improvement reduction of its jobs commitment by 282 jobs, which included two employment reductions that qualify for 2006, resulting in 280 reductions qualifying for 2005. The bulk of GM's reduction comes from replacing an old engine line with the world's most advanced engine manufacturing facilities and processes for the new engines, as well as from rebalancing job duties along the assembly lines, automation and new manufacturing processes. For the past year, GM – Powertrain averaged 2,914.50 jobs, i.e., 84.53% of its contractual commitment.

**Recommendation:** Staff recommends that the Trustees reduce GM Powertrain's EP and RP allocation employment commitment by 280 jobs to a base of 3,124 positions. The RP allocation that still has time to create jobs will have its employment commitment reduced to 3,124 base jobs, with 44 created jobs (3,168).

**Occidental Chemical Corporation**, Niagara Falls, Niagara County

**Allocation:** 56,000 kW of RP and 38,700 kW of EP

**Jobs Commitment:** 237 jobs and 245 jobs, respectively

**Background:** Occidental Chemical Corporation ('Oxy') is the country's largest merchant marketer of chlorine and caustic soda, which is used for the plastics, pulp and paper, water purification, bleach and sanitation industries. The company requested a productivity improvement employment commitment reduction. Both allocations are 'vintage' contracts, meaning that they have an 80% job ratio and a two-year job average. For the past two years, Oxy averaged 254.21 jobs and 246.75 jobs, i.e., 107.26% and 100.71% of its contractual commitments, respectively. In 2005, Oxy reorganized its maintenance program through combining jobs (six jobs reduced) and through a new inventory process (one job reduced).

**Recommendation:** Staff recommends that the Trustees reduce Oxy's RP and EP allocation employment commitments by seven jobs to 230 and 238 positions, respectively.

**OAB Holding, Inc.**, Buffalo, Erie County

**Allocation:** 8,060 kW of RP

**Jobs Commitment:** 501 jobs

**Background:** OAB Holding, Inc ('OAB'), in business since 1906, manufactures copper and brass sheets and rolls. The allocation is a 'vintage' contract, meaning that it has an 80% job ratio and a two-year job average. The company requested a productivity improvement reduction of its job commitment by 19 jobs. However, only 18 of the 19 qualified as productivity improvement reductions. OAB's reduction comes from rebalancing job duties (14 positions), eliminating a process (three positions) and new equipment (one position). For the past two years, OAB averaged 634.50 jobs, i.e., 126.65% of its contractual commitment.

**Recommendation:** Staff recommends that the Trustees reduce OAB's RP allocation employment commitment by 18 jobs to a base of 483 positions.

#### RECOMMENDATION

"The Director – Business Power Allocations and Regulation recommends that the Trustees adjust the job commitments for five customers with 12 contracts due to productivity improvements as described above and set forth in Exhibit '7-A.'

"The Executive Vice President and General Counsel, the Senior Vice President – Marketing and Economic Development, the Vice President – Major Account Marketing and Economic Development and I concur in the recommendation."

*Mr. Pasquale presented the highlights of staff's recommendations to the Trustees. In response to a question from Trustee Cusack, Mr. Pasquale said that all of the companies requesting these reductions are located in the western part of the State because they are hydro power customers. Responding to another question from Trustee Cusack, Mr. Pasquale said that Authority staff conducts inspections at the customers' facilities to ensure that the claimed improvements have in fact been made. Chairman McCullough added that the Authority wants more companies to implement productivity improvements.*

The following resolution, as submitted by the President and Chief Executive Officer, was unanimously adopted.

**RESOLVED, That the Authority hereby approves adjustment of the future job commitment levels for five customers (with 12 contracts) that made productivity improvements as described in the foregoing report of the President and Chief Executive Officer and as set forth in Exhibit "7-A"; and be it further**

**RESOLVED, That the Director – Business Power Allocations and Regulation is hereby authorized to provide written notice to these companies whose allocations and job commitments are being reduced; and be it further**

**RESOLVED, That the Chairman, the President and Chief Executive Officer and all other officers of the Authority are, and each of them hereby is, authorized on behalf of the Authority to do any and all things and take any and all actions and execute and deliver any and all agreements, certificates and other documents to effectuate the foregoing resolutions, subject to the approval of the form thereof by the Executive Vice President and General Counsel.**

**I. ALLOCATIONS TO CONTINUE WITH JOB COMMITMENT CHANGES FOR PRODUCTIVITY IMPROVEMENTS**

Company	Location	Date of Trustee Approval	Type of Power	Allocation kW	Employment Commitment (# of jobs)	Average 2005 Jobs	Average Annual % Achieved	Revised Jobs
E.I. Du Pont De Nemours & Co., Inc.	Niagara Falls	Oct. 88	EP	790	254	262.96	103.53	251
E.I. Du Pont De Nemours & Co., Inc.	Niagara Falls	1961	RP	31,700	201	262.96	130.83	198
Ford Motor Company	Buffalo	Dec. 94	EP	4,300	1,869	1,667.67	89.23	1,772
Ford Motor Company	Buffalo	Feb. 93	EP	2,900	1,869	1,667.67	89.23	1,772
G. M. Powertrain – Tonawanda Plant	Buffalo	Sep 97	EP	1,100	3,404	2,914.50	85.62	3,124
G. M. Powertrain – Tonawanda Plant	Buffalo	Jun. 96	EP	800	3,404	2,914.50	85.62	3,124
G. M. Powertrain – Tonawanda Plant	Buffalo	Aug 97	RP	725	3,404	2,914.50	85.62	3,124
G. M. Powertrain – Tonawanda Plant	Buffalo	Jan 94	EP	13,800	3,404	2,914.50	85.62	3,124
G. M. Powertrain – Tonawanda Plant	Buffalo	Jun 00	RP	2,000	3,448	2,914.50	84.53	3,168
Occidental Chemical Corporation	Niagara Falls	1963	RP	56,000	237	271.84	108.74	230
Occidental Chemical Corporation	Niagara Falls	Oct 88	EP	38,700	245	248.75	96.41	238
OAB Holding Inc.	Buffalo	Various	RP	8060	501	634.50	126.65	483

**EP** = Expansion Power

**RP** = Replacement Power

**8. Increase in New York City Governmental Customer Rates – Notice of Proposed Rule Making**

The President and Chief Executive Officer submitted the following report.

**SUMMARY**

“The Trustees are requested to approve a Notice of Proposed Rule Making (‘NOPR’) to increase the Fixed Costs component of the production rates to be charged in 2007 to the New York City Governmental Customers (‘Governmental Customers’). This proposed action would increase production rates by 1.8% on average as compared to 2006 rates. The Trustees are also requested to direct the Corporate Secretary to publish a NOPR in the State Register in accordance with the requirements of the State Administrative Procedure Act (‘SAPA’).

“This proposed action is consistent with the rate-setting process set forth in the Long-Term Agreements (‘LTAs’) for the purchase of electric service executed by each of the Governmental Customers and the Authority. Under the LTAs, any proposed increase in the Fixed Costs component of the Governmental Customers’ production rates must be done in accordance with a SAPA proceeding. After the 45-day statutory comment period concerning this proposed rate action, Authority staff will address any concerns that have been raised and return to the Trustees at their meeting on December 19, 2006, to seek final adoption of this proposal.

**BACKGROUND**

“In 2005, the Authority and the Governmental Customers entered into LTAs for the purchase of electric service through December 31, 2017. The LTAs replaced prior agreements entered into during the mid-1990s with most of these same Governmental Customers. The LTAs also established a new relationship between the Authority and the Governmental Customers that reflects the costs of procuring electricity in the restructured marketplace managed by the New York Independent System Operator (‘NYISO’). The LTAs define specific cost categories with respect to providing electric service, and establish new methods for acquiring resources and managing risk and a collaborative process with the Governmental Customers for selecting a cost-recovery mechanism.

“The LTAs separate all costs into two distinct categories: Fixed Costs and Variable Costs. Fixed Costs include Operation and Maintenance (‘O&M’), Shared Services, Debt Service, Other Expenses (i.e., certain directly assignable costs) and a credit for investment and other income. Under the LTAs, the Authority must establish Fixed Costs based on Cost of Service (‘COS’) principles and make changes only under a SAPA proceeding. In addition, the LTAs contemplate that year-to-year changes in Fixed Costs will be reviewed by the Governmental Customers in advance of a filing made under SAPA. On August 25, 2006, Authority staff conducted a telephone conference with the Governmental Customers to discuss the proposed Fixed Costs increase and solicit their views. Under the LTAs, the Governmental Customers’ concerns must be considered prior to presenting any proposed changes to the Fixed Costs to the Trustees or issuing them for public comment. Governmental Customers will also have the opportunity to submit comments in accordance with SAPA procedures.

“Under the LTAs, the Authority also develops the Variable Costs (i.e. fuel and purchased-power expense, risk management, NYISO ancillary services and O&M reserve, less a credit for NYISO revenues from Governmental Customer-dedicated generation), which are subject to the Governmental Customers’ review and comment. The Variable Costs includable in the 2007 rates, which are determined in accordance with the methods and procedures set forth in the LTAs previously approved by the Trustees, are not a matter for Trustee approval. For 2007, the Governmental Customers have selected an ‘Energy Charge Adjustment (‘ECA’) with Hedging’ cost recovery mechanism under which all Variable Costs are passed on to the Governmental Customers. Since an ECA mechanism was selected, Authority invoices will include an addition or subtraction each month that reflects changes in the cost of energy as described in the LTAs. Staff will incorporate the Trustee-approved Fixed Costs, the Variable Costs determined under the LTAs’ rate-setting process and the ECA set forth in the LTAs, into new tariffs effective for 2007 billings.

“All of the Governmental Customers would be subject to this proposed increase in the Fixed Costs component of their production rates. This proposed action does not affect Westchester County and other local governmental entities in the County, which are the subject of a separate Trustee action.

## DISCUSSION

“A proposed increase in Fixed Costs was presented to the Governmental Customers on May 15, 2006, for their review and comment. As part of the rate-setting process set forth in the LTAs, Authority staff provided its pro forma 2007 COS, 2007 revenue projections (at current rates), a comparison with pro forma 2006 costs and revenues and the cost of different risk management and cost-recovery options affecting Variable Costs that are not part of this proposed rate action.

“Based upon the projected 2007 COS, a Fixed Costs increase of \$12.2 million is proposed for the Governmental Customers. This proposed action would increase the Governmental Customers’ estimated billed production revenues by 1.8% on average as compared to 2006 rates. Collectively, the Fixed Costs are projected to be \$153.2 million in 2007 versus \$141.0 million in 2006. Contributors to the increase are: Debt Service, \$4.5 million; Other, \$3.1 million; Shared Services, \$2.6 million; O&M, \$1.9 million; and credit offsets bring the net total to \$12.2 million. Staff proposes to apply this increase equally to both the demand and energy rates.

“Because this proposal would increase revenues to the Authority by less than the 2.0% required for a public forum under Authority procedures, none is requested for this proposed action. Advanced notice and comment procedures under the LTAs concerning changes to Fixed Costs were followed, and interested parties will have opportunity to file comments in accordance with SAPA after the issuance of this NOPR in the State Register.

“Staff anticipates returning to the Trustees at their December meeting with a request for final adoption of a Fixed Costs increase with an analysis of any comments received from interested parties. Subsequent to such final adoption, staff will incorporate the approved Fixed Costs, the final Variable Costs that are determined in the rate-setting process with the Governmental Customers and the ECA set forth in the LTAs into new tariff rates to become effective in January 2007.

## FISCAL INFORMATION

“The adoption of this proposal concerning the increase in Fixed Costs applicable to the Governmental Customers under the LTAs would result in the recovery of approximately \$12.2 million in additional revenues to the Authority over current rates. These new revenues are offset by corresponding increases in the costs of serving the Governmental Customers.

## RECOMMENDATION

“The Manager – Power Contracts, Wholesale and Electric Systems Marketing recommends that the Trustees authorized the Corporate Secretary to file a Notice of Proposed Rule Making in the New York State Register for the adoption of an increase in Fixed Costs applicable to the New York City Governmental Customers under the Long-Term Agreements.

“It is also recommended that the Senior Vice President – Marketing and Economic Development, or her designee, be authorized to issue written notice of proposed action to the affected customers.

“The Executive Vice President and General Counsel, the Executive Vice President and Chief Financial Officer, the Senior Vice President – Marketing and Economic Development, the Vice President – Controller, the Vice President – Major Accounts Marketing and Economic Development, the Vice President – Finance, the Assistant General Counsel – Power and Transmission and I concur in the recommendation.”

***Mr. Yates presented the highlights of staff’s recommendations to the Trustees. In response to a question from Chairman McCullough, Mr. Yates said that the adoption of these rates would come before the Trustees for their approval at the December meeting.***

The following resolution, as submitted by the President and Chief Executive Officer, was unanimously adopted.

**RESOLVED, That the Authority projects an increase in the Fixed Costs of serving the New York City Governmental Customers when comparing those costs contained in current rates to 2007 projected costs; and be it further**

**RESOLVED, That the Authority has entered into supplemental Long-Term Agreements with the New York City Governmental Customers and those agreements provide for the recovery of additional Fixed Costs through a rate filing under the State Administrative Procedure Act; and be it further**

**RESOLVED, That the Senior Vice President – Marketing and Economic Development or her designee, be and hereby is, authorized to issue written notice of this proposed action by the Trustees to the affected customers; and be it further**

**RESOLVED, That the Corporate Secretary of the Authority be, and hereby is, directed to file such notices as may be required with the Secretary of State for publication in the State Register and to submit such other notice as may be required by statute or regulation concerning the proposed rate increase; and be it further**

**RESOLVED, That the Chairman, the President and Chief Executive Officer and all other officers of the Authority are, and each of them hereby is, authorized on behalf of the Authority to do any and all things and take any and all actions and execute and deliver any and all certificates, agreements and other documents to effectuate the foregoing resolution, subject to the approval of the form thereof by the Executive Vice President and General Counsel.**

**9. Modification of Westchester County Governmental Customer Rates – Notice of Proposed Rule Making**

The President and Chief Executive Officer submitted the following report.

**SUMMARY**

“The Trustees are requested to approve a Notice of Proposed Rule Making (‘NOPR’) to increase the production rates to be charged in 2007 to the Westchester County Governmental Customers (‘Westchester Customers’ or ‘Customers’) and to reinstitute a monthly Energy Charge Adjustment (‘ECA’) mechanism applicable to the Westchester Customers. This action is necessary in the event that ongoing discussions with the Westchester Customers regarding a new long-term agreement are not concluded by January 1, 2007.

“Under staff’s proposal, the production rates of the Westchester Customers would increase by 25.8% on average as compared to 2006 rates. With respect to the ECA, staff proposes a revised tariff provision that would update the ECA mechanism approved by the Trustees in 1994 that currently resides in the tariff.

“The Trustees are requested to authorize the Corporate Secretary to publish a NOPR in the New York State Register in accordance with the requirements of the State Administrative Procedures Act (‘SAPA’). Since the proposed new rates will increase Customer revenues to the Authority by more than 2%, a public forum will be held in accordance with Authority policy, and Trustee authorization is also requested to direct the Corporate Secretary to provide all appropriate notice for such public forum.

**BACKGROUND**

“In 1994, the Authority’s Trustees adopted tariff modifications, still in effect today, that instituted a ‘Stabilized ECA,’ which allowed the Authority to pass through to Customers only the costs of demand side management programs and decontamination and decommissioning (‘D&D’) charges related to the Indian Point 3 nuclear plant. The Trustees took this action in order to mitigate the impact on Customers of the ongoing, extended outage of the Indian Point 3 nuclear plant.

“By 1996, the majority of Westchester Customers had signed Supplemental Power Service Agreements with the Authority (‘Supplemental Agreements’), and the County of Westchester signed an additional Supplemental Agreement in 2001. These Supplemental Agreements contained, among other things, commitments from the Customers to remain full-requirements electricity customers of the Authority for certain fixed terms, in return for which the Authority agreed to constrain its ability to raise production rates from those established in 1990. The Supplemental Agreements also affirmed the ‘Stabilized ECA’ adopted in the 1994 tariff modification.

“Under the Supplemental Agreements, the Westchester Customers realized rates frozen at 1990 levels for 10 years. Then, in both January 2005 and January 2006, as permitted by the Supplemental Agreements, the Authority increased production rates by 2.4% based on a prescribed index. These pricing arrangements essentially insulated the Westchester Customers from the significant increases in costs the Authority has experienced in serving them over the last several years. The Supplemental Agreements could no longer accommodate additional costs and volatility resulting from industry restructuring and changes in the Authority’s supply portfolio. Therefore, the Authority gave the Customers the requisite three-year notice of termination of the Supplemental Agreements, to be effective at the end of 2006, with the intent that rates in 2007 would fully recover the actual costs to supply electricity to these Customers.

“In March 2006, in anticipation of these changes, staff advised the Westchester Customers of the likelihood of a substantial increase in their electricity costs and a fundamental change to their pricing structure beginning in January 2007.

## DISCUSSION

“Because the production rates for the Westchester Customers remained unchanged from February 1990 through the end of December 2004, with only modest increases in 2005 and 2006, a significant increase in the base rates is needed to recover the Authority’s actual costs of serving the Customers.

“Consistent with the Authority’s past rate-making practices, the proposed increase is based on a *pro forma* Cost-Of-Service (“COS”). The *pro forma* 2007 COS for the Westchester Customers, which is summarized in Exhibit ‘9-A,’ is \$44.4 million and revenues at current production rates are expected to be \$35.3 million, resulting in a projected revenue deficiency of \$9.1 million. Significant cost components that drive this proposed increase include the cost of purchased power, the cumulative effects of inflation since 1990 and charges associated with the New York Independent System Operator (‘NYISO’).

“The new base production rates proposed would result in a 25.8% increase over 2006 rates. Staff proposes to apply the production increase equally to both the base demand and energy rates. Both the current and proposed new rates are contained in the table in Exhibit ‘9-B.’ Since the new rates will increase Customer revenues by more than 2%, a public forum will be held in accordance with Authority policy.

“In order for the Authority to recover all costs incurred to serve the Westchester Customers, staff proposes to reinstitute a monthly ECA mechanism, replacing the tariff modifications approved by the Trustees in 1994. Under this proposed ECA mechanism, Authority invoices to the Westchester Customers will include a charge or credit each month that reflects the difference between the projected cost of electricity recovered by the base rates and the actual costs incurred by the Authority for, among other things, purchased power and NYISO charges. Exhibit ‘9-C’ contains the existing tariff provision marked up to show the proposed changes required to implement this updated ECA mechanism.

“After the 45-day statutory comment period concerning this proposed action, Authority staff will address any concerns that have been raised and return to the Trustees at their December 2006 meeting to seek adoption of this proposal. Subsequent to such adoption, staff will incorporate the approved production rates and a new ECA mechanism into new tariffs to become effective in January 2007.

“It is important to note that staff has been engaged in an ongoing discussion with the Westchester Customers regarding terms of a suitable new agreement that would include provisions and pricing reflecting the additional costs and risks of supplying these Customers. If such an agreement is reached, staff will return to the Trustees under a separate memorandum to request authorization to execute the new agreement with the Westchester Customers. In the event a new agreement is not concluded by January 1, 2007, or if certain Westchester Customers opt to not sign the new agreement, it is necessary to proceed with this proposed action so that new production rates will be in effect by January 1, 2007 that will be applicable to any and all Westchester Customers that have not executed a new agreement.

## FISCAL INFORMATION

“The proposed rate increase is expected to collect \$9.1 million in additional production revenue from the Westchester Customers through the end of 2007.

## RECOMMENDATION

“The Manager – Power Contracts, Wholesale and Electric Systems Marketing recommends that the Trustees authorize the Corporate Secretary to file a Notice of Proposed Rule Making in the New York State Register for the adoption of a production rate increase and the reinstatement of an updated Energy Charge Adjustment applicable to the Westchester County Governmental Customers, and because the proposed new rates will increase Authority revenues by more than 2%, be authorized to schedule, and issue appropriate notices for, a public forum on this proposed action.

“It is also recommended that the Senior Vice President – Marketing and Economic Development, or her designee, be authorized to issue written notice of the proposed action to the affected customers under the provisions of the Authority’s tariffs.

“The Executive Vice President and General Counsel, the Executive Vice President and Chief Financial Officer, the Senior Vice President of Marketing and Economic Development, the Vice President – Controller, the Vice President – Major Accounts Marketing and Economic Development, the Vice President – Finance, the Assistant General Counsel – Power and Transmission and I concur in the recommendation.”

*Before Mr. Yates presented the highlights of staff’s recommendations to the Trustees, Chairman McCullough introduced Mr. Edward Gibbs, Executive Director of the County of Westchester Public Utility Service Agency. In response to a question from Trustee Seymour, President Carey said that the recommended increase was necessary to cover the Authority’s cost of providing electric service to these customers.*

The following resolution, as submitted by the President and Chief Executive Officer, was unanimously adopted.

**RESOLVED, That the Authority proposes an increase in the production rates and reinstatement of an updated Energy Charge Adjustment mechanism applicable to the Westchester County Governmental Customers as set forth in the foregoing report from the President and Chief Executive Officer; and be it further**

**RESOLVED, That the Senior Vice President – Marketing and Economic Development or her designee be and hereby is, authorized to issue written notice of this proposed action by the Trustees to the affected customers; and be it further**

**RESOLVED, That the Corporate Secretary of the Authority be, and hereby is, directed to file such notices as may be required with the Secretary of State for publication in the New York State Register and to submit such other notice as may be required by statute or regulation concerning the proposed rate increase and proposed tariff modification; and be it further**

**RESOLVED, That the Corporate Secretary of the Authority be, and hereby is, authorized to schedule and provide all appropriate public notice of a public forum for the purpose of obtaining the views of interested persons concerning the Authority’s proposed action to adjust the rates for the Westchester County Governmental Customers; and be it further**

**RESOLVED, That the Chairman, the President and Chief Executive Officer and all other officers of the Authority are, and each of them hereby is, authorized on behalf of the Authority to do any and all things, take any and all actions and execute and deliver any and all certificates, agreements and other documents to effectuate the foregoing resolution, subject to the approval of the form thereof by the Executive Vice President and General Counsel.**

EXHIBIT "9-A"  
September 26, 2006

New York Power Authority  
2007 Cost of Service  
Westchester County Governmental Customers

<u>Component</u>	<u>Amount</u> (Millions)
Operations & Maintenance	\$0.6
Shared Services	\$0.3
Debt Service	\$0.6
Other Expenses	\$0.1
Investment and Other Income	(\$0.1)
<u>Purchased Power</u>	
Energy	\$41.2
Capacity	<u>\$3.4</u>
Subtotal Purchased Power	\$44.6
NYISO Ancillary Services Expense	\$1.1
NYISO Revenues	(\$3.0)
Ancillary Services and Other Revenues	<u>\$0.0</u>
Total Production Cost Of Service	\$44.4
Estimated 2007 Production Revenues at Current Rates	\$35.3
Production Revenue Shortfall	\$9.1
Revenue Shortfall, as Percentage of Production Billings	25.8%

**WESTCHESTER COUNTY GOVERNMENTAL CUSTOMERS  
 PRODUCTION RATES**

CONVENTIONAL:

Service Class	Demand Rates \$/kW-mo.		Base Energy Rates Cents/kWh	
	Current	2007 Proposed	Current	2007 Proposed
62 General Small	n/a	n/a	6.752	#REF!
64 Commercial & Industrial Redistribution	9.21	#REF!	3.476	#REF!
66 Westchester Streetlighting	n/a	n/a	5.676	#REF!
68/82 Multiple Dwellings Redistribution	8.14	#REF!	3.586	#REF!
69 General Large	6.71	#REF!	3.755	#REF!

TIME-OF-DAY:

Service Class	Demand Rates \$/kW-mo.		Base Energy Rates			
			On-Peak Cents/kWh		Off-Peak Cents/kWh	
	Current	2007 Proposed	Current	2007 Proposed	Current	2007 Proposed
64 Commercial & Industrial Redistribution	7.56	#REF!	5.011	#REF!	2.771	#REF!
68/82 Multiple Dwellings Redistribution	7.30	#REF!	5.181	#REF!	2.838	#REF!
69 General Large	5.56	#REF!	5.359	#REF!	2.791	#REF!

Notes:

In addition to the base energy rates, a monthly energy charge adjustment will apply.  
 The on-peak period for demand is weekdays from 8:00AM to 6:00PM, including holidays.  
 The on-peak period for energy is weekdays from 8:00AM to 10:00PM, including holidays.  
 The off-peak period for demand and energy is all other hours.

Proposed Tariff Revision

New Matter is Redlined, Matter to be Deleted is Crossed Out

Production Service Tariffs 11, 12, 13 and 77

F. Energy Charge Adjustment:

The ~~charge charges~~ for electric service hereunder will be subject each month to an addition or a deduction when the "average cost of energy" for the previous ~~two months~~month, as stated herein increases or decreases from the ~~specified base cost~~.

~~—The "base cost of energy expressed in cents per kilowatt hour billed is 1.8643 cents. Such base cost may be amended from time to time" as defined below.~~

~~—The "average cost of energy" shall be equal to the sum of (i) the fuel and fuel related charges associated with the operation of the Power Authority's thermal generating units normally furnishing energy under this tariff and the value of energy as determined by Authority from other Authority Projects in generation of energy for its Customers supplied under this tariff and (ii) the amount paid by the Authority for power and energy purchased from other suppliers, including transmission charges and additional capacity charges, if any, associated with such deliveries, less credits from sales of non firm energy; all divided by the total 60 cycle scheduled firm sales to such Customers for such previous two months.~~

~~—The "average cost of energy" as determined hereinabove will be adjusted from time to time as determined by the Authority to permit reconciliation of revenues derived from Energy Charge Adjustments billed to Customer in prior billing periods with energy related costs applicable to such billing periods. Effective January 1, 1994, such energy related costs shall include revenue requirements as determined by the Authority associated with expenses incurred in connection with energy conservation programs which benefit Customers supplied under this tariff, where such expenses are not recovered directly from~~

~~Customers participating in such programs.~~

~~—The difference between the "average cost of energy", including adjustments, and the base cost of energy shall be added to or subtracted from the charges per kilowatthour for energy specified in this Service Tariff, provided, however, that effective with the September 1993 billing period amounts normally charged or credited each month to Customers on account of such difference will be deferred and any resulting net accumulated deferred charges will be offset against Customer's estimated bill payments as provided in Special Provision "L". If the net accumulated deferred charges have been fully offset against Customer's estimated bill payments, thereafter, a stabilized energy charge adjustment per kilowatthour ("Stabilized ECA") will apply, which is inclusive of (i) costs of Authority energy conservation programs for the benefit of customers served under this tariff, and (ii) the cost of the U.S. Department of Energy uranium enrichment plant decontamination and decommissioning charges associated with the Indian Point 3 Nuclear Power Plant. The Stabilized ECA will be adjusted from time to time as determined by the Authority to permit reconciliation of revenues billed to the Customers in prior billing periods with energy-related costs applicable to such billing periods.~~

The "base cost of energy" shall be equal to (a) the sum of the projected cost of fuel, purchased power, ancillary services and other NYISO-related charges and hedging costs to be incurred to serve the Westchester Governmental Customers for the calendar year in question, less (b) any projected NYISO capacity, energy, or ancillary service revenues or credits to be received by the Authority associated with providing service to the Westchester Governmental Customers, as well as any other projected NYISO credits or revenues associated with providing service to the Westchester Governmental Customers (e.g., as a generator or a load serving entity), including Transmission Congestion Credits and rents associated with transmission paths determined by the Authority to be used in serving the Westchester Governmental Customers for the calendar year; all divided by the projected kilowatthour sales to such Westchester Governmental Customers for the calendar year.

The "base cost of energy" expressed in cents per kilowatthour is \_\_\_\_\_ cents. Such base cost may be amended from time to time.

The "average cost of energy" shall be equal to (a) the sum of the costs of fuel, purchased power,

ancillary services and other NYISO-related charges and hedging costs actually incurred in the previous month to serve the Westchester Governmental Customers, less (b) any NYISO capacity, energy, and ancillary service revenues or credits actually received in the previous month by the Authority and associated with the service provided by the Authority to the Westchester Governmental Customers as well as any other NYISO credits or revenues actually received by the Authority and associated with providing service to the Westchester Governmental Customers (e.g., as a generator or a load serving entity), including Transmission Congestion Credits and rents associated with transmission paths determined by the Authority to be used in serving the Westchester Governmental Customers; all divided by the total kilowatt hours sold to such Westchester Governmental Customers for such previous month.

The "average cost of energy" as determined hereinabove will be adjusted from time to time as determined by the Authority to permit reconciliation of revenues derived from Energy Charge Adjustments billed to the Westchester Governmental Customers in prior billing periods with energy-related costs applicable to such billing periods.

The difference between the "average cost of energy", including adjustments, and the "base cost of energy" shall be added to or subtracted monthly from the charges for electric service to the Westchester Governmental Customers.

**10. Budget Information Pursuant to Section 2801 of the Public Authorities Law**

The President and Chief Executive Officer submitted the following report.

SUMMARY

“The Trustees are requested to authorize the Corporate Secretary to submit budget information to the Governor and legislative leaders pursuant to Section 2801 of the Public Authorities Law, as amended by the Public Authorities Accountability Act of 2005.

BACKGROUND

“On January 15, 2006, Governor Pataki signed the Public Authorities Accountability Act of 2005 (Chapter 766 of the Laws of 2005). The Public Authorities Accountability Act of 2005 (‘PAAA’ or ‘Act’) reflects the State’s commitment to maintaining public confidence in public authorities by ensuring that the essential governance principles of accountability, transparency and integrity are followed at all times. To facilitate these objectives, the PAAA established an Authority Budget Office (‘ABO’) that will monitor and evaluate the compliance of State authorities with the requirements of the Act. The ABO has advised the Authority that it is subject to the PAAA effective with the Authority’s fiscal year beginning January 1, 2006. As one of its many changes, the PAAA amended Section 2801 of the Public Authorities Law to require that budget reports by a State authority be submitted to designated governmental officials 90 days, rather than 60 days, before the start of the Authority’s fiscal year.

DISCUSSION

“The Trustees are requested to authorize the Corporate Secretary to file the attached budget information (Exhibit ‘10-A’) pursuant to Section 2801 (1) of the Public Authorities Law, which provides as follows:

State authorities. Every state authority or commission heretofore or hereafter continued or created by this chapter or any other chapter of the laws of the State of New York shall submit to the governor, chairman and ranking minority member of the senate finance committee, and chairman and ranking minority member of the assembly ways and means committee, for their information, annually not less than ninety days before the commencement of its fiscal year, in the form submitted to its members or trustees, budget information on operations and capital construction setting forth the estimated receipts and expenditures for the next fiscal year and the current fiscal year, and the actual receipts and expenditures for the last completed fiscal year.

“As provided in Executive Order No. 173 (Exhibit ‘10-B’), this information will also be submitted to the State Division of the Budget.

FISCAL INFORMATION

“There is no anticipated fiscal impact.

RECOMMENDATION

“The Vice President – Controller recommends that the Trustees authorize submittal of the attached budget information (Exhibit ‘10-A’) as discussed herein.

“The Executive Vice President and General Counsel, the Executive Vice President and Chief Financial Officer and I concur in this recommendation.”

*Mr. Davis presented the highlights of staff’s recommendations to the Trustees, adding that at their October meeting, the Trustees would be asked to approve the Authority’s proposed 2007 budget and multiyear*

*financial plan. In response to a question from Chairman McCullough, Mr. Davis said that the financial plan, after it is approved, is still subject to change. Responding to a question from Trustee Cusack, Mr. Davis said that the Public Authorities Accountability Act of 2005 (“PAAA”) had simply moved up by 30 days the requisite filing of the budget information called for by Section 2801 of the Public Authorities Law. Mr. Kelly added that this change was part of the effort to improve public authority transparency as envisioned by the PAAA.*

The following resolution, as submitted by the President and Chief Executive Officer, was unanimously adopted.

**RESOLVED, That pursuant to Section 2801 of the Public Authorities Law, the Corporate Secretary be, and hereby is, authorized to submit to the Governor, the Chairman and Ranking Minority Member of the Senate Finance Committee, the Chairman and Ranking Minority Member of the Assembly Ways and Means Committee, the Division of the Budget and the Authority Budget Office the attached budget information on operations and capital construction setting forth the estimated receipts and expenditures for the next fiscal year and the current fiscal year, and the actual receipts and expenditures for the last completed fiscal year in accordance with the foregoing report of the President and Chief Executive Officer; and be it further**

**RESOLVED, That the Chairman, the President and Chief Executive Officer and all other officers of the Authority are, and each of them hereby is, authorized on behalf of the Authority to do any and all things and take any and all actions and execute and deliver any and all agreements, certificates and other documents to effectuate the foregoing resolution, subject to the approval of the form thereof by the Executive Vice President and General Counsel.**

**POWER AUTHORITY OF THE STATE OF NEW YORK**  
**ESTIMATED RECEIPTS AND EXPENDITURES 2006 AND 2007**  
**ACTUAL RECEIPTS AND EXPENDITURES 2005**  
(\$ millions)

Exhibit "10-A"  
September 26, 2006

	<u>Actuals</u> <u>2005</u>	<u>Forecast</u> <u>2006</u>	<u>Estimated</u> <u>2007</u>
<b><u>Revenue Receipts :</u></b>			
Sale of Power, Use of Transmission Lines, Wheeling Charges and other receipts .....	\$2,439.7	\$2,661.5	\$2,900.2
Earnings on Investments and Time Deposits .....	<u>\$29.6</u>	<u>\$35.6</u>	<u>\$33.3</u>
	<b>\$2,469.3</b>	<b>\$2,697.1</b>	<b>\$2,933.5</b>
<b><u>Expenses:</u></b>			
Operation and Maintenance, including Transmission of Electricity by others, Purchased Power and Fuel Purchases .....	(\$2,336.7)	(\$2,416.1)	(\$2,578.3)
<b><u>Debt Service :</u></b>			
Interest on Bonds and Notes .....	(\$97.0)	(\$109.5)	(\$116.3)
General Purpose Bonds Retired .....	(\$237.7)	(\$147.7)	(\$200.5)
Notes Retired .....	<u>(\$5.3)</u>	<u>(\$5.7)</u>	<u>(\$6.1)</u>
	<b>(\$340.0)</b>	<b>(\$262.9)</b>	<b>(\$322.9)</b>
<b>Total Requirements.....</b>	<b>(\$2,676.7)</b>	<b>(\$2,679.0)</b>	<b>(\$2,901.2)</b>
<b>Net Operations .....</b>	<b>(\$207.4)</b>	<b>\$18.1</b>	<b>\$32.3</b>
<b><u>Capital Receipts :</u></b>			
Sale of Bonds, Promissory Notes & Commercial Paper .....	\$290.8	\$313.8	\$470.9
Less : Repayments .....	(\$31.5)	(\$292.0)	(\$219.2)
Earnings on Construction Funds .....	\$3.6	\$4.0	\$2.6
DSM Recovery Receipts .....	\$31.9	\$57.4	\$43.5
Other.....	<u>\$93.7</u>	<u>\$93.7</u>	<u>\$93.7</u>
	<b>\$388.5</b>	<b>\$176.9</b>	<b>\$391.5</b>
<b><u>Capital Additions &amp; Refunds :</u></b>			
Additions to Electric Plant in Service and Construction Work in Progress, and Other costs .....	(\$243.6)	(\$285.6)	(\$387.8)
Construction Escrow.....	\$84.2	\$125.8	(\$5.1)
	<u>(\$159.4)</u>	<u>(\$159.8)</u>	<u>(\$392.9)</u>
<b>Net Capital .....</b>	<b>\$229.1</b>	<b>\$17.1</b>	<b>(\$1.4)</b>
<b>Net Increase/(Decrease).....</b>	<b>\$21.7</b>	<b>\$35.2</b>	<b>\$30.9</b>

**9 NYCRR 4.173**

**N.Y. Comp. Codes R. & Regs. tit. 9, § 4.173**

**Section 4.173 Executive Order No. 173: Establishing public authorities accountability.**

WHEREAS, pursuant to the State Constitution, every public authority and every public benefit corporation is created by a Special Act of the State Legislature to serve the public interest;

WHEREAS, each public authority and public benefit corporation is empowered to perform various functions pursuant to its enabling statute, including the power to sue and be sued, to have a seal and alter it, to make contracts, to adopt by-laws, to borrow money and to acquire and dispose of real property;

WHEREAS, although public authorities and public benefit corporations enjoy financial, jurisdictional and administrative flexibility not generally available to the State's agencies, it is the policy of the State of New York to ensure that activities of our public authorities are consistent with the policies and practices of the State;

WHEREAS, it is also necessary to insure that each public authority carries out its operations in a prudent and responsible manner and is accountable to the public;

NOW, THEREFORE, I, MARIO M. CUOMO, Governor of the State of New York, by virtue of the authority vested in me by the Constitution and Laws of the State of New York, do hereby direct as follows:

**I. Definitions:**

1. "Public authority" shall include every public authority and/or public benefit corporation created pursuant to the New York State law, at least half whose board members are appointed by the Governor or who serve as members by virtue of holding a civil office of the State, or a combination thereof (such entities, as so constituted, shall hereafter be referred to as "public authorities" or "authorities" ).

2. "Division of the Budget" or "Division" shall mean the New York State Division of the Budget in the Executive Department.

3. "Office of Employee Relations" shall mean the Governor's Office of Employee Relations in the Executive Department.

## II. Responsibilities of Public Authorities:

Each public authority shall:

1. Provide the Division of the Budget such information concerning administrative policies and procedures as may be requested from time to time. Each authority shall be expected to achieve reasonable consistency with the general administrative policies and practices in effect for State agencies;

2. In accordance with section 2801 of the Public Authorities Law, provide the Division of the Budget, acting on behalf of the Governor, budget information on operations and multi-year capital construction plans, for comment by the division. These plans shall set forth the estimated receipts and expenditures for the next fiscal year and the current fiscal year, and the actual receipts and expenditures for the last completed fiscal year and shall be submitted not less than 60 days before the commencement of the authority's fiscal year;

3. File with the Division of the Budget and the Department of Economic Development a copy of the comprehensive guidelines prepared in accordance with section 2879 of the Public Authorities Law including the authority's policy and practices for the use, awarding, monitoring and reporting on practices for selecting bond counsels, financial advisors, underwriters, consultants and other procurement contracts and practice including policies on encouragement of participation of Women and Minority Owned Business Enterprises;

4. Submit copies of salary, compensation and travel guidelines for all authority personnel to the Division of the Budget and the Office of Employee Relations for comment prior to adoption by the Board of Directors;

5. File a copy of each bond resolution or bond indenture in force for the authority. Submit a draft of each preliminary official statement for a bond or note sale to the Division of the Budget at least five days prior to its release, accompanied by a written statement of all provisions in bond or note documents that would restrict or inhibit the authority's flexibility to provide assistance financial or otherwise to the State or that obligates or restricts the State in any manner;

6. Consult with the Office of Employee Relations regarding current and anticipated collective negotiations with the authority's employee representatives so that executed agreements are consistent or where inconsistent, so that the inconsistent provisions can be documented and their cost defined;

7. Agree to the establishment of an Inspector General, Internal Auditor or other person capable of carrying out similar functions and duties or provide reasons in writing why it would not be appropriate; and

8. Consult with the Division of the Budget where the authority believes that one or more provisions of this Executive Order would constitute a tangible and direct impairment of such authority's statute or agreements with bondholders.

### III. Responsibilities of the Division of the Budget:

1. From time to time, examine the management, organization, operations and financing of one or more public authorities and report to the Governor on recommendations for improvement; and

2. Make generally available to each public authority information on State administrative procedures and policies, for information purposes, to assist authorities in meeting the requirements of this Executive Order.

### IV. Responsibilities of The Office of Employee Relations:

1. Make available to each public authority information regarding State collective negotiations, negotiating policy, and the provisions of executed agreements to assist each authority in meeting the requirements of this Executive Order.

### V. Responsibilities of The Executive Chamber:

1. Coordinate the development of an orientation program for new board appointees to ensure that member responsibilities and major program policies of the Governor are clearly communicated and understood; and

2. Facilitate the development of an annual forum or series of structured meetings between authority board members and senior staff from the Executive to communicate the Governor's policies and programs, identify major management and operational issues and identify goals for the next fiscal year.

### VI. Reports to the Governor:

1. On or before November 1, 1993, the Division of the Budget shall report to the

Governor on progress in implementing the Executive Order and any legislative changes that may be required to implement the intent of this Executive Order including recommendations to improve consistency in debt issuance policies of the State and the authorities.

2. On or before December 31, 1994 and annually thereafter, the Division of the Budget and the Office of Employee Relations shall report to the Governor on progress in implementing this Executive Order and other recommendations for changes.

Signed: Mario M. Cuomo

Dated: July 28, 1993

**11. Banking Resolution Amendment to Reflect Change of Position Title to Executive Vice President and Chief Financial Officer**

The President and Chief Executive Officer submitted the following report.

**SUMMARY**

“The Trustees are requested to approve the attached Resolution (‘Resolution’) which amends the Banking Resolution adopted by the Trustees on July 27, 2004, to reflect the change in title from Senior Vice President and Chief Financial Officer to Executive Vice President and Chief Financial Officer.

**BACKGROUND**

“The Banking Resolution adopted by the Trustees on July 27, 2004 establishes procedures and specifies those individuals by title who may, among other things, establish bank accounts, sign checks, invest Authority funds and execute agreements and other documents on behalf of the Authority, as well as establishes who may authorize other individuals within the Authority to sign checks, deposit money and transfer and invest funds on behalf of the Authority.

“The proposed amendments would reflect the position title change of the Senior Vice President and Chief Financial Officer to Executive Vice President and Chief Financial Officer and would transfer functions previously assigned to the former title to the new title.

“The proposed Resolution has been reviewed by and meets with the approval of the Authority’s Vice President – Controller and its Vice President – Internal Audits and Compliance.

**FISCAL INFORMATION**

“There is no anticipated fiscal impact.

**RECOMMENDATION**

“The Treasurer recommends that the Trustees approve the attached proposed Resolution.

“The Executive Vice President and General Counsel, the Executive Vice President and Chief Financial Officer, the Vice President – Finance and I concur in the recommendation.”

*Mr. Brady presented the highlights of staff’s recommendations to the Trustees. In response to a question from Chairman McCullough, Mr. Brady said that this was a housekeeping item.*

The following resolution, as submitted by the President and Chief Executive Officer, was unanimously adopted.

**RESOLVED, That the resolution adopted by the Trustees at their meeting of July 27, 2004 relating to the Management of Authority Banking Relationships is hereby amended in its entirety to read as follows (added material in italics; deleted material in brackets):**

**RESOLVED, That the following authorizations are established with respect to the national or state banks (hereinafter referred to individually as the “Bank”) or trust companies organized under the laws of any state (hereinafter referred to individually as the “Trust Company”) that may be designated as a depository of the**

**Authority and the execution of account-related agreements or documents on behalf of the Authority:**

- 1. The establishment, maintenance or closing of bank accounts, including depository and custody accounts, for and in the name of the Authority with any Bank or Trust Company shall be authorized by the Vice President – Finance, the Treasurer or the Deputy Treasurer with concurrence by one of the following: the Chairman, the President and Chief Executive Officer or the [Senior] *Executive* Vice President and Chief Financial Officer;**
- 2. The [Senior] *Executive* Vice President and Chief Financial Officer, the Vice President – Finance, the Treasurer and the Deputy Treasurer, or such other individual(s) as may be designated by the Treasurer with the concurrence of the [Senior] *Executive* Vice President and Chief Financial Officer, are hereby authorized to: (i) sign checks, drafts and other items for withdrawal or deposit of monies for and on behalf of the Authority, and (ii) initiate the transfer of monies by wire or otherwise for the payment or withdrawal of funds, for and on behalf of the Authority;**
- 3. The [Senior] *Executive* Vice President and Chief Financial Officer, the Vice President – Finance and the Treasurer are hereby authorized to sign checks with a facsimile signature for the withdrawal of monies from Authority accounts;**
- 4. The [Senior] *Executive* Vice President and Chief Financial Officer, the Vice President – Finance, the Treasurer and the Deputy Treasurer or such other individuals as may be designated by the Treasurer, are authorized to invest and reinvest monies in the account for, and on behalf of, the Authority; and**
- 5. Execution of agreements, certificates, indemnities and other documents related to conducting business with the Bank or Trust Company may be authorized by the Vice President – Finance, the Treasurer or Deputy Treasurer with the concurrence of one of the following: the Chairman, the President and Chief Executive Officer, or the [Senior] *Executive* Vice President and Chief Financial Officer; and it be further**

**RESOLVED, That the Chairman, the President and Chief Executive Officer and all other officers of the Authority are, and each of them hereby is, authorized on behalf of the Authority to do any and all things and take any and all actions and execute and deliver any and all certificates, agreements and other documents to effectuate the foregoing resolution, subject to the approval of the form thereof by the Executive Vice President and General Counsel.**

**12. Authority Billing Systems Implementation –  
Systems Integration Services – Contract Award**

The President and Chief Executive Officer submitted the following report.

SUMMARY

“The Trustees are requested to approve capital expenditures for, and award of a contract to, Axon Solutions, Inc. (‘Axon’) in the amount of \$11,500,000 for system integration services in connection with the replacement of the Authority’s multiple billing systems. These systems are antiquated and no longer meet the current demands of the Authority’s business requirements.

“The Trustees approved the necessary Capital Expenditure Authorization Request (‘CEAR’) for total project funding in the amount of \$18,745,000 at their July 25, 2006 meeting. The total approved CEAR includes the allocation for the above system integration services.

BACKGROUND

“Section 2879 of the Public Authorities Law and the Authority’s Guidelines for Procurement Contracts require the Trustees’ approval for procurement contracts involving services to be rendered for a period in excess of one year.

“In accordance with the Authority’s Expenditure Authorization Procedures, the award of non-personal services or equipment purchase contracts in excess of \$3,000,000, as well as personal services contracts in excess of \$1,000,000 if low bidder, or \$500,000 if sole source or non-low bidder, require the Trustees’ approval.

“The Authority’s current billing systems were custom developed in the mid-1980s. These systems are mainframe-based, written in a programming language that is no longer widely used and use an outdated database structure. The two major systems, governmental and wholesale billing, are separate computer applications with separate databases and separate programming processes. The size and complexity of these systems make programming changes difficult and time consuming. Difficulties with keeping the billing systems operational while responding to change have forced staff to work around the system at times. Numerous external systems have been developed over the past five years to meet new requirements, rather than attempt to change the core billing systems.

“The billing systems run on a leased mainframe provided by the New York State Office for Technology in Albany. The leased services cost the Authority more than \$800,000 annually. The application support staff who maintain the applications are part of the Authority’s Information Technology team.

DISCUSSION

“In late 2004, a cross-functional team was assembled to evaluate alternatives to the current billing system environment. This team developed a list of necessary requirements based on a series of interdepartmental meetings. The team then reviewed software alternatives available in the marketplace. Systems used by other utilities were also assessed. A Request for Proposals (‘RFP’) was developed and submitted to the leading software vendors. Their responses led to a short list and the short-listed vendors were brought in to demonstrate their solutions and their products’ ability to meet the Authority’s business requirements. In the fall of 2005, the team selected a suite of modules from SAP America, which will now be added to the Authority’s existing SAP R/3 environment.

“The SAP billing and customer information modules represent world-class functionality. Additionally, expansion of the Authority’s current SAP environment to include SAP billing and customer information will eliminate a number of existing interfaces and problem areas.

“Based on the size and complexity of an implementation of this type, it was decided that the Authority would require the use of a consultant system integrator (‘SI’). An RFP was developed and issued in the fall of 2005 to locate a vendor to act as SI on the Authority’s behalf. Four vendors responded to the RFP, as follows:

1. Accenture
2. Axon Solutions, Inc. ('Axon')
3. IBM Global Business Services ('IBM')
4. Sapient

“Detailed evaluations of the four proposals were conducted by the Authority’s evaluation team. Candidate responses were assessed and a numerical score was assigned to each vendor in each of the following major categories:

- Proposal Quality and Compliance
- Reasonableness of Budget (Cost)
- Methodology and Work Plan, Project Management
- Respondent Qualifications

“All four vendors were then invited to the Authority’s offices to present their proposals and key personnel to the evaluation team over a two-day period. Sapient decided to withdraw from the process prior to presentation. The remaining bidders, Accenture, Axon and IBM, were subjected to a rigorous evaluation of their teams and qualifications. The evaluation focused on each vendor’s project approach, work plan and methodology, as well as the experience of their proposed key personnel. Additional criteria such as adherence to their proposal and responsiveness to questions were also considered. The Authority allowed all three bidders to revise their cost proposals and assumptions based on these detailed discussions with Authority staff.

