

## **POWER AUTHORITY OF THE STATE OF NEW YORK**

Excerpts from the minutes of a regular meeting of the Power Authority of the State of New York (the "Authority") held at the Niagara Power Project in Lewiston, New York on Tuesday, October 26, 2010 at 11:00 A.M.

There were present:

Michael J. Townsend, Chairman  
Jonathan F. Foster, Vice Chairman  
D. Patrick Curley  
Hon. Eugene L. Nicandri  
Mark O'Luck

constituting a majority of the trustees and a quorum.

Also present were:

Richard M. Kessel, President and Chief Executive Officer  
Gil C. Quiniones, Chief Operating Officer  
Terry L. Brown, Executive Vice President and General Counsel  
Elizabeth M. McCarthy, Executive Vice President and Chief  
Financial Officer  
Edward A. Welz, Executive Vice President and Chief Engineer–  
Power Supply  
Francine Evans, Executive Vice President, Chief Administrative  
Officer and Chief of Staff  
Donald A. Russak, Senior Vice President–Corporate Planning and  
Finance  
Brian C. McElroy, Treasurer  
Timothy P. Sheehan, Special Counsel  
Karen Delince, Corporate Secretary

Mr. Townsend, Chairman, presided and Karen Delince, Corporate Secretary, kept the minutes.

### **PLAN OF FINANCE IN CONNECTION WITH THE ISSUANCE OF DEBT**

The Chairman stated that the next matter to be presented at the meeting was consideration of a plan of finance to be implemented for the following purposes: to (i) refund up to \$77,215,000 of the Authority's Series 2000 A Revenue Bonds (the "Series 2000 A Bonds"); (ii) refund up to \$41,720,000 of the Authority's Series 2002 A Revenue Bonds (the "Series 2002 A Bonds"); (iii) fund up to \$80,000,000 in construction costs incurred or to be incurred for the Lewiston Pump-Generating Plant Life Extension and Modernization; (iv) finance capitalized interest on the Bonds of a Series; and (v) pay financing costs related to the issuance of the Authority's debt obligations, including underwriters' discount, structuring fees, any insurance premiums, or credit enhancement or liquidity fees related to the purchase of any municipal bond

insurance policy, other credit enhancement or liquidity facilities determined to be necessary or desirable and other costs incurred by the Authority.

### **Proposed Issuance of One or More Series of 2010 Revenue Bonds**

In furtherance of such purposes, the Authority proposes to issue one or more series of 2010 Revenue Bonds (the “Series 2010 Bonds”), in an aggregate principal amount of not more than \$220,000,000 of which not more than \$100,000,000 in principal amount shall be issued for the Lewiston Pump-Generating Plant Life Extension and Modernization, related capitalized interest and financing costs. The Authority proposes to issue the Series 2010 Bonds either as fixed rate or variable rate bonds or a combination thereof. To the extent that fixed rate bonds are issued, the Series 2010 Bonds will have a true interest cost not to exceed five percent (5.0%) for any bonds intended to be issued as tax-exempt bonds and seven percent (7.0%) for any bonds intended to be issued as taxable bonds. Any variable rate Series 2010 Bonds will have an initial interest rate not to exceed five percent (5.0%) for any bonds intended to be issued as tax-exempt bonds and seven percent (7.0%) for any bonds intended to be issued as taxable bonds.

### **Proposed Issuance of Series 2010 Bonds to Current Refund Certain Series 2000 A and Advance Refund Certain Series 2002 A Revenue Bonds**

The Authority previously issued \$300,000,000 of Series 2000 A Bonds to (i) refund certain Series 4 Commercial Paper Notes; (ii) finance a portion of the costs of the upgrade and relicensing of the Niagara Project; and (iii) reimburse the Authority for certain information technology expenditures made in connection with its Year 2000 readiness program. The proposed issuance of Series 2010 Bonds contemplates the refunding of up to all the \$77,215,000 principal amount of Series 2000 A Bonds remaining outstanding. Such bonds are callable at par on or after November 15, 2010.

