

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

**January 27, 2009**

**Table of Contents**

<b><u>Subject</u></b>	<b><u>Page No.</u></b>	<b><u>Exhibit</u></b>
<b>1. Consent Agenda:</b>	3	
<b>a.</b> Minutes of the Regular Meeting held on December 16, 2008	4	
<b>b.</b> Allocation of 1,750 kW of Hydropower Resolution	5	“1b-A;” “1b-A-1” – “1b-A-3”
<b>c.</b> Sale of Hydropower to Long Island Power Authority to Benefit Brookhaven National Laboratory Resolution	7	
<b>d.</b> Municipal and Rural Cooperative Economic Development Program – Allocation to the Village of Frankfort Resolution	9	
<b>e.</b> Petroleum Overcharge Restitution (“POCR”) Funds – Transfer of Funds to the State of New York and Authorization of POCR Programs Resolution	11	“1e-A”
<b>f.</b> Transfer of New York State Funds for World Trade Center Projects Resolution	14	
<b>g.</b> St. Lawrence/FDR Power Project – Administration Building Brick Facade and Window Replacement – Contract Award Resolution	17	
<b>h.</b> Information Technology Initiatives – Capital Expenditure Authorization Resolution	19	
<b>Discussion Agenda:</b>		
<b>2.</b> President and Chief Executive Officer’s First 100 Days Report	22	
<b>3.</b> Q&A on Reports from:		
<b>a.</b> Chief Operating Officer	26	
<b>b.</b> Chief Financial Officer	34	“3b-A”

<b><u>Subject</u></b>	<b><u>Page No.</u></b>	<b><u>Exhibit</u></b>
<b>3A.</b> Municipal and Rural Electric Cooperative Systems – Service Tariff Amendments – Notice of Proposed Rulemaking Resolution	35	“3A-A” – “3A-C”
<b>3B.</b> Increase in Hydroelectric Preference Power Rates – Notice of Proposed Rulemaking Resolution	37	“3B-A” – “3B-C”
<b>4.</b> Motion to Conduct an Executive Session	40	
<b>5.</b> Motion to Resume Meeting in Open Session	41	
<b>6.</b> Contributions to the State Treasury – Resolution	42	
<b>7.</b> Other Business	45	
<b>8.</b> Next Meeting	46	
Closing	47	

Minutes of the Regular Meeting of the Power Authority of the State of New York held via videoconference at the following participating locations at 11:10 a.m.:

- 1) New York Power Authority, 30 South Pearl Street, Albany, NY
- 2) New York Power Authority, 123 Main Street, White Plains, NY
- 3) King Reporting Service, 14 Sun Tree Place, Suite 101, Melbourne, FL

The Members of the Board were present at the following locations:

Michael J. Townsend, Acting Chairman, (Albany, NY)  
James A. Besh, Sr., Trustee, (Albany, NY)  
D. Patrick Curley, Trustee, (Albany, NY)  
Elise M. Cusack, Trustee, (Albany, NY)  
Jonathan F. Foster, Trustee, (Albany, NY)  
Eugene L. Nicandri, Trustee, (Melbourne, FL)

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Richard M. Kessel	President and Chief Executive Officer (Albany)
Gil C. Quiniones	Chief Operating Officer (Albany)
Terryl Brown Clemons	Executive Vice President and General Counsel (Albany)
Joseph Del Sindaco	Executive Vice President and Chief Financial Officer (Albany)
Edward A. Welz	Executive Vice President and Chief Engineer – Power Supply (Albany)
Steven J. DeCarlo	Senior Vice President – Transmission (Albany)
Paul F. Finnegan	Senior Vice President – Public and Governmental Affairs (Albany)
William J. Nadeau	Senior Vice President – ERM and Strategic Planning (Albany)
Donald A. Russak	Senior Vice President – Corporate Planning and Finance (Albany)
Joan Tursi	Senior Vice President – Enterprise Shared Services (Albany)
James H. Yates	Senior Vice President – Marketing and Economic Development (White Plains)
Thomas P. Antenucci	Vice President – Project Management (Albany)
Arnold M. Bellis	Vice President and Controller (Albany)
Thomas A. Davis	Vice President – Energy Risk Assessment and Control (Albany)
John M. Kahabka	Vice President – Environmental, Health and Safety (White Plains)
Dennis T. Eccleston	Chief Information Officer (White Plains)
Arthur T. Cambouris	Deputy General Counsel (Albany)
Joseph J. Carline	Assistant General Counsel – Power and Transmission (White Plains)
Anne B. Cahill	Corporate Secretary (Albany)
Angela D. Graves	Deputy Corporate Secretary (Albany)
Helen L. Eisenfeld	Director – Program Administration and Quality Control (White Plains)
Michael Nash	Director – Engineering and Design (White Plains)
James F. Pasquale	Director – Marketing Analysis and Administration (White Plains)
Christine Pritchard	Director – Intergovernmental and Community Affairs (Albany)
Victoria Simon	Director – Special Projects and Business Integration (White Plains)
Marilyn J. Brown	Manager – Market Analysis and Tariff Administration (White Plains)
Andrea E. Luongo	Project Engineer II – Project Management (White Plains)
Gary D. Levenson	Principal Attorney I – Power and Transmission (White Plains)
Mary Jean Frank	Associate Corporate Secretary (Albany)
Lorna M. Johnson	Assistant Corporate Secretary (Albany)
Anthony Carpinello	(Albany)
Charles Haddon	Managing Director – Navigant Consulting (Albany)
Joseph Branca	Managing Director – Bank of America Securities (Albany)
Ted Sobel	Managing Director – Bank of America Securities (Albany)
Aisha Martini	Associate – Bank of America Securities (Albany)
Kevin Brocks	Attorney – Municipal Electric Utilities Association – Read & Laniado (Albany)
Tony Modafferi	Executive Director – Municipal Electric Utilities Association (Albany)
Paul DeCotis	Executive Chamber (Albany)

**January 27, 2009**

Mary Beth Labate	Division of the Budget (Albany)
Nancy Reuss	Division of the Budget (Albany)
Tom Wood	Division of the Budget (Albany)

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Acting Chairman Townsend presided over the meeting. Corporate Secretary Cahill kept the Minutes.

1. Consent Agenda:

*Trustee Eugene Nicandri stated that he had concerns about item 1c (Sale of Hydropower to Long Island Power Authority to Benefit Brookhaven National Laboratory [BNL]) that he wanted to get on the record. He said that he has a philosophical concern about subsidizing the federal government and that he felt this should be looked at on a long-term basis. Trustee Nicandri said that he felt that the Authority should not be involved as the State and local governments get into bidding wars with other states and communities for federal projects. He said that some strategic thinking needs to go into these types of projects. Acting Chairman Michael Townsend said that the minutes should reflect, and directed President Richard Kessel to have staff look into, Trustee Nicandri's concerns. Trustee Jonathan Foster added that he questioned whether BNL would really close if it did not receive low-cost Authority power. He said that it is important to follow up on the philosophical issues and urged that this issue be examined at a macro level. President Kessel said that staff and management have been looking at all of the Authority's economic development power programs and that he hoped to submit a new proposal for such programs to the Trustees at their February meeting. Acting Chairman Townsend said that he recognized the importance of BNL's particle accelerator in bringing the right kind of jobs to New York State.*

*Trustee James Besha requested that items 1d (Municipal and Rural Electric Cooperative Systems – Service Tariff Amendments – Notice of Proposed Rulemaking) and 1e (Increase in Hydroelectric Preference Power Rates – Notice of Proposed Rulemaking) be moved to the Discussion Agenda.*

*With respect to item 1b (Allocation of 1,750 kW of Hydropower), Trustee Foster mentioned the huge variability every month in the kW-per- average- salary- per- job-figure and asked staff to provide the metrics on how these figures are arrived at. With respect to item 1j (Information Technology Initiatives – Capital Expenditure Authorization), he said that \$500,000 was a significant sum to spend on Human Capital projects and that he wanted to make sure that senior staff closely reviews each of these potential projects. Acting Chairman Townsend said that the Authority has a very stringent competitive bidding process, but that he would like the Trustees to be provided with more detail on project selection. Mr. Gil Quiniones said that staff would provide the Trustees with information on its internal vetting process for such projects. Trustee Foster said that the question that should be asked is “Do we need it?” when contemplating the Human Capital IT projects.*

*Trustee D. Patrick Curley recused himself from the vote on item 1b (Allocation of 1,750 kW of Hydropower) because of his relationship with Printing Prep Inc.*

1a. Approval of the Minutes

*The Minutes of the Regular Meeting held on December 16, 2008 were unanimously adopted.*

**1b. Allocation of 1,750 kW of Hydropower**

The President and Chief Executive Officer submitted the following report:

SUMMARY

“The Trustees are requested to approve an allocation of available Expansion Power (‘EP’) totaling 1,750 kW to three industrial companies.

BACKGROUND

“Under Section 1005(13) of the Power Authority Act, as amended by Chapter 313 of the Laws of 2005, the Authority may contract to allocate or reallocate directly, or by sale for resale, 250 MW of firm hydroelectric power as Expansion Power (‘EP’) and up to 445 MW of Replacement Power (‘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.

“Each application for an allocation of EP or RP must be evaluated under criteria that include, but need not be limited to, those set forth in Public Authorities Law Section 1005(13)(a), which sets forth general eligibility requirements.

“Among the factors to be considered when evaluating a request for an allocation of hydropower are the number of jobs created as a result of the allocation; the business’ long-term commitment to the region as evidenced by the current and/or planned capital investment in the business’ facilities in the region; the ratio of the number of jobs to be created to the amount of power requested; the types of jobs created, as measured by wage and benefit levels, security and stability of employment and the type and cost of buildings, equipment and facilities to be constructed, enlarged or installed.

“On October 22, 2003, the Authority, National 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 hydropower. 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 hydropower.

DISCUSSION

“Staff recommends and the Advisory Group supports the available power being allocated to the three companies set forth in Exhibit ‘1b-A.’ The Exhibit shows, among other things, the amount of power requested, the recommended allocations and additional employment and capital investment information. These projects will help maintain and diversify the industrial base of Western New York and provide new employment opportunities. They are projected to result in the creation of 55 jobs.

RECOMMENDATION

“The Director – Marketing Analysis and Administration recommends that the Trustees approve the allocation of 1,750 kW of hydropower to the companies listed in Exhibit ‘1b-A.’

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

January 27, 2009

The following resolution, as submitted by the President and Chief Executive Officer, was adopted by a vote of 5-1 with Trustee D. Patrick Curley recusing himself on Printing Prep Inc.