“After receiving the revised bids, the evaluation team assessed the total staffing requirements (both internal and external), and proposed project duration submitted by the respondents in order to ‘normalize’ the total cost of the proposals.

“The following table represents the final results of the evaluation team’s scoring and the bidders’ cost proposals\*:

	Axon	IBM	Accenture
Total Score	<b>75</b>	74	64
Total Cost (000s)	<b>\$9,966</b>	\$11,725	\$16,967

“The evaluation team is satisfied that all three vendors are technically qualified to perform the required services. Therefore, based on the team’s scoring and the respondents’ total cost proposals, the team recommends the award of a contract to the lowest-cost qualified bidder, Axon Solutions, Inc.

**FISCAL INFORMATION**

“Payments will be made from the Capital Fund.

**RECOMMENDATION**

“The Chief Information Officer – Information Technology recommends that the Trustees approve the capital expenditure for the award of a contract to Axon Solutions, Inc. at a contract value of \$11,500,000 for system integration services to assist the Authority with the implementation of a new billing system.

“The Executive Vice President and General Counsel, the Executive Vice President – Corporate Services and Administration, the Executive Vice President and Chief Financial Officer and I concur in the recommendation.”

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\* Team’s weighted score out of a possible 100. Total cost submitted by vendor inclusive of travel and living expense estimates but without contingency. Each vendor identified an average contingency of \$1,500,000.

*Mr. Eccleston presented the highlights of staff's recommendations to the Trustees. In response to a question from Chairman McCullough, Mr. Eccleston said that the Trustees had already authorized the expenditure of these funds at their July meeting and that with this item they were approving the contract itself. Responding to questions from Chairman McCullough and Trustee Cusack, Mr. Eccleston said that the contract amount of \$11.50 million (compared to the contractor's bid amount of \$9.97 million) includes a contingency amount, and that even with the contingency amount included, the contractor had the lowest-priced bid. In response to a second question from Chairman McCullough, President Carey said that it would be up to project management staff to keep contract costs under control. Responding to a second question from Trustee Cusack, Mr. Eccleston said that the contractor is based in the United Kingdom, but also has an office in New Jersey.*

The following resolution, as submitted by the President and Chief Executive Officer, was unanimously adopted.

**RESOLVED, That pursuant to the Guidelines for Procurement Contracts adopted by the Authority, the award and funding of a multiyear procurement contract to Axon Solutions, Inc., to serve as the system integrator for the Authority's new billing system be, and hereby is, approved as recommended in the foregoing report of the President and Chief Executive Officer, in the amount indicated below:**

<u>Contract Award</u>	<u>Contract Amount</u>	<u>Projected Completion</u>
Axon Solutions, Inc.	\$11,500,000	04/30/2008

**AND BE IT FURTHER RESOLVED, That the Chairman, the President and Chief Executive Officer and all other officers of the Authority are, and each of them hereby is, authorized on behalf of the Authority to do any and all things and take any and all actions and execute and deliver any and all agreements, certificates and other documents to effectuate the foregoing resolution, subject to the approval of the form thereof by the Executive Vice President and General Counsel.**

**13. Petroleum Overcharge Restitution Funds –  
Transfer of Funds to the State of New York  
and Authorization of Programs**

The President and Chief Executive Officer submitted the following report.

**SUMMARY**

“The Trustees are requested to authorize the transfer of up to \$700,000 to the State of New York (‘State’) in exchange for an equal amount in Petroleum Overcharge Restitution (‘POCR’) funds from the State, upon execution of an agreement between the State and the Authority concerning such transfer.

“The Trustees are also requested to authorize the Senior Vice President – Energy Services and Technology to develop and implement the various programs using POCR funds authorized by the 2006 legislation discussed below.

**BACKGROUND**

“On June 22, 2006, Governor Pataki approved the 2006 Budget Bill as Chapter 55 of the Laws of 2006 (‘Chapter 55’) (Exhibit ‘13-A’). Sections 2 and 3 of this legislation reflect an understanding between the Authority and the State that the Authority will transfer \$700,000 to the State and that the State will transfer to the Authority a like amount constituting monies appropriated to the statewide energy improvement account (i.e., POCR monies). The monies will be used by the Authority as specified in Sections 4-6 of Chapter 55.

“Section 4 of this legislation authorizes the Authority to use \$233,333 in POCR funds for existing programs of the Authority that are eligible under federal guidelines for the use of such funds.

“Section 5 authorizes the Authority to use \$233,333 in POCR funds to implement energy services projects. Section 6 authorizes the Authority to use \$233,333 in POCR funds to implement energy projects that are eligible under POCR guidelines, including, but not limited to, energy conservation, energy efficiency, weatherization, alternative fuels, other non-electric energy projects, flexible technical assistance, technology transfer and/or renewable or innovative energy projects. Under Sections 5 and 6, the Authority may supplement the POCR funds with any or all monies available from the Authority’s Energy Services Program to implement projects.

“At their meeting of January 30, 1996, the Trustees approved five POCR-funded programs: a Solar Electric Grant Program, an MTA Hybrid Bus Program, a Pilot Coal Conversion Program, an Independent College and University Energy Assistance Loan Program and a High Efficiency Lighting Program (‘HELP’) Revolving Loan Program.

“At their meetings of December 17, 1996 and December 16, 1997, the Trustees approved the continuation of these programs and several new POCR-funded grant initiatives, including a statewide energy efficiency program for primary and secondary public schools and public facilities and the reinstatement of the furnace and boiler demonstration program established by Section 21 of Chapter 598 of the Laws of 1993.

“At their meeting of December 15, 1998, the Trustees approved the continuation of: (a) the independent college and university energy assistance loan program (b) the HELP programs and (c) several new POCR-funded grant initiatives, including energy efficiency improvements in public facilities.

“At their meeting of December 14, 1999, the Trustees approved various energy-related programs established by Sections 1-9 of Chapter 413 of the Laws of 1999.

“At their meetings of December 20, 2000 and September 17, 2002, the Trustees approved the continuation of various energy-related programs established by Sections 1-8 of Chapter 61 of the Laws of 2000 and Sections 1-9 of Chapter 84 of the Laws of 2002.

DISCUSSION

“Before the State can disburse POOCR funds, the Authority is required to develop the various energy-related programs that would use them. With the assistance of the New York State Energy Research and Development Authority (‘NYSERDA’), the Authority must apply to the U.S. Department of Energy (‘U.S. DOE’) for program approval. POOCR funds cannot be used for purposes or programs that U.S. DOE does not approve.

“Judicial decisions and federal regulations that apply to POOCR funds (both principal and interest) require that they cannot be used for general Authority purposes and must ultimately be used for consumer restitution through energy-related programs. Any interest earned on the POOCR funds can only be used for approved POOCR programs and for administration of such programs.

“If approved by the Trustees, payment by the Authority of the \$700,000 in funds matching the POOCR funds identified in Chapter 55 would be reasonable and consistent with the Authority’s mission and statute.

“The POOCR funds the Authority receives as part of its understanding with the State will be used for energy efficiency projects throughout the State. Accordingly, the Trustees are also requested to authorize the Senior Vice President – Energy Services and Technology to develop and implement the various programs using POOCR funds authorized by the 2006 legislation.

FISCAL INFORMATION

“The funds to be paid to the State, as described above, will be disbursed from the Operating Fund, provided that such amount is not needed at the time of withdrawal for any of the purposes specified in Section 503(1) (a)-(c) of the General Resolution Authorizing Revenue Obligations, as amended and supplemented.

RECOMMENDATION

“The Senior Vice President – Energy Services and Technology recommends that the Trustees authorize payment to the State of New York for the purposes, and under the conditions, described above, and that the Trustees authorize the implementation of Petroleum Overcharge Restitution programs as described above.

“The Executive Vice President and General Counsel, the Executive Vice President and Chief Financial Officer, the Senior Vice President – Marketing and Economic Development, the Senior Vice President – Power Generation, the Senior Vice President – Public and Governmental Affairs and I concur in the recommendation.”

*Mr. Esposito presented the highlights of staff’s recommendations to the Trustees. In response to a question from Trustee Cusack, Mr. Esposito said that this is a housekeeping item. Chairman McCullough added that the item does have a fiscal impact.*

The following resolution, as submitted by the President and Chief Executive Officer, was unanimously adopted.

**RESOLVED, That the payment to the State of New York of up to \$700,000 for the purpose described in the foregoing report of the President and Chief Executive Officer is hereby authorized, contingent on execution of an agreement between the Authority and the State relating to such payment, and that the Chairman, the President and Chief Executive Officer, the Treasurer or such other officer designated by the President and Chief Executive Officer, are, and each hereby is, authorized to execute such agreement with the State having such terms and conditions as such officer deems necessary or desirable, subject to the approval of the form thereof by the Executive Vice President and General Counsel; and be it further**

**RESOLVED, That it is hereby authorized that up to \$700,000 of the Operating Fund monies be withdrawn from such Fund and used for making the payment specified in the foregoing report of the President and Chief Executive Officer, provided, however, that such withdrawal be conditioned on a certification by the Executive Vice President and Chief Financial Officer, the Vice President – Finance, the Treasurer or Deputy Treasurer that such amounts to be withdrawn from the Operating Fund are not then required for any of the purposes specified in Paragraphs (a)-(c) of Section 503 (1) of the General Resolution Authorizing Revenue Obligations adopted on February 24, 1998, as supplemented; and be it further**

**RESOLVED, That the Senior Vice President – Energy Services and Technology is hereby authorized to develop and implement the various programs using Petroleum Overcharge Restitution funds authorized by the 2006 legislation discussed in the foregoing report of the President and Chief Executive Officer, including the use of such funds to finance programs under the Authority’s Energy Services Program, provided that such programs shall be implemented only upon approval by the U.S. Department of Energy and by any other agency or court having jurisdiction over such programs; and be it further**

**RESOLVED, That the Chairman, the President and Chief Executive Officer and all other officers of the Authority are, and each of them hereby is, authorized on behalf of the Authority to do any and all things and take any and all actions and execute and deliver any and all certificates, agreements and other documents to effectuate the foregoing resolution, subject to the approval of the form thereof by the Executive Vice President and General Counsel.**

**POCR PROVISIONS OF CHAPTER 55 OF THE LAWS OF 2006**

Section 1. Funds appropriated from the statewide energy improvement account, special revenue fund – other, for services and expenses of the power authority of the state of New York, shall be available for implementation of restitutionary programs. The use of these funds is not intended to limit the right or obligation of the power authority of the state of New York to comply with the provisions of any contract, including any existing contract with or for the benefit of the holders of any obligations of the power authority.

§ 2. The power authority of the state of New York shall transfer \$700,000 to New York State on or before March 31, 2007.

§ 3. Notwithstanding section 1010-a of the public authorities law, the comptroller is hereby authorized and directed to transfer to the power authority of the state of New York \$700,000, constituting monies appropriated to the statewide energy improvement account for the power authority of the state of New York pursuant to a chapter 55 of the laws of 2006 and the power authority of the state of New York is authorized to hold such monies for the purposes specified in a chapter of the laws of 2006.

§ 4. The power authority of the state of New York is authorized to use \$233,333 in petroleum overcharge restitution funds made available to the authority in fiscal year beginning April 1, 2006 for programs of the power authority of the state of New York which are eligible under federal guidelines governing petroleum overcharge restitution funds; and which also may include a sub-allocation to the energy research and development authority or other public authority or public benefit corporation for energy conservation purposes.

§ 5. The power authority of the state of New York is authorized to use \$233,333.33 in petroleum overcharge restitution funds made available to the authority in fiscal year beginning April 1, 2006 to implement energy service projects. The authority may supplement these funds with any or all monies available from the Power Authority's Energy Service Program to implement projects.

§ 6. The power authority of the state of New York is authorized to use \$233,333.34 in petroleum overcharge restitution funds made available to the authority in fiscal year beginning April 1, 2006 to implement energy projects, which are eligible under federal guidelines governing petroleum overcharge restitution funds and which include, but are not limited to, energy conservation, energy efficiency, weatherization, alternative fuels, other non-electric energy projects, flexible technical assistance, technology transfer and/or renewable or innovative energy projects. The authority may supplement these funds with any or all monies available from the Power Authority's Energy Service Program to implement projects.

§ 7. This act shall take effect April 1, 2006 shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2006.

**14. Approval and Funding of the Hydro Power-to-Hydrogen Initiative**

The President and Chief Executive Officer submitted the following report.

SUMMARY

“The Trustees are requested to authorize the hydro power-to-hydrogen initiative to be implemented in the Buffalo/Niagara region and expenditures of up to \$21 million for program financing. To reduce overall program costs, staff will seek available co-funding from participating partners and federal, state and local grants.

BACKGROUND

“In January 2006, Governor Pataki laid out an aggressive series of initiatives that would boost production and use of renewable fuels, and provide incentives for developing new, more efficient vehicles and ancillary technologies. His goal and the Authority’s mission are to help spur energy research as well as economic growth in the Empire State. These initiatives are aligned with the New York State Hydrogen Roadmap, a document jointly developed in 2005 among the Authority, the New York State Energy Research and Development Authority (‘NYSERDA’) and the Long Island Power Authority (‘LIPA’) that sets goals for expanded use of hydrogen fuel statewide.

“Hydrogen is considered to be the ultimate fuel for transportation because it is clean burning and can also be used directly in a fuel cell engine where the principal emission is chemically pure water. Hydrogen fuel can be produced through a variety of processes, including electrolysis of water and steam reformation of natural gas.

Currently, most hydrogen fuel is produced by steam reformation. Reforming natural gas, however, releases significant amounts of CO<sub>2</sub>, and because steam is required in this process, it also generates NO<sub>x</sub> and other emissions. The use of renewable hydro power for electrolysis generates clean and renewable hydrogen. The hydro power-to-hydrogen program has the potential to jumpstart a new high-tech hydrogen industry, reduce the state’s dependence on fossil fuels and improve local air quality.

“In early 2006, the Authority teamed up with the Electric Power Research Institute (‘EPRI’) of Palo Alto, California, to undertake an engineering feasibility study exploring the use of hydro power to produce hydrogen through electrolysis, and using this hydrogen for a fleet of vehicles to be operated in the Buffalo/Niagara region. The long-term goal of the study is the design and eventual installation of hydrogen vehicle fueling stations that could be replicated at other locations in New York State, and to educate the public about the potential of hydrogen as a vehicle fuel and energy carrier. When installed, the fueling stations will serve as a key infrastructure advance that could lead to future growth in economic development activities for the state.

“Dedicating low-cost and renewable hydro power to a sizable electrolysis project in the Buffalo/Niagara region will both insure successful hydrogen fuel demonstration projects and attract companies to the region that are developing this technology. The Buffalo/Niagara region is particularly suitable for the innovative hydrogen industry, given the region’s availability of a skilled workforce and state universities, and its proximity to inexpensive hydro power resources. Locally produced hydrogen will power not only transportation and stationary fuel cells but will also help establish advanced technology parks in the area that can serve as business incubators and create new high-tech jobs for the region.

“This project, as envisioned, will be one of the largest hydrogen demonstration projects in the world, and will be capable of attracting support from a variety of private and public partners. With the Authority supplying low-cost hydro power, it is likely that several project co-funding partners could be identified, including manufacturers, the U.S. Department of Energy (‘U.S. DOE’) and the U.S. Department of Transportation (‘U.S. DOT’). General Electric (‘GE’) has already approached the Authority regarding a joint fuel cell bus development initiative. Praxair, Shell, UTC, Natural Resources – Canada, NYSERDA and others have also expressed interest in supporting the program. NYSERDA, with the support of the Authority, has discussed this initiative with U.S. DOE and U.S. DOT, exploring the possibility of multimillion-dollar federal co-funding. U.S. DOE has also reacted positively to an initial inquiry from Governor Pataki with regard to co-funding and partnership.

## DISCUSSION

### Program Scope and Cost

“The proposed program scope involves two central hydrogen generation, storage and fueling facilities, each capable of producing approximately 120 kg of hydrogen per day, as well as a number of hydrogen-fueled transit buses and utility and passenger vehicles. The hydrogen generation and fueling stations will together use up to 700 kW of hydro power and will be among the largest such projects in the world today.

“The electrolysis, hydrogen storage and dispensing equipment for the fueling stations would require a capital investment of approximately \$7.5 million. This includes investments in infrastructure upgrades and educational displays. Hydrogen-based fuel cell, fuel cell hybrid and internal combustion engine vehicles would require a capital investment of approximately \$13.5 million. The possibility of leasing, as well as purchasing, vehicles will be considered. The overall project cost is estimated at \$21 million, with the program scheduled to be fully implemented within a three-year period.

“Subject to the Trustees’ approval, the Authority will design, permit and install the hydrogen generation and fueling stations through a competitive bid process. No construction will take place until a State Environmental Quality Review Act determination has been completed by the Authority. The competitive bid process will also be used to lease and/or procure hydrogen vehicles for use at these stations.

### Availability of Hydrogen Vehicles

“Today, all major domestic and foreign car and bus manufacturers are actively developing, testing and demonstrating fuel cells and hydrogen engines for the next generation of vehicles. These activities assure the availability of vehicles for the hydro power-to-hydrogen initiative. Some industry activities are listed below:

- Honda, which has two passenger vehicles currently operating in Albany, is closely followed by all of the major auto companies in developing hydrogen fuel cell vehicles for demonstration and eventual consumer use.
- Ford has developed a dedicated hydrogen internal combustion engine for a shuttle bus vehicle that it is making available to fleet operators on a lease basis.
- Daimler-Benz (Mercedes) is actively developing fuel cell buses for mass transportation, with 30 buses on the road today, all based on the Ballard PEM fuel cell technology.
- A company called Quantum modifies various engine-driven vehicles, from the Toyota Prius to full-size buses, to run on hydrogen. Quantum is partly owned by General Motors and has expressed interest in supplying vehicles to New York and potentially establishing manufacturing facilities here.
- United Technologies (‘UTC’) is working with Nissan and Hyundai on developing a hybrid sport-utility fuel cell vehicle and with BMW on developing on-board auxiliary power fuel cells for luxury cars. UTC has also fielded a number of transit buses that are currently operating in Washington, DC, and the San Francisco Bay area.

### Potential Project Sites

“Presently, designated potential project sites are Niagara Falls State Park (‘NFSP’) and the Niagara Frontier Transportation Authority (‘NFTA’). Both agencies have expressed interest in developing a hydrogen initiative with the Authority. NFTA has also expressed interest in owning and operating both hydrogen fueling stations and hydrogen vehicles.

“NFSP serves more than six million visitors per year and operates a large number of compressed natural gas (‘CNG’) vehicles. Its CNG fueling stations are also used by other state agencies.

“NFTA carries 94,000 people per day, operating 332 buses, 35 vans, 27 rail cars and four trolley buses. NFTA is a recipient of Authority hydro power and is authorized by state law to receive such power and energy as the Authority determines to be available. The approximately 700 kW of hydro power necessary for the hydrogen fueling stations may be available in late summer 2007. Prior to that, the Trustees’ approval will be sought for a hydro power allocation to NFTA for the purposes of hydrogen production.

FISCAL INFORMATION

“Funding for this initiative will be provided from the Operating Fund. The total cost of the program is not expected to exceed \$21 million. A portion of the costs may be recovered from the participating partners and through federal, state and local grants and co-funding.

RECOMMENDATION

“The Senior Vice President – Energy Services and Technology recommends that the Trustees approve the hydro power-to-hydrogen program in the Buffalo/Niagara region and authorize up to \$21 million for the program’s financing.

“The Executive Vice President and General Counsel, the Executive Vice President – Corporate Services and Administration, the Executive Vice President and Chief Financial Officer, the Senior Vice President – Marketing and Economic Development, the Senior Vice President – Public and Governmental Affairs, the Senior Vice President – Power Generation and I concur in the recommendation.”

*Mr. Sliker presented the highlights of staff’s recommendations to the Trustees. Chairman McCullough noted that a presentation had been made at the Strategic Planning Conference in January on the initiative now being brought before the Trustees. President Carey said that former Chairman Seymour had been instrumental in pushing forward this initiative of Governor Pataki’s. He said that Shell Oil is going to be working with General Motors (“GM”) and the City of White Plains to set up a hydrogen fueling station in White Plains and that there already is a fueling station in Albany. President Carey said that at yesterday’s event at SUNY’s College of Environmental Science and Forestry (“SUNY ESF”) in Syracuse, SUNY ESF President Neil Murphy had said that a hydrogen fueling station was also going to be installed there, meaning that hydrogen-powered vehicles would be able to traverse the entire State once the fueling stations envisioned under this initiative have been built. In response to a question from Trustee Cusack, President Carey said that the Authority’s leadership had certainly helped to expedite the progress of this technology and its infrastructure in the State. He said that the hydrogen roadmap created in 2004 under the leadership of the New York State Energy Research and Development Authority (“NYSERDA”) was being read by entrepreneurs. President Carey said that the New York State Thruway Authority was retrofitting its fueling stations to include hydrogen fuel in order to promote fuel diversification. Responding to a question from Trustee Cusack, Mr. Sliker said that it is projected that the Niagara Falls State Park and Niagara Frontier Transportation Authority (“NFTA”) hydrogen fueling stations will be developed within the next 18 to 24 months. Mr. Esposito said that NFTA is already receiving hydro power*

*from the Authority. Chairman McCullough said that this is a most worthwhile and appropriate Authority initiative. He said that significant support from the private sector, including active investors, is already being seen. President Carey said that GM, Honda and Plug Power are talking about developing a hydrogen-powered in-home unit that would be reversible so that in the event of a blackout, the home could be powered by the car. He said that SUNY ESF's President Murphy had talked about the potential for sending hydrogen-powered vehicles out to remote locations, where the car could be used to power up tools needed for work in these locations. In response to a question from Chairman McCullough, Mr. Esposito said that the Authority would be seeking grants and co-funding support from NYSERDA, the U.S. Department of Energy and private companies. Trustee Seymour said that this is the type of project the Authority should be undertaking, following Governor Pataki's leadership. He complimented Authority staff on their diligence in moving this initiative forward so quickly.*

The following resolution, as submitted by the President and Chief Executive Officer, was unanimously adopted.

**RESOLVED, That the Trustees hereby authorize the hydro power-to-hydrogen program encompassing the installation of two central hydrogen generation, storage and fueling facilities in the Buffalo/Niagara region, and the procurement and/or lease of a number of hydrogen vehicles; and be it further**

**RESOLVED, That Operating Fund monies will be used to finance program costs in the amounts and for the purposes listed below:**

<u>Operating Funds</u>	<u>Expenditure Authorization (not to exceed)</u>
Fueling stations, including electrolysis, hydrogen storage and dispensing equipment	\$7.5 million
Procurement and/or lease of hydrogen vehicles	\$13.5 million
<b>TOTAL</b>	<b><u>\$21.0 million</u></b>

**AND BE IT FURTHER RESOLVED, That the Chairman, the President and Chief Executive Officer and all other officers of the Authority are, and each of them hereby is, authorized on behalf of the Authority to do any and all things and take any and all actions and execute and deliver any and all agreements, certificates and other documents to effectuate the foregoing resolution, subject to the approval of the form thereof by the Executive Vice President and General Counsel.**

**15. Seymour-to-Greenwood Interconnection Project – Expenditure Authorization Request**

The President and Chief Executive Officer submitted the following report.

**SUMMARY**

“The Trustees are requested to authorize capital expenditures of \$11.2 million for the Seymour-to-Greenwood Interconnection Project and to ratify funding previously approved by the President in the amount of \$2.7 million. The total project cost is \$13.9 million.

**BACKGROUND**

“As a strategic initiative, Authority staff examined transmission opportunities in Southeastern New York that could provide economic and environmental benefits. One such opportunity is the reconfiguration of the Seymour electrical connection.

“New York City has two electric transmission systems: a 345kV bulk power transmission system and a 138kV transmission system, which is essentially the same as the New York City 138kV Load Pocket and consists of two major sub-pockets. One sub-pocket is the Astoria Load Pocket and the second is the Vernon-Greenwood-Staten Island Load Pocket.

“The Greenwood-Staten Island Load Pocket is a sub-pocket of the Vernon-Greenwood-Staten Island Load Pocket, where a minimum of 40% of the electrical requirements must be generated within the pocket during peak-load periods. Currently, the Authority’s Pouch plant operates within this load pocket. The Authority’s Seymour generating units interconnect just outside this load pocket.