The Authority previously issued \$532,250,000 of Series 2002 A Bonds to (i) finance the costs of construction of the 500-MW combined-cycle electric generating plant located in New York City and (ii) refund related Commercial Paper Notes. The proposed issuance of the Series 2010 Bonds contemplates the refunding of up to \$41,720,000 principal amount of the outstanding Series 2002 A Bonds. Such bonds are callable at par on or after November 15, 2012. In addition, on November 15, 2010, \$24,095,000 principal amount of Series 2002 A Bonds are scheduled to mature which will then leave \$120,560,000 principal amount of Series 2002 A Bonds outstanding after such date.

Implementation of any refunding will depend upon market conditions and other factors. To effect the refunding, the Authority expects to issue the Series 2010 Bonds either as fixed rate or variable rate bonds or a combination thereof. The Authority’s senior finance staff in consultation with Public Financial Management, Inc. (the “Financial Advisor”) do not intend to issue any Series 2010 Bonds for the purpose of refunding the Series 2000 A Bonds or the Series 2002 A Bonds unless (i) present value savings expected to be realized by the Authority meets or exceeds 3% of the aggregate principal amount of the Series 2000 A Bonds and Series 2002 A Bonds to be refunded, and (ii) unless individual maturities of the Series 2000 A Bonds and Series 2002 A Bonds so refunded generate positive present value savings.

The proceeds of Series 2010 Bonds and/or monies already accrued in the Operating Fund for such purpose will be used to provide for the redemption of the refunded Series 2000 A and Series 2002 A Bonds.

### **AUTHORIZATION OF SERIES 2010 REVENUE BONDS**

The Chairman stated that a matter to be presented at the meeting was consideration of the advisability of adopting the Ninth Supplemental Resolution Authorizing Series 2010 Revenue Bonds (the "Ninth Supplemental Resolution"), which authorizes the issuance of one or more series of Series 2010 Bonds in an aggregate principal amount of not more than \$220,000,000 for the purposes of implementing the proposed Plan of Finance. The respective principal amounts of any series of the Series 2010 Bonds will be determined at the time of the pricing of such Bonds, subject to the overall caps stated above.

On motion duly made and seconded, the Ninth Supplemental Resolution (attached hereto as **Exhibit 1**), together with such changes, insertions, deletions and amendments thereto as the Chairman or President and Chief Executive Officer of the Authority may approve, which shall be deemed to be part of such resolutions as adopted, was adopted.

### **CONTRACT OF PURCHASE, PRELIMINARY OFFICIAL STATEMENT AND OFFICIAL STATEMENT FOR SERIES 2010 REVENUE BONDS**

The President and Chief Executive Officer presented a draft form of the Preliminary Official Statement relating to the Series 2010 Bonds (attached hereto as **Exhibit 2**) and advised that one or more Contracts of Purchase would be entered into with underwriters selected by the Chairman, President and Chief Executive Officer or Executive Vice President and Chief Financial Officer from a prequalified underwriting pool of Senior Managers, Co-Managers and Selling Group members approved by the Trustees at the September 28, 2010 Board Meeting (the "Prequalified Underwriting Pool"). Such Contracts of Purchase will be in substantially the form of the Contract of Purchase previously entered into in connection with the sale of the Authority's \$602,445,000 aggregate principal amount of Series 2007 A, Series 2007 B and Series 2007 C Revenue Bonds (the "Series 2007 Bonds"). Thereupon, on motion duly made and seconded, the following resolutions were adopted:

RESOLVED, that one or more series of the Series 2010 Bonds shall be sold, subject to the limitations described below, to underwriters selected by the Chairman, President and Chief Executive Officer or Executive Vice President and Chief Financial Officer from the Prequalified Underwriting Pool, at such prices, with accrued interest, if any, on such Bonds from the date of issue of said Bonds to the date of delivery and payment for said Bonds, as the Chairman, President and Chief Executive Officer or Executive Vice President and Chief Financial Officer may accept and as will be in compliance with the requirements of the Ninth Supplemental Resolution, pursuant to a Contract of Purchase, in substantially the form of the Contract of Purchase relating to Authority's Series 2007 Bonds, as such Contract may be modified as hereinafter provided, and upon the basis of the representations therein set forth; and

FURTHER RESOLVED, that the Chairman, President and Chief Executive Officer, Executive Vice President and Chief Financial Officer, Senior Vice President–Corporate Planning and Finance, Treasurer and Deputy Treasurer be, and each of them hereby is, authorized on behalf of the Authority, subject to the limitations described below, to execute one or more Contracts of Purchase substantially in the form entered into in connection with the Authority’s Series 2007 Bonds, providing for the sale of one or more series of the Bonds to said purchasers, with such changes, insertions, deletions, amendments and supplements as the Chairman, President and Chief Executive Officer, Executive Vice President and Chief Financial Officer, Senior Vice President–Corporate Planning and Finance, Treasurer or Deputy Treasurer may approve, subject to the requirements of the Ninth Supplemental Resolution, and to deliver it to said purchasers; and that said officers and all other officers of the Authority are hereby authorized and directed to carry out or cause to be carried out all obligations of the Authority set forth in said Contracts of Purchase upon execution thereof and that the execution of the Contracts of Purchase relating to the Series 2010 Bonds by said authorized officers be conclusive evidence that any conditions imposed by the Trustees have been satisfied and the sale and issuance of the Series 2010 Bonds has been authorized by the Authority’s Board of Trustees; and

FURTHER RESOLVED, that the Chairman, President and Chief Executive Officer, Executive Vice President and Chief Financial Officer, Senior Vice President–Corporate Planning and Finance, Treasurer and Deputy Treasurer be, and each of them hereby is, authorized to make such changes, insertions, deletions, amendments and supplements, to or from the draft form of the Preliminary Official Statement relating to the Bonds as may be approved by such officer, and upon the completion of any such modifications, such officer is authorized to execute such certificates as may be requested by the Underwriters to certify on behalf of the Authority that such Preliminary Official Statement is “deemed final” for purposes of Rule 15c2-12 under the Securities Exchange Act of 1934, subject to the omission of such information as is permitted by the Rule, and the distribution of one or more Preliminary Official Statements relating to the Series 2010 Bonds is hereby approved to all interested persons in connection with the sale of such Bonds; and

FURTHER RESOLVED, that the Chairman, President and Chief Executive Officer, Executive Vice President and Chief Financial Officer and Senior Vice President–Corporate Planning and Finance be, and each of them hereby is, authorized to adopt and execute on behalf of the Authority one or more final Official Statements of the Authority relating to the Bonds, in such form and substance as the Chairman or President and Chief Executive Officer deems necessary or desirable, and the delivery of said Official Statement to the purchasers of said Bonds is hereby authorized, and the Authority hereby authorizes said Official Statement and the information contained therein to be used in connection with the sale and delivery of the Series 2010 Bonds; and

FURTHER RESOLVED, that, if it is determined to be necessary or advisable, the Chairman, President and Chief Executive Officer, Executive Vice President and Chief Financial Officer, Executive Vice President and General Counsel, Senior Vice President–Corporate Planning and Finance, Treasurer, Deputy Treasurer, and all other officers of the Authority be, and each of them hereby is, authorized on behalf of the Authority to obtain one or more bond insurance policies, credit enhancement facilities or liquidity facilities for each series of the Series 2010 Bonds with such terms and conditions as such officer deems necessary or advisable, and

which the President and Chief Executive Officer or Executive Vice President and Chief Financial Officer may select, covering scheduled payments of principal of and interest on such Bonds, including mandatory sinking fund redemption payments; and

FURTHER RESOLVED, that the Chairman, President and Chief Executive Officer, Executive Vice President and Chief Financial Officer, Executive Vice President and General Counsel, Senior Vice President–Corporate Planning and Finance, Treasurer, Deputy 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, including but not limited to those actions, certificates, agreements and other documents described in the Ninth Supplemental Resolution, the Contracts of Purchase and the other documents approved today or required in connection with the obtaining of one or more bond insurance policies, credit enhancement facilities, or liquidity facilities, which they, or any of them, may deem necessary or advisable in order to (i) consummate the lawful sale, issuance and delivery of the Series 2010 Bonds; (ii) implement any action permitted to be taken by the Authority under the Ninth Supplemental Resolution, the Contracts of Purchase and the other agreements and documents approved today following the issuance of the Series 2010 Bonds; and (iii) effectuate the purposes of the transactions and documents approved today.

#### **APPOINTMENT OF REGISTRAR, PAYING AGENT AND ESCROW AGENT UNDER GENERAL RESOLUTION**

RESOLVED, that The Bank of New York Mellon is hereby appointed as Registrar and Paying Agent for the Series 2010 Bonds under the General Resolution and as Escrow Agent for the refunded Series 2000 A Bonds and 2002 A Bonds.

#### **AUTHORIZATION OF CONTINUING DISCLOSURE AGREEMENTS**

RESOLVED, that the Chairman, President and Chief Executive Officer, Executive Vice President and Chief Financial Officer, Senior Vice President–Corporate Planning and Finance, Treasurer, and Deputy Treasurer be, and each of them hereby is, authorized to execute one or more Continuing Disclosure Agreements relating to the Series 2010 Bonds, between the Authority and The Bank of New York Mellon, as Trustee under the General Resolution, in substantially the form set forth in Appendix C to Part 1 of the draft Preliminary Official Statement submitted at this meeting, each with such changes, insertions, deletions, and supplements, as such authorized executing officer deems in his or her discretion to be necessary or appropriate, such execution to be conclusive evidence of such approval.

#### **ESCROW DEPOSIT AGREEMENT**

RESOLVED, that the Chairman, President and Chief Executive Officer, Executive Vice President and Chief Financial Officer, Senior Vice President–Corporate Planning and Finance, Treasurer, and Deputy Treasurer be, and each of them hereby is, authorized on behalf of the Authority to execute one or more Escrow Deposit Agreements between the Authority and The Bank of New York Mellon, for the purpose of accomplishing the refunding of all or a portion of

the Series 2000 A Bonds and a portion of the Series 2002 A Bonds in accordance with the Ninth Supplemental Resolution, such execution to be conclusive evidence of such approval.

RESOLVED, That the President and Chief Executive Officer, the Executive Vice President and Chief Financial Officer, the Senior Vice President–Corporate Planning and Finance, the Treasurer, the Deputy Treasurer, and all other Authority officers be, 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.

#### **AGREEMENTS FOR BOND AND SPECIAL COUNSEL SERVICES**

RESOLVED, that the Executive Vice President and General Counsel be, and hereby is, authorized on behalf of the Authority to execute letter agreements between the Authority and the law firm of Hawkins Delafield & Wood LLP for the provision by such firm of bond counsel services to the Authority, and with the law firm of Nixon Peabody LLP for the provision by such firm of special counsel services to the Authority, all in connection with the Series 2010 Bonds and the related transactions authorized hereby, with such agreements having such terms and conditions as the Executive Vice President and General Counsel may approve.

#### **ADDITIONAL AUTHORIZATION**

RESOLVED, that the Chairman, President and Chief Executive Officer, Executive Vice President and Chief Financial Officer, Executive Vice President and General Counsel, Senior Vice President–Corporate Planning and Finance, Treasurer, Deputy 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.

## EXHIBITS

Exhibit 1: Ninth Supplemental Resolution Authorizing Series 2010 Bonds

Exhibit 2: Draft of Preliminary Official Statement relating to the Series 2010 Bonds