**RESOLVED, That the allocation of 1,750 kW of Expansion Power, as detailed in Exhibit "1b-A," 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 Acting Chairman, the President and Chief Executive Officer, the Chief Operating 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.**

New York Power Authority  
Expansion Power  
Recommendations for Allocations

Exhibit "1b-A"  
January 27, 2009

Exhibit Number	Company Name	City	County	Power Requested (kW)	New Jobs	Estimated Capital Investment	New Jobs Avg. Wage Benefits	Power Recommended (kW)	Contract Term
A-1	Luvata Buffalo, Inc.	Buffalo	Erie	919	30	\$3,000,000	\$97,500	650	Five Years
A-2	North American Hoganas	Niagara Falls	Niagara	1,500	13	\$12,000,000	\$70,000	1,000	Five Years
A-3	Printing Prep Inc.	Buffalo	Erie	120	12	\$1,250,000	\$21,000	100	Five Years
	<b>Total EP Recommended</b>				<b>55</b>	<b>16,250,000</b>		<b>1,750</b>	

**APPLICATION SUMMARY**  
**Expansion Power**

<b>Company:</b>	Luvata Buffalo, Inc.
<b>Location:</b>	Buffalo
<b>County:</b>	Erie County
<b>IOU:</b>	National Grid
<b>Business Activity:</b>	Operates a copper and brass rolling mill
<b>Project Description:</b>	The investment for this project involves modifications to and upgrades of two mothballed rolling mills and one mothballed annealing line. The equipment that will be upgraded includes motors, mill stand, recoiler, oil pump fans, coolant system, furnace and miscellaneous production equipment.
<b>Prior Application:</b>	Yes
<b>Existing Allocation:</b>	Four RP allocations totaling 11,560 kW and 5,000 kW of PFJ
<b>Power Request:</b>	919 kW
<b>Power Recommended:</b>	650 kW
<b>Job Commitment:</b>	
<b>Existing:</b>	647 jobs
<b>New:</b>	30 jobs
<b>New Jobs/Power Ratio:</b>	46 jobs/MW
<b>New Jobs - Avg. Wage and Benefits:</b>	\$97,500
<b>Capital Investment:</b>	\$3.0 million
<b>Capital Investment Per MW \$4.6 million/MW</b>	
<b>Summary:</b>	Luvata operates a cooper and brass rolling mill that was founded at this site in Buffalo in 1907. A new allocation will help the company make its case to expand its facility and move business currently performed in its European facilities to Buffalo. This new product line will help the company compete in manufacturing copper and brass products used in the automotive heat exchanger market.

**APPLICATION SUMMARY**  
**Expansion Power**

**Company:** North American Hoganas

**Location:** Niagara Falls

**County:** Niagara County

**IOU:** National Grid

**Business Activity:** Manufacturer of sponge iron products

**Project Description:** The project includes the addition of a new energy-efficient hydrogen reduction furnace. The company will install production processing equipment and various auxiliary equipment. The project will include post-processing equipment needed to make various new products.

**Prior Application:** Yes

**Existing Allocation:** 4,000 kW of EP and 1,000 kW of RP

**Power Request:** 1,500 kW

**Power Recommended:** 1,000 kW

**Job Commitment:**

<b>Existing:</b>	48 jobs
<b>New:</b>	13 jobs

**New Jobs/Power Ratio:** 13 jobs/MW

**New Jobs - Avg. Wage and Benefits:** \$70,000

**Capital Investment:** \$12 million

**Capital Investment Per MW \$12 million/MW**

**Summary:** There is a worldwide shortage of sponge iron and the company's current orders for existing products now exceed the practical capacity of the plant. The company has developed new applications for its product. The new product applications, along with sales into existing markets, require an increase in sponge iron manufacturing equipment capacity. A hydropower allocation would make an expansion of the company's manufacturing operation cost effective.

**APPLICATION SUMMARY**  
**Expansion Power**

<b>Company:</b>	Printing Prep Inc.
<b>Location:</b>	Buffalo
<b>County:</b>	Erie County
<b>IOU:</b>	National Grid
<b>Business Activity:</b>	Provides specialty graphic and printing services
<b>Project Description:</b>	The project includes the purchase and installation of a new digital textile printer, inkjet printer, automated cutting machine, digital document printer and supporting miscellaneous equipment.
<b>Prior Application:</b>	No
<b>Existing Allocation:</b>	None
<b>Power Request:</b>	120 kW
<b>Power Recommended:</b>	100 kW
<b>Job Commitment:</b>	
<b>Existing:</b>	32 jobs
<b>New:</b>	12 jobs
<b>New Jobs/Power Ratio:</b>	120 jobs/MW
<b>New Jobs - Avg. Wage and Benefits:</b>	\$21,000
<b>Capital Investment:</b>	\$1.25 million
<b>Capital Investment Per MW \$12.5 million/MW</b>	
<b>Summary:</b>	Since 1968, Printing Prep has provided specialty graphic and printing services. The company plans to upgrade its facility in Buffalo. A hydropower allocation would enable the company to grow by helping it reduce its costs and compete more effectively. The company is working with the Erie County Industrial Development Agency and the Buffalo Economic Development Agency on other economic development incentives

**1c. Sale of Hydropower to Long Island Power Authority to Benefit Brookhaven National Laboratory**

The President and Chief Executive Officer submitted the following report:

**SUMMARY**

“The Trustees are requested to approve the commencement of negotiations with the Long Island Power Authority (‘LIPA’) to allocate 15 megawatts of Authority hydropower for the exclusive use of the United States Department of Energy d/b/a Brookhaven National Laboratory (‘Brookhaven’ or ‘the Lab’).

**BACKGROUND**

“The Authority has been serving Brookhaven since November 1982. The current contract provides for the sale of 77 MW of power and associated energy. Authority-provided electricity has saved the Lab more than \$247 million over the life of the contract, according to Brookhaven, while at the same time giving the Lab the ability to attract new, path-breaking physics research projects to Long Island. These projects include the National Synchrotron Light Source (‘NSLS’), a world-class particle accelerator with applications to nanotechnology and medical research, plus two other particle accelerators engaged in high-energy physics experiments and space exploration studies, the Relativistic Heavy Ion Collider and Alternate Gradient Synchrotron, respectively.

“Brookhaven is a major employer on Long Island, attracting members of the scientific community from New York State, across the country and around the world, with more than 3,000 employees and a \$500 million annual budget.

“Of the estimated 3,500 visiting scientists that use the Lab’s facilities, 30% are from New York State universities and businesses, with many conducting research in materials and life sciences, fields that will be at the heart of future technology growth in New York. Access to the world-class capabilities provided by synchrotron light sources is crucial to many scientists at State universities and research institutions, more than 800 of whom use the existing NSLS. The NSLS is used by scientists from Cornell University, Rensselaer Polytechnic Institute and the State University of New York at Plattsburgh, as well as by Corning, Inc., General Electric Global Research Center and IBM Research Division.

**DISCUSSION**

“Brookhaven is developing plans to build a new world-leading synchrotron light source known as the National Synchrotron Light Source II (‘NSLS-II’). The facility will have a significant impact on New York State’s economic growth, as well as its high-tech infrastructure. Design and engineering of NSLS-II is under way. If the project proceeds on schedule, NSLS-II will be operating in 2015 and staffed by several hundred new Brookhaven employees. The Lab will invest \$900 million in the project, which will help retain thousands of jobs on Long Island. NSLS II has not yet received construction funding; it is vulnerable to cancellation or re-siting if operating cost estimates escalate significantly.

“The unique properties of NSLS-II, particularly its nanometer-imaging capabilities, will play an important role in the nanoscience and nanotechnology revolution, together with its applications to medical research, which will transform the State economy in the decades to come. Boasting institutions like IBM and Albany NanoTech, the State is already becoming a preeminent center for microelectronic research. Brookhaven’s staff will work with Albany NanoTech and other State nanoscience centers to expand their researchers’ use of the NSLS, show them how they could benefit from NSLS-II and engage them in the design and development of the new synchrotron facility.

“Without a long-term source of low-cost power, however, Brookhaven will not be able to successfully compete for new missions and facilities and will face closure in five to seven years. The direct impact of its closure (without economic multiplier effects) will be the loss of 3,000 high-tech jobs, \$600-700 million per year in federal operating funds flowing into New York and \$2 billion in project funding for new scientific technology.

“The hydropower would come from the Authority’s St. Lawrence/FDR and Niagara Projects. The St. Lawrence hydropower is part of 33.5 MW formerly sold to Neighboring States that the Authority recaptured in its 2003 relicensing of the St. Lawrence/FDR Project. Brookhaven would receive 14 MW from the Neighboring States block that is currently not allocated for direct sale and 1 MW of unallocated Niagara hydropower. Because none of this power is currently sold to consumers, its allocation for the benefit of Brookhaven will have no financial impact on other Authority customers, including Upstate consumers. The 15 MW allocation would be blended with local market resources to meet Brookhaven’s full load requirements. The allocation will be for a 15-year term.

“The allocation will be made via a sale to LIPA for Brookhaven’s exclusive use. LIPA is a political subdivision of the State authorized to redistribute this proposed allocation of hydroelectricity. This arrangement is subject to the negotiation of a contract with LIPA, followed by Trustee approval to initiate the formal contract approval process set forth in Section 1009 of the Public Authorities Law. That process requires a public hearing and approval of the contract by the Governor prior to the execution of a binding contract. It is also anticipated that LIPA will make the necessary arrangements to resell this hydroelectric allocation to the Lab in accordance with the NYPA/LIPA contract.

### RECOMMENDATION

“The Director – Marketing Analysis and Administration recommends that the Trustees approve the commencement of negotiation of a contract with the Long Island Power Authority to allocate 15 MW of Authority hydropower for the exclusive use of the United States Department of Energy d/b/a Brookhaven National Laboratory.

“The Chief Operating Officer, 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 – Public and Governmental Affairs, the Director – Business, Municipal and Cooperative 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 Trustees approve the commencement of negotiation of a contract to allocate 15 MW of Authority hydropower to the Long Island Power Authority for the exclusive use of the United States Department of Energy d/b/a Brookhaven National Laboratory and that upon the successful negotiation of such contract Authority staff bring such contract back before the Trustees for further consideration; and be it further**

**RESOLVED, That the Senior Vice President – Marketing and Economic Development or his 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 Acting Chairman, the President and Chief Executive Officer, the Chief Operating 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.**

**1d. Municipal and Rural Electric Cooperative  
Economic Development Program –  
Allocation to the Village of Frankfort**

The President and Chief Executive Officer submitted the following report:

SUMMARY

“The Trustees are requested to approve an allocation of 1,000 kW of hydro power under the Municipal and Rural Electric Cooperative Economic Development Program (‘Program’) to the Village of Frankfort.

BACKGROUND

“The 1991 amendment to the power sales agreement between the Authority and the Municipal and Rural Electric Cooperative Systems set aside a block of 54 MW from the 752 MW of hydropower allocated to the systems for economic development in the systems’ service territories. The total allocation was increased to 764.8 MW as a result of additional power resulting from the Niagara Project upgrade.

“Power from this block can be allocated to individual systems to meet the increased electric load resulting from eligible new or expanding businesses in their service area. Recommended allocations under the Program will now be made using guidelines that were approved by the Trustees on September 23, 2008. Under the revised program, the first 100 kW allocated will be from 100 % hydropower and any additional kW at 50% hydropower and 50% incremental power.

“As of December 16, 2008, 20,185 kW have been allocated. The Village of Frankfort has submitted an application for power under the Program for consideration by the Trustees.

DISCUSSION

“An application has been submitted by the Village of Frankfort to the Authority on behalf of Tibro’s Water Technologies, Ltd. (‘Tibro’). Tibro is a private Canadian company owned by the Chandaria family. The Chandaria family has been in the chemical trading and manufacturing business in East Africa for more than 35 years.

“The most common methodology to create bleach is to combine pressurized chlorine gas with caustic soda. This system is inherently dangerous, as storage and transport of large quantities of chlorine gas are needed. Tibro’s process, on the other hand, works by creating bleach directly from salt, an inert and safe raw material. Tibro’s model is to install and operate an appropriately sized, safe, cost-effective and scalable bleach plant in the Village of Frankfort.

“The company is attracted to Frankfort because of its low-cost power and proximity to Tibro’s customers and their distribution centers. Tibro’s management also considered locations in Canada and Pennsylvania.

“Tibro is planning to invest approximately \$6.2 million on this project, including building a 60,000-square-foot facility and the installation of machinery and equipment. It is also expected to create 54 full-time jobs over the next three years. The estimated electrical monthly load for the fully operational facility is expected to peak at 2 MW.

“It is recommended that the Trustees approve an allocation of 1,000 kW of Economic Development Power for the Village of Frankfort on behalf of Tibro. This allocation is equivalent to 54 jobs per MW of hydropower and will add needed revenue to the local economy.

“In accordance with the Authority’s marketing arrangement with the municipal and cooperative customers, the hydropower will be added to the recipient system’s contract demand at the time the project becomes operational and the additional jobs and load commitments are reached. The hydropower earmarked for this Program is presently sold to the municipal and rural electric cooperative customers on a withdrawable basis.

RECOMMENDATION

“The Manager - Market Analysis and Tariff Administration and the Director – Marketing Analysis and Administration recommends that the Trustees approve the allocation of power under the Municipal and Rural Electric Cooperative Economic Development Program to the Village of Frankfort in accordance with the above.

“The Chief Operating Officer, the Executive Vice President and General Counsel, the Senior Vice President – 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 power to the Village of Frankfort under the Municipal and Rural Electric Cooperative Economic Development Program is hereby approved as set forth in the foregoing report of the President and Chief Executive Officer; and be it further**

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

**RESOLVED, That the Acting Chairman, the President and Chief Executive Officer, the Chief Operating 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.**

**1e. Petroleum Overcharge Restitution ('POCR') Funds - Transfer of Funds to the State of New York and Authorization of POCR Programs**

The President and Chief Executive Officer submitted the following report:

**SUMMARY**

“The Trustees are requested to authorize the transfer of up to \$45,000 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 memorializing the understandings 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 2008 legislation discussed below.

**BACKGROUND**

“On April 1, 2008, the Governor approved the 2008 Budget Bill as Chapter 59 of the Laws of 2008 ('Chapter 59') ('Exhibit '1e-A'). Part LL, Sections 2 and 3 of this legislation, reflects an understanding between the Authority and the State that the Authority will transfer \$45,000 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 59.

“Generally, Section 4 of this legislation authorizes the Authority to use \$15,000 in POCR funds for programs of the Authority that are eligible under federal guidelines governing the use of such funds ('POCR Guidelines'); Section 5 authorizes the Authority to use \$15,000 in POCR funds to implement energy services projects; Section 6 authorizes the Authority to use \$15,000 in POCR funds to implement energy projects 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 Programs 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 of the Authority 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.

“At their meetings of September 26, 2006 and May 27, 2007, the Trustees approved the continuation of various energy-related programs established by Sections 1-7 of Chapter 55 of the Laws of 2006 and a technical deficiency corrected in Sections 2 and 3 of Chapter 59 of the Laws of 2007.

#### DISCUSSION

“Before the State can disburse the POCR funds, the Authority is required to develop the various energy-related programs that would use the POCR funds. 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 (‘DOE’) for approval of the programs. POCR funds cannot be used for purposes or programs that DOE does not approve.

“Judicial decisions and federal regulations that apply to POCR funds (both principal and interest) require that the funds not be used for general Authority purposes; they must ultimately be used for consumer restitution through energy-related programs. The use of any interest earned from POCR funds can only be used for approved POCR programs and for the administration of these programs.

“If approved by the Trustees, the payment by the Authority of the \$45,000 in funds matching the POCR funds identified in Chapter 59 would be reasonable and consistent with the Authority’s mission and statute.

“The POCR funds that the Authority receives as a part of the 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 POCR funds authorized by the 2008 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 the payment to the State of New York of \$45,000 for the purposes and under the conditions described above and the implementation of Petroleum Overcharge Restitution programs, as described above.

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

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 \$45,000 for the purpose described in the foregoing report of the President and Chief Executive Officer is hereby authorized, contingent on the execution of an agreement between the Authority and the State relating to such payment and that the Acting Chairman, the President and Chief Executive Officer, the Chief Operating Officer, the Senior Vice President –**

**Corporate Planning and Finance, 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 \$45,000 of 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 Senior Vice President – Corporate Planning and Finance, the Treasurer or the 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 POCR funds authorized by the 2008 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 Acting Chairman, the President and Chief Executive Officer, the Chief Operating 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 59 OF THE LAWS OF 2008**

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 the 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 \$45,000 to New York State on or before March 31, 2009.

§ 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 \$45,000, constituting monies appropriated to the statewide energy improvement account for the power authority of the state of New York pursuant to a chapter of the laws of 2008 enacting the transportation and economic development budget bills 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 2008.

§ 4. The power authority of the state of New York is authorized to use \$15,000 in petroleum overcharge restitution funds made available to the authority in fiscal year beginning April 1, 2008 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 suballocation 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 \$15,000 in petroleum overcharge restitution funds made available to the authority in fiscal year beginning April 1, 2008 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 \$15,000 in petroleum overcharge restitution funds made available to the authority in fiscal year beginning April 1, 2008 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 immediately and shall be deemed to have been in full force and effect on and after April 1, 2008.

**1f. Transfer of New York State Funds for World Trade Center Projects**

The President and Chief Executive Officer submitted the following report:

SUMMARY

“The Trustees are requested to approve the transfer of up to \$16 million of the \$25 million of New York State funds in the Lower Manhattan Energy Independence Initiative Account (‘LMEI Account’) for certain projects related to rebuilding the World Trade Center (‘WTC’) site: \$10.5 million to WTC Properties, LLC (‘WTC Properties’) for the design and installation of three 1.2 MW Fuel Cell Power Plant Systems for Towers 2, 3 and 4 at the WTC site and \$5.5 million to the WTC Memorial Foundation for the design and installation of energy efficiency measures in the WTC Memorial and Museum. The remaining \$9 million has been allocated to the Authority for the purchase and delivery of three fuel cell systems for Towers 2, 3 and 4.

BACKGROUND

“Consistent with its commitment to make the WTC a global example of green building design, the State of New York appropriated \$25 million in the FY 2006-07 New York State budget for the Lower Manhattan Energy Independence Initiative. Pursuant to two Memoranda of Understanding (‘MOUs’), the Authority agreed to create the LMEI Account for the receipt of the \$25 million appropriation and to pay for certain energy efficiency and clean energy initiatives for the WTC site, as more fully described below. No Authority monies would be used for any of these initiatives. The \$25 million in appropriated funds was transferred to the Authority on March 27, 2007 and deposited into the LMEI Account, administered by the Authority, to carry out the Lower Manhattan Energy Independence Initiative. The funds are to be used to fund energy efficiency measures and clean energy technologies for the WTC site. The MOUs are more fully described below.

“An Informational Item was provided to the Trustees on September 26, 2006 advising them of the establishment of the LMEI Account and the agreed use of the funds in such Account. Additionally, at their February 26, 2008, meeting, the purchase of the fuel cells for WTC Towers 2, 3 and 4 was approved by the Trustees. The Trustees were advised that funding for these fuel cells would come from the LMEI Account.

DISCUSSION

“The WTC site is being developed by the Port Authority, one of the Power Authority’s New York City Governmental Customers. The Freedom Tower is being built and will be owned and operated by the Port Authority. Towers 2, 3 and 4 are being built and will be operated by WTC Properties under a lease agreement with the Port Authority. The Authority has an obligation to serve the electric loads of the Port Authority at the WTC site through 2017 under the terms of the 1976 Application for Service, as supplemented and amended, and the 2005 agreement containing certain supplemental terms and conditions governing the supply of electricity (the ‘2005 LTA’).

“Furthermore, the Port Authority made certain commitments in order to secure environmental permits for the WTC site development. In 2006, then-Governor Pataki’s office requested that the Authority assist the Port Authority in meeting these commitments. These commitments include installing clean, efficient combined heat and power (‘CHP’) equipment at the WTC and installing energy efficiency measures at the WTC site.

“In 2006, the Power Authority entered into two MOUs:

- Freedom Tower and Public Facilities MOU (December 27, 2006): executed by the Power Authority, the Port Authority, the New York State Energy Research and Development Authority (‘NYSERDA’) and the WTC Memorial Foundation (‘MF’). The Power Authority agreed to finance energy measures and to purchase and deliver a 1.2 MW Fuel Cell System for the Freedom Tower (the Power Authority to be repaid by the Port Authority in accordance with the provisions of the Energy Services Agreement between the Power Authority and the Port Authority); and to fund energy efficiency measures for the Memorial and Museum (Memorial Foundation to be reimbursed with \$5.5 million in funds from the LMEI Account).

- WTC Towers 2, 3 and 4 MOU (September 6, 2006): executed by the Power Authority, WTC Properties and NYSEDA. The Power Authority agreed to purchase and deliver three 1.2 MW Fuel Cell Systems for WTC Towers 2, 3 and 4 (the Power Authority to be reimbursed from the LMEI Account up to \$9 million), and to reimburse WTC Properties for the design and installation of the Fuel Cell Systems for WTC Towers 2, 3 and 4 (WTC Properties to be reimbursed from the LMEI Account up to \$10.5 million).

Total amounts allocated from the LMEI Account committed under both MOUs:

\$5.5 million (maximum) for the Memorial Foundation - energy efficiency measures - Memorial and Museum Memorial

\$9 million (maximum) for the Power Authority - purchase and delivery of fuel cell systems for WTC Towers 2, 3 and 4

\$10.5 million (maximum) to WTC Properties - design and installation of fuel cell systems for WTC Towers 2, 3 and 4

“Monies from the LMEI Account will be used to reimburse WTC Properties for the design and installation of the fuel cell systems in Towers 2, 3 and 4 and the Memorial Foundation for energy measures for the Memorial and Museum, only after the Power Authority reviews the invoices submitted for reimbursement.

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 Power Authority.

RECOMMENDATION

“The Senior Vice President – Energy Services and Technology and the Director – Engineering and Design recommend that the Trustees approve the transfer of up to \$10.5 million to World Trade Center Properties, LLC and \$5.5 million to the World Trade Center Memorial Foundation from the Lower Manhattan Energy Independence Account as discussed above.

“The Chief Operating Officer, the Executive Vice President and Chief Financial Officer, the Senior Vice President – Enterprise Shared Services, the Senior Vice President – Marketing and Economic Development, the Acting Vice President – Procurement and I concur in the recommendation.”