“The Authority investigated reconfiguring the electrical connection of the Seymour Gas Turbines (‘GTs’), which produce 79.8 MW from their existing interconnection point in the Gowanus-Greenwood 138kV feeder, downstream of the Gowanus Phase Angle Regulator to reconnect the turbines directly into the Greenwood 138kV bus. With this reconfiguration, the Seymour units would be connected directly into the Greenwood-Staten Island Load Pocket, thereby increasing the power supply to the Greenwood-Staten Island Load Pocket and providing increased revenues.

“As this change will not change the interconnection point electrically and the units will not be physically moved, the Authority was granted approval by the New York Independent System Operator to proceed with this change on the grounds that it did not constitute a ‘material change.’

**DISCUSSION**

“The new connection would include installing approximately 3,000 feet of cable that will run from the Seymour GTs to Con Edison’s Greenwood Substation on 24th Street. The Greenwood Substation modifications, to be performed by Con Edison with the cost to be reimbursed by the Authority, will include installation of two new circuit breakers, two disconnect switches at each circuit breaker and a feeder disconnect switch to accommodate the new connection. The Seymour Substation modifications would include installing a new circuit breaker and two new disconnect switches. Relay and protection modifications will also be made at each site. The Authority will obtain the necessary regulatory approvals for the work and Con Edison will obtain street opening permits from New York City.

“The estimated cost to construct the new interconnection is \$13.9 million. This cost estimate is based on Con Edison’s preliminary analysis regarding additions and modifications required at the Greenwood Substation to accommodate the incoming feeder, as well as the construction of the new underground 138kV feeder from the Seymour Substation to the Greenwood Substation. The approved funding will provide for the design and engineering of the Seymour Substation expansion, the substation modifications at Con Edison’s Greenwood Substation, and the feeder routing and street construction; procurement of all necessary substation equipment for both Seymour and Greenwood Substations; installation of equipment at Seymour and Greenwood Substations;

installation of underground interconnecting feeder and associated street construction; construction and engineering support; surveys; and Con Edison interface and support.

“In order to maintain the schedule, the President and Chief Executive Officer granted interim approval for expenditures in the amount of \$2.7 million for the engineering and design contract and procurement of 138kV cable, disconnect switches, potential transformers and relay panels for the Seymour Plant, as well as all equipment to be supplied by Con Edison at the Greenwood Substation.

“A cost analysis was completed that demonstrated a cost recovery over a five-year time period as a result of additional revenues from this interconnection.

FISCAL INFORMATION

“Payment will be made from the Authority’s Capital Fund.

RECOMMENDATION

“The Deputy General Counsel, the Vice President – Project Management, the Vice President – Procurement and Real Estate and the Vice President Engineering – Power Generation recommend that the Trustees authorize (1) \$13.9 million for the construction of the Seymour-to-Greenwood Interconnection and (2) the Senior Vice President and Chief Engineer – Power Generation, or his designee, to negotiate and enter into construction and procurement contracts having such terms as deemed necessary or advisable in support of the construction of the 3,000-foot transmission connection between the Authority’s Seymour Plant and Con Edison’s Greenwood Substation and the associated substation modifications.

“The Executive Vice President and General Counsel, the Executive Vice President – Corporate Services and Administration, the Executive Vice President and Chief Financial Officer, the Senior Vice President – Transmission, the Senior Vice President and Chief Engineer – Power Generation, the Vice President – Controller and I concur in the recommendation.”

*Ms. Mayadas-Dering presented the highlights of staff’s recommendations to the Trustees. In response to questions from Chairman McCullough, Ms. Mayadas-Dering said that Authority staff is comfortable with the estimated construction costs, which had been developed by Con Edison and the Authority.*

The following resolution, as submitted by the President and Chief Executive Officer, was unanimously adopted.

**RESOLVED, That pursuant to the Guidelines for Procurement Contracts and the Expenditure Authorization Procedures adopted by the Authority, capital expenditures in the amount of \$11.2 million are approved as recommended in the foregoing report of the President and Chief Executive Officer; and be it further**

**RESOLVED, That the Trustees ratify funding previously approved by the President in the amount of \$2.7 million in support of the Seymour to Greenwood Interconnection Project as shown below:**

Previously Approved	\$ 2,700,000
Current Request	<u>\$11,200,000</u>
<b>TOTAL AMOUNT</b>	
<b>AUTHORIZED</b>	<u><b>\$13,900,000</b></u>

**AND BE IT FURTHER RESOLVED, That the Trustees authorize the Senior Vice President and Chief Engineer – Power Generation, or his**

**designee, to negotiate and enter into construction and procurement contracts having such terms as deemed necessary or advisable in support of construction of the 3,000-foot transmission connection between the Authority's Seymour Plant and Con Edison's Greenwood Substation and associated substation modifications; and be it further**

**RESOLVED, That the Chairman, the President and Chief Executive Officer and all other officers of the Authority are, and each of them hereby is, authorized on behalf of the Authority to do any and all things, take any and all actions and execute and deliver any and all agreements, certificates and other documents to effectuate the foregoing resolution, subject to the approval of the form thereof by the Executive Vice President and General Counsel.**

**16. New York City Department of Environmental Protection East Delaware and Neversink Hydroelectric Facilities – Operations and Maintenance Services – Award**

The President and Chief Executive Officer submitted the following report.

**SUMMARY**

“The Trustees are requested to approve the award and funding of a multiyear contract with North American Energy Services (‘NAES’) to provide the management, operation, and maintenance services necessary for the operation and maintenance of the New York City Department of Environmental Protection’s East Delaware and Neversink Hydroelectric Facilities (cumulatively, the ‘Facilities’). The City of New York (‘City’), acting through its Department of Environmental Protection (‘NYC DEP’), will reimburse the Authority for all incurred costs on a monthly basis.

**BACKGROUND**

“Section 2879 of the Public Authorities Law and the Authority’s Guidelines for Procurement Contracts require Trustees’ approval for procurement contracts involving services to be rendered for a period in excess of one year.

“In accordance with the Authority’s Expenditure Authorization Procedures, the award of non-personal services or equipment purchase contracts in excess of \$3,000,000, as well as personal services contracts in excess of \$1,000,000 if low bidder, or \$500,000 if sole source or non-low bidder, require Trustees’ approval.

“At a special meeting on February 9, 2005, the Trustees authorized the execution of new long-term supplemental electricity supply agreements (‘LTAs’) with the New York City Governmental Customers, substantially in the form as that executed with the City on March 18, 2005. Article XV of this agreement provides that, subject to certain conditions, the Authority would operate the Facilities on behalf of the City. The LTA is for a 12 year term and allows the City to terminate service from the Authority at any time on three years notice, and under certain limited conditions, on one year's notice, contingent upon notice and circumstances.

“Authority staff has completed negotiations of an operating agreement with the City. The terms and conditions are satisfactory to the Authority, including (1) recovery by the Authority of its direct costs and administrative overheads associated with operating the two plants, (2) the use by the Authority (at its election) of outside firms for direct operation of the plants, (3) protocols for bidding the output of the plants into the marketplace, (4) disposition of the revenues from the sale of the output, and (5) limitation of the Authority’s liability to the City and to third parties, except where the Authority engages in willful misconduct. In addition, the City agreed to reimburse the Authority for its costs incurred prior to executing the operating agreement.

“Also, on behalf of the City, the Authority will directly market the electricity, capacity, ancillary services and any other energy products produced by the two facilities for which a market exists, and credit the City with the net revenues.

**DISCUSSION**

“The Authority solicited bids in the New York State Contract Reporter for a third party to provide management, supervisory, engineering, operational, administrative, technical, and maintenance services and capital improvements for the two facilities. One bid was received from North American Energy Services (‘NAES’).

“To date, NAES has successfully transitioned 61 different facilities to NAES operational responsibility. The Authority currently has a contract with NAES for operations and maintenance support services for its six Small Clean Power Plants in New York City. That contract was initially awarded in 2001 and has been extended twice to date.

“The first award term will be until June 30, 2008 with an option to extend for two additional years. Based on the preliminary O&M budget estimate prepared by NAES, the Authority projects total costs to be \$2.144 million during the first contract term. An assumption of an October 1, 2006 award date has been made.

Transition Period Fee (est.)	\$ 106,000
Plant Setup Fees (est.)	148,000
O&M Fees For 20-month period from 10/1/06 through 6/30/08, based on NAES' preliminary O&M budget estimate	1,631,667
Engineering Studies	<u>258,500</u>
Total	<u>\$2,144,167</u>

“Several potential capital projects were identified based on both prior studies and site visits. The deliverables from NAES for each of these studies would be a cost estimate for providing drawings and specifications and implementing the proposed capital work. This cost estimate would then be submitted to NYC DEP for approval. Upon NYC DEP approval, the Authority would then follow its Expenditure Authorization Procedures to fund implementation by NAES, with NYC DEP reimbursing the Authority for the costs it incurs.

“This contract contains provisions allowing the Authority to terminate services for the Authority’s convenience, without liability other than paying for acceptable services rendered to the effective date of termination.

“The City has reviewed the proposal submitted by NAES and concurs with the award. Any award to NAES will be conditioned upon the Authority providing NAES with written notice that the Operating Agreement has been registered with the office of the Comptroller of the City of New York and that any further City requirements have been completed.

FISCAL INFORMATION

“Payments will be made from the Authority’s Operating Fund with reimbursement by the City of all direct costs and administrative overheads associated with operating the two plants.

RECOMMENDATION

“The Vice President – Project Management, the Vice President – Procurement and Real Estate and the Regional Manager – Central New York recommend that the Trustees authorize \$2,144,167 million for the award of a contract to North American Energy Services to provide necessary management, operation and maintenance services for the New York City Department of Environmental Protection East Delaware and Neversink Hydroelectric Facilities.

“The Executive Vice President and General Counsel, the Executive Vice President – Corporate Services and Administration, the Executive Vice President and Chief Financial Officer, the Senior Vice President – Power Generation, the Vice President – Controller and I concur in the recommendation.”

The following resolution, as submitted by the President and Chief Executive Officer, was unanimously adopted.

**RESOLVED, That pursuant to the Guidelines for Procurement Contracts and the Expenditure Authorization Procedures adopted by the Authority, expenditures in the amount of \$2,144,167 million are approved as recommended in the foregoing report of the President and Chief Executive Officer, in the amount and for the purposes listed below:**

<u>O&amp;M</u>	<u>Contract Approval</u>
Provide management, operation and maintenance services of the NYC DEP East Delaware and Neversink Hydroelectric Facilities	<u>\$2,144,167</u>

**AND BE IT FURTHER RESOLVED, That the Chairman, the President and Chief Executive Officer and all other officers of the Authority are, and each of them hereby is, authorized on behalf of the Authority to do any and all things and take any and all actions and execute and deliver any and all agreements, certificates and other documents to effectuate the foregoing resolution, subject to the approval of the form thereof by the Executive Vice President and General Counsel.**

**17. Revisions to the Regulations of the Authority  
Implementing the State Environmental  
Quality Review Act (21 NYCRR Part 461)**

The President and Chief Executive Officer submitted the following report.

**SUMMARY**

“The Trustees are requested to approve certain revisions to the Authority’s regulations implementing the State Environmental Quality Review Act (‘SEQRA’) and to authorize and direct the Corporate Secretary of the Authority (and/or her designees) to file a Notice of Adoption and Certification verifying such approval with the New York State Secretary of State for publication in the New York State Register and to make any and all other filings and take all steps necessary or appropriate therewith in accordance with the requirements of the State Administrative Procedures Act (‘SAPA’), the Executive Law and SEQRA so that such amendments may be published in the Official Compilation of Codes, Rules and Regulations of the State of New York (‘NYCRR’).

**BACKGROUND**

“SEQRA directs State agencies (a term that includes public authorities) to review their regulations, policies and procedures for the purpose of insuring conformity of the same with the ‘purpose and provisions’ of SEQRA (N.Y. Environmental Conservation Law, Section 8-109). Various sections of SEQRA and the implementing regulations adopted by the New York State Department of Environmental Conservation (‘DEC’) make it clear that an agency may adopt its own ‘SEQRA regulations’ and that, once adopted, such agency-specific regulations will generally supersede the DEC regulations.

“Until 1985, the Authority relied on internal memoranda to guide its implementation of the requirements of SEQRA. At their meeting of June 25, 1985, the Trustees approved the regulations appearing at 21 NYCRR Part 461 (the ‘Part 461 Regulations’), and the Authority has used them since that time to implement the requirements of SEQRA. The Part 461 regulations have not been amended since they were originally adopted. On March 28, 2006, the Trustees authorized the publication of a Notice of Proposed Rule Making (‘NOPR’) in the New York State Register in connection with the proposed adoption of certain amendments to the Part 461 regulations. A copy of the NOPR, which includes the text of the proposed amendments, is attached hereto as Exhibit ‘17-A.’

“In accordance with the NOPR, a public hearing was held at the Authority’s New York City office on June 6, 2006, and the hearing record remained open until and through June 13, 2006. No parties appeared at the hearing other than the hearing officer and the Authority’s Vice President – Environmental Management, both of whom made brief introductory and explanatory remarks for the record. A comment was received on June 13, 2006 from New York State Assemblyman Ruben Diaz, Jr. and is attached hereto as Exhibit ‘17-B.’ Authority staff evaluated Assemblyman’s comment and prepared an Assessment of Public Comment pursuant to SAPA; however, no changes to the proposed regulations were deemed necessary. The Assessment of Public Comment is attached hereto as Exhibit ‘17-C.’

**DISCUSSION**

“Changes in law and circumstances make amendments to the Part 461 regulations appropriate at this time. SEQRA has been amended on a number of occasions and several provisions and references appearing in the Part 461 regulations have become obsolete. The Authority’s Environmental Division has carefully reviewed the list of Type II actions appearing in the Part 461 regulations (the ‘Type II List’) and elicited from all business units within the Authority suggestions regarding the updating of the same. In order to reflect the changes in law and circumstances, as well as to satisfy the Authority’s desire to make certain convenient changes to the Type II List and to other aspects of the Part 461 regulations, the Environmental Division and the Law Department prepared a revised text of the Part 461 regulations. Among other things, the revised text adds provisions for electronic filing via e-mail, updates definitions and corrects a number of cross-references.

“The proposed regulations differ from those presented at the March 28, 2006 Trustee meeting only with respect to their effective date. The proposed regulations would be effective upon the filing of a Certification with the New York State Department of State and publication of the Notice of Adoption in the State Register.

RECOMMENDATION

“The Vice President – Environmental Management recommends that the Trustees approve the adoption of the proposed revisions to the Part 461 regulations and authorize and direct the Corporate Secretary of the Authority (and/or her designees) to file Certification of such approval with the New York State Secretary of State for publication of the Notice of Adoption in the New York State Register and to make any and all other filings and take all steps necessary or appropriate therewith in accordance with the requirements of the State Administrative Procedures Act, the Executive Law and the State Environmental Quality Review Act, so that the approved amendments may be published in the New York Compilation of Codes, Rules and Regulations.

“The Executive Vice President and General Counsel and I concur in the recommendation.”

The following resolution, as submitted by the President and Chief Executive Officer, was unanimously adopted.

**RESOLVED, That the Authority be, and hereby is, designated “lead agency” for the purposes of conducting the review of the action described in the next succeeding paragraph called for and mandated by the State Environmental Quality Review Act and that, pursuant thereto, the Authority determines that such action will not have a significant effect on the environment and that an Environmental Impact Statement need not and will not be prepared in connection therewith; and be it further**

**RESOLVED, That the revisions to the regulations appearing at 21 NYCRR Part 461 as set forth in the Notice of Proposed Rule Making appearing in the New York State Register on April 19, 2006, be, and hereby are, approved; and be it further**

**RESOLVED, That the Corporate Secretary or her designees be, and hereby are, authorized to file Certification of such approval with the New York State Secretary of State, and a Notice of Adoption for publication in the New York State Register and to make any and all other filings and take all steps necessary or appropriate therewith in accordance with the requirements of the State Administrative Procedures Act, the Executive Law and the State Environmental Quality Review Act so that the approved amendments may be published in the Official Compilation of Codes, Rules and Regulations of the State of New York; and be it further**

**RESOLVED, That the Chairman, the President and Chief Executive Officer, the Vice President – Environmental Management and all other officers of the Authority are, and each of them hereby is, authorized on behalf of the Authority to do any and all things, take any and all actions and execute and deliver any and all certificates, agreements and other documents to effectuate the foregoing resolution, subject to the approval of the form thereof by the Executive Vice President and General Counsel.**

# **EXHIBIT “17-A”**

- c. OMH and OASAS also support the repeal of Part 15 and Appendix 1.
- 4. Costs:
  - a. The repeal will have no fiscal effects on the agency, the state or local governments.
  - b. The repeal will have no fiscal effect on private regulated parties.
- 5. Local Government Mandates: There are no new requirements imposed by the repeal of the section or appendix on any county, city, town, village; or school, fire, or other special district.
- 6. Paperwork: The repeal of the forms in Appendix 1 may actually decrease paperwork, as facilities may be able to streamline or consolidate forms. If replacement forms are developed, the time to complete forms may be reduced as the forms would be less confusing and better reflect current terminology and consumer situations at particular facilities. Forms may also be adapted to solicit information necessary to satisfy other systemic needs.
- 7. Duplication: Subsequent to the original adoption of Part 15, both the Federal government and state government have promulgated similar or more stringent regulatory requirements. This repeal removes duplicate requirements.
- 8. Alternatives: OMRDD could leave the old, outdated regulation in effect. However, OMRDD considers its repeal to be a preferable option. As stated, the vast majority of the provisions of Part 15 are no longer necessary because of the promulgation of similar or more stringent regulatory requirements by the Federal government, OMH, OMRDD or OASAS. Other portions of Part 15 merely restate provisions of Article 15 of the Mental Hygiene Law. The remaining provisions reference the use of outdated documents or are unnecessarily specific. Consistent with the mission of the Governor's Office of Regulatory Reform, the repeal of Part 15 and Appendix 1 reduces unnecessary procedures and paperwork requirements.
- OMRDD reviewed the forms in Appendix 1 and determined that they are outdated and no longer reflect current service environments. OMRDD considered revising the forms. However because there is no need for a universal format the preferred option is to give facilities the opportunity to continue to utilize the old forms or to develop new forms to better address facility or consumer needs.
- 9. Federal Standards: The repeal of Part 15 and Appendix 1 will not exceed any minimum standard set by the federal government.
- 10. Compliance Schedule: OMRDD expects to adopt the repeal as soon as possible within the time frames mandated by the State Administrative Procedure Act.

**Regulatory Flexibility Analysis**

A Regulatory Flexibility Analysis for the proposed repeal has not been submitted. OMRDD has determined that the repeal will not impose any adverse economic impact or reporting, recordkeeping or other compliance requirements on small businesses or local governments. The finding is based on the fact that the proposed repeal is the deletion of outdated, antiquated regulations and forms. The majority of the provisions of Part 15 are addressed elsewhere in Title 14 of NYCRR, Article 15 of the Mental Hygiene Law or in Federal regulations. Therefore the repeal of Part 15 will not adversely impact affected facilities. The remaining provisions are unnecessarily specific and as such the deletion will lessen the burden on facilities.

The repeal of Appendix 1 would eliminate the requirement that facilities use outdated forms which may or may not meet their current needs. Facilities would have the option of using current forms or using other documents which may better meet their needs.

**Rural Area Flexibility Analysis**

A Rural Area Flexibility Analysis for the proposed repeal is not being submitted because the repeal will not impose any adverse economic impact on rural areas or on reporting, recordkeeping or other compliance requirements on public or private entities in rural areas. The finding is based on the fact that the proposed repeal is the deletion of outdated, antiquated regulations and forms. The majority of the provisions of Part 15 are addressed elsewhere in Title 14 of NYCRR, Article 15 of the Mental Hygiene Law or in Federal regulations. Therefore the repeal of Part 15 will not adversely impact affected facilities. The remaining provisions are unnecessarily specific and as such the deletion will lessen the burden on facilities.

The repeal of Appendix 1 would eliminate the requirement that facilities use outdated forms which may or may not meet their current needs. Facilities would have the option of using current forms or using other documents which may better meet their needs.

**Job Impact Statement**

A JIS for the proposed repeal was not submitted because it is apparent from the nature and purpose of the repeal that there will be no impact on

jobs and/or employment opportunities. The finding is based on the fact that the proposed repeal is the deletion of outdated, antiquated regulations and forms. The proposed repeal will not have any effect on jobs or employment opportunities in New York State.

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## Power Authority of the State of New York

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### PROPOSED RULE MAKING HEARING(S) SCHEDULED

**State Environmental Quality Review Act**

I.D. No. PAS-16-06-00008-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

**Proposed action:** Amendment of Part 461 of Title 21 NYCRR.

**Statutory authority:** Environmental Conservation Law, section 8-0113; Public Authorities Law, section 1004

**Subject:** State Environmental Quality Review Act (SEQRA).

**Purpose:** To update and clarify the Power Authority's SEQRA rules.

**Public hearing(s) will be held at:** 10:30 a.m., June 6, 2006, at Power Authority's New York City Office, 501 Seventh Ave., 9th Fl., New York, NY.

**Accessibility:** All public hearings have been scheduled at places reasonably accessible to persons with a mobility impairment.

**Interpreter Service:** Interpreter services will be made available to deaf persons, at no charge, upon written request submitted within reasonable time prior to the scheduled public hearing. The written request must be addressed to the agency representative designated in the paragraph below.

**Text of proposed rule:** Section 461.2 is added to read as follows:

*§ 461.2 Severability*

*If any provision of this Part or its application to any person or circumstance is determined to be contrary to law by a court of competent jurisdiction, such determination shall not affect or impair the validity of the other provisions of this part or the application thereof to other persons or circumstances.*

Subdivision (g) of Section 461.3 is amended to read as follows:

(g) Director means the Power Authority's [Director of the Environmental Division, and is the individual responsible for the preparation and review of environmental determinations to assure compliance with this Part] *Vice President of Environmental Management or such other person succeeding to the powers and duties of such office under a different title and, in any case, the officer or employee validly exercising such powers and duties in an acting or permanent capacity.*

Subdivision (t) of Section 461.3 is amended to read as follows:

Type II action means an action or class of actions that is not a Type I action and is listed in sections 461.7 and 461.17 of this Part. *Notwithstanding the foregoing, no action having a significant impact on the environment, as determined pursuant to section 461.18 of this Part or defined as a "Type I Action" pursuant to regulations implementing SEQRA adopted by the New York State Department of Environmental Conservation shall constitute a Type II action hereunder.*

Subdivisions (a) and (b) of Section 461.4 are amended to read as follows:

(a) If the [activity] action is a Type I or unlisted action, the director shall determine if other agencies [are involved] *qualify as involved agencies.*

(b) Where it is determined that other agencies are involved [and the activity is a Type I action], the director shall mail the EAF, *with Part 1 thereof completed*, and a copy of an application, if applicable, to the involved agencies, notifying them that, within 30 calendar days of the date the EAF was mailed to them, a lead agency must be designated by agreement among them. If no lead agency is agreed upon within the 30-day period, the Power Authority, pursuant to [6 NYCRR 617.6(e)] *6 NYCRR 617.6(b)(5)(i)*, may request by *certified mail or other form of receipted delivery* the commissioner of the New York State Department of Environmental Conservation to designate a lead agency.

Paragraphs (5) and (8) of subdivision (b) of Section 461.6 are amended to read as follows:

(5) any nonagricultural use occurring wholly or partially within an agricultural district (certified pursuant to the Agriculture and Markets Law, article [25, section 303] 25-AA, sections 303 and 304) which exceeds 10 percent of any threshold established in this section;

(8) any action which exceeds the locally established thresholds or, if no such thresholds are established, any action which takes place wholly or partially within, or substantially contiguous to, any critical environmental area designated by a local agency pursuant to 6 NYCRR [617.4] 617.14.

Paragraph (9) of subdivision (d) of Section 461.9 is amended to read as follows:

(9) a discussion of the effects of the proposed action on the use and conservation of energy, where applicable and significant, *provided that in the case of an electric generating facility, the statement shall include a demonstration that the facility will satisfy electric generating capacity needs or other electric system needs in a manner reasonably consistent with the most recent state energy plan;*

New paragraphs (10) and (11) are added to subdivision (d) of Section 461.9 as follows:

(10) *a discussion of the effects of the proposed action on solid waste management where applicable and significant;*

(11) *a discussion of the effects of any proposed action on, and its consistency with, the comprehensive management plan of the special groundwater protection program, as implemented by the commissioner pursuant to article 55 of the Environmental Conservation Law;*

Paragraphs (10), (11), (12), and (13) of subdivision (d) of Section 461.9 are renumbered as follows:

[(10)] (12)

[(11)] (13)

[(12)] (14)

[(13)] (15)

Subparagraphs (i) and (vii) of paragraph (2) of subdivision (a) of Section 461.11 are amended to read as follows:

(i) [with the Commissioner of Environmental Conservation at 50 Wolf Road, Albany, NY 12233] *electronically at enb@gw.dec.state.ny.us and also with the Division of Environmental Permits, Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-1011;*

(vii) at the Power Authority's headquarters office and at any local offices or projects in the area affected by the activity[.];

Subparagraph (viii) of paragraph (2) of subdivision (a) of Section 461.11 is added to read as follows:

(viii) *by delivery to any person who has requested a copy.*

Subparagraphs (ii), (iii), and (iv) of paragraph (2) of subdivision (b) of Section 461.11 are amended to read as follows:

(ii) [with the State Clearinghouse] *with the Department of Environmental Conservation, Division of Environmental Permits, 625 Broadway, Albany, NY 12233-1750; and*

(iii) [with the appropriate regional clearinghouse designated under the Federal Office of Management and Budget circular A-95; and] *for actions in the coastal zone, with the Secretary of State.*

[(iv) for actions in the coastal zone, with the Secretary of State.]

Subdivision (a) of Section 461.17 is amended to read as follows:

(a) *Reconditioning, rehabilitating or modernizing of existing facilities and structures, including essentially maintenance-type work with improvements to correct substandard features not involving large-scale new construction or expansion.*

Subdivisions (ab) and (aj) of Section 461.17 are amended to read as follows:

(ab) *Issuance or retirement of indebtedness.*

(aj) *Contracts for the purchase of power or supply arrangements that are financial in nature, including contracts for differences, which do not commit the Power Authority to the construction of a large-scale energy facility.*

Subdivision (ap) of Section 461.17 is amended to read as follows:

(ap) *Contracts or agreements contingent on the completion of the SEQRA process or the obtaining of a Certification of Environmental Compatibility and Public Need pursuant to the Public Service Law, article VII or VIII, Certification of Environmental Compatibility and Public Need.*

Paragraph (5) of subdivision (ar) of Section 461.17 is amended to read as follows:

(5) *seawalls, bulkheads and other shore-protection facilities and structures, fences, guardrails and barriers;*

Subdivision (as) of Section 461.17 is amended to read as follows:

(as) *The replacement, restoration, rehabilitation, reconstruction, renovation, demolition and removal of small existing items of equipment, structures or facilities, where the structure or facility to be modified or replaced will have substantially the same purpose and capacity as that replaced. Structures and facilities include, but are not limited to, those itemized under subdivision (ar) of this section. The activities described above in this category shall be limited to those having an estimated cost of \$500,000 or less, or which will have an interior area of not more than 10,000 square feet and not involve a total land area of more than two acres. Actions within this class are categorically exempt, as noted in subdivision (ar), except where substantially less harmful equipment having similar performance is available or where substantial noise, air, water or other pollution or the release of substantial waste products is likely to result from the reconstruction or replacement projects.*

Paragraphs (4) and (8) of subdivision (au) of Section 461.17 are amended to read as follows:

(4) *forest management practice, including construction, maintenance and repair of facilities or structures and silvicultural activities in compliance with [the Forest Road Construction Handbook (1973) and the Timber Harvesting Guidelines for New York (1975), or practice approved by the Public Service Commission] applicable rules and guidelines;*

(8) *ground application of registered pesticides, on an individual tree basis for the [suppression of forest] control of pests on Power Authority lands;*

Paragraphs (10) and (11) of subdivision (ax) of Section 461.17 are amended to read as follows:

(10) *dissemination of public information and public information activities; [and]*

(11) *the making of investments by or on behalf of the Power Authority[.]; and*

A new paragraph (12) of subdivision (ax) of Section 461.17 is added to read as follows:

(12) *adoption of regulations, policies, procedures and legislative decisions in connection with any action on this list.*

**Text of proposed rule and any required statements and analyses may be obtained from:** Angela D. Graves, Power Authority of the State of New York, 123 Main St., 15-M, White Plains, NY 10601, (914) 287-3092, e-mail: angela.graves@nypa.gov

**Data, views or arguments may be submitted to:** Same as above.

**Public comment will be received until:** Five days after the last scheduled public hearing required by statute.

#### **Regulatory Impact Statement**

1. **Statutory authority:** Environmental Conservation Law Section 8-0113(3) and Public Authorities Law Section 1004 authorize the New York Power Authority ("Authority") to adopt, amend, and modify rules and regulations to implement the State Environmental Quality Review Act ("SEQRA"). The Authority initially adopted such SEQRA rules in 1985.

2. **Legislative objectives:** The Authority's proposed amendments to its SEQRA rules incorporate certain changes made to SEQRA since 1985 and to clarify and update the Authority's existing rules where appropriate.

3. **Needs and benefits:** It is appropriate for the Authority to periodically amend its SEQRA rules to reflect statutory changes and to clarify and update existing rules. Although the Authority's proposed amendments do not attempt to replicate the SEQRA regulations promulgated by the New York State Department of Environmental Conservation ("DEC") at 6 NYCRR Part 617, it may nevertheless be noted that most of the amendments will enhance the consistency of the two. Other changes are typically procedural, non-substantive, and/or minor in nature. Thus:

The addition of Section 461.2 conforms to the DEC regulations at Section 617.18 of Title 6 NYCRR.

The amendment of Section 461.3(g) is non-substantive and clarifies the existing definition of "Director" as meaning the Vice President of Environmental Management or such other person designated to act in that capacity.

The addition of subsection (t) to Section 461.3 conforms to the DEC regulations at Section 617.5(a) (i) of Title 6 NYCRR.

The amendments to subsections (a) and (b) of Section 461.4 are to conform to DEC regulations Section 617.2(s) and Section 617.6(b)(5)(i) of Title 6 NYCRR.

The amendments to paragraphs (5) and (8) of subsection (b) of Section 461.6 conform to DEC regulations at Section 617.14 of Title 6 NYCRR.

The addition and amendments to Section 461.9 capture and reflect statutory amendments made to Section 8-0109(2) of the Environmental Conservation Law.

The amendments to subparagraphs (i) and (vii) of paragraph (2) of subsection (a) of Section 461.11 conform to DEC regulations at Section

617.12(c) of Title 6 NYCRR. The addition of new subparagraph (viii) to paragraph (2) of subsection (a) of Section 461.11 conforms to DEC regulations at Section 617.12(b)(iv) of Title 6 NYCRR. The amendments to subparagraphs (ii), (iii), and (iv) of paragraph (2) of subsection (b) of Section 461.11 are non-substantive procedural mailing instructions.

The amendments to subsection (a) of Section 461.17 are to clarify the scope of reconditioning of existing facilities. The amendment of subdivision (ab) of subsection (z) of Section 461.17 is to clarify that retirement of indebtedness is to be treated the same as issuance for purposes of this provision. The amendment of subdivision (aj) of subsection (z) of Section 461.17 is to clarify that contracts for the purchase of power may also include contracts for differences and other types of financial supply arrangements. The amendment of sub-subdivision (5) of subdivision (ar) of subsection (z) of Section 461.17 is to clarify that bulkheads are included in shore-protection facilities. The amendment of Subsection (ap) of subsection (z) of Section 461.17 is non-substantive and is to repeal an obsolete reference and conforms to DEC regulations at Section 617.5(b)(35) of Title 6 NYCRR.

The amendment to subdivision (as) of subsection (z) of Section 461.17 is a non-substantive semantic clarification. The amendment to sub-subdivision (4) of subdivision (au) of subsection (z) of Section 461.17 is to repeal an obsolete reference and update the provision. The amendment of (8) of subdivision (au) of subsection (z) of Section 461.17 is to replace the word "suppression" with "control of". The amendments to sub-subdivisions (10) and (11) of subdivision (ax) of subsection (z) of Section 461.17 are non-substantive and for renumbering purposes. The addition of a new sub-subdivision (12) of subdivision (ax) of subsection (z) of Section 461.17 is to clarify that adoption of policies or procedures concerning any listed action also comprises a Type II action.

4. Costs: There will be no additional costs to regulated parties for implementation of and continued compliance with the Authority's modifications to its SEQRA rules. There are no anticipated additional expenses to the Authority or to state and local governments for implementation and continuation of the Authority's modifications to its SEQRA rules.

5. Local government mandates: The Authority's modifications to its SEQRA rules do not impose any additional programs, service, duty or responsibility on any county, town, village, school district, or other special district.

6. Paperwork: The Authority's modifications to its SEQRA rules do not impose any additional need for any reporting requirements, including forms and other paperwork.

7. Duplication: The modifications to the Authority's SEQRA rules do not duplicate, overlap, or conflict with any relevant rules of the state or federal governments. These modifications are generally consistent with DEC's SEQRA rules.

8. Alternatives: Before determining to amend its SEQRA rules as indicated, the Authority also considered leaving the existing 1985 version of the rules unchanged and also repealing these rules *in toto* with the exception of the "Type II" list appearing at 21 NYCRR § 461.17. The first alternative was rejected because Section 8-0107 of the ECL imposes an affirmative obligation on the Authority to review its regulations, policies, and procedures in order to determine whether they contain deficiencies that might inhibit implementation of SEQRA and to take steps to address any such deficiencies. The second alternative was rejected because the Authority believes that the complexity and scope of its statutory mandate make the maintenance of an independent, stand-alone platform for implementing SEQRA essential to the Authority's functioning.

9. Federal standards: The Authority's modifications to its SEQRA rules do not exceed any minimum standards of the federal government for the same or similar subject areas.

10. Compliance schedule: It is anticipated that regulated persons will be immediately able to achieve compliance with the Authority's modifications to its SEQRA rules.

#### **Regulatory Flexibility Analysis**

1. Effect of rule: It is anticipated that small businesses and local governments will be unaffected by the Authority's modifications to its SEQRA regulations.

2. Compliance requirements: Small businesses and local governments will not have to undertake any additional reporting, recordkeeping, or other affirmative acts because of the Authority's modifications to its SEQRA regulations.

3. Professional services: Small businesses and local governments will not require any additional professional services to comply with the Authority's modifications to its SEQRA regulations.

4. Compliance: Regulated business, industry, or local government will not incur any additional initial capital costs or annual costs for continuing compliance because of the Authority's modifications to its SEQRA regulations.

5. Economic and technological feasibility: The Authority's modifications to its SEQRA regulations will not affect the economic and technological feasibility of compliance by small businesses and local governments.

6. Minimizing adverse impact: The Authority's modifications to its SEQRA regulations will not have any additional adverse impact on small businesses of local governments.

7. Small business and local government participation: Under State Administrative Procedure Act Section 202-b(6), the Authority will ensure that small businesses and local governments have an opportunity to participate in the rule making process by publishing the Notice of Proposed Rule Making in the State Register and conducting a public hearing.

#### **Rural Area Flexibility Analysis**

1. Types and estimated numbers of rural areas: The Authority's modifications to its SEQRA regulations will not affect the number of rural areas to which these SEQRA regulations will apply. These modifications will not impose any additional requirements on rural areas.

2. Reporting, recordkeeping and other compliance requirements; and professional services: The Authority's modifications to its SEQRA regulations will not require any additional reporting, recordkeeping, professional services, or other compliance requirements in rural areas.

3. Costs: It is estimated that there will be no additional initial capital costs or annual costs for any public and private entities in rural areas because of the Authority's modifications to its SEQRA regulations.

4. Minimizing adverse impact: The Authority's modifications to its SEQRA regulations will not cause any additional adverse impact to public and private sector interests in rural areas.

5. Rural area participation: The Authority will comply with State Administrative Procedure Act Section 202-bb(7) by publishing the Notice of Proposed Rule Making in the State Register and conducting a public hearing.

#### **Job Impact Statement**

1. Nature of impact: The Authority's modifications to its SEQRA regulations will have no impact on jobs and employment opportunities.

2. Categories and numbers affected: The Authority's modifications to its SEQRA regulations will not affect any categories of jobs or employment opportunities.

3. Regions of adverse impact: The Authority's modifications to its SEQRA regulations will not have a disproportionate adverse impact on jobs or employment in any region of the state.

4. Minimizing adverse impact: This item is not applicable to the Authority's modifications to its SEQRA regulations.

5. Self-employment opportunities: This item is not applicable.

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## Public Service Commission

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### NOTICE OF ADOPTION

#### **Initial Tariff Schedule by Sterling Homes, LLC**

**I.D. No.** PSC-06-05-00025-A

**Filing date:** March 30, 2006

**Effective date:** March 30, 2006

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

**Action taken:** The commission, on March 15, 2006, adopted an order approving the request of Sterling Homes, LLC to make various changes in the rates, charges, rules and regulations contained in its schedule for water service—P.S.C. No. 1.

**Statutory authority:** Public Service Law, section 89-e(2)

**Subject:** Water rates and charges.

**Purpose:** To set forth the initial rates, charges, rules and regulations under which Sterling Homes, LLC will operate.

**Substance of final rule:** The Commission approved the initial tariff schedule of Sterling Homes, LLC setting forth the rates, charges, rules and regulations under which the company will operate to become effective

# **EXHIBIT “17-B”**



RUBEN DIAZ, JR.  
85<sup>th</sup> Assembly District  
Bronx County

THE ASSEMBLY  
STATE OF NEW YORK  
ALBANY

June 12, 2006

ASSEMBLY CHAIR  
Administrative Regulations  
Review Commission

COMMITTEES  
Children and Families  
Cities  
Correction  
Education  
Environmental Conservation  
Housing  
Ways and Means

TASK FORCES  
Puerto Rican/Hispanic Task Force

Angela D. Graves  
Power Authority of the State of New York  
123 Main Street, 15-M  
White Plains, NY 10601

Dear Ms. Graves:

The Power Authority recently issued a notice of proposed rule making (*State Register* I.D. #PAS-16-06-00008-P) to update and clarify its rules implementing the State Environmental Quality Review Act (SEQRA). The notice indicates the intent is to incorporate changes made to SEQRA in the past two decades and to clarify and update the Power Authority's rules on environmental review. The changes that are actually proposed are worthwhile, but not terribly significant. More importantly, the Authority has missed an opportunity to make truly beneficial changes by incorporating principles of environmental justice into its SEQRA rules.

Environmental justice represents a philosophy that each person has an equal entitlement to share in the Earth's natural resources, without regard to skin color, heritage or net worth. Unfortunately, it has too often been the case that economically challenged communities of color bear the brunt of the pollution produced by our society. My experiences with the Power Authority's activities affecting the residents of the 85<sup>th</sup> Assembly District in the South Bronx are a case in point.

Since 2001, the Power Authority has operated four natural gas fired power plants in the district – two units each at the Harlem River Yards and Hell Gate sites. (The authority initially indicated that these would be temporary units and would not be operated beyond the three-year term of the original permit. This deadline has long since passed and the units should be shut down.) These facilities add to the already-intolerable burden of air pollution choking my constituents on a daily basis.

Study after study has shown the harmful effects of air toxins on everyone, especially children and the elderly. The South Bronx and Harlem and other neighborhoods in Northern Manhattan have asthma rates that are among the highest in the world. The adverse impacts of air pollution on communities of color may not be limited to health effects, either. Last month, Columbia University released a study finding that children exposed in the womb to high levels of urban air pollution have delayed cognitive development. Thus, New York State may be saddled with higher future educational expenditures due to over saturation of polluting facilities in urban neighborhoods.

Although the Department of Environmental Conservation (DEC) issued an environmental justice policy in 2003, neither the Power Authority nor any other state agency or public authority has followed suit. This leaves major gaps in the effectiveness of DEC's policy, as is evident from the Power Authority's record in this area. It has largely ignored environmental justice concerns in its siting and permitting processes for the units in the Bronx and for others in similar neighborhoods throughout New York City.

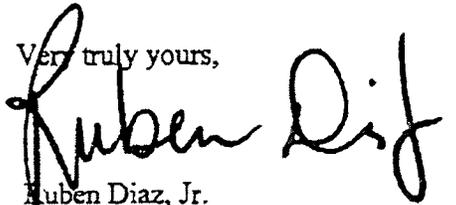
It appears that history may be repeating itself regarding current Power Authority activities involving a request for proposals for a generating unit at Oak Point. It is past time for these assaults on disadvantaged communities of color to cease. It is imperative that environmental justice measures must be added to the Authority's SEQRA rules to help to redress past injustices and avoid similar wrongs in the future.

At a minimum, the Power Authority should adopt additional changes to its SEQRA rules by amending 21 *NYCRR* Part 461 to commit the Power Authority to following all aspects of DEC's environmental justice policy when the authority is the lead agency. DEC's policy provides that it will implement some of the procedures to the extent that the law permits DEC to do so -- but all it can do with other procedures is to state that "all other requirements related to [SEQRA] shall be strongly encouraged." The Authority's rules should provide a commitment that, when taking an action affecting a potential environmental justice area, it will observe the following additional procedures as set forth in DEC's regulations and policy:

- ▶ preparing a full Environmental Assessment Form for any unlisted action;
- ▶ engaging in scoping and subsequent description and evaluation of the additional environmental burden on the potential environmental justice area;
- ▶ conducting a mandatory public hearing and receive comments on a draft EIS for not less than 60 days or 10 days after the hearing, whichever is later; and
- ▶ avoiding or minimizing any adverse environmental impact to the greatest extent practicable.

Adopting these changes would give environmental justice communities protections in actions where the Power Authority is the lead agency on an equal footing to those accorded by DEC. I urge the Authority to review its activities to determine other areas where the public would benefit from incorporating environmental justice principles, such as land acquisition and use and environmental benefits projects. Please feel free to contact me to discuss these concerns.

Very truly yours,



Ruben Diaz, Jr.

## Assessment of Public Comment

The Authority conducted a public hearing on June 6, 2006; no members of the public appeared to offer comments on the proposed revisions to 21 NYCRR Part 461. The public record was held open for five days and a letter was received on June 12, 2006 and was considered timely submitted by virtue of the fact that the final day of the comment period (June 11, 2006) fell on a Sunday.

The letter received was signed by Assemblyman Ruben Diaz, Jr. of the 85<sup>th</sup> Assembly District in the Bronx. The Diaz letter notes that the "...changes that are actually proposed are worthwhile..." but also opines that the Authority has failed to incorporate "... principles of environmental justice into its SEQRA rules."

The Diaz letter specifically comments that "[A]t a minimum, the Power Authority should adopt additional changes to its SEQRA rules by amending 21 NYCRR Part 461 to commit the Power Authority to following all aspects of DEC's environmental justice policy when the authority is the lead agency" [page 2, lines 12 – 14]. The Authority has considered the recommendation and declined to make the modification suggested by the Diaz letter for the following reasons:

1. The Authority is committed to complete its SEQRA obligations in the most thorough manner possible and in full compliance with the law. An appropriate SEQRA review takes into consideration socioeconomic factors such as environmental justice. Furthermore, it is clearly in the Authority's interest to ensure that its environmental assessment efforts will withstand the strictest standards of judicial review. Therefore, it is certain that the Authority will evaluate its actions against a wide range of Department of Environmental Conservation ("DEC") regulations, standards and policies while completing its environmental assessments in those rare instances in which the Authority assumes the lead agency role. It can be safely presumed that the Authority will employ methods of evaluating environmental justice that are at least as stringent as those followed by DEC in such instances.
2. DEC's environmental justice policy, which is not a regulation, only applies in instances in which DEC is issuing a permit or issuing a major modification to a permit in certain specific regulatory areas. It is an extremely rare circumstance under which the Authority will act as lead agency when a permit issuance action by DEC is contemplated. It would be counterproductive to the Authority's mission to speculatively commit to certain processes for the future when the rare circumstances that trigger the principles of environmental justice may require other avenues of addressing this important topic.
3. In those instances in which the Authority is the lead agency, and a permit action on the part of DEC is contemplated (thus possibly triggering DEC's

environmental justice policy if DEC were to be lead agency), it is clear that DEC would be an “involved agency.” As an involved agency, DEC would be commenting on the Authority’s environmental assessment or environmental impact statement. In that role, DEC would certainly evaluate the Authority’s efforts to ensure that its environmental justice insights would be incorporated into the Authority’s final work product and findings.

For the foregoing reasons, the Authority has declined to make the specific changes recommended by Assemblyman Diaz, but takes note of such recommendations for future environmental assessments.

**18. INFORMATIONAL ITEM: New York Power Authority's Annual Strategic Plan**

The President and Chief Executive Officer submitted the following report.

**SUMMARY**

“The Trustees are presented with the 2007-09 Strategic Plan as set forth in Exhibit ‘18-A’ attached hereto.

**BACKGROUND**

“Article VII – Fiscal Management of the Authority By-Laws states in Section 2 – ‘Strategic Plan, that the Trustees shall annually review a strategic plan which shall become the basis for the development of departmental plans, the annual budget and the capital expenditure plan.’ As part of the Authority’s annual review and planning process, it was decided in 2005 to expand the content of the Strategic Plan to make clear and specific the Authority’s role and intentions as to Generation, Transmission, Economic Development, Energy Efficiency and New Technology so that all stakeholders have a clear understanding of the driving forces behind the Authority’s direction and decisions.

**DISCUSSION**

“This annual review of the overall Strategic Plan begins early each year with the Authority’s annual planning conference. In preparation for the conference, a number of preliminary steps are taken to ensure that the agenda is structured so that those issues of most concern to both internal and external stakeholders are addressed. The process begins with a series of one-on-one interviews with government and industry thought leaders, customer visionaries, Authority employees, stakeholders and business partners. In addition, market data, industry press and academic material are reviewed. Inputs from data and interviews generate an issue listing of topics that clearly articulate a fact-based hypothesis. Whenever possible, employee teams prepare presentations that will generate open discussion at the planning conference and recommend speakers/participants. At the strategic planning conference, Authority executives hear from a variety of issue leaders, proponents and influencers and debate issues and priorities. As an output of the conference, action plans are developed with specific initiatives and assignments. Recommendations based on these initiatives and assignments and/or initiative/assignment updates are then presented throughout the year at monthly Executive Management Committee meetings.

“Concurrently, the Strategic Plan document is updated to reflect any changes resulting from those discussions in the Authority’s Mission, Decision Drivers, Strategic Result Areas and Balanced Scorecard metrics and targets over the next three years.

- **MISSION STATEMENT** – A Mission Statement is a clear definition of the Authority’s aims, focus and emphasis for a specified time frame.
- **DECISION DRIVERS** – Underlying this Mission Statement is a set of core drivers that define the priorities for the organization. Drivers determine how we will make decisions, perform our work and deal with others. By understanding the driving forces behind our mission, we will make decisions that will support our company's goals.
- **STRATEGIC RESULT AREAS** – If we are to succeed in our Mission, there are specific areas where we need to articulate our vision and make clear our intentions. In order to do that for both internal and external stakeholders, we need to define our goals and objectives, as well as identify the specific actions we are taking that support the vision. (The Balanced Scorecard then translates mission and strategy into objectives and measures with specific targeted performance organized according to different perspectives.)

“The attached Strategic Plan reflects the results of the planning process.”

*Mr. Cappiello presented the highlights of staff's report to the Trustees. He said that the Ethics action statement (on page 4 of the Plan) would be revised to include the Authority's officers in the ethics and compliance training provided to all employees. In response to a question from President Carey, Ms. Cahill said that each Trustee was mailed the certificate for the training he or she had taken as required by the Public Authorities Accountability Act of 2005 and that the Corporate Secretary's Office would endeavor to obtain copies of these certificates. Chairman McCullough thanked Mr. Cappiello and said he was pleased to see matters that had been talked about at the Strategic Planning Conference coming before the Trustees for action. In response to a question from Trustee Seymour, President Carey said that the Authority had decided that the cost of retrofitting the Poletti plant to meet present-day standards would be prohibitive and that the plant was set to close by January 31, 2010. He said that the City of New York had contacted the Authority and that Mr. Kelly had put together a team that was talking to discuss the future of the plant with the City. President Carey said that if the Authority's Southeastern New York customers want the plant to stay open, they will be required to provide the necessary funding. He said that in January 2007 the Authority would be sending a letter to the New York Independent System Operator ("ISO") to request that the Poletti plant be kept open for an additional year, through January 31, 2011. He pointed out that this summer power distribution, not power generation, had been the problem. President Carey said that, as a way of fine-tuning the system, the ISO, the New York State Department of Environmental Conservation and the Public Service Commission were working with the Authority on a new program to activate the Small Clean Power Plants if load pockets need new energy.*

**19. St. Lawrence/FDR Power Project – Surplus Lands  
– Approval of the Conveyance of Surplus Property**

The President and Chief Executive Officer submitted the following report.

SUMMARY

“The Trustees are requested to approve the transfer of a 95-acre parcel known as Massena Point (‘Massena Point Parcel’), as shown on Exhibit ‘19-A,’ to the Town of Massena.

BACKGROUND

“As early as 1986, the Authority began to identify land surplus to the needs of the St. Lawrence/FDR Power Project that could be transferred to public or private entities and that was not required for operations, environmental or recreational purposes. At their meeting of October 31, 1991, the Trustees identified property (‘surplus property’) located in the Towns of Massena, Louisville, Waddington and Lisbon deemed unnecessary for the aforementioned purposes. The Trustees further authorized the conveyance of the surplus properties to these municipalities, without charge, to establish private development, subject to appropriate State Environmental Quality Review Act (‘SEQRA’) review. The municipalities were to use the revenues from the sale of these parcels for development to offset the cost of infrastructure.

“At their meeting of July 24, 2001, the Trustees approved the conveyance of a total of 781.6 acres of surplus land to the aforementioned municipalities with no restrictions as to the use of the proceeds generated therefrom. These conveyances were completed in 2001 and included: Massena – 66.8 acres, Louisville – 40.4 acres, Waddington – 670.4 acres and Lisbon – 4.0 acres.

DISCUSSION

“Although the Massena Point Parcel was identified as a surplus parcel in 1991, it was not included in the Trustee authorization of July 24, 2001 resolution to convey surplus lands. This is because the Massena Point Parcel, as part of the Robert Moses State Park (‘RMSP’), was under the operational control of the New York State Office of Parks, Recreation and Historic Preservation (‘OPRHP’). To help develop additional recreational improvements at the RMSP, OPRHP obtained funding from the U. S. Department of the Interior’s National Park Service under the Federal Land and Water Conservation Fund Act (‘FLWCFA’). Section 6(f)(3) of the FLWCFA provides that:

‘No property acquired or developed with assistance under this section shall, without the approval of the Secretary, be converted to other than public outdoor recreation uses. The Secretary shall approve such conversion only if he finds it to be in accord with the then existing comprehensive statewide outdoor recreation plan and only upon such conditions as he deems necessary to assure the substitution of other recreation properties of at least equal fair market value and of reasonably equivalent usefulness and location.’

“As the Massena Point Parcel was never developed as a park, in May 2006, OPRHP submitted a revised Section 6(f) Boundary Map to the National Park Service for the RMSP that excludes the Massena Point Parcel. In forwarding this map, OPRHP acknowledged that while the Massena Point Parcel was ‘. . . extensive [it] was not suitable for, nor used by the public for, outdoor recreational opportunities in the Park.’ The National Park Service agreed that the Massena Point Parcel did not fall within the restriction of Section 6(f)(3) of the FLWCFA. Title 5-A of Article 9 of the Public Authorities Law (the ‘Act’) and the Authority’s Guidelines for the Disposal of Real Property (the ‘Guidelines’) allow the Authority, with the approval of its Trustees, to dispose of Authority property by negotiation and for less than fair market value when the disposal is intended to further the economic development of the State or a political subdivision thereof. Accordingly, the transfer of this 95-acre parcel to the Town of Massena, a political subdivision of the State, complies with the Act and the Guidelines.

“The Act and the Guidelines require that the purpose and the terms of such disposal are documented in writing and approved by resolution of the Trustees. Further, the Act and the Guidelines require that an explanatory

statement be prepared of the circumstances of each such disposal by negotiation and for less than fair market value and transmitted to the New York State Comptroller, the Director of the Budget, the Commissioner of General Services and the Legislature not less than 90 days in advance of the disposal. Accordingly, this transfer is subject to approval by the Trustees and the timely filing of the required statement. This Trustee action, if adopted, would constitute the foregoing required explanatory statement and Trustee action.

FISCAL INFORMATION

“The conveyance of surplus parcels to the municipalities has no fiscal impact.

RECOMMENDATION

“The Director – Real Estate recommends that the Trustees authorize the conveyance by Quitclaim Deed of the 95 acres known as the Massena Point Parcel, as shown on the attached Exhibit ‘19-A,’ to the Town of Massena in consideration of the sum of ten dollars (\$10.00), payment of which is waived, so as to further economic development in the Town of Massena.

“The Vice President – Environmental Management recommends that the Trustees approve the attached resolution ratifying, approving and adopting: (1) the determination that the transfer of the listed parcel to the Town indicated in the Environmental Assessment will not have a significant adverse impact on the environment and will not require the preparation of an environmental impact statement and (2) the issuance of a Negative Declaration with respect to such action.

“The Executive Vice President and General Counsel, the Executive Vice President – Corporate Services and Administration, the Vice President – Procurement and Real Estate and I concur in the recommendation.”

*Mr. Hoff presented the highlights of staff’s recommendations to the Trustees regarding the proposed land transfer. In response to a question from Chairman McCullough, Mr. Hoff stated that presently he is not aware that the Town of Massena has any plans for the property being transferred to the Town. He also pointed out that this property transfer is not part of the St. Lawrence relicensing implementation plan.*

The following resolution, as submitted by the President and Chief Executive Officer, was unanimously adopted.

**RESOLVED, That pursuant to title 5-A of the Public Authorities Law, the Authority’s Guidelines for the Disposal of Real Property and the Power Authority Act, the Trustees hereby authorize the conveyance by Quitclaim Deed of the Massena Point Parcel described in Exhibit “19-A” (attached) to the Town of Massena amounting to 95 acres in furtherance of economic development for the Town of Massena and in accordance with the foregoing report of the President and Chief Executive Officer; and be it further**

**RESOLVED, That the Authority hereby ratifies, approves and adopts a determination that: (1) the transfer of the Massena Point Parcel to the Town of Massena and the Authority’s Environmental Assessment for the proposed action will not have a significant adverse effect on the environment and (2) an environmental impact statement need not be prepared in connection with such proposed action. The Vice President of the Environmental Division is directed to prepare, file and publish a Negative Declaration for the proposed action in accordance with the requirements of the State Environmental Quality Review Act; and be it further**

**RESOLVED, That the Chairman, the President and Chief Executive Officer and all other officers of the Authority are, and each of them hereby is, authorized on behalf of the Authority, to do any and all things and take any and all actions and execute and deliver any and all agreements, certificates and other documents to effectuate the foregoing resolution, subject to the approval of the form thereof by the Executive Vice President and General Counsel.**

**20. Assignment and Assumption of Bank of New York Lease by J. P. Morgan Chase**

The President and Chief Executive Officer submitted the following report.

**SUMMARY**

“The Bank of New York desires to assign its interest in its lease of premises located on the 4th and 5th floors of the Clarence D. Rappleyea Building to J. P. Morgan Chase and J. P. Morgan Chase desires to assume the obligation of this lease. The Trustees are requested to consent to this assignment and assumption of this lease.

**BACKGROUND**

“At a meeting held on March 26, 1991, the Trustees approved the purchase of the building at 123 Main Street, White Plains, New York (hereinafter ‘the Building’). At the time of the purchase, the building had several tenants, the largest of which was the Bank of New York, which occupied 58,800 sq. ft. on the entire 4th and 5th floors of the Building. The original lease was for a period of 20 years commencing on August 1, 1981, and terminating on July 31, 2001. Pursuant to its options to extend, the lease was extended from August 1, 2001 to July 31, 2006. This lease was further extended for a term of July 31, 2006, through July 31, 2011. The current annual rental is \$1,117,219.

**DISCUSSION**

“On April 8, 2006, J. P. Morgan Chase announced an agreement to acquire the Bank of New York’s computer, small business and middle-market banking businesses (retail banking business) in exchange for Chase’s Corporate Trust business plus a cash payment in the amount of \$150 million. Recently, Bank of New York’s representatives forwarded to the Authority a form of Assignment and Assumption of Lease in connection with the Bank of New York sale to J. P. Morgan Chase and requested the Authority’s consent to said Assignment and Assumption. In this Assignment and Assumption of Lease, the Bank of New York intends to assign the lease of its space in the Building to J. P. Morgan Chase, a subsidiary of J. P. Morgan & Company. J. P. Morgan Chase would assume all the obligations under the lease on and after the effective date of Assignment and Assumption of Lease. As assignor, the Bank of New York would remain secondarily liable for the performance of the terms of the lease.

**FISCAL INFORMATION**

“There is no fiscal impact from consenting to this transaction.

**RECOMMENDATION**

“The Vice President – Procurement and Real Estate and the Director – Corporate Support Services recommend that the Trustees approve the consent to the Assignment and Assumption of the lease of the Bank of New York to J. P. Morgan Chase.

“The Executive Vice President and General Counsel, the Executive Vice President – Corporate Services and Administration and I concur in the recommendation.”

*Mr. Hoff presented the highlights of staff’s recommendations to the Trustees. In response to a question from Chairman McCullough, Mr. Hoff said that the space had been fully occupied, but that the Bank of New York has been downsizing.*

The following resolution, as submitted by the President and Chief Executive Officer, was unanimously adopted.

**RESOLVED, That the President and Chief Executive Officer, the Executive Vice President – Corporate Services and Administration or the Vice President – Procurement and Real Estate be, and hereby is, authorized to execute a Consent to Assignment and Assumption of Lease between the Bank of New York and J. P. Morgan Chase substantially on the terms set forth in the foregoing report of the President and Chief Executive Officer and subject to the approval of the Assignment and Assumption documents by the Executive Vice President and General Counsel or his designee; and be it further**

**RESOLVED, That the Chairman, the President and Chief Executive Officer and all other officers of the Authority are, and each of them hereby is, authorized on behalf of the Authority to do any and all things, take any and all actions and execute and deliver any and all agreements, certificates and other documents to effectuate the foregoing resolution, subject to the approval of the form thereof by the Executive Vice President and General Counsel.**

**21. Procurement (Services) Contracts –  
Business Units and Facilities – Awards**

The President and Chief Executive Officer submitted the following report.

SUMMARY

“The Trustees are requested to approve the award and funding of the multiyear procurement contracts listed in Exhibit ‘21-A’ for the Authority’s Business Units/Departments and Facilities. Detailed explanations of the nature of such services, the bases for the new awards, if other than to the lowest-priced bidders, and the intended duration of such contracts are set forth in the discussion below.

BACKGROUND

“Section 2879 of the Public Authorities Law and the Authority’s Guidelines for Procurement Contracts require the Trustees’ approval for procurement contracts involving services to be rendered for a period in excess of one year.

“The Authority’s Expenditure Authorization Procedures (‘EAPs’) require the Trustees’ approval for the award of non-personal services, construction or equipment purchase contracts in excess of \$3,000,000, as well as personal services contracts in excess of \$1,000,000 if low bidder, or \$500,000 if sole source or non-low bidder.

DISCUSSION

“The terms of these contracts will be more than one year; therefore, the Trustees’ approval is required. Except as noted, all of these contracts contain provisions allowing the Authority to terminate the services for the Authority’s convenience, without liability other than paying for acceptable services rendered to the effective date of termination. Approval is also requested for funding all contracts, which range in estimated value from \$24,267 to \$5,500,000. Except as noted, these contract awards do not obligate the Authority to a specific level of personnel resources or expenditures.

“The issuance of multiyear contracts is recommended from both cost and efficiency standpoints. In many cases, reduced prices can be negotiated for these long-term contracts. Since these services are typically required on a continuous basis, it is more efficient to award long-term contracts than to re-bid these services annually.

**Contracts in Support of Business Units/Departments and Facilities:**

**Business Services**

“The contract with **Sharehouse Inc. (Q02-3865; PO# TBA)** would become effective on October 1, 2006, subject to the Trustees’ approval. The purpose of this contract is to provide for support and services for Apple/MacIntosh hardware and software to supplement the Authority’s Information Technology staff. Services will be provided by an authorized Apple service representative and include, but are not limited to, the following areas: networking, printing, photos/illustrations, browser and integration issues, video streaming and video editing for the Authority’s Graphic Communication and Video Production groups. Bid documents were downloaded electronically from the Authority’s Procurement website by 13 firms, including those that may have responded to a notice in the New York State Contract Reporter. One proposal was received and evaluated. Staff recommends the award of a contract to Sharehouse Inc., the sole responding bidder who is qualified to perform such services. The intended term of this contract is three years, subject to the Trustees’ approval, which is hereby requested. Approval is also requested for the total estimated amount expected to be expended for the term of the contract, \$107,000.

**Corporate Services and Administration**

“The two contracts with **APOW Towing and Proline Servcies Corp. (‘APOW’ AND ‘Proline’) (Q02-3898; PO#s TBA)** would become effective on October 1, 2006, subject to the Trustees’ approval. The purpose of

these contracts is to provide for towing/transport services throughout New York State for the Authority's Electric Vehicles ('EVs') in support of Corporate Support Services and various Energy Services Programs (e.g., EVs shipped to and from press events, etc.), on an 'as needed' basis. Such vehicles will be transported by 'flatbed only' by qualified towing companies licensed by the New York State Department of Transportation, in compliance with specified Authority requirements. Bid documents were downloaded electronically from the Authority's Procurement website by ten firms, including those that may have responded to a notice in the New York State Contract Reporter. Two proposals were received and evaluated. Based on their ability to perform such services, as well as reasonable pricing, staff recommends the award of contracts to both firms, APOW and Proline, thereby providing the Authority with flexible and competitive coverage, as needed. The intended term of these contracts is three years, subject to the Trustees' approval, which is hereby requested. Approval is also requested for the combined total amount expected to be expended for the term of the contracts, \$105,000.

"Due to the need to commence services, the contract with **Johnson Controls, Inc. (4500108089)** became effective on May 1, 2006, subject to the Trustees' subsequent approval as soon as practicable, in accordance with the Authority's procurement policies and EAPs. The purpose of this contract is to provide for a service agreement for the Security Management (Cardkey Access Control) System for the Authority's New York City leased office space at 501 Seventh Avenue – 8th and 9th floors subleased by the New York State Office of Alcohol and Substance Abuse Services ('OASAS'). This award was made on a sole source basis, since Johnson Controls is the original equipment manufacturer and, as such, is uniquely qualified to provide such services. The intended term of this contract is three years, subject to the Trustees' approval, which is hereby requested. Approval is also requested for the total estimated amount expected to be expended for the term of the contract, \$24,267.

"In 2004, the Authority awarded a competitively bid contract to Lopez and Associates, Inc. to replace and revalidate a battery of pre-employment aptitude tests to screen candidates for placement in the Authority's Operations area. Additional consulting services are now required to review, update/revise, validate and finalize the original battery of aptitude tests and placement exercises for electrical, mechanical and transmission line worker classifications in other areas, such as Maintenance and Technicians. To this end, the Authority requested a proposal (**Q02-3886**) from the Lopez firm for such services. This award is made on a sole source basis in order to provide consistency and continuity of methodology, since this consultant originally developed the time-tested methodology and procedures on which the Authority has based its pre-employment testing and selection program. As the developer of this program, the consultant (an industrial organizational psychologist) is uniquely qualified to provide such services. The new contract with **Lopez and Associates, Inc. (PO# TBA)** would become effective on October 1, 2006, subject to the Trustees' approval. Notice of the intended sole source award was published in the New York State Contract Reporter. The intended term of this contract is up to three years, subject to the Trustees' approval, which is hereby requested. This would allow for the design and development of additional tests in new areas, as may be required. Approval is also requested for the total estimated amount expected to be expended for the term of the contract, \$95,000.

"Due to the need to commence services, the contract with **US Auctions (4500128208)** became effective on September 19, 2006, subject to the Trustees' subsequent approval as soon as practicable, in accordance with the Authority's procurement policies and EAPs. The purpose of this contract is to provide for auction services for surplus Authority equipment, vehicles and other materials, on an 'as needed' basis. Bid documents were sent to five firms, including those that may have responded to a notice in the New York State Contract Reporter. Three proposals were received and evaluated. The incumbent firm, Surplus Asset Sales, offered its traditional sealed-bid method and proposed an additional fee of 15% to be paid by the Authority. The other two bidders (JJ Kane and US Auctions) are auction houses offering 'absolute public auctions,' where the bidding is live (i.e., offers are made verbally until a high bid is achieved and the auction process is completed). Both JJ Kane and US Auctions submitted more competitive bids, proposing an additional fee (equal to 10% of the highest quoted price) to be paid to the auctioneer by the prospective buyer of each auctioned item. Under such arrangement, the Authority would not pay the auctioneer any amount. The evaluation also took into account the fact that US Auctions holds its auctions more frequently, at its own facilities and with a full-time presence, attracting a greater number of prospective buyers regionally and even nationwide. On the other hand, JJ Kane typically holds its auctions at or near the customer's location, thus attracting a reduced potential pool of prospective buyers by comparison. Staff expects that the Authority will achieve the greatest return for its surplus equipment, vehicles and other materials with US Auctions. The Trustees are therefore requested to approve the previously authorized contract with US Auctions for an intended three-year term. It should be noted that the contract also requires the auctioneer to

advertise the sale of surplus Authority equipment, vehicles and other materials and prepare fair market value estimates prior to any auctions, in compliance with the Authority's Guidelines and Procedures for the Disposal of Personal Property and the Public Authorities Accountability Act.

### Energy Services and Technology

"The contract with **Banner Electrical Contracting Corp. ('Banner'; Q02-3885; PO# TBA)** would become effective on October 1, 2006, subject to the Trustees' approval. The purpose of this contract is to provide for electrical installation warranty services in connection with the Authority's High Efficiency Lighting Program ('HELP'), on an 'as needed' basis, predominantly in the Southeastern New York ('SENY'), Westchester and Long Island areas. Bid documents were downloaded electronically from the Authority's Procurement website by four firms, including those that may have responded to a notice in the New York State Contract Reporter. One proposal was received and evaluated. Staff recommends award of the subject contract to Banner, the sole responding bidder that is qualified to perform the work. The intended term of this contract is two years, subject to the Trustees' approval, which is hereby requested. Approval is also requested for the total estimated amount expected to be expended for the term of the contract, \$50,000. It should be noted that all costs will be recovered by the Authority.

### Internal Audit and Compliance

"The contract with **Pro-Comply (Q02-3883; PO# TBA)** would become effective on October 1, 2006, subject to the Trustees' approval. The purpose of this contract is to provide for Authority employee training mandated by the Federal Energy Regulatory Commission ('FERC') under FERC Order 2004 regarding FERC Standards of Conduct, via online computer and video training. Services also include providing training materials that are appropriate in scope and duration, an implementation plan, a mechanism to track trainees' completion and certification and the ability for the Authority to create ad hoc reports on a regular basis. Bid documents were downloaded electronically from the Authority's Procurement website by two firms, including those that may have responded to a notice in the New York State Contract Reporter. Two proposals were received and evaluated. Staff recommends award of the subject contract to Pro-Comply, the lowest-priced bidder who is qualified to provide the services. The intended term of this contract is three years, subject to the Trustees' approval, which is hereby requested. Approval is also requested for the total estimated amount expected to be expended for the term of the contract, \$35,000.

### Law Department

"On May 8, 2006, Consulting Solicitation Q02-3837 appeared in the New York State Contract Reporter, seeking qualification statements from parties interested in providing generic legal services in a variety of legal areas relevant to the business of the Authority. Twenty-seven (27) firms responded with qualification statements, which were reviewed by an Evaluation Team of Authority legal staff. The team also conducted a review of the need for the assistance of outside counsel and consulting services and the availability of resources to meet that need in the form of both existing firms providing legal services and prospective firms responding to the solicitation. Of the 27 firms who responded, the following eight (8) firms already have some form of generic or continuous service agreements with the Authority (and have been previously approved by the Trustees as multiyear contracts):

- Bond, Schoeneck & King, PLLC
- Carter Ledyard & Milburn LLP
- Dickstein Shapiro LLP
- Holland & Knight LLP
- Kaplan, von Ohlen & Massamillo, LLC
- Mintz Levin Cohn Ferris Glosky & Popeo PC
- Troutman Sanders LLP
- VanNess Feldman, PC

"Given the overall quality of services these firms have provided, staff recommends that these contracts remain in place through their current respective expiration dates (which may include options to extend for two additional years). The remaining qualification statements were reviewed by the Evaluation Team, taking into

account the background and experience of the bidders, the location of their practice, and their typical hourly rates. In many cases, the Authority's legal needs are driven by geographic location, as well as legal expertise. Having outside counsel familiar with the local courts in the area of New York State where our facilities and offices are located is extremely important, since the Authority may be sued or may choose to sue in such local courts. In addition, firms with a statewide presence are key because the Authority's transmission and generation facilities are scattered throughout the state and have in the past provided the venue for litigation. Finally, there is also the need to have firms with sufficient personnel and resources available to provide legal support in any of the varied specialized areas in which the Authority may require legal advice, such as those that are FERC- or energy-related, where a presence in New York City, Washington, D.C. or elsewhere, will be important. As a result of the Evaluation Team's review, and utilizing the criteria previously noted, the Team recommends that new contracts (PO#s TBA) for generic legal services be awarded to the following ten (10) firms, on an 'as needed' basis:

White Plains

- Keane & Beane PC
- Robinson & Cole LLP

Albany

- Gilberti Stinziano Heintz & Smith PC
- Whiteman Osterman & Hanna LLP

Statewide

- Harris Beach PLLC
- Wilson, Elser, Moskowitz, Edelman & Dicker LLP

Nationwide

- Akin Gump Strauss Hauer & Feld LLP
- Orrick Herrington & Sutcliffe LLP
- Winston & Strawn LLP

New York City/Municipal Finance

- Hawkins Delafield & Wood LLP

"The Trustees' approval is hereby requested for the procurement of services under the new contracts for the full five-year period (comprising an initial term of three years and an option to extend for two additional years). Approval is also requested for the release and allocation of funding to the proposed contracts with the subject firms from an aggregate total of \$5.5 million for the three-year period ending September 30, 2009, to be drawn from Legal Outside Counsel Budget funds, as well as capital funding (where appropriate), as tasks are assigned.

"In addition, the award of a separate contract is recommended to **Franklin S. Abrams, (PO# TBA)**, who specializes in legal services relating to immigration matters. The Trustees are requested to approve the intended term of five years (comprising an initial term of three years and an option to extend for two additional years). Approval is also requested for the total estimated amount expected to be expended for the initial three-year term of the contract, \$90,000.

**Power Generation**

"Due to the need to commence services, the contract with **American Loss Prevention Services, Inc. (4600001687)** became effective on August 1, 2006, subject to the Trustees' subsequent approval as soon as practicable, in accordance with the Authority's procurement policies and EAPs. The purpose of this contract is to provide for semi-annual inspection services for vertical transportation systems (elevators, wheelchair lifts and escalators) at the Niagara Power Project, in accordance with the New York State Fire Prevention and Building

Codes. Services also include witnessing annual safety load tests and five-year full-load tests. Bid documents were sent to six firms, including any that may have responded to a notice in the New York State Contract Reporter. Two proposals were received and evaluated. Staff recommended award of the subject contract to American Loss Prevention Service, the lowest-priced bidder that is qualified to perform the work. The intended term of this contract is four years, subject to the Trustees' approval, which is hereby requested. Approval is also requested for the total estimated amount expected to be expended for the term of the contract, \$28,000.

“Due to the need to commence services, the contract with **Certified Safety Valve Repair Co. (4600001665)** became effective on July 1, 2006, subject to the Trustees' subsequent approval as soon as practicable, in accordance with the Authority's procurement policies and EAPs. The purpose of this contract is to provide for all labor, supervision, tools and equipment to perform on- and off-site valve repair services (e.g., for globe, gate, check safety and plug valves) for the Charles Poletti Power Project and the 500 MW, Flynn and Small Clean Power Plants, on an 'as needed' basis. Bid documents were originally sent to three firms, including any that may have responded to a notice in the New York State Contract Reporter, but only one proposal was received and rejected. Proposals were re-solicited and, as a result of this effort, four proposals were received and evaluated. Staff recommended award of the subject contract to Certified Safety Valve Repair, the lowest-priced bidder that is qualified to perform the work. The intended term of this contract is three years, subject to the Trustees' approval, which is hereby requested. Approval is also requested for the total estimated amount expected to be expended for the term of the contract, \$500,000.

“The contract with **EarthCare, A North Star Waste Co. (Q02-3859; PO# TBA)** would become effective on October 1, 2006, subject to the Trustees' approval. The purpose of this contract is to provide for supervision, labor, materials and equipment to load, transport and dispose of 7,000-60,000 gallons (per request) of wastewater from a 100,000-gallon storage tank at the Richard M. Flynn Power Plant ('Flynn') to a Suffolk County Department of Public Works Publicly Owned Treatment Works ('POTW') or Scavenger Plant, and up to 1,000 gallons of non-toxic biomass sludge from a holding tank at Flynn to the Bergen Point facility in West Babylon (as approved by Suffolk County). Bid documents were downloaded electronically from the Authority's Procurement website by 12 firms, including those that may have responded to a notice in the New York State Contract Reporter. Two proposals were received and evaluated. Staff recommends award of a contract to EarthCare, the lowest-priced bidder that is qualified to perform such work. The intended term of this contract is three years, subject to the Trustees' approval, which is hereby requested. Approval is also requested for the total estimated amount expected to be expended for the term of the contract, \$550,000.

“Due to the need to commence services, the contract with **Fox Fence Inc. (4600001685)** became effective on August 1, 2006, subject to the Trustees' subsequent approval as soon as practicable, in accordance with the Authority's procurement policies and EAPs. The purpose of this contract is to provide for on-call emergency repair services for security gates (mechanized and manual) and fences at the Niagara Power Project on an 'as needed' basis. Service is available on a '24/7' basis and response time is within four hours of receiving the call for service. Bid documents were sent to three firms, including any that may have responded to a notice in the New York State Contract Reporter. Two proposals were received and evaluated. Staff recommended award of the subject contract to Fox Fence Inc., the lowest-priced bidder that is qualified to perform the work. The intended term of this contract is four years, subject to the Trustees' approval, which is hereby requested. Approval is also requested for the total estimated amount expected to be expended for the term of the contract, \$100,000.

“The two contracts with **GZA GeoEnvironmental of New York ('GZA') and Baker Engineering NY, Inc. ('Baker') (Q02-3830; PO#s TBA)** would become effective on October 1, 2006, subject to the Trustees' approval. The purpose of these contracts is to provide for on-call civil and geotechnical engineering and design services in support of the operation and maintenance of the Authority's hydroelectric, pumped storage and fossil-fuel power generation facilities, as well as its transmission and ancillary facilities throughout New York State. Such external engineering services will be used when engineering requirements are beyond the resources of existing Authority engineering staff, or during emergencies when special expertise or Authority staff is not immediately available to support operational needs. Projects may involve civil, geotechnical, geophysical, dam safety instrumentation and monitoring, hydraulic or structural design of new or existing facilities at power generation and transmission projects. Services/tasks may include, but are not limited to: site investigations, soil/rock drilling and laboratory testing, surveys, grading and drainage design, storm water management, erosion and sedimentation control, as well as inspections, feasibility studies, calculations, analyses, safety assessments and construction support

for modifications and additions to the Authority's Projects (including preparation of new design drawings and revisions to the Authority's drawings, dam safety procedures and equipment manuals affected by each modification). Bid documents were downloaded electronically from the Authority's Procurement website by 37 firms, including those that may have responded to a notice in the New York State Contract Reporter. Six proposals were received and evaluated on the following primary criteria: professional qualifications and experience of key personnel and support staff in specific technical areas, size and depth of organization and resources, availability and commitment of resources and competitive pricing. The evaluation team compiled and summarized each bidder's proposed hourly rates, then ranked the bidders based on the total costs to perform a typical 100-man-hour task; the technical qualifications of the three lowest-cost/most cost-effective bidders were then evaluated. The results of the selected low-bidder analysis indicated that selection of two firms would provide a mix of cost-competitive engineering firms, with strength across multiple disciplines covering a broad spectrum of technical expertise, experience and services. Staff therefore recommends the award of contracts to two firms: GZA and Baker, the lowest-priced qualified bidders. The intended term of these contracts is four years, subject to the Trustees' approval, which is hereby requested. Approval is also requested for the aggregate total amount expected to be expended for the term of the contracts, \$1,200,000.

"The four contracts with **Hatch Acres Corporation ('Acres'), E/Pro Engineering & Environmental Consulting, LLC ('E/Pro'), Greenman-Pedersen, Inc. ('GPI') and RCM Technologies, Inc. ('RCM') (Q02-3833; PO#s TBA)** would become effective on October 1, 2006, subject to the Trustees' approval. The purpose of these contracts is to provide for professional design, engineering and consulting services to support the operation and maintenance of the Authority's hydroelectric, pumped storage and fossil-fuel generation projects, as well as for its transmission and other support facilities. Services include, but are not limited to: preparation of engineering and design packages, estimating, scheduling, safety assessments, testing activities, equipment and construction specifications, permits, licenses and procedure preparation. Such external engineering services will be used when engineering requirements are beyond the resources of existing Authority engineering staff, or during emergencies when special expertise or Authority staff is not immediately available to support operational needs. In addition, the Federal Energy Regulatory Commission requires that Licensees maintain the resources necessary to respond to unusual or changed conditions that may affect public safety. To this end, staff prepared a Request for Proposals for the subject services. Bid documents were downloaded electronically from the Authority's Procurement website by 66 firms, including those that may have responded to a notice in the New York State Contract Reporter. 13 proposals were received and evaluated on the following primary criteria: professional qualifications and experience of key personnel and backup staff, size and depth of organization and resources, ability to respond quickly to requests for services, and experience in specific technical areas of interest to the Authority, as well as competitive pricing. The evaluation team reviewed the seven proposals with the lowest composite hourly rates in further detail; four companies were interviewed to clarify information in their proposals. The results of the selected low-bidder analysis indicated that selection of four firms would provide a mix of cost-competitive engineering firms, with strength across multiple disciplines covering a broad spectrum of technical expertise and services and providing a choice of at least two firms that are capable of performing a particular task at any given time, as well as the ability to respond to emerging work requirements in a timely manner. Past experience also indicates that no one firm has all the technical experience, qualifications and resources that may be required to support the Authority's projected needs. Staff therefore recommends award of contracts to the following four firms: Acres, E/Pro, GPI and RCM, the lowest-priced qualified bidders. The intended term of these contracts is four years, subject to the Trustees' approval, which is hereby requested. Approval is also requested for the aggregate total amount expected to be expended for the term of the contracts, \$5,000,000.

"The contract with **Innovative Automation, Inc. ('IAI') (Q02-3860; PO# TBA)** would become effective on October 1, 2006, subject to the Trustees' approval. The purpose of this contract is to provide for engineering consulting services to assist the Authority in the start-up and commissioning of unit controls for hydro generators at the Blenheim-Gilboa Pumped Storage Project, as part of the Life Extension and Modernization program. Services also include the preparation of procedures, including but not limited to, the review and revision of all affected plant Operating Procedures and the plant Operations Manual. Bid documents were downloaded electronically from the Authority's Procurement website by 43 firms, including those that may have responded to a notice in the New York State Contract Reporter. Three proposals were received and evaluated. One bidder submitted a proposal that the Authority deemed incomplete and unacceptable and a second bidder was disqualified based on lack of experience with hydropower plant start-up and commissioning. The third (IAI) submitted a very comprehensive proposal, addressed all exceptions/issues/concerns and provided clarifications to the Authority's satisfaction, and was deemed

qualified to perform such services. Staff therefore recommends award of the subject contract to Innovative Automation, Inc., the lowest-priced qualified bidder. The intended term of this contract is four years, subject to the Trustees' approval, which is hereby requested. Approval is also requested for the total estimated amount expected to be expended for the term of the contract, \$905,670.

"The contract with **John R. Robinson, Inc. ('Robinson'; 4600001650)** would become effective on October 1, 2006, subject to the Trustees' approval. The purpose of this contract is to provide for jet brush cleaning services for condenser tubes at the Charles Poletti Power Project. Bid documents were sent to six firms, including any that may have responded to a notice in the New York State Contract Reporter. Three proposals were received and evaluated. Staff recommends award of the subject contract to Robinson, the lowest-priced bidder. The intended term of this contract is three years, subject to the Trustees' approval, which is hereby requested. Approval is also requested for the total estimated amount expected to be expended for the term of the contract, \$100,000.

"In accordance with requirements of the International Joint Commission ('IJC'), the Authority and Ontario Power Generation ('OPG') are required to test the turbine-generator units at the Moses/Saunders Power Dam at the St. Lawrence/FDR Power Project ('Project') using the same flow-measurement methodology and equipment in order to ensure accuracy, consistency and reliability of the performance data and to ensure that both entities are responsible for an equal share of St. Lawrence River flows between Canada and the United States. To this end, the Authority and OPG jointly developed unit rating tables using the performance test results from OPG's unique Intake Current Meter System ('ICMS'). Such unit rating tables form the basis for a water 'metering' system, which ultimately allows the Authority to calibrate water usage to electrical output. In addition, OPG previously performed pre-upgrade efficiency tests on several units in the 1990s using the ICMS system. Future turbine-generator upgrades require the same test methodology using OPG's ICMS system, which has been accepted by both entities, as well as the IJC and other controlling bodies. Based on the foregoing reasons, staff recommends the award of a sole source contract to **Ontario Power Generation (4500127640)** to conduct such turbine performance tests on upgraded Unit 22 at the Project in compliance with the aforementioned IJC requirements. Such contract would become effective on October 3, 2006, for an intended term of up to two years, subject to the Trustees' approval, which is hereby requested. Approval is also requested for the total estimated amount expected to be expended for the term of the contract, \$99,500.

"The contract with **Reuther Engineering & Machine ('Reuther'; 4600001675)** would become effective on October 1, 2006, subject to the Trustees' approval. The purpose of this contract is to provide for on- and off-site machining services, mechanical work and repairs for the Charles Poletti Power Project and the 500 MW, Flynn and Small Clean Power plants on an 'as needed' basis. Bid documents were sent to seven firms, including those that may have responded to a notice in the New York State Contract Reporter. One proposal was received and evaluated. Staff recommends award of the subject contract to Reuther, the sole responding bidder that is qualified to perform the work. The intended term of this contract is three years, subject to the Trustees' approval, which is hereby requested. Approval is also requested for the total estimated amount expected to be expended for the term of the contract, \$300,000.

### Transmission

"The contract with **Power Engineers Consulting (RFQ CEC-MWP; PO# TBA)** would become effective on October 1, 2006, subject to the Trustees' approval. The purpose of this contract is to provide for engineering services to perform a LIDAR (Light or Laser Imaging Detection and Ranging) survey and to develop a PLSCADD (Power Line Systems Computer-Assisted Design and Drawing) engineering model for approximately 212 miles of Authority-owned 345kV and 230kV transmission lines. Bid documents were sent to 12 firms, including those that may have responded to a notice in the New York State Contract Reporter. Six proposals were received and evaluated. Staff recommends award of the subject contract to Power Engineers Consulting, the lowest-priced bidder that is qualified to perform the work. The intended term of this contract is three years, subject to the Trustees' approval, which is hereby requested. Approval is also requested for the total estimated amount expected to be expended for the term of the contract, \$725,860.

"As a participant in the deregulated market operated by the New York Independent System Operator ('NYISO'), the Authority acts as a Load Serving Entity on behalf of its customers by scheduling electricity usage in the Day Ahead Market and by receiving associated settlements. Additionally, each of the Authority's generators at

its facilities throughout New York State also has associated scheduling requirements and settlements. Such load and generator settlement data requires hourly, daily and monthly review and analysis to ensure that charges are accurate, reasonable and in accordance with New York Market Rules. This is currently achieved by the Authority's Scheduling and Settlement ('S&S') staff, using internally developed software and procedures. Third-party suppliers now offer new Anomaly/Shadow Settlement Processor software products that are compliant with NYISO settlements. These online computer tools are designed to assist market participants with the verification of such settlements and the estimation of future settlements. The advantages of third-party products include: ongoing compliance with market rules and requirements, automated settlement review and error reporting, issue management and improved efficiencies. In addition, Authority staff will spend less time on manual processes and designing changes to software, enabling them to analyze other market phenomena. To this end, a Request for Proposals (**Q02-3784**) was prepared. Bid documents were downloaded by 20 firms, including those that may have responded to a notice in the New York State Contract Reporter. Two proposals were received and evaluated. Staff recommends award of a contract to **Structure Consulting Group LLC dba The Structure Group (PO# TBA)**, the lowest-priced qualified bidder. This contract will provide for the procurement, licensing, installation/implementation and maintenance of anomaly processing software that performs calculations to verify NYISO settlements and ensures that the associated data is reasonable and accurate. The annual software maintenance includes support on a routine basis to keep the software up-to-date with current NYISO requirements and market changes. The intended term of this contract, which would become effective on October 1, 2006, is five years, subject to the Trustees' approval, which is hereby requested. Approval is also requested for the total estimated amount expected to be expended for the term of the contract, \$1,104,000.

#### FISCAL INFORMATION

"Funds required to support contract services for various Business Units/Departments and Facilities have been included in the 2006 Approved O&M Budget. Funds for subsequent years, where applicable, will be included in the budget submittals for those years. Payment will be made from the Operating Fund.

"Funds required to support contract services for capital projects have been included as part of the approved capital expenditures for those projects and will be disbursed from the Capital Fund in accordance with the project's Capital Expenditure Authorization Request. Payment for contracts in support of the Energy Services Programs will be made from the Energy Conservation Effectuation and Construction Fund. All costs, including Authority overheads and the cost of advancing funds, will be recovered by the Authority, consistent with other Energy Services and Technology Programs.

#### RECOMMENDATION

"The Deputy General Counsel, the Senior Vice President – Public and Governmental Affairs, the Vice President – Procurement and Real Estate, the Vice President – Engineering, the Vice President – Project Management, the Vice President – Environmental Management, the Vice President – Internal Audit and Compliance, the Vice President – Finance, the Treasurer, the Chief Information Officer, the Director – Corporate Support Services, the Director – Energy Services, the Director – Human Capital and Development, the Regional Manager – Northern New York, the Regional Manager – Western New York, the Regional Manager – Central New York, the Regional Manager – Southeastern New York, the Transmission Superintendent, the Fleet Manager – Special Vehicles and Rolling Equipment, and the Manager – Scheduling and Settlement recommend the Trustees' approval of the award of multiyear procurement contracts to the companies listed in Exhibit '21-A' for the purposes and in the amounts set forth above.

"The Executive Vice President and General Counsel, the Executive Vice President – Corporate Services and Administration, the Executive Vice President – Chief Financial Officer, the Senior Vice President – Energy Services and Technology, the Senior Vice President and Chief Engineer – Power Generation, the Senior Vice President – Transmission and I concur in the recommendation."

*Mr. Hoff presented the highlights of staff's recommendations to the Trustees. Mr. Kelly said that Vice Chairman Townsend and Trustee Moses have recused themselves from the vote on this item, and wanted the*

*minutes to reflect that fact. He said that the contracts with the various local, state, regional and national law firms would enable the Authority to tap into their expertise on an as-needed basis. Chairman McCullough concurred.*

The following resolution, as submitted by the President and Chief Executive Officer, was adopted by a vote of 5 to 2, with Vice Chairman Townsend abstaining with reference to Harris Beach PLLC and Trustee Moses abstaining with reference to Bond, Schoeneck & King,

**RESOLVED, That pursuant to the Guidelines for Procurement Contracts adopted by the Authority, the award and funding of the multiyear procurement services contracts set forth in Exhibit "21-A," attached hereto, are hereby approved for the period of time indicated, in the amounts and for the purposes listed therein, as recommended in the foregoing report of the President and Chief Executive Officer; and be it further**

**RESOLVED, That the Chairman, the President and Chief Executive Officer and all other officers of the Authority are, and each of them hereby is, authorized on behalf of the Authority to do any and all things and take any and all actions and execute and deliver any and all agreements, certificates and other documents to effectuate the foregoing resolution, subject to the approval of the form thereof by the Executive Vice President and General Counsel.**

Procurement (Services) Contracts – Awards  
(For Description of Contracts See "Discussion")

<u>Plant Site</u>	<u>Company Contract #</u>	<u>Start of Contract</u>	<u>Description of Contract</u>	<u>Closing Date</u>	<u>Award Basis<sup>1</sup> Contract Type<sup>2</sup></u>	<u>Compensation Limit</u>	<u>Amount Expended To Date</u>	<u>Authorized Expenditures For Life Of Contract</u>
BUSINESS SERV – IT on behalf of CORP SERV & ADMIN - CorpSuppServ & Pub&GovAffairs	SHAREHOUSE INC.  (Q02-3865; PO# TBA)	10/01/06	Provide for support & services for Apple/MacIntosh hardware and software to supplement in-house IT staff	09/30/09	B/S			<b>\$107,000*</b>
*****								
CORP SERV & ADMIN - CorpSuppServ & ES&T - EnergyServices	Q-02-3898; 2 awards: 1. APOW TOWING  2. PROLINE SERVICES CORP. (PO#s TBA)	10/01/06	Provide for towing/transport services in NYS for NYPA's Electric Vehicles	09/30/09	B/S			<b>\$105,000*</b>
CORP SERV & ADMIN - CorpSuppServ	JOHNSON CONTROLS INC. (4500108089)	05/01/06	Provide for a service agreement for the Security Management System (Card-key Access Control) for 501 7 <sup>th</sup> Ave. (OASAS only)	04/30/09	S/S	\$24,267	\$7,475	<b>\$24,267*</b>
CORP SERV & ADMIN - HumanCapital & Development	LOPEZ and ASSOCIATES, INC. (Q02-3886; PO# TBA)	10/01/06	Provide for consulting services to update/revise pre-employment aptitude tests for various worker classifications	09/30/09	S/P			<b>\$95,000*</b>
CORP SERV & ADMIN - Office of EVP	US AUCTIONS  (4500128208)	09/19/06	Provide for auction services for surplus Authority equipment, vehicles and other materials	09/18/09	B/S			<b>\$0*</b>

\*Note: represents total for 3-year term

\*Note: represents combined total for 3-year term

\*Note: represents total for 3-year term

\*Note: represents total for up to 3-year term

\*Note: this is a "no cost" contract, since the buyer will pay an additional 10% of its quoted price directly to the auctioneer

1 Award Basis: B= Competitive Bid; S= Sole Source; C= Competitive Search  
2 Contract Type: P= Personal Service; S= (Non-Personal) Service; C= Construction; E= Equipment; N= Non-Procurement

**Procurement (Services) Contracts – Awards**  
(For Description of Contracts See "Discussion")

<u>Plant Site</u>	<u>Company Contract #</u>	<u>Start of Contract</u>	<u>Description of Contract</u>	<u>Closing Date</u>	<u>Award Basis<sup>1</sup> Contract Type<sup>2</sup></u>	<u>Compensation Limit</u>	<u>Amount Expended To Date</u>	<u>Authorized Expenditures For Life Of Contract</u>
ES&T - Energy Services	BANNER ELECTRICAL CONTRACTING CORP. (Q02-3885; PO# TBA)	10/01/06	Provide for electrical installation warranty services for HELP projects	09/30/08	B/C			\$50,000*
*Note: represents total for 2-year term All costs will be recovered by the Authority.								
INTERNAL AUDIT & COMPLIANCE	PRO-COMPLY (Q02-3883 PO# TBA)	10/01/06	Provide for FERC-mandated employee training (online & video) re Standards of Conduct	09/30/09	B/P			\$35,000*
*Note: represents total for 3-year term								
LAW	Q02-3837; 10 awards:	10/01/06	Continuous Service Agreements for general legal services, as needed	09/30/09	C/P			
	1. AKIN GUMP STRAUSS HAUER & FELD LLP			(+ option to extend up to 2 addtl years)				*
	2. GILBERTI STINZIANO HEINTZ & SMITH PC							*
	3. HARRIS BEACH PLLC							*
	4. HAWKINS DELAFIELD & WOOD LLP							*
	5. KEANE & BEANE PC							*
	6. ORRICK HERRINGTON & SUTCLIFFE LLP							*
	7. ROBINSON & COLE LLP							*
	8. WHITEMAN OSTERMAN & HANNA LLP							*

1 Award Basis: B= Competitive Bid; S= Sole Source; C= Competitive Search  
 2 Contract Type: P= Personal Service; S= (Non-Personal) Service; C= Construction; E= Equipment; N= Non-Procurement

**Procurement (Services) Contracts – Awards**  
(For Description of Contracts See "Discussion")

<u>Plant Site</u>	<u>Company Contract #</u>	<u>Start of Contract</u>	<u>Description of Contract</u>	<u>Closing Date</u>	<u>Award Basis<sup>1</sup> Contract Type<sup>2</sup></u>	<u>Compensation Limit</u>	<u>Amount Expended To Date</u>	<u>Authorized Expenditures For Life Of Contract</u>
LAW continued	9. WILSON ELSER MOSKOWITZ EDELMAN & DICKER LLP							*
	10. WINSTON & STRAWN LLP (PO #s TBA)							* *Note: an aggregate amount of \$5.5M to be allocated among these 10 contracts for the initial 3-year term; to be funded through Legal Outside Counsel Budget funds & capital funding, where appropriate
LAW	FRANKLIN S ABRAMS  (Q02-3837; PO# TBA)	10/01/06	Provide for legal services in connection with immigration matters	09/30/09 (+ option to extend up to 2 addtl yrs)	C/P			\$90,000*  *Note: represents total for initial 3-year term
*****								
POWER GEN - NIA	AMERICAN LOSS PREVENTION SERVICES (4600001687)	08/01/06	Provide for inspection services for vertical transportation systems at NIA	07/31/10	B/S	\$28,000 ("Target Value")	\$5,688	\$28,000*  *Note: represents total for 4-year term
POWER GEN - POL, 500MW, FLN & SCPPs	CERTIFIED SAFETY VALVE REPAIR CO. (4600001665)	07/01/06	Provide for valve repair services	06/30/09	B/S	\$500,000	\$0	\$500,000*  *Note: represents total for 3-year term
POWER GEN - FLYNN	EARTHCARE (A North Star Waste Co.) (Q02-3859; PO# TBA)	10/01/06	Provide for transport & disposal of wastewater and non-toxic biomass sludge for Flynn Plant	09/30/09	B/S			\$550,000*  *Note: represents total for 3-year term
POWER GEN - NIA	FOX FENCE INC. (4600001685)	08/01/06	Provide for emergency/on-call repair and maintenance services for security gates and fences at NIA	07/31/10	B/S	\$100,000	\$4,900	\$100,000*  *Note: represents total for 4-year term

1 Award Basis: B= Competitive Bid; S= Sole Source; C= Competitive Search  
2 Contract Type: P= Personal Service; S= (Non-Personal) Service; C= Construction; E= Equipment; N= Non-Procurement

**Procurement (Services) Contracts – Awards**  
(For Description of Contracts See "Discussion")

EXHIBIT "21-A"  
September 26, 2006

<u>Plant Site</u>	<u>Company Contract #</u>	<u>Start of Contract</u>	<u>Description of Contract</u>	<u>Closing Date</u>	<u>Award Basis<sup>1</sup> Contract Type<sup>2</sup></u>	<u>Compensation Limit</u>	<u>Amount Expended To Date</u>	<u>Authorized Expenditures For Life Of Contract</u>
POWER GEN - ENGINEERING	Q02-3830; 2 awards: 1. GZA GEOENVIRONMENTAL OF NY, INC. 2. BAKER ENGINEERING OF NY, INC. (PO #s TBA)	10/01/06	Provide for on-call civil and geotechnical engineering services for all facilities	09/30/10	B/P			\$1,200,000*
						*Note: represents aggregate total for 4-year term		
POWER GEN - ENGINEERING	Q02-3833; 4 awards: 1. HATCH ACRES CORPORATION 2. E/PRO ENGINEERING & ENVIRONMENTAL CONSULTING 3. GREENMAN-PEDERSEN INC. 4. RCM TECHNOLOGIES (PO #s TBA)	10/01/06	Provide for professional engineering & consulting services in support of the operation & maintenance of the Authority's hydro-electric, pumped storage & fossil-fuel generation projects, transmission & other support facilities	09/30/10	B/P			\$5,000,000*
						*Note: represents aggregate total for 4-year term		
POWER GEN - PROJ MGMT/ B-G	INNOVATIVE AUTOMATION, INC. (Q02-3860; PO# TBA)	10/01/06	Provide for Start-Up and Commissioning Services (SCS) for BG hydro-generator unit controls	09/30/10	B/P			\$905,670*
						*Note: represents total for 4-year term		
POWER GEN - POL	JOHN R ROBINSON INC. (4600001650)	10/01/06	Provide for condenser tube cleaning services at POL	09/30/09	B/S			\$100,000*
						*Note: represents total for 3-year term		
POWER GEN - ENGINEERING & STL	ONTARIO POWER GENERATION (4500127640)	10/03/06	Provide for turbine performance testing services at STL	09/30/08	S/S			\$99,500*
						*Note: represents total for up to 2-year term		

1 Award Basis: B= Competitive Bid; S= Sole Source; C= Competitive Search  
2 Contract Type: P= Personal Service; S= (Non-Personal) Service; C= Construction; E= Equipment; N= Non-Procurement

**Procurement (Services) Contracts – Awards**  
 (For Description of Contracts See "Discussion")

<u>Plant Site</u>	<u>Company Contract #</u>	<u>Start of Contract</u>	<u>Description of Contract</u>	<u>Closing Date</u>	<u>Award Basis<sup>1</sup> Contract Type<sup>2</sup></u>	<u>Compensation Limit</u>	<u>Amount Expended To Date</u>	<u>Authorized Expenditures For Life Of Contract</u>
POWER GEN - POL, 500MW, FLN & SCPPs	REUTHER ENGINEERING & MACHINE (4600001675)	10/01/06	Provide for onsite and offsite machining services + miscellaneous mechanical work & repairs	09/30/09	B/S			<b>\$300,000*</b>
							*Note: represents total for 3-year term	
*****								
TRANSMISSION - Transmission Maintenance	POWER ENGINEERS CONSULTING (GEC-MWP; PO# TBA)	10/01/06	Provide for engineering services to perform a LIDAR survey and develop a PLSCADD eng. model for 212 miles of T/Ls	09/30/09	B/P			<b>\$725,860*</b>
							*Note: represents total for 3-year term	
TRANSMISSION - Scheduling & Settlement	STRUCTURE CONSULTING GROUP LLC dba THE STRUCTURE GROUP (Q02-3784; PO# TBA)	10/01/06	Provide for furnishing, implementation & maintenance of Anomaly Processor software to verify NYISO settlements	09/30/11	B/P			<b>\$1,104,000*</b>
							*Note: represents total for 5-year term	

1 Award Basis: B= Competitive Bid; S= Sole Source; C= Competitive Search  
 2 Contract Type: P= Personal Service; S= (Non-Personal) Service; C= Construction; E= Equipment; N= Non-Procurement

**22. Procurement (Services) Contracts –  
Business Units and Facilities –  
Extensions and Approval of Additional Funding**

The President and Chief Executive Officer submitted the following report.

**SUMMARY**

“The Trustees are requested to approve the continuation and funding of the procurement (services) contracts listed in Exhibit ‘22-A’ in support of projects and programs for the Authority’s Business Units/Departments and Facilities. Detailed explanations of the nature of such services, the reasons for extension, the additional funding required and the projected expiration dates are set forth below.

**BACKGROUND**

“Section 2879 of the Public Authorities Law and the Authority’s Guidelines for Procurement Contracts require the Trustees’ approval for procurement contracts involving services to be rendered for a period in excess of one year.

“The Authority’s revised Expenditure Authorization Procedures (‘EAPs’) require the Trustees’ approval when the cumulative change order value of a personal services contract exceeds the greater of \$250,000 or 35% of the originally approved contract amount not to exceed \$500,000, or when the cumulative change order value of a non-personal services, construction, equipment purchase or non-procurement contract exceeds the greater of \$500,000 or 35% of the originally approved contract amount not to exceed \$1,000,000.

**DISCUSSION**

“Although the firms identified in Exhibit ‘22-A’ have provided effective services, the issues or projects requiring these services have not been resolved or completed, and the need exists for continuing these contracts. The Trustees’ approval is required because the terms of these contracts exceed one year and/or because the cumulative change order limits will exceed the levels authorized by the EAPs in forthcoming change orders. All of the subject contracts contain provisions allowing the Authority to terminate the services at the Authority’s convenience, without liability other than paying for acceptable services rendered to the effective date of termination. These contract extensions do not obligate the Authority to a specific level of personnel resources or expenditures.

“Extension of each of the contracts identified in Exhibit ‘22-A’ is requested for one or more of the following reasons: (1) additional time is required to complete the current contractual work scope or additional services related to the original work scope; (2) to accommodate an Authority or external regulatory agency schedule change that has delayed, reprioritized or otherwise suspended required services; (3) the original consultant is uniquely qualified to perform services and/or continue its presence and re-bidding would not be practical or (4) the contractor provides a proprietary technology or specialized equipment, at reasonably negotiated rates, that the Authority needs to continue until a permanent system is put in place.

**Contracts in Support of Business Units/Departments and Facilities:**

**Energy Services and Technology**

“The contract with **ABLE Company (4500110237)** provides for furnishing, delivery and installation services for the boiler control upgrade at Lincoln Hospital in the Bronx as part of the Authority’s Southeastern New York (‘SENY’) Governmental Customers’ Energy Services Program. The original award, which was competitively bid, became effective on July 5, 2005 for a term of less than one year. Due to an unanticipated delay by the facility, which denied the contractor access to the equipment until the facility staff completed a maintenance task, the contractor was forced to push back its start date which, in turn, has caused the completion date of this project to be delayed as well. An interim extension through September 26, 2006 was subsequently authorized in accordance with the Authority’s Guidelines for Procurement Contracts and EAPs. An additional three-month extension is now

requested in order to provide sufficient time to complete all contract services. The current contract amount is \$458,955; it is anticipated that no additional funding will be required for the extended term. The Trustees are requested to ratify the previously authorized interim extension and to approve the additional extension of the subject contract through December 15, 2006, with no additional funding requested. It should be noted that all costs will be recovered by the Authority.

“The contract with **DMJM + Harris, Inc. (4500002774)** provides for program management and implementation services in support of the Authority’s Southeastern New York (‘SENY’) Energy Services Programs (‘ESP’). As part of these programs, the Authority provides energy services to reduce the SENY Governmental Customers’ overall energy costs by implementing energy efficiency measures. At their meeting of December 15, 1998, the Trustees approved the award of the subject contract for an initial term of three years, with an option to extend for two additional years with the approval of the President and Chief Executive Officer. The original award, which was competitively bid, became effective on January 4, 1999. At their meeting of June 29, 1999, the Trustees approved additional funding in the aggregate amount of \$50,000,000 to support the SENY ESP programs. The President and Chief Executive Officer subsequently authorized the aforementioned option to extend services for two years. At their meeting of December 16, 2003, the Trustees approved an extension through December 31, 2006. New York City funding constraints, as well as multiple levels of customer review and approval, have delayed the progress of various projects previously assigned under this contract. In recent months, a number of projects have received the requisite funding and are moving forward from feasibility study to design and construction. They include the Coney Island Waste Water Treatment Plant (‘WWTP’) (\$18 million) and the Bronx Family/Criminal Court (\$10 million). The feasibility study for the Coney Island WWTP was completed in June 2003, but approval to proceed to the design phase was not received until November 2004. In addition, the Customer Installation Commitment (‘CIC’) was not approved until December 2005. The feasibility study for the Bronx Family/Criminal Court was completed in January 2001, but was subsequently put ‘on hold’. It is expected that customer funding will be committed in the near future to enable the Authority to proceed with the design phase of this project. The lack of timely review and approval by multiple agencies has been the major contributing factor for the delays. (Typically, approvals are needed from the customer, the New York City Office of Management and Budget, the New York City Department of Citywide Administrative Services, and other entities, as may be required.) An additional three-year extension is now requested in order to continue and complete services in support of such projects, which are in various stages of implementation or development. The current contract amount is \$49,914,768; it is anticipated that no additional funding will be required for the extended term. The Trustees are requested to approve the extension of the subject contract through December 31, 2009, with no additional funding requested. It should be noted that all costs will be recovered by the Authority.

“At their meeting of September 25, 2001, the Trustees approved the award of contracts to three firms, **DMJM + Harris, Inc. (460000663)**, **CDM Constructors, Inc. (formerly Camp, Dresser & McKee, Inc.) (460000665)** and **PB Power Inc. (460000664)**, and an initial aggregate amount of \$100 million, to provide for program management and implementation services in connection with the Southeastern New York (‘SENY’) Governmental Customers’ Energy Services Programs (‘ESP’). The contracts, which were competitively bid, became effective on October 1, 2001 for an initial term of three years, with an option to extend for two additional years. The intended option was subsequently exercised. The aforementioned Trustee item also advised the Trustees that additional funding of up to \$100 million might be needed to complete the work assigned under these contracts, based on program participation, and the Trustees’ authorization for the release and allocation of such additional funding would be requested as such needs were identified. At their meeting of June 28, 2005, the Trustees authorized the release and allocation of an additional \$45 million (from a previously approved Capital Expenditure Authorization Request, ‘CEAR’), thereby increasing the aggregate compensation ceiling to \$145 million. New York City funding constraints, as well as multiple levels of customer review and approval, have delayed the progress of various projects previously assigned under this contract. In recent months, a number of projects have received approvals and are moving forward from feasibility study to design. Such projects include: Fashion Institute of Technology (\$13 million), 179<sup>th</sup> Street Pump Station (\$8 million), Owl’s Head (\$4.7 million), and Red Hook Waste Water Treatment Plant (\$18 million). Projects already in construction include Waste Water Treatment Plants at North River (\$37 million) and Bowery Bay (\$6 million). The lack of timely review and approval by multiple agencies has been the major contributing factor for the delays. (Typically, approvals are needed from the customer, the New York City Office of Management and Budget, and the New York City Department of Citywide Administrative Services, as well as other entities, as may be required. A four-year extension of the two contracts with DMJM + Harris and CDM Constructors is now requested in order to continue and complete services in support

of such projects, which are in various stages of implementation or development. (The contract with PB Power will not be extended.) The current ‘Target Values’ total \$145,000,000; it is anticipated that no additional funding will be required for the extended term. The Trustees are requested to approve the extension of the subject contracts through September 30, 2010, with no additional funding requested. It should be noted that all costs will be recovered by the Authority.

“The contract with **Siemens Power Transmission & Distribution, Inc. (4500111336)** provides for the furnishing and delivery of a production-grade Phasor Measurement Unit (‘PMU’) telemetry/data acceptance system and an Enhanced State Estimator (‘SE’) using the phasor data as part of the Authority’s Energy Management System (‘EMS’) at the Energy Control Center (‘ECC’). The original contract, which was awarded on a sole source basis, became effective on August 1, 2005 for a term of one year. This project is part of the much larger EMS upgrade, which has taken longer than expected due to requirements for development, testing and implementation. This, in turn, has delayed the implementation and completion of this project. The phasor-based enhanced SE project still needs to be installed and tested in conjunction with the upgraded EMS. Most of the development work and factory testing have been completed; site implementation and acceptance testing are the only remaining tasks. An interim extension through September 30, 2006 was authorized in accordance with the Authority’s Guidelines for Procurement Contracts and EAPs. An additional nine-month extension is now requested in order to provide sufficient time to complete all work under this contract. The implementation of phasors in the SE adds many advantages to the performance and accuracy of this important tool. It should be noted that the Authority is a pioneer and industry leader in implementing phasors into the SE and the EMS; other major utilities are now embarking on the use of this technology, using the Authority as a model. The current contract amount is \$181,500; it is anticipated that no additional funding will be required for the extended term. The Trustees are requested to ratify the previously authorized interim extension and to approve the additional extension of the subject contract through June 30, 2007, with no additional funding requested.

### Power Generation

“The Public Utility Regulating Plant System (‘PURPS’) functions as both a pressurizing and cooling system to maintain rapid circulation of dielectric fluid in pipelines of the Feeder No. Q35 L&M Legs for the purpose of forced-cooling the cable for maximum load-carrying capability. Under an inter-utility agreement between the Authority and **Consolidated Edison Company of New York (‘Con Ed’)**, the procedural operations and maintenance of this system, including power transformers, are maintained by Con Ed. On November 8, 2004, the Authority issued a sole source purchase order (**4500098429**) to Con Ed, in the not-to-exceed amount of \$162,500, to perform needed maintenance and replacement of three PURPS transformers for the Authority; they are located on Con Ed’s property in Astoria, adjacent to the Charles Poletti Power Plant. Con Ed would provide two transformers (from its inventory) needed to replace two of the existing units and use its own workforce to deliver, rig and install the units, and to load the old units onto a truck for disposal by a contractor hired by the Authority. Since these units had to be replaced in like and kind to match Con Ed’s system, and Con Ed had these transformers available in its inventory, and since Con Ed procedurally has maintenance responsibility for this facility on its property, it was only prudent and practical to use Con Ed for this work. Authority staff was satisfied that the price to furnish, deliver and install these transformers was fair and reasonable. The work was originally scheduled to be performed in April 2005, but was deferred due to concerns that the outages needed for the transformer replacements might affect the power needed for the 500 MW plant construction. This work will be rescheduled after the demands of the summer cooling season have been met. Since the third transformer was not available through Con Ed, the Authority separately bid and ordered the third transformer, which was delivered and installed by Con Ed in May 2006 (with the exception of completing the primary connection, which is expected shortly). Interim approval to extend the subject contract through September 30, 2006 was subsequently obtained. Staff projects that an additional six-month extension will be required to allow sufficient time to complete all work. The current contract amount remains \$162,500; it is anticipated that no additional funding will be required for the extended term. The Trustees are requested to ratify the previously authorized interim extension and to approve the additional extension of the subject contract through March 31, 2007, with no additional funding requested.

“The contract with **Johnson Controls, Inc. (4600001479)** provides for a service agreement for the Cardkey Security Access Control system installed at the Niagara Power Project. The original contract became effective on August 1, 2005 for an initial term of one year, with an option to extend for up to four additional years. Although this contract was awarded on a sole source basis, since Johnson Controls is the original equipment manufacturer,

pricing for maintenance labor and parts is based on rates in the New York State Office of General Services contract with this vendor for such services. An interim extension through September 30, 2006 was subsequently authorized in accordance with the Authority's Guidelines for Procurement Contracts and EAPs. A four-year extension is now requested to exercise the option in order to provide for the continuation of such services. The current 'Target Value' is \$90,000; it is anticipated that no additional funding will be required for the extended term. The Trustees are requested to ratify the previously authorized interim extension and to approve the extension of the subject contract through July 31, 2010, with no additional funding requested.

#### FISCAL INFORMATION

"Funds required to support contract services for various Headquarters Office Business Units/Departments and Facilities have been included in the 2006 Approved O&M Budget. Funds for subsequent years, where applicable, will be included in the budget submittals for those years. Payment will be made from the Operating Fund.

"Funds required to support contract services for capital projects have been included as part of the approved capital expenditures for those projects and will be disbursed from the Capital Fund in accordance with the Project's Capital Expenditure Authorization Request ('CEAR'). Payment for contracts in support of the Energy Services Programs will be made from the Energy Conservation Effectuation and Construction Fund. All costs, including Authority overheads and the cost of advancing funds, will be recovered by the Authority, consistent with other Energy Services and Technology Programs.

#### RECOMMENDATION

"The Deputy General Counsel, the Vice President – Procurement and Real Estate, the Vice President – Engineering, the Director – Energy Services, the Director – Research and Technology Development, the Regional Manager – Western New York and the Regional Manager – Southeastern New York recommend that the Trustees' approve the extensions and additional funding of the procurement contracts listed in Exhibit '22-A.'

"The Executive Vice President and General Counsel, the Executive Vice President – Corporate Services and Administration, the Executive Vice President – Chief Financial Officer, the Senior Vice President – Energy Services and Technology, the Senior Vice President and Chief Engineer – Power Generation and I concur in the recommendation."

*Mr. Hoff presented the highlights of staff's recommendations to the Trustees. In response to a question from Trustee Seymour, Mr. Hoff said that the Authority will be replacing the chiller plant at SUNY's Fashion Institute of Technology.*

The following resolution, as submitted by the President and Chief Executive Officer, was unanimously adopted.

**RESOLVED, That pursuant to the Guidelines for Procurement Contracts adopted by the Authority, each of the contracts listed in Exhibit "22-A," attached hereto, is hereby approved and extended for the period of time indicated, in the amounts and for the purposes listed therein, as recommended in the foregoing report of the President and Chief Executive Officer; and be it further**

**RESOLVED, That the Chairman, the President and Chief Executive Officer and all other officers of the Authority are, and each of them hereby is, authorized on behalf of the Authority to do any and all things and take any and all actions and execute and deliver any and all agreements, certificates and other documents to effectuate the foregoing resolution, subject to the approval of the form thereof by the Executive Vice President and General Counsel.**

**Procurement (Services) Contracts – Extensions**  
 (For Description of Contracts See "Discussion")

EXHIBIT "22-A"  
 September 26, 2006

<u>Plant Site/ Bus. Unit</u>	<u>Company Contract #</u>	<u>Start of Contract</u>	<u>Description of Contract</u>	<u>Closing Date</u>	<u>Award Basis<sup>1</sup> Contract Type<sup>2</sup></u>	<u>Compensation Limit</u>	<u>Amount Expended To Date</u>	<u>Authorized Expenditures For Life Of Contract</u>
<b>Contracts in support of Headquarters Business Units and the Facilities:</b>								
ES&T - Energy Services	ABLE COMPANY 4500110237	07/05/05	Provide for F/D/I services for boiler control upgrade at Lincoln Hospital	12/15/06	B/C	\$458,955	\$271,333	<b>\$458,955*</b>
						*Note: <b>NO additional funding requested.</b> <b>All costs will be recovered by the Authority.</b>		
ES&T - Energy Services	DMJM + HARRIS 4500002774	01/04/99	Provide for program management & imple- mentation services for SENY ESP projects	12/31/09	B/C	\$49,914,768	\$25,259,879	<b>\$49,914,768*</b>
						*Note: <b>represents aggregate total (\$50M) previously ap- proved by the Trustees. NO additional funding requested.</b> <b>All costs will be recovered by the Authority.</b>		
ES&T - Energy Services	2 contracts: 1. DMJM + HARRIS 4600000663 2. CDM CONSTRUCTORS 4600000665	10/01/01	Provide for program management & imple- mentation services for SENY ESP projects	09/30/10	B/C	\$145,000,000 (aggregate Target Value)	\$89,891,230	<b>\$145,000,000*</b>
						*Note: <b>represents aggregate total previously approved by the Trustees (also includes funding for a 3<sup>rd</sup> contract, with PB Power, which will not be extended).</b> <b>NO additional funding requested.</b> <b>All costs will be recovered by the Authority.</b>		
ES&T - R&TD	SIEMENS POWER TRANSMISSION & DISTRIBUTION, INC. 4500111336	08/01/05	Provide for F/D of a Phasor Measurement Unit Telemetry/Data Acceptance System and an Enhanced State Estimator for the EMS system upgrade at ECC	06/30/07	S/P	\$181,500	\$139,368	<b>\$181,500*</b>
						*Note: <b>NO additional funding requested.</b>		

1 Award Basis: B= Competitive Bid; S= Sole Source; C= Competitive Search  
 2 Contract Type: P= Personal Service; S= Service, C= Construction; E= Equipment; N= Non-Procurement

**Procurement (Services) Contracts – Extensions**  
**(For Description of Contracts See "Discussion")**

**EXHIBIT "22-A"**  
**September 26, 2006**

<b><u>Plant Site/ Bus. Unit</u></b>	<b><u>Company Contract #</u></b>	<b><u>Start of Contract</u></b>	<b><u>Description of Contract</u></b>	<b><u>Closing Date</u></b>	<b><u>Award Basis<sup>1</sup> Contract Type<sup>2</sup></u></b>	<b><u>Compensation Limit</u></b>	<b><u>Amount Expended To Date</u></b>	<b><u>Authorized Expenditures For Life Of Contract</u></b>
POWER GEN - ENGINEERING/ POL	CONSOLIDATED EDISON COMPANY OF NEW YORK 4500098429	11/08/04	Provide for replacement of 3 Authority PURPS transformers (located on Con Ed property)	03/31/07	S/C	\$162,500	\$100,000	<b>\$162,500*</b>
						<b>*Note: NO additional funding requested.</b>		
POWER GEN - NIA	JOHNSON CONTROLS INC. 4600001479	08/01/05	Provide for a service agreement for Cardkey Access Control system at NIA	07/31/10	S/S	\$90,000	\$32,770	<b>\$90,000*</b>
						<b>*Note: <u>EXERCISING OPTION TO EXTEND FOR 4 YEARS;</u> NO additional funding requested.</b>		

1 Award Basis: B= Competitive Bid; S= Sole Source; C= Competitive Search  
2 Contract Type: P= Personal Service; S= Service, C= Construction; E= Equipment; N= Non-Procurement

23. **Proposed Schedule of Trustees' Meetings in 2007**

The Corporate Secretary submitted the following report.

"The following schedule of meetings for the year 2007 is recommended:

<b><u>Date</u></b>	<b><u>Location</u></b>	<b><u>Time</u></b>
January 30, 2007	WPO	11:00 a.m.
February 27, 2007	WPO	11:00 a.m.
March 27, 2007	ALBANY	11:00 a.m.
April 24, 2007 – Annual	WPO	11:00 a.m.
May 22, 2007	NIAGARA	11:00 a.m.
June 26, 2007	CLARK ENERGY CTR	11:00 a.m.
July 31, 2007	WPO	11:00 a.m.
<b><u>No Meeting in August</u></b>		
September 25, 2007	POLETTI	11:00 a.m.
October 30, 2007	WPO	11:00 a.m.
November 27, 2007	WPO	11:00 a.m.
December 18, 2007	WPO	11:00 a.m.

**RECOMMENDATION**

"The President and Chief Executive Officer and I support the proposed schedule for the Authority's Trustees' Meetings for the year 2007, as set forth in the foregoing memorandum."

*Ms. Cahill presented the highlights of her recommendations to the Trustees, pointing out that the 2007 Trustees' Meetings would be held on the last Tuesday of each month, except for May and December.*

The following resolution, as submitted by the Corporate Secretary, was unanimously adopted.

**RESOLVED, That the schedule of Trustees' Meetings for the year 2007, as set forth in the foregoing report of the Corporate Secretary, be, and hereby is, approved.**

**24. INFORMATIONAL ITEM: World Trade Center Redevelopment – Lower Manhattan Energy Independence Initiative**

The President and Chief Executive Officer submitted the following report.

**SUMMARY**

“The State of New York has appropriated \$25 million for the Lower Manhattan Energy Independence Initiative (‘LMEI Account’). These funds will be allocated to the Power Authority to fund energy efficiency measures and clean energy technologies for the World Trade Center (‘WTC’) site. The \$25 million will be allocated as follows: \$19.5 million for natural gas- powered fuel cells in WTC Towers 2, 3 and 4, and \$5.5 million for state-of-the-art energy efficiency measures in the WTC Memorial and Museum.

**BACKGROUND**

“Consistent with its commitment to make the WTC a global example of green building design and to break the cycle of dependence on foreign energy, the State of New York has appropriated \$25 million in the Fiscal Year (‘FY’) 2006-07 New York State budget for the LMEI Account. The Authority has agreed to create an LMEI Account(s) for the receipt of such appropriation. The funds will be used to fund energy efficiency measures and clean energy technologies for the WTC site, as more fully described below.

**DISCUSSION**

“The funds will be used to fund energy efficiency measures and clean energy technologies in WTC Towers 2, 3 and 4 and the WTC Memorial and Museum. Up to \$19.5 million will be used for the purchase and installation of cutting-edge fuel cell technology, with 1.2 MW of fuel cell capacity to be installed in each of the WTC Towers 2, 3 and 4. To assist in defraying any incremental costs associated with achieving a U. S. Green Building Council Leadership in Energy and Environmental Design (‘LEED’) Gold certification and an energy efficiency level 20% above the New York State Energy Conservation Construction Code, \$5.5 million will be provided to the WTC Memorial Foundation for the WTC Memorial and Museum.

“The funds in the LMEI Account may be invested by the Authority in accordance with its investment guidelines, with net interest credited to the LMEI Account.

**FISCAL INFORMATION**

“Funding will be provided from the \$25 million appropriated by the State of New York in the FY 2006-07 New York State budget for the Lower Manhattan Energy Independence Initiative and sub-allocated to the Authority.”

25. **Motion to Conduct an Executive Session**

*“Mr. Chairman, I move that the Authority conduct an Executive Session for the purpose of discussing matters relating to litigation and potential litigation.”* Upon motion moved and seconded, an Executive Session was held.

26. **Motion to Resume Meeting in Open Session**

*“Mr. Chairman, I move to resume the meeting in Open Session.”* Upon motion moved and seconded, the meeting resumed in Open Session.

27. **Next Meeting**

The next meeting of the Trustees will be held on **Tuesday, October 24, 2006, at 11:00 a.m., at the Blenheim-Gilboa Power Project, Gilboa, New York**, unless otherwise designated by the Chairman with the concurrence of the Trustees.

**Closing**

On motion duly made and seconded, the meeting was adjourned by the Chairman at approximately 1:40 p.m.



Anne B. Cahill  
Corporate Secretary