

PROGRAM PLANNING COMMITTEE  
OF THE  
NEW YORK STATE  
ENERGY RESEARCH AND DEVELOPMENT AUTHORITY

Minutes of the 93<sup>rd</sup> Meeting  
Held on January 26, 2016

Pursuant to a Notice and Agenda dated January 13, 2016, the 93<sup>rd</sup> meeting of the Program Planning Committee (“Committee”) of the NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY (“Authority”) was convened at 12:00 p.m. on Tuesday, January 26, 2016, at the office of the New York State Dormitory Authority, One Penn Plaza, New York, New York, and in the Authority’s Board Room at 17 Columbia Circle, Albany, New York.

The following Members of the Committee were present:

Mark Willis, Committee Chair  
Richard Kauffman  
Sherburne Abbott  
Charles “Chuck” Bell  
Jay Koh  
John McAvoy  
Jigar Shah  
Elizabeth W. Thorndike, Ph. D

Also present in either New York City or Albany were: John B. Rhodes, President and CEO of NYSERDA; Janet Joseph, Vice President for Technology and Strategic Planning; Jeffrey J. Pitkin, Treasurer; Noah Shaw, General Counsel; David Margalit, Chief Operating Officer, Valerie S. Milonovich, Senior Counsel and Secretary to the Committee; and various other members of the Authority staff.

Mr. Willis called the meeting to order, noted the presence of a quorum, and stated that a Notice of the meeting (attached hereto as Exhibit A) was mailed to Committee Members and the press on January 13, 2016. Each of the Committee Members introduced themselves.

**Approval of September 21, 2015 Minutes**

The first agenda item concerned the approval of the minutes of the 92<sup>nd</sup> meeting of the Committee held on September 21, 2015. Upon motion duly made and seconded, and by unanimous voice vote, the minutes of the 92<sup>nd</sup> meeting of the Committee were approved.

**Authority’s Budget for FY 2016-2017**

The Members were requested to adopt a resolution recommending to the full Board the adoption of the Authority’s Budget and Financial Plan for the fiscal year ending March 31, 2017 (FY 2016-17).

Mr. Pitkin reported that Authority revenues are budgeted at \$513.2 million for FY 2016-17, a decrease of \$360.4 million from the FY 2015-16 Budget. Significant changes include: decreases in scheduled collections under the Renewable Portfolio Standard (RPS), Energy Efficiency Portfolio Standard II (EEPSII), the Technology & Market Development (SBCIV), Market Development/Innovation & Research programs due to a new “Bill-As-You-Go” approach for revenue collection anticipated under the Clean Energy Fund (CEF). Under this approach, CEF ratepayer collections authorized by the New York State Public Service Commission (“Commission”) starting in 2016 will be held by the utilities and will be used to reimburse NYSERDA for actual program expenses. Consistent with the Authority’s CEF Supplement, the budget assumes that these reimbursements would occur on a quarterly basis and would target to maintain a cash balance at the end of each quarter equal to approximately five months of anticipated program expenditures. Based on the Commission’s CEF Order and discussions with DPS staff, the establishment of a monthly reimbursement process with the utilities is anticipated as this would further reduce the targeted balance and also reduce the risks of actual future expenditures exceeding estimates and creating cash flow issues. This approach will result in a substantial reduction of NYSERDA Cash and Investment (and Net Position Restricted for Specific Programs) balances from FY 2015-16 levels.

The budget decreases are offset in part by the following: 1) an increase in anticipated auction proceeds from selling allowances under the Regional Greenhouse Gas Initiative (RGGI); 2) an increase in scheduled incremental collections anticipated under the CEF Order for the NY Green Bank subsequent capitalization; and 3) an increase in the other program funding for the administration of the Indian Point Energy Center Reliability Contingency program.

The FY 2016-17 Budgeted expenditures total \$1,035.6 million, an increase of \$225.3 million over the FY 2015-16 Budget. Significant changes include: increases in anticipated program expenditures for NY-Sun, Market Development/Innovation & Research, RGGI, and other programs (principally for the Indian Point Energy Center Reliability Contingency program). These increases are offset in part by a decrease in program expenditures for the RPS. In addition, salary costs and fringe benefits costs are projected to increase by \$5 million from the current year budget and are projected at \$36.7 million, primarily from a conservative assumption of 380 filled and funded positions. The budget includes funding for cost of living adjustments and performance-based salary increases and payments, assuming these are authorized for State employees.

The difference between revenues and expenditures in each fiscal year largely reflects timing differences between the collection and expenditure of funds for programs, with the differences being held as Net Position Restricted for Specific Programs. The budget anticipates a balance of Unrestricted Net Position of \$3.0 million as of March 31, 2017, representing approximately .3% of total funding. Management believes that the expected \$3.0 million balance will provide sufficient resources to meet working capital needs and unanticipated expenditures necessary to maintain public health and safety at West Valley.

In response to an inquiry by Mr. McAvoy, Mr. Pitkin confirmed that the increase in RGGI funding is attributable to an increase in recent allowance auction revenues.

In response to an inquiry by Mr. McAvoy regarding the items of risk going forward, Mr. Pitkin responded that the timing of expenditures and the timing of utility collections, owing to the change in the collection approach may present some initial challenges. Mr. Pitkin also stated that as the Authority develops the details of its new and continuing initiatives going forward, it will also sharpen its assessment of resource needs, making adjustments as needed.

This inquiry led to a more detailed discussion among many of the Members and Mr. Pitkin with regard to the new “Bill-As-You-Go” approach to the Authority’s receipt of utility collections, as called for in the Commission CEF Order issued on January 21, 2016. Members Dr. Thorndike and Mr. Koh expressed their concerns that the transition from the current collection approach to the new approach presents a different budget portrayal than previous budgets, which may not be intuitive to the general public, although it complies with governmental accounting standards. Ms. Abbott suggested that this situation gives rise to an opportunity to clarify the new program goals, the required calibrations of the new approach, and the overall reduction of utility collections for the general public. As a result of the discussion, Messrs. Rhodes and Pitkin agreed to work on a new approach for presenting budget information going forward that addresses these concerns and observations.

In response to an inquiry by Mr. Willis as to what effect the new collection approach might have on the utilities, Mr. Pitkin explained that it will change the schedule of collections and require the execution of new terms and conditions between the utilities and the Authority. He added that the issue of how to treat accrued interest on collections will also need to be addressed adding that any such interest will inure to the benefits of the ratepayers, as required by the CEF Order. Pursuant to the Order, these issues are anticipated to be addressed and in place by the end of April 2016.

In response to an inquiry by Mr. Kauffman regarding the status of revenues and expenses of the NY Green Bank, Mr. Pitkin confirmed that the NY Green Bank was not projected to be, and is not expected to be, self-sufficient in the upcoming fiscal year though projections show that it may become so within the 2017-2018 timeframe. In response to an inquiry by Mr. Willis, there was also discussion about the accounting treatment of certain expenses associated with any potential NY Green Bank borrowing facility.

Based on the reports and discussions regarding the Authority’s Budget for Fiscal Year ending March 31, 2017, as presented, upon motion duly made and seconded, and by unanimous voice vote, the Committee recommended that the full Board adopt the resolution. A copy of said resolution is attached hereto as Exhibit B.

### **Saratoga Technology and Energy Park (TEP) Ground Lease**

The Members were requested to consider recommending that the full Board adopt a resolution approving a ground lease with GE Fuel Cells, LLC for land and improvements located adjacent to 107 Hermes Road in the Saratoga Technology + Energy Park (STEP) for the purpose of constructing and demonstrating a 1.3 MW scale hybrid solid oxide fuel cell system. The fuel cell system will be demonstrated on property adjacent to the building located at 107 Hermes Road which is owned by the Authority. They were presented with a draft ground lease that is agreed to in principle by both parties.

Noah Shaw, General Counsel, presented the item and described the proposed action as supportive to the development and build-out of STEP. GE Fuel Cells is a new fuel-cell business and the facility located at STEP is focused on making industrial-size solid oxide fuel cells that will run on natural gas and be paired with traditional gas engines made by GE's Power & Water division, based in Schenectady. GE Fuel Cells is also the recipient of a NYSERDA grant to support advanced clean power technologies, including to demonstrate that a MW scale hybrid solid oxide fuel cell system can be successfully developed and operated and also to validate GE Fuel Cells advanced fuel cell manufacturing process.

Under the ground lease, the Authority will lease approximately 9,986 square feet of land and improvements consisting of a concrete pad and other improvements and access roads for an 18-month term, commencing February 1, 2016, with one 18-month option to renew. GE Fuel Cells is required to make all repairs and replacements to the improvements that it constructs or installs and, upon termination, is required to deliver the Premises in its original condition.

In conformance with Public Authorities Law §2897(3), an appraisal was commissioned to establish the fair market value of the leasehold interest, which will be included in the record of transaction. The appraised fair market value of the leasehold interest does not exceed fifteen thousand dollars. Therefore, the Authority is not required to publicly advertise for bids regarding this lease. In accordance with New York State Environmental Conservation Law, the Authority has classified the project as a State Environmental Quality Review Act (SEQRA) Unlisted Action and has found that the project will not have a significant adverse environmental impact.

In response to an inquiries by Messrs. Koh and Kauffman, Mr. Shaw provided additional information regarding the value of the lease and the requirement of Board approval.

Based on the reports and discussions regarding the proposed ground lease between the Authority and GE Fuel Cells, LLC, as presented, upon motion duly made and seconded, and by unanimous voice vote, the Committee recommended that the full Board adopt the resolution. A copy of said resolution is attached hereto as Exhibit C.

### **Report on Status of Regional Greenhouse Gas Initiative Budget**

The Members received a report from Treasurer Jeff Pitkin on the results of the RGGI auctions during the current fiscal year. Mr. Pitkin reported that revenues to date have exceeded original projections by \$40 million. While the original RGGI Operating Plan approved by the Members at the June 2015 meeting had program funding allocations approximately \$20 million in excess of cumulative projected RGGI auction revenues for the current fiscal year, the auction results to date and the projection for the upcoming auction are that there will be sufficient revenue to fund the program funding allocations contained in the approved RGGI Operating Plan.

In response to an inquiry by Mr. Koh regarding what may be the drivers behind the increased credit prices being realized at the most recent auctions, David Coup, Assistant Director of the Energy and Environmental Analysis Program, stated that fluctuations in fuel prices, namely the decrease

in natural gas prices; the release of the federal Clean Power Plan and the status of certain of New York's nuclear generating facilities may all be contributing to the increase in allowance prices.

**Other Business**

Mr. Willis indicated that the last item on the agenda was other business. There being no additional business to consider, upon motion duly made and seconded, and by unanimous voice vote, the meeting was adjourned.

Respectfully submitted,

A handwritten signature in cursive script that reads "Valerie S. Milonovich".

Valerie S. Milonovich  
Secretary to the Program Planning Committee


**NYSERDA**
**ANDREW M. CUOMO**  
 Governor

**RICHARD L. KAUFFMAN**  
 Chair

**JOHN B. RHODES**  
 President and CEO

**NOTICE OF MEETING AND AGENDA**

January 13, 2016

TO THE MEMBERS OF THE PROGRAM PLANNING COMMITTEE:

PLEASE TAKE NOTICE that a meeting of the Program Planning Committee (the 93<sup>rd</sup> meeting) of the New York State Energy Research and Development Authority will be held at the office of the New York State Dormitory Authority (“DASNY”), One Penn Plaza, 52<sup>nd</sup> Floor, New York, New York, and in the Authority’s Albany Office located at 17 Columbia Circle, Albany, New York, on Tuesday, January 26, 2016, commencing at 12:00 p.m., for the following purposes:

1. To consider and act upon the Minutes of the ninety-second (92<sup>nd</sup>) meeting of the Program Planning Committee held on September 21, 2015.
2. To receive a report from the Treasurer and to consider and act upon a resolution recommending the approval of the Authority’s fiscal year 2016-2017 Budget.
3. To consider and recommend approval of the Authority to enter into a ground lease with GE Fuel Cells, LLC.
4. To receive a report on the status of the Regional Greenhouse Gas Initiative budget.
5. To transact such other business as may properly come before the Committee.

Members of the public may attend the meeting at either of the above locations. In order to expedite the entry procedures established by the building management, any members of the public planning to attend the meeting at DASNY’s office should notify DASNY’s receptionist at 212-273-5000, 24 hours in advance of the meeting, and must be prepared to show valid photo identification upon arrival at One Penn Plaza.

Video conferencing will be used at both locations and the Authority will be posting a video of the meeting to the web within two business days of the meeting. The video will be posted at <http://www.nyserdera.ny.gov/About/Board-Governance/Board-and-Committee-Meetings>.

---

 Valerie S. Milonovich  
 Secretary to the Program Planning Committee

**New York State Energy Research and Development Authority**
**Albany**  
 17 Columbia Circle, Albany, NY 12203-6399  
 (P) 1-866-NYSERDA | (F) 518-862-1091  
 nyserdera.ny.gov | info@nyserdera.ny.gov

**Buffalo**  
 726 Exchange Street  
 Suite 821  
 Buffalo, NY  
 14210-1484  
 (P) 716-842-1522  
 (F) 716-842-0156

**New York City**  
 1359 Broadway  
 19th Floor  
 New York, NY  
 10018-7842  
 (P) 212-971-5342  
 (F) 518-862-1091

**West Valley Site  
 Management Program**  
 9030-B Route 219  
 West Valley, NY  
 14171-9500  
 (P) 716-942-9960  
 (F) 716-942-9961

Exhibit B

Resolution No. \_\_\_\_\_

RESOLVED, that the proposed fiscal year 2016-17 Budget and Financial Plan submitted to the Members for consideration at this meeting, with such non-material, editorial changes and supplementary schedules as the President and Chief Executive Officer, in his discretion, may deem necessary or appropriate, be and it hereby is approved for submission to the persons designated in Sections 1867(4) and 2801 of the Public Authorities Law.

## Exhibit C

Resolution No. \_\_\_\_

RESOLVED, that the ground lease between the Authority and GE Fuel Cells, LLC for approximately 9,986 square feet of land and improvements located adjacent to 107 Hermes Rd at the Saratoga Technology + Energy Park as presented at the meeting of January 26, 2016 is recommended for approval by the Board. The Chair or his designee is hereby authorized to make such changes to the lease as may be necessary and appropriate, provided such changes do not substantially increase the Authority's financial obligations under the lease.