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

**RESOLVED, That the Trustees hereby authorize the transfer of up to \$10.5 million of funds to World Trade Center Properties, LLC for the design and installation of three 1.2 MW Fuel Cell Power Plant Systems for Towers 2, 3 and 4 at the World Trade Center (“WTC”) site and \$5.5 million of funds to the WTC Memorial Foundation for the design and installation of energy efficiency measures in the WTC Memorial and Museum, consistent with the Freedom Tower and Public Facilities MOU and the WTC Towers 2, 3 and 4 MOU; and be it further**

**RESOLVED, That the monies in the Lower Manhattan Energy Independence Initiative account (“LMEI Account”) be used to finance the costs in the amounts and for the purposes listed below:**

<u>LMEI Account</u>	<u>Expenditure Authorization</u> <u>(not to exceed)</u>
Design and Installation of Fuel Cell Systems for WTC Towers 2, 3 and 4	\$10,500,000
Energy Efficiency Measures for the WTC Memorial and Museum	\$ 5,500,000

**AND BE IT FURTHER RESOLVED, That the Acting Chairman, the President and Chief Executive Officer, the Chief Operating 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.**

**1g. St. Lawrence/FDR Power Project – Administration Building  
Brick Façade and Window Replacement – Contract Award**

The President and Chief Executive Officer submitted the following report:

SUMMARY

“The Trustees are requested to approve the award of a two-year contract to Murnane Building Contractors of Plattsburgh, New York, for \$3,387,495 to replace the brick façade and windows on the Administration Building at the St. Lawrence/FDR Power Project (‘STL’). The funds for the first year of this project are included in the 2009 Operation and Maintenance (‘O&M’) Budget.

BACKGROUND

“In accordance with the Authority’s Expenditure Authorization Procedures, the award of non-personal services or equipment purchase contracts in excess of \$3 million for contracts exceeding a one-year term, as well as personal services contracts in excess of \$1 million, if the award is to the low bidder, or \$500,000 if sole source or non-low bidder, requires Trustees approval.

“The Authority’s STL Powerhouse was constructed in the 1950s. The Powerhouse includes a four-story, steel-framed Administration Building (‘Building’) on the United States side of the Robert Moses Power Dam that incorporates a concrete floor system and a masonry wall system with a brick façade. The Building is exposed on three sides to the blowing winds and high moisture coming from the St. Lawrence River and is located in a region with significant temperature differences from winter (-40°F) to summer (100°F). The Building has been exposed to a ‘severe’ environment with regard to moisture infiltration and freeze-thaw deterioration over the past 50 years.

“The Building’s brick exterior has shown signs of loosened brick since its original construction and spot repairs have been made. A consultant, Hatch Energy, was engaged to perform a visual survey of the building in January 2007 to determine the ‘root cause’ of loose bricks. Hatch Energy determined that there is water/moisture infiltration in both the interior and exterior wall systems due to no provision in the Building’s constructed design for moisture drainage.

DISCUSSION

“In November 2007, another consultant, C&S Companies, was engaged to design and produce construction documents for repair of the Building. This task required coordination with the New York State Historic Preservation Officer (‘SHPO’) since the STL Power Plant is a ‘National Register of Historic Places’ (‘NRHP’) eligible building. In July 2008, SHPO approved the project scope, which includes replacing the brick face above the third floor of the Building with custom-sized brick fabricated by the original manufacturer. In addition, the Building’s windows will be replaced with a modern energy-efficient design. The project will also include (1) repairs to the interior portions of office space damaged by the infiltration of water and (2) heating, ventilation and air-conditioning work to improve the humidification system and building controls.

“The Project Team, together with the consultant, C&S Companies, reviewed the constructability and challenges of this project and concluded that it would be prudent to implement it over a two-year period. This two-phase approach allows adequate time to safely perform the masonry work staged over the water, takes into consideration the proper temperature range for mortar placement and minimizes the disruption to Authority staff members who must be relocated during the work. Work is scheduled to commence in February 2009 and be completed by December 2010.

“As advertised in the New York Contract Reporter, the Authority requested proposals to implement the project on October 27, 2008. Forty-four potential bidders ‘downloaded’ the bid documents. Two proposals were received on November 27, 2008 from the following bidders:

<u>Bidder</u>	<u>Location</u>	<u>Lump Sum</u>
Murnane Building Contractors	Plattsburgh, NY	\$3,387,495
Northland Associates	Syracuse, NY	\$4,256,828

“The two proposals were reviewed by an evaluation committee comprising Authority staff members and its consultant, C&S Architects. The evaluation committee concluded that Murnane Building Contractors was the lower-cost, technically acceptable bidder.

FISCAL INFORMATION

“Funds for performing the first phase of the work have been included in the 2009 approved O&M budget.

RECOMMENDATION

“The Vice President – Project Management, the Acting Vice President – Procurement, the Vice President – Engineering, the Regional Manager – Northern New York and the Project Manager recommend that the Trustees authorize award of a contract to Murnane Building Contractors in Plattsburgh, New York, for \$3,387,495 to implement the Brick Façade and Windows Replacement on the Administration Building at the St. Lawrence/FDR Power Project.

“The Chief Operating Officer, the Executive Vice President and General Counsel, the Executive Vice President and Chief Engineer – Power Supply and I concur in the recommendation.”

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

**RESOLVED, That expenditures are hereby approved in accordance with the Authority’s Expenditure Authorization Procedures to award a two-year contract to Murnane Building Contractors in Plattsburgh, New York for \$3,387,495 to replace the brick façade and windows on the Administration Building at the St. Lawrence/FDR Power Project; and be it further**

**RESOLVED, That the Chairman, the President and Chief Executive Officer, the Chief Operating 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.**

**1h. Information Technology Initiatives –  
Capital Expenditure Authorization**

The President and Chief Executive Officer submitted the following report:

SUMMARY

“The Trustees are requested to authorize capital expenditures of \$3,943,000 for the implementation of Information Technology (‘IT’) Initiatives in 2009 as per the Authority’s Expenditure Authorization Procedures (‘EAPs’). These expenditures have been included in the 2009 approved Capital budget.

BACKGROUND

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

“For each of the past 10 years, in concert with the Business Units, IT has developed a list of initiatives designed to meet business needs by taking advantage of evolving technology applications. These application developments have been funded from a capital program called IT Initiatives. This capital program, which has often totaled less than \$3 million annually, has been approved by the Trustees in the Authority’s Capital budget each December with funds later authorized and released by the President and Chief Executive Officer during the budget year. Since the request for 2009 is greater than \$3 million, Trustee approval is requested as per the Authority’s EAPs.

DISCUSSION

“The following lists the 2009 IT Initiatives, along with the estimated cost of each:

- **SAP – LiveLink Integration** **\$ 450,000**  
The SAP R/3 applications will be interfaced to the existing Document Management System LiveLink. This will allow existing historical transactions to be archived and provide extension of processes such as Accounts Payable and Procurement to integrate paper documents into the system.
- **Time & Attendance** **\$ 150,000**  
The existing TESS payroll time-entry system used to feed the external payroll-processing environment, as well as for internal reporting, will be replaced with the SAP R/3 CATS module. The new system will become an integral part of the SAP R/3 environment and eliminate existing interfaces.
- **ArcPlan Replacement** **\$ 150,000**  
A specialized system used by the Trading Portal for report generation will be replaced by standard technology to reduce the cost of future development and support.
- **SAP Customer Care Services (CCS) Phase II** **\$ 650,000**  
The SAP CCS system is responsible for billing the Authority’s wholesale and governmental customers. The Phase II initiative is designed to enhance the existing system to provide greater flexibility of the bill print output and electronic file production to allow the generation of indexed PDF output, posting to the external web portal and automatic email generation. The enhancements will allow easier customizations in the future when changes are required.
- **SharePoint Deployment** **\$ 300,000**  
The various applications used on the external Customer Facing Web Server will be integrated with the newly developed internal system for use by Marketing staff and the new SAP ERP 2005 CCS System.

- **Corporate Performance Metrics Initiative** **\$ 150,000**  
 Presentation of and data collection for the various corporate measures used by the dashboard and the Authority’s monthly scorecard will be integrated within the SAP ERP 2005 environment.
- **Energy Traders Henwood Replacement** **\$ 400,000**  
 The existing Henwood System used by the Energy Traders to submit bids into the New York Independent System Operator will be replaced. The replacement system will simplify the landscape of solutions presently used.
- **Human Capital Initiatives** **\$ 500,000**  
 Human Resources has requested a series of solutions to manage various issues related to Human Capital, including Performance Management, Succession Planning, Recruitment Management and Compensation Surveys.
- **Energy Efficiency Initiative** **\$ 150,000**  
 A new software solution will be implemented for project management, scheduling and reporting on various projects conducted by Energy Services and Technology. This system will be interfaced with the SAP R/3 environment.
- **Internal Labor** **\$ 855,000**
- **HQ Overhead** **\$ 188,000**
- Total** **\$3,943,000**

FISCAL INFORMATION

“Payments associated with these projects will be made from the Capital Fund.

RECOMMENDATION

“The Chief Information Officer – Information Technology recommends that the Trustees approve the Capital Expenditure Request for \$3,943,000 for Information Technology Initiatives.

“The Chief Operating Officer, the Executive Vice President and General Counsel, the Executive Vice President and Chief Financial Officer, the Executive Vice President – Energy Marketing and Corporate Affairs, the Senior Vice President – Enterprise Shared Services and I concur in the recommendation.”

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

**RESOLVED, That Capital Expenditures are hereby approved in accordance with the Authority’s Expenditure Authorization Procedures, as recommended in the foregoing report of the President and Chief Executive Officer, in the amount and for the purpose listed below:**

<u>Capital</u>	<u>Expenditure Authorization</u>
Information Technology Initiatives 2009	<b><u>\$3,943,000</u></b>

**AND BE IT FURTHER RESOLVED, That the Acting Chairman, the President and Chief Executive Officer, the Chief Operating 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.**

Discussion Agenda

2. President and Chief Executive Officer's First 100 Days Report

*President Kessel reported on his goals and accomplishments during his first 100 days at the Authority.*

Goal: *Restoring the Authority's image and improving its operations.*

Accomplishments:

- *The Navigant organizational study is now complete and the draft report will be presented to the Trustees in their Executive Session. The study looked at a number of areas that concerned the Trustees, including the Authority's plane, the Travel department, the Office of the Inspector General and Internal Audits. Present Kessel said that he had also asked Navigant to look at some other issues. He said that he hoped that the final report would be issued in February.*
- *President Kessel said that he has held two quarterly meetings with staff at the Authority's White Plains headquarters. He has also toured and met with staff at all of the Authority's facilities. In addition, he holds monthly meetings with the managers who report directly to him and Mr. Quiniones, as well as the staff who report to those managers. He asked staff to make the performance targets for 2009 a little more aggressive. President Kessel said that the staff at the Authority are terrific and that he particularly wanted to thank Mr. Quiniones, as well as staff with specific expertise in areas such as Transmission, like Mr. Steven DeCarlo.*
- *In line with other State agencies and authorities, the Authority's approved operating budget for 2009 included 10% cuts in areas of discretionary spending such as cell phones, Blackberries, travel and the use of consultants.*
- *President Kessel has directed staff to develop an emergency management plan so that the Authority is prepared to deal with any catastrophic event that may affect its plants or transmission lines, such as an ice storm or a terrorist attack.*
- *Ms. Victoria Simon is spearheading the development of a sustainability plan that will be presented to the Trustees in the very near future.*
- *President Kessel said that he is reorganizing some of the office space in the White Plains office to have more senior staff located near his office on the 16<sup>th</sup> floor.*
- *The process of filling some vacant key management positions is under way.*

- *President Kessel has met with almost all of the Authority's union leaders and said that a networking luncheon with all of them, to which the Trustees are invited, is being planned for March 3<sup>rd</sup>.*
- *President Kessel has met with the editorial boards of the Buffalo News, Niagara Gazette, Watertown Daily Times, Massena Courier-Observer, Ogdensburg Journal and Syracuse Post-Standard and that he'll be meeting with the editorial board of Newsday next week.*

Goal: *Helping the Northern, Western, Central, Capital District, Hudson Valley and downstate regions of the State.*

Accomplishments:

- *President Kessel initiated development of a "One New York" approach to all of the Authority's economic development programs and resources. In response to a question from Trustee Nicandri, President Kessel said that staff would be presenting the Trustees with all of the options for this new approach at the February meeting for their guidance on how to proceed.*
- *Northern New York:*
  - *Acting Chairman Townsend, Trustee Nicandri and President Kessel participated in Governor Paterson's media event announcing the approval of the new long-term Alcoa contract. President Kessel said that although Alcoa is laying off workers at some of its other plants, those layoffs do not include any workers at the Massena plant. The Governor told President Kessel that this was the most important economic development event he has participated in since taking office in March 2008.*
  - *In response to Trustee Besha's suggestion that the Authority meet with all of its customers, President Kessel met with the Superintendent of the Massena Electric Department, State Senator Aubertine and elected officials from the the St. Lawrence/FDR Power Project's neighboring communities. President Kessel said that he had already met with a number of the Authority's big customers and would be participating in the spring in a meeting with its municipal and rural electric cooperative customers.*
  - *President Kessel thanked Trustee Nicandri and Mr. Paul Finnegan for helping restart negotiations on the use of \$16 million in funds and 20 MW of electricity that had been set aside for an aquarium*

*project that did not come to fruition. He said that he hopes to bring a proposal for using these resources to the Trustees for their approval within the next couple of months.*

- **Western New York:**
  - *President Kessel thanked Trustees Curley and Elise Cusack for accompanying him to some of his meetings with the Mayors of Niagara Falls, Buffalo and Lewiston; the Superintendent of the Williamsville Central School District, the Supervisor of the Town of Lewiston, Assemblywoman DelMonte, State Senator Maziarz, Congressman Higgins, the Buffalo Niagara Partnership and representatives from Power for Economic Prosperity. He also thanked Mr. Michael Huvane for his work in this regard.*
  - *President Kessel participated in a media event announcing that \$8.6 million in energy efficiency and clean energy projects were going to be done in the Williamsville Central School District.*
  - *The Authority made its annual \$3.5 million contribution to Buffalo waterfront revitalization.*
  - *The Niagara Falls police were provided with four electric passenger vehicles under the Green Zone program.*
- **Central New York:**
  - *President Kessel met with the Mayors of Syracuse, Solvay and Utica; Assemblywoman Destito and Congressman Arcuri.*
- **Capital District:**
  - *A kick-off for the Authority's hybrid school bus study was held in Schenectady.*
- **Hudson Valley:**
  - *President Kessel met with Assemblymen Brodsky and Cahill, the Westchester County Executive and the Mayor of Yonkers.*
  - *A fleet of electric vehicles was activated at Westchester County Airport.*
  - *The Authority delivered the first hybrid-electric bucket trucks in White Plains.*
  - *The Authority gave the first of three contributions to Yonkers' Science Barge.*
- **Downstate:**
  - *President Kessel met with the Mayors of New York City and Freeport.*

- *The Authority successfully installed the first advanced sodium sulfur battery energy storage system in New York State.*
- *The Authority initiated discussions to fund an Advanced Energy Research and Technology Center at SUNY/Stony Brook.*

Goal: *Expanding transmission.*

Accomplishments:

- *President Kessel, Mr. Quiniones, Ms. Terry Brown Clemons, Mr. DeCarlo and Mr. John Suloway met with representatives of Hydro-Quebec yesterday to continue discussions on importing Hydro-Quebec power to New York State. Ms. Brown Clemons is going to work with Mr. Quiniones and the Governor's Washington office to pursue the possibility of obtaining funding for this project from the federal stimulus package. President Kessel said that the Authority is probably five to six months away from launching this project publicly.*
- *Negotiations and analysis of the Hudson Transmission Partners project have been resumed.*
- *The Authority is actively participating in the State Transmission Assessment and Reliability Study, in addition to conducting its own transmission study.*
- *The Authority has begun discussions with National Grid about a north/south transmission corridor.*

Goal: *Ramping up energy efficiency and renewable projects.*

Accomplishments:

- *Weatherization blitz to help low-income New Yorkers reduce heating bills by 10-15% (20,000 kits distributed to date).*
- *Initiated development of a new business strategy to expand clean energy initiatives to small to medium-sized government facilities.*
- *Submitted clean energy legislative proposal to Governor's Office.*
- *Began discussion of off-shore wind study.*
- *Began discussions with the Long Island Power Authority on a solar request for proposals.*
- *Held quarterly meeting with major environmental and energy advocacy groups.*

*Acting Chairman Townsend thanked President Kessel for the great job he is doing.*

3. a. **Chief Operating Officer's Report**

*A series of accomplishments since the previous Trustees' meeting have capped a highly successful year for the Authority and laid the foundation for continued strong performance in 2009. This report highlights these developments, provides a preview of the next six months and identifies some of the long-term challenges and opportunities the Authority faces.*

**Key Activities and Accomplishments of the Past Month**

**Power Supply**

*Year-end figures showed that the Authority's generating plants and transmission facilities exceeded their principal reliability targets for 2008.*

**Plant Performance**

*Although the system-wide unforced capacity rating of 98.3% for December was slightly below the 98.5% target, the generating plants' overall rating of 98.6% for the year surpassed the annual target, which was also 98.5%.<sup>1</sup> (An identical target is in place for each month.)*

*Total net generation for December was 2,391,651 megawatt hours ("mwh"), exceeding the projection of 2,138,474 mwh.<sup>2,3</sup> Overall, the plants were available to generate electricity 92% of the time during the month.*

*The December performance brought total annual net generation to 27,164,087 mwh, well above the projected 20,404,251 mwh. The projection was exceeded largely because of higher-than-anticipated water flows at the hydroelectric projects.*

**Outages**

*The principal outage during the month was experienced at Unit 1 of the Niagara Power Project's Robert Moses Niagara Power Plant because of an oil leak on a generator step-up transformer.<sup>4,5</sup> There were also a few short outages at the Small Clean Power Plants.<sup>6</sup>*

**Transmission Performance**

*For the transmission facilities, the December reliability rating of 99.3% was higher than the monthly target of 98.9%.<sup>7</sup> The excellent monthly performance increased the annual reliability figure to 97.92%, compared with the target of 97.58%.*

Unanticipated Events

*In an event related to inclement weather, water entered a secondary relay scheme microwave communication device<sup>8,9</sup> on December 18, resulting in the removal from service for a few hours of two 345-kilovolt transmission lines from the Niagara project to Ontario Power Generation's Sir Adam Beck generating station. (The primary relaying system was out of service for maintenance.)*

*On December 24, several circuit breakers at the Willis Substation opened because of a wiring error associated with the new wind farms connected to the facility.<sup>10</sup>*

Outage Request Denied

*Citing reliability issues, the New York Independent System Operator ("NYISO") denied the Authority's request for outages in 2009 to permit permanent repairs to the deteriorated concrete on the dam face at the Moses plant, the Niagara project's main generating facility.<sup>11</sup> The deterioration has occurred on the dam face's interior surface above the two lines to Ontario and, as stated in last month's report, damage to the lines could result in an extended forced outage that would affect reliability of the State's electrical system. The Authority will continue discussions with the NYISO to ensure that most of the critical work is completed this year.*

Major Capital Projects

*The Life Extension and Modernization ("LEM") programs at the Blenheim-Gilboa ("B-G") Pumped Storage Power Project and the St. Lawrence-Franklin D. Roosevelt Power Project moved ahead, with the initiatives scheduled for completion in 2010 and 2013, respectively.<sup>12</sup>*

*Work on the third of the four units at B-G, which began last fall, is on track for completion as planned this June. A key milestone was reached earlier this month with arrival in the U. S. of the unit's new turbine from Japan. The Authority had arranged for "just-in-time" delivery, enabling refurbishment of the third unit at B-G to begin well before the turbine was available.*

*At St. Lawrence-FDR, work continued on the 11<sup>th</sup> of the project's 16 turbine-generators. The unit is scheduled to resume operation at the end of March after having been out of service since last August.*

*The Authority also carried out preliminary steps that could lead to implementation of a LEM program at the Niagara project's Lewiston Pump-Generating Plant, beginning in 2013. (An upgrade at the Robert Moses Niagara Power Plant was completed in 2006.)<sup>13</sup>*

Energy Services and Technology

*The Authority's energy efficiency investments of \$11.1 million in December brought the total for the year to \$116.1 million, surpassing the target of \$110 million.*

*With overhead cost recovery in December of 173%, the cumulative recovery for the year increased to 103%, meaning that the Authority more than recovered its costs of administering the program.*

Clean Energy Benefits

*Clean energy benefits for December totaled 13,743 mwh, including 2,709 mwh from energy efficiency and renewable projects and the remainder from purchase of renewable energy attributes.<sup>14</sup> For the year, clean energy benefits came to 224,691 mwh, substantially greater than the annual target of 152,000 mwh.*

Authority-OGS Legislation

*Staff from the Authority and the state Office of General Services ("OGS") met on January 15 with state Assembly staff members to discuss a Governor's Budget Bill that would enable the Authority and OGS to form a wide-ranging energy partnership. The bill would permit cost-effective aggregate purchases of electricity, renewable energy and renewable energy attributes by the Authority and OGS and would give the Authority statutory authority to implement other energy and resource conservation projects, including those associated with green buildings.*

Advancing New Technologies

*Two major transportation-related projects were completed during the past month with significant Power Authority involvement.*

*An advanced battery energy storage system ("BESS") was officially unveiled by President Kessel and Metropolitan Transportation Authority ("MTA") Executive Director and Chief Executive Officer Elliot G. Sander at a January 9 press conference at the MTA Long Island Bus Depot in Garden City. The system charges at night, when utility rates are low, and is used to power a natural gas bus compressor station during the day to offset peak demand costs. The Authority initiated the \$4.3 million project, was responsible for design and implementation and organized a consortium of U. S. and Canadian partners to help defray costs.*

*A \$2.5 million project was completed at the Westchester County Airport, providing 25 electric ground support vehicles, along with advanced charging stations. The vehicles are replacing equivalent gasoline and diesel engine models, resulting in cost and pollution reductions. The Authority provided \$15,000 toward the cost*

*of preparing a successful application for a federal grant for the project and also wrote the electric vehicle and charging equipment specifications for the county. President Kessel joined County Executive Andrew Spano at a press event on January 14 at the airport to formally mark the project's completion.*

*Marketing and Economic Development*

*Governor Paterson approved the Authority's new long-term power supply contract with Alcoa in ceremonies at the company's Massena facilities on January 12. The landmark agreement, coming amid major worldwide cutbacks by Alcoa, will ensure the retention of at least 900 jobs at the company's Massena facilities and calls for Alcoa to invest \$600 million in its East smelter.*

*Other North Country Issues*

*The Northern New York Advisory Group, established to help enhance marketing of St. Lawrence-FDR hydropower that has or will become available because of the pending shutdown of the General Motors Powertrain plant in Massena, held its first meeting on December 17. The Advisory Group is working with the Authority to ensure optimum use of the power, which, under a 2005 State law, is reserved for allocation to businesses in St. Lawrence, Franklin and Jefferson counties.*

*Meanwhile, Authority staff and local representatives continued efforts to resolve issues concerning the use of \$16 million that had been earmarked for the canceled St. Lawrence Aquarium and Ecological Center and of 20 MW of St. Lawrence-FDR hydropower currently available for allocation.*

*Niagara Contract Extensions*

*In Western New York, discussions continued with business officials on extensions of contracts for Replacement Power and Expansion Power from the Niagara project, most of which expire in 2013.<sup>15</sup>*

*Corporate Services and Administration*

*The promotion of Agnes Harris-Mattos, a member of the Authority's staff for nearly 23 years, to Vice President of Human Resources was announced on December 16. Ms. Harris-Mattos has broad experience in the human resources area and has been primarily responsible for a number of critical Authority initiatives, including the Succession Planning Program and the individual performance evaluation process.*

*Ms. Harris-Mattos worked with the Authority's consultant, Scott Madden, to implement recommendations from the Authority Human Resources study's first two phases, which emphasized organizational design and business practices. Phase 3 of the study, which focused on succession planning, is*

*nearing completion, along with efforts to develop a strategy for succession planning and recruiting and retaining a talented work force.*

*Anticipated Developments Over the Next Six Months*

*Power Supply*

*Findings from three significant studies are expected to be available in the months ahead:*

- *An external study of the Power Supply Business Group's organization and operations is scheduled to begin shortly and to be completed by late April. The initiative will focus on the potential for synergies within the group, which includes generation, transmission and project development functions.*
- *Preliminary findings on measures to strengthen voltage support should be available in early February as part of staff's ongoing studies of plans to address the transmission needs of New York State and New York City.<sup>16</sup>*
- *Phase 1 of a study by the Authority and Siemens-PTI of transmission system improvements to accommodate increased imports from Hydro-Quebec and energy from upstate wind farms remains on track for completion on April 15.*

*Energy Services and Technology*

*The coming months could mark the start of a significant expansion of the Authority's energy efficiency and clean energy programs.*

*Governor Paterson's Initiatives*

*As a follow-up to his State-of-the-State address, in which he called for 45% of the State's energy needs to be met through energy efficiency and renewable technologies by 2015, Governor Paterson plans to send a letter to all New York State school districts, municipalities and State entities urging them to participate in the Authority's energy services programs. (Authority staff assisted in preparing the letter.)*

*In an earlier letter to then-President-elect Obama and Vice President-elect Biden, in which he put forward a number of New York State projects as candidates for funding under a federal economic stimulus package, the Governor proposed \$165.5 million in support of Authority energy services initiatives now in development. (This was based on information provided by Authority staff.) An infusion of federal funds would do much to ensure successful completion of these projects.*

Significant Legislation

*Further impetus for the Authority's efforts would come from enactment of the Authority-OGS bill discussed above and of legislation, noted in last month's report, that would enable the Authority to carry out any type of energy services project, including green building development, for public and private entities throughout the State.*

Marketing and Economic Development

*Efforts will continue to resolve the Northern New York and Western New York issues cited previously. In addition, the Authority will monitor and seek to influence developments concerning the expiration on June 30 of legislation that extended the Power for Jobs and Energy Cost Savings Benefits programs for one year.<sup>17, 18</sup> Actions in Albany on the future of these programs will carry major implications for the Authority's role in promoting economic development.*

Major Challenges and Opportunities

*The Authority stands at a pivotal, and perhaps decisive, point with respect to its future role in helping to meet New York State's energy, environmental and economic needs.*

*After a period in which the Authority was generally asked to defer to others in developing new energy infrastructure (other than in New York City), Governor Paterson's statements and policies point to a new era in which the Authority will be at the forefront of efforts to strengthen the State's generation and transmission systems. This dramatic change, combined with ongoing or expanded responsibilities concerning energy services and economic development, will create significant new challenges and opportunities.*

*Meanwhile, the need to ensure successful operation of the Authority's existing facilities now and in the future will remain as critical as ever.*

*Balancing these competing priorities will require continued rigorous assessment of the Authority's organizational structure, staffing needs and strategic focus. These efforts are now in progress and may well intensify in the period ahead.*

GLOSSARY

<sup>1</sup> *Unforced capacity rating*—All power plants have an installed capacity, or ICAP, meaning the amount of power they could generate under perfect conditions. Since conditions are not always perfect and plants are shut down, there is a second measurement, called unforced capacity, or UCAP, which is how much power a plant actually can produce.

<sup>2</sup> *Net generation*—The energy generated in a given time period by a power plant or group of plants, less the amount used at the plants themselves (station service) or for pumping in a pumped storage facility.

<sup>3</sup> *Megawatt hour*—The amount of electricity needed to light 10,000 100-watt light bulbs for one hour. A megawatt is equal to 1,000 kilowatts and can power about 800 homes, based on national averages.

<sup>4</sup> *Outage*—The removal of a power plant or transmission line from service. Outages may be scheduled for purposes such as anticipated maintenance, or forced by unexpected events.

<sup>5</sup> *Step-up transformer*—A device that receives electrical power at one voltage and delivers it at a higher voltage. (Voltage is a measurement of the force that pushes electricity through a transmission line, much as water is forced through a hose.)

<sup>6</sup> *Small Clean Power Plants*—A group of 11 combustion turbines, fueled by natural gas, rapidly installed by the Authority at seven locations in New York City and on Long Island to avert a potential power shortage in the summer of 2001. The units have a combined output of about 460 megawatts and are equipped with sophisticated environmental controls.

<sup>7</sup> *Transmission reliability rating*—A measurement of the impact of forced and scheduled outages on the statewide system's ability to transmit power. With a December rating of 99.3%, the Authority's outages had an impact of only .7%.

<sup>8</sup> *345-kilovolt transmission lines*—1 kilovolt is equal to 1,000 volts. As indicated previously, a volt is the basic unit of force or pressure that pushes electricity through a circuit. Lines of 345 kilovolts form the backbone of the Authority and New York State transmission systems.

<sup>9</sup> *Secondary relay scheme microwave communication device*—A secondary relay scheme is a backup protection system on a transmission line that uses a microwave channel to communicate with its associated protection system at the other end of the line.

<sup>10</sup> *Circuit breakers*—Mechanical switching devices capable of carrying electric current under normal conditions and quickly interrupting current in abnormal conditions. The flow of current is interrupted when a circuit breaker is open.

<sup>11</sup> *New York Independent System Operator*—A not-for-profit organization that operates New York State's transmission system, administers the State's wholesale electricity markets and engages in planning to ensure the future reliability of the statewide power system.

<sup>12</sup> *Life Extension and Modernization ("LEM") programs*—Major undertakings in which all the turbines at the St. Lawrence-FDR and Blenheim-Gilboa projects are being replaced and the generators and other components significantly refurbished. The programs are intended to ensure that the projects operate at maximum efficiency far into the future.

<sup>13</sup> *The upgrade at the Niagara project was comparable to the LEM programs, with a primary focus on turbine performance. However, the LEM programs will result in replacement of a broader range of equipment and components.*

<sup>14</sup> *Renewable energy attributes—The environmental, social and economic features of renewable energy that may be sold separately from the energy itself; the Authority obtains such attributes on behalf of its New York City governmental customers.*

<sup>15</sup> *Replacement Power and Expansion Power—Two blocks of hydroelectric power from the Niagara Power Project, totaling 445 MWs and 250 MW, respectively, that are reserved under State law for use by businesses in Western New York, generally within 30 miles of the project. Together, the two categories of power help to protect more than 40,550 jobs.*

<sup>16</sup> *Voltage support—The performance of a transmission line, especially those of medium length or longer, depends on maintaining voltage at certain levels. The maximum amount of power a transmission line can transmit is reduced as voltage decreases. Devices known as capacitor banks are used to support and maintain system voltages.*

<sup>17</sup> *Power for Jobs—A program begun in 1997 through which the Authority obtains electricity for businesses and non-profit organizations or provides them with reimbursement payments. Nearly 240,000 jobs throughout the State are linked to the program, which has been extended or modified several times through legislation.*

<sup>18</sup> *Energy Cost Savings Benefits—An initiative begun under 2005 legislation in which the Authority protects certain business customers from bill increases that resulted from higher market prices. These customers previously received power under various programs from the James A. FitzPatrick Nuclear Power Plant, which the Authority sold to Entergy Corp. in 2000. The cost savings program helps to protect about 82,950 jobs statewide.*

b. Chief Financial Officer's Report

*Mr. Joseph Del Sindaco presented highlights of the report to the Trustees.*

*Net Revenues: The unofficial results for 2008 indicate net revenues of \$299.2 million, which on an absolute dollar basis is a record for the Authority. Major contributing factors were hydro production at Niagara and St. Lawrence. While net revenues were well above budget, factors such as contributions to the New York State General Fund and negative variances in the Power for Jobs and Energy Cost Savings Benefits areas decreased potential net revenue by approximately \$200 million.*

*Financial Markets: In the highly critical commercial paper market, steady demand combined with a scarce supply of high-quality paper continues to suppress rates for high quality issuers such as the Authority. Since staff's last update to the Trustees, the Authority was able to market paper for as low as 10 basis points, the lowest rate since inception of the program.*

*Hedges and Counter-parties: In the last few weeks several financial institutions have been downgraded by S&P, Moody's and Fitch. While the Authority has positions with some of these organizations, its exposure is extremely limited due to the Energy Charge Adjustment arrangement with the New York City Governmental Customers, and positions procured through the New York Mercantile Exchange, whose credit margining basically eliminates the downside effects of credit default risk.*

**3A. Municipal and Rural Electric Cooperative Systems – Service Tariff Amendments – Notice of Proposed Rule Making**

The President and Chief Executive Officer submitted the following report:

**SUMMARY**

“The Trustees are requested to authorize the Corporate Secretary to publish a Notice of Proposed Rulemaking (‘NOPR’) in the *New York State Register*, in accordance with the requirements of the State Administrative Procedure Act (‘SAPA’), to amend the Authority’s current production service tariffs applicable to the Municipal and Rural Electric Cooperative systems (collectively, ‘Muni and Coop’). Authority staff will address any comments received during the 60-day public comment period and return to the Trustees at a later date to seek final action on the Muni and Coop service tariffs.

“A comprehensive review of the Authority’s current Muni and Coop service tariffs was performed by Authority staff in an effort to update them, to account for certain changes that occurred over time and to make them consistent with those of other utilities. The proposed amendments would:

- reformat the current tariffs for easier reading and improved organization;
- incorporate into one document provisions that were adopted at different times;
- include certain standard provisions now applicable to all Authority’s service tariffs; and
- add abbreviations and terms.

**BACKGROUND**

“The Muni and Coop customers consist of 51 independent electrical distribution systems across New York State; 47 are Munis and 4 are Coops.

“Full- and partial-requirement Muni and Coop customers receiving electricity from the Authority’s Niagara Power Project for firm and peaking hydroelectric wholesale power and energy are served under Service Tariff Nos. 38A (‘ST-38A’) and 39A (‘ST-39A’), respectively, and the Application for Electric Service between the Authority and the individual Muni and Coop customers. Full-requirement Muni and Coop customers receiving incremental energy are served under Service Tariff No. 38B (‘ST-38B’) and the Incremental Power Supply Agreement between the Authority and the individual Muni and Coop customers. To supply the full incremental electricity requirements, the Authority makes market-based purchases from the New York Independent System Operator (‘NYISO’) in either the day-ahead or real-time markets. The Muni and Coop customers resell the power to their rural and domestic consumers.

**DISCUSSION**

“The amended Muni and Coop service tariffs, as proposed, will consolidate in one set of documents various tariff provisions (such as those related to Billing Demand and Allocation of Energy) that were adopted at different times and include updated terminology and more streamlined organization and formatting.

“In addition, the proposed changes will make the tariffs more consistent with other utilities’ tariffs and more readable and understandable for the Authority and its Muni and Coop customers.

“The proposed revised Muni and Coop service tariffs are attached. ST-38A is Exhibit ‘3A-A,’ ST-39A is Exhibit ‘3A-B’ and ST-38B is Exhibit ‘3A-C.’

**FISCAL INFORMATION**

“Adoption of the proposed Muni and Coop service tariffs will have no financial impact. The changes proposed are administrative in nature and have no effect on current production rates.

RECOMMENDATION

“The Manager – Market Analysis and Tariff Administration recommends that the Trustees authorize the Corporate Secretary to file a Notice of Proposed Rulemaking for publication in the *New York State Register* for the revision of service tariffs for the Authority’s Municipal and Rural Electric Cooperative system customers.

“The Chief Operating Officer, the Executive Vice President and General Counsel, the Senior Vice President – Marketing and Economic Development, the Director – Marketing Analysis and Administration and I concur in the recommendation.”

*In response to a question from Trustee Beshu, Acting Chairman Townsend said that before being adopted, the service tariff amendments would come back to the Trustees for their final approval after the public comment period.*

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

**RESOLVED, That the Corporate Secretary of the Authority be, and hereby is, directed to file a Notice of Proposed Rulemaking for publication in the *New York State Register* in accordance with the State Administrative Procedure Act to amend the Authority’s current production service tariffs applicable to its Municipal and Cooperative System customers, as set forth 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, directed to file such other notice(s) as may be required by statute or regulation concerning the proposed tariff amendments; and be it further**

**RESOLVED, That the Acting Chairman, the President and Chief Executive Officer, the Chief Operating 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.**

### **3B. Increase in Hydroelectric Preference Power 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 hydroelectric rates supplied from the Niagara and St. Lawrence Hydroelectric Projects (the ‘Hydro Projects’). Such rates apply to sales to Preference Power customers, including municipal and rural electric cooperatives, upstate utilities (on behalf of their residential customers) and Neighboring States. The proposed rates are for the 2009 and 2010 rate years, which extend from May 1, 2009 to April 30, 2010 and from May 1, 2010 to April 30, 2011. The proposed action would increase rates for a typical preference power customer by 8.2% and 3.9% in the first and second years, respectively. In accordance with the requirements of the State Administrative Procedure Act (‘SAPA’), the Trustees are requested to direct the Corporate Secretary to publish a NOPR in the *New York State Register*.

“Secondly, this item requests the Trustees to authorize the Secretary to schedule a public forum for obtaining the views of interested parties, which is consistent with Authority ratemaking policy. After the 45-day comment period required under SAPA, Authority staff will address any filed comments, including any comments raised at the public forum, and return to the Trustees at their meeting on April 28, 2009, to seek final adoption of this proposal.

#### BACKGROUND

“The current preference rates were approved by the Trustees at their April 24, 2007 meeting. The Trustees adopted a two-year rate plan for the 2007-09 rate years - from May 1, 2007 to April 30, 2009. The proposed rates continue to be established on a cost basis. The definition of costs was settled by the 2003 Hydro Rate Case and the subsequent global settlement. Costs of the Hydro Projects include a melding of the Niagara and St. Lawrence projects for ratemaking purposes. Among the issues in the 2003 Rate Case were the capital costs. Specifically, a hybrid approach was adopted for the recovery of capital costs. The Trended Original Cost (‘TOC’) method recovers those investments that were funded by equity or cash. (See the 2003 Brattle Report contained in the April 2003 Trustee Item for a detailed discussion of TOC.) For those debt-funded investments, the traditionally used Original Cost (‘OC’) method is applied. These recovery methods were applied to all investments relating to the Niagara upgrade, St. Lawrence modernization, St. Lawrence relicensing and Niagara relicensing expenditures. Also, established in the 2003 Rate Case was the inclusion of costs associated with Accrual Accounting of Other Post-Employment Benefits (‘OPEBs’).

“Lastly, settled and approved by the Trustees, were the hydro cost-of-service (‘CoS’) credits relating to certain ancillary services generated by the project. The credit reflects the embedded costs of these services to which the preference customers are entitled in accordance with the Auer settlement. Other, more normative costs in the CoS include Operations and Maintenance and Indirect Overheads (Headquarters, Research and Development and Overhead Debt).

#### DISCUSSION

“The attached Report to the Trustees on Cost of Service (‘Report’) (Exhibit ‘3B-C’) sets forth in detail how the hydroelectric CoS study was performed and the results of the study. The Report continues the ratemaking methodologies adopted by the Trustees at their April 29, 2003 meeting. The key points are summarized below. A summary of the CoS is shown in Exhibit ‘3B-A.’

“The total hydroelectric costs, net of the ancillary service credits, are \$220.7 million and \$230.0 million for the 2009 and 2010 calendar years, respectively. (Refer to Exhibit ‘3B-A,’ page 2, line 14.) Consistent with past ratemaking practice, the rate year beginning May 1, 2009 is based on calendar year 2009 costs. Similarly, the rate year beginning May 1, 2010 is based on calendar year 2010 costs. The proposed demand and energy rates and

overall rate at the 70% load factor are shown below. Exhibit '3B-B' shows the production and end use impact on the municipal and rural electric cooperative customers and residential ratepayers of the upstate investor-owned utilities.

<u>Rate Year</u> <u>Beginning</u>	<u>Demand Rate</u> <u>\$/kW-month</u>	<u>Energy Rate</u> <u>\$/MW-hour</u>	<u>\$/MW-hour Rate</u> <u>at 70% LF</u>	<u>% Increase</u>
Current	2.96	4.92	10.71	
5/1/09	3.41	4.92	11.59	8.2
5/1/10	3.64	4.92	12.04	3.9

FISCAL INFORMATION

“Implementation of the proposed schedule of rate increases would allow the Authority to recover its increased costs associated with serving the preference power customers. For the rate years 2009 and 2010, the estimated cumulative revenue increases would be \$24.3 million.

RECOMMENDATION

“The Manager – Market Analysis and Tariff Administration recommends that the Trustees authorize the Corporate Secretary to: (1) file notice for publication in the *New York State Register* of the proposed Authority action to adjust the hydroelectric preference power rates and (2) schedule a public forum for the purpose of gathering the views of interested persons.

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

“The Chief Operating Officer, 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 Director – Marketing Analysis and Administration and I concur in the recommendation.”

*Trustee Besha recused himself from the vote on this item.*

The following resolution, as submitted by the President and Chief Executive Officer, was adopted by a vote of 5-1 with Trustee James Besha recusing himself.

**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 be it further**

**RESOLVED, That the Corporate Secretary of the Authority be, and hereby is, directed to schedule a public forum for the purpose of obtaining the views of interested persons concerning the Authority’s proposed action to adjust the hydroelectric preference power rates, as set forth in the foregoing report of the President and Chief Executive Officer; and be it further**

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

**RESOLVED, That the Acting Chairman, the President and Chief Executive Officer, the Chief Operating 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.**

NEW YORK POWER AUTHORITY  
 HYDROELECTRIC PROJECTS  
 PROPOSED PRODUCTION COST OF SERVICE

<u>Line</u>	<u>Description</u>		(Per 2007 CoS) <u>2008</u>	<u>2009</u>	<u>2010</u>	Difference 2009 vs <u>2008</u> *
1	<b>Total Cost of Service</b>	(\$000)	<b>219,685</b>	<b>234,689</b>	<b>244,436</b>	<b>15,004</b>
2	<b><u>Credits for ancillary services</u></b>	(\$000)				
3	Black Start, O&M		81	65	67	(16)
4	Voltage Control, O&M		332	228	235	(104)
5	Remaining O&M (page 1, line 13 - (line 3+line 4))		140,948	140,623	145,521	(325)
6	Operating Reserves, O&M		4.82%	4.65%	4.61%	
7	Regulation, O&M		<u>0.57%</u>	<u>0.55%</u>	<u>0.54%</u>	
8	Subtotal OR, Reg. O&M		5.39%	5.20%	5.15%	
9	Op. Res.+ Reg. O&M credit (line 8 * line 5)	(\$000)	7,597	7,312	7,494	(285)
10	<b><u>Capital Reductions</u></b>					
11	All ancillary services		6.85%	6.77%	6.73%	
12	Subtotal capital reductions (page 1, line 17 * line 11)	(\$000)	5,365	6,348	6,637	983
13	Total Ancillary Credits (sum lines 3,4,9,12)	(\$000)	13,375	13,954	14,433	579
14	<b>Adjusted Cost of Service</b> (line 1 - line 13)	(\$000)	<b>206,310</b>	<b>220,735</b>	<b>230,003</b>	<b>14,425</b>
15	Billing Demand	MW	36,137	35,580	35,825	(557)
16	Billing Demand Allocated Costs	(\$000)	106,822	121,302	130,570	14,480
17	Billed Demand Rate (line 16 / line 15)	\$/kW/mo	2.96	3.41	3.64	
18	LTA Generation	GWh	20,221	20,210	20,210	(11)
19	Annual Generation	GWh	20,012	18,344	18,939	(1,668)
20	Billing Energy Rate	\$/MWh	4.92	4.92	4.92	
21	Costs Allocated to Energy Rate (line 20 * line 18)		99,487	99,433	99,433	(54)

\* 2008 data is from the 2007 Cos and was based on data and projections available at that time.

**EXHIBIT "3B-B"**  
**JANUARY 27, 2009**

<p><b>NEW YORK POWER AUTHORITY</b> <b>ESTIMATED AVERAGE ANNUAL CUSTOMER IMPACTS</b></p>
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Prices (\$/MWh) include demand and energy components

		<u>Current</u>	<u>2009</u>	<u>2010</u>
<b><u>MUNIS/COOPS FULL REQUIREMENTS</u></b>				
HYDRO PRODUCTION RATES	\$/MWh	10.51	11.30	11.78
INCREASES FROM CURRENT	\$/MWh		0.79	1.27
 <b><u>END USE RESIDENTIAL IMPACTS</u></b>				
SYSTEM RESIDENTIAL RATE	\$/MWh	68.65	69.37	69.74
INCREASES FROM CURRENT	\$/MWh		0.72	1.09
SYSTEM RESIDENTIAL AVG. BILL	\$/mo	69.04	69.76	70.13
INCREASES FROM CURRENT	\$/mo		0.72	1.09
 <b><u>MUNIS/COOPS PARTIAL REQUIREMENTS</u></b>				
HYDRO PRODUCTION RATES	\$/MWh	10.76	11.65	12.09
INCREASES FROM CURRENT	\$/MWh		0.89	1.32
 <b><u>END USE RESIDENTIAL IMPACTS</u></b>				
SYSTEM RATE	\$/MWh	55.72	56.53	56.95
INCREASES FROM CURRENT	\$/MWh		0.81	1.23
SYSTEM RESIDENTIAL AVG. BILL	\$/mo	60.08	60.95	61.40
INCREASES FROM CURRENT	\$/mo		0.87	1.32
 <b><u>RESIDENTIAL UTILITY CUSTOMERS</u></b>				
HYDRO PRODUCTION RATES	\$/MWh	12.60	13.77	14.36
INCREASES FROM CURRENT	\$/MWh		1.17	1.75
 <b><u>END USE RESIDENTIAL IMPACTS</u></b>				
SYSTEM RATE	\$/MWh	149.82	150.06	150.19
INCREASES FROM CURRENT	\$/MWh		0.25	0.37
SYSTEM RESIDENTIAL AVG. BILL	\$/mo	96.90	97.06	97.14
INCREASES FROM CURRENT	\$/mo		0.16	0.24

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

*“Mr. Chairman, I move that the Authority conduct an executive session pursuant to Section 105(1)(f) of the Public Officers Law of the State of New York to discuss matters leading to the appointment, employment, promotion, discipline, suspension, dismissal or removal of a particular person or corporation.”* Upon motion made and seconded, an executive session was held.

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

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

**6. Contributions to the State Treasury**

The President and Chief Executive Officer submitted the following report:

SUMMARY

“The Trustees are requested to approve the Authority’s contribution of \$119 million to New York State’s general fund, as authorized through various legislative initiatives and as contemplated in the Governor’s proposed Executive Budget Plan and gap-closing measures for State Fiscal Years (‘SFY’) 2008-09 and 2009-10.

BACKGROUND

“The Authority is requested, from time to time, to make financial contributions and transfers of funds to the State or to otherwise provide financial support for various State programs. Such financial support has come in the form of rebates to customers of the Power for Jobs (‘PFJ’) Program, the provision of below-cost energy to the beneficiaries of the State’s Energy Cost Savings Benefits (‘ECSB’) Program and contributions toward the operation and maintenance expenses of State parks in the vicinity of the Niagara and St. Lawrence projects.

“Any such contribution or transfer of funds must (1) be authorized by the Legislature; (2) be approved by the Trustees ‘as feasible and advisable’ and (3) satisfy the requirements of the Authority’s General Resolution Authorizing Revenue Obligations dated February 24, 1998, as amended and supplemented (‘Bond Resolution’). The Bond Resolution requirements to withdraw moneys ‘free and clear of the lien and pledge created by the [Bond] Resolution’ are as follows: Such withdrawals must be for a ‘lawful corporate purpose as determined by the Authority,’ and the Authority must determine, taking into account, among other considerations, anticipated future receipt of revenues or other moneys constituting part of the Trust Estate, that the funds to be so withdrawn are not needed for (i) payment of reasonable and necessary operating expenses, (ii) an Operating Fund reserve for working capital, emergency repairs or replacements, major renewals or for retirement from service, decommissioning or disposal of facilities, (iii) payment of, or accumulation of a reserve for payment of, interest and principal on senior debt or (iv) payment of interest and principal on subordinate debt.

“Legislation enacted into law as part of the 2000-01 State budget, and as amended in subsequent years, authorized the Authority ‘as deemed feasible and advisable by the trustees’ to make a number of ‘voluntary contributions’ into the State treasury in connection with the PFJ Program. Commencing in December 2002 through March 2008, the Authority made such voluntary contributions to the State in an aggregate amount of \$424 million, the most recent of which was a \$30 million payment in March 2008. Pursuant to State budget legislation enacted in April 2008, the Authority is authorized to make an additional voluntary contribution of \$25 million to the State in connection with the PFJ Program for SFY 2008-09. The Authority has not yet acted on this item, which, if paid, would bring the aggregate total to \$449 million.

“In April 2008, State budget legislation also authorized the Authority ‘as deemed feasible and advisable by its trustees’ to make a separate (i.e., not related to the PFJ Program) \$60 million voluntary contribution to the State for SFY 2008-09. Such payment was approved by the Trustees at their April 2008 meeting and was subsequently made. This same budget legislation further authorized the Authority to make additional voluntary contributions to the State of \$35 million for each of SFY 2009-10 and 2010-11. No action has yet been taken by the Authority on these last two payments amounting to \$70 million.

“Commencing with SFY 2003-04 and in connection with its Niagara and St. Lawrence Projects, the Authority has made annual payments of \$8 million to the New York State Office of Parks, Recreation and Historic Preservation (‘OPRHP’) for certain OPRHP expenditures. The funds have been and are to be used for operation and maintenance of Robert Moses State Park, Coles State Park, Artpark and the Niagara Reservation. The Authority is scheduled to make annual payments of \$8 million in SFY 2008-09, 2009-10 and 2010-11.\*

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\* In June 2008, the Trustees approved this transfer of \$8 million to OPRHP. Such payment has not yet been made, but is anticipated shortly. The \$119 million total includes this previously approved amount.

## DISCUSSION

“On December 16, 2008, the Governor released his proposed Executive Budget Plan addressing ‘the largest budget deficit in State history, a \$1.7 billion current-year shortfall and a \$13.7 billion 2009-10 deficit.’ In light of the severe budget problems facing the State at this time, the Governor proposed in his Executive Budget Plan legislation authorizing the Authority, as deemed ‘feasible and advisable by its trustees,’ to pay a total of \$544 million to the State in SFY 2008-09 and 2009-10.

“Of that amount, a total of \$226 million was to be voluntary contributions, with \$119 million paid during the remainder of SFY 2008-09 and \$107 million to be paid during SFY 2009-10. In addition to these voluntary contributions, the Governor also proposed that the Authority be authorized to transfer to the State in SFY 2008-09 and 2009-10 a total of \$318 million in funds currently held in reserves.

“This Trustee item is limited to a discussion of the voluntary contribution of \$119 million, which, according to the Governor’s proposed budget legislation, would be paid to the State by January 30, 2009. All remaining proposed payments by the Authority to the State will be the subject of a separate Trustees’ resolution and meeting.

“As noted previously, Chapter 59 of the Laws of 2008 (the Budget Legislation for SFY 2008-09) references the \$8 million annual Authority payment to OPRHP and authorizes the other \$95 million of contributions, although these contributions were scheduled for payment over this and the next two State fiscal years. The following details the individual components of the \$119 million:

- \$ 25 million – Voluntary Contribution – PFJ-related for SFY 2008-09
- \$ 35 million – Voluntary Contribution – Non-PFJ for SFY 2009-10
- \$ 35 million – Voluntary Contribution – Non-PFJ for SFY 2010-11
- \$ 8 million – Parks Payment for SFY 2008-09
- \$ 8 million – Parks Payment for SFY 2009-10
- \$ 8 million – Parks Payment for SFY 2010-11
- \$119 million – Total

“Thus, while these payments have been legislatively authorized, they can only be paid if the Trustees deem it ‘feasible and advisable’ to advance the payment date for such contribution and to make the full \$119 million available to the State by January 30, 2009.

“Given the financial condition of the Authority and its estimated future revenues, operating expenses, debt service and reserve requirements, staff is of the view that it is feasible for the Authority to make the voluntary contribution of \$119 million authorized by the Budget Bill legislation, including the \$8 million OPHRP payment already approved, without compromising its financial integrity.

## FISCAL INFORMATION

“Staff has determined that the funds are available at this time to make voluntary contributions totaling \$119 million to the State’s general fund. Of this amount, \$33 million has been booked as an expense against 2008 revenues (representing the \$25 million PFJ contribution and the SFY 2008-09 OPHRP payment), \$78 million would be booked against 2009 revenues and the final \$8 million OPHRP payment would be booked as a prepayment of expenses against 2010 activities.

## RECOMMENDATION

“The Senior Vice President – Corporate Planning and Finance recommends that the Trustees determine that the payment to the State Treasury of \$119 million, inclusive of the \$8 million previously approved for payment, is feasible and advisable and authorize such payment pursuant to the provisions of Chapter 59 of the Laws of 2008.

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

The following resolution, as submitted by the President and Chief Executive Officer, was adopted by a vote of 5-1 with Trustee Eugene Nicandri voting “no.”

**RESOLVED, That the Trustees hereby authorize a payment to the State Treasury of \$119 million, inclusive of the \$8 million previously approved for payment, from the Authority’s Operating Fund pursuant to the various provisions of Chapter 59 of the Laws of 2008, as recommended in the foregoing report of the President and Chief Executive Officer; and be it further**

**RESOLVED, That the amount of \$119 million to be used for the payment to the State Treasury described in the foregoing resolution are not needed for any of the purposes specified in Section 503(1)(a)-(c) of the Authority’s General Resolution Authorizing Revenue Obligations, as amended and supplemented; and be it further**

**RESOLVED, That as a condition to making the payments specified in the foregoing resolutions, on the day of such payment the Senior Vice President – Corporate Planning and Finance or the Treasurer shall certify that such monies to be used for the payment to the State Treasury described in the foregoing resolutions are not then needed for any of the purposes specified in Section 503(1)(a)-(c) of the Authority’s General Resolution Authorizing Revenue Obligations, as amended and supplemented; and be it further**

**RESOLVED, That the Chairman, the President and Chief Executive Officer, the Executive Vice President and General Counsel, the Executive Vice President – Chief Financial Officer, the Senior Vice President – Corporate Planning and Finance, the Vice President – Controller, the Secretary, the Treasurer and all other officers of the Authority be, and each of them hereby is, authorized and directed, for and in the name and 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 which they, or any of them, may deem necessary or advisable in order to effectuate the foregoing resolutions, subject to approval as to the form thereof by the Executive Vice President and General Counsel.**

7. Other Business

*President Kessel said that the draft Navigant report would be distributed to the Trustees and that Navigant would make its presentation about the study's findings at the February Trustees' Meeting.*

*Trustee Curley reminded Mr. Quiniones that the Trustees were still waiting for the risk management briefing that had been discussed last summer.*

*After a discussion among the Trustees, it was agreed that a Special Trustees' Meeting would be held via videoconference on Tuesday, February 3<sup>rd</sup> at 8:00 a.m. In addition, the date and location for the Annual Meeting in March were discussed and Ms. Anne Cahill was directed to survey the Trustees with respect to potential dates.*

**8. Next Meeting**

The next Regular Meeting of the Trustees will be held on Tuesday, February 24, 2009, at 11:00 a.m., at a location to be determined, unless otherwise designated by the Acting Chairman with the concurrence of the Trustees.

**Closing**

On motion made and seconded, the meeting was adjourned by the Acting Chairman at approximately 4:25 p.m.



Anne B. Cahill  
Corporate Secretary