

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

August 29, 1995

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Minutes of the Regular Meeting of the Power Authority of the State of New York held at the Niagara Power Project at 10:00 a.m.

Present: Clarence D. Rappleyea, Chairman
Thomas R. Frey, Vice Chairman
John B. Daly, Trustee
Hyman M. Miller, Trustee
Robert J. Waldbauer, Trustee

Robert G. Schoenberger	President and Chief Operating Officer
Charles M. Pratt	General Counsel
John F. English	Senior Vice President - Transmission
Robert A. Hiney	Senior Vice President - Power Generation
Louise M. Morman	Senior Vice President - Marketing and Economic Development
Robert L. Tscherne	Senior Vice President - Business Services
Arnold M. Bellis	Vice President - Contoller
Woodrow W. Crouch	Vice President - Project Management - Power Generation
Deborah Perry Estrin	Vice President - Human Resources
Sally L. Irving	Vice President - Corporate Finance
William A. Josiger	Vice President - Nuclear Operations and Maintenance
Charles Lipsky	Vice President and Chief Engineer - System Operations
Philip J. Pellegrino	Vice President - Power Sales and Rates
Stephen P. Shoenholz	Vice President - Public Affairs
Ronald W. Ciamaga	Regional Manager - Northern New York
James L. Ford	Regional Manager - Western New York
Richard E. Kuntz	Regional Manager - Southeast New York
James J. McCarthy	Regional Manager - Central New York
Harry P. Salmon, Jr.	Site Executive Officer - James A. FitzPatrick Nuclear Power Plant
John W. Blake	Director - Environmental Programs
Joseph J. Brennan	Director - Internal Audit
Frederick E. Chase	Director - Community Relations
John L. Murphy	Director - Public Information
Mark D. O'Connor	Director - Real Estate
James H. Yates	Director - Business Marketing and Economic Development
Cordelia M. Dirlam	Account Executive - Business Marketing and Economic Development
John B. Hamor	Assistant Director - Intergovernmental Relations
Vanessa C. Ford	Administrator
Michael J. Huvane	Account Executive - Business Marketing and Economic Development
Anne Wagner-Findeisen	Corporate Secretary
Laura M. Badamo	Assistant Secretary - Legal Affairs

Chairman Rappleyea presided over the meeting. Secretary Wagner-Findeisen kept the Minutes.

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1. Approval of the Minutes

The minutes of the Regular Meeting of July 25, 1995 were approved.

The minutes were adopted by a vote of four in favor, with Trustee Waldbauer abstaining.

2. Report from the President and Chief Executive Officer

President Schoenberger reported that operations at both nuclear plants have been positive and are now producing a return on the investment of funds which the Trustees had authorized, and that the Chairman and he had a productive meeting with the NRC's regional administrator, Mr. Thomas T. Martin. Other developments include the NRC's satisfaction with staff's self-identification of a leaking pipe in the containment area at IP3 and repair thereof while the plant stayed on line. The Nuclear Advisory Committee met recently at JAF and Committee Member William Conway commended the material condition of the JAF plant. Trustee Waldbauer inquired as to the timing of the Committee's next report to the Trustees. Messrs. Schoenberger and Cahill responded that it would be scheduled prior to the end of the year. Chairman Rappleyea commended Mr. Cahill and the Nuclear Generation staff on their accomplishments to date.

President Schoenberger further reported on the dam rehabilitation project at Niagara, stressing that the work effort, which will be completed both early and under budget, represents the same kind of significant engineering advance as the Authority's earlier achievements with the Marcy-South transmission line and the Long Island Sound Cable. The rehabilitation work now being done will serve the Niagara Project and its customers for at least the next 50 years.

President Schoenberger also reported on successful marketing efforts which have resulted in most of the SENY customers having entered into long term contracts, and the satisfaction that the Authority's customers have expressed with the implementation of the HELP program.

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3. Financial Reports for the Seven Months Ended July 31, 1995

In response to questions from Trustee Miller, Ms. Irving explained that the Flynn plant's lack of net revenues is a function of the recent low price of oil on the spot market which is contractually tied to the Authority's agreement with LILCO. Mr. English added that staff is currently negotiating with LILCO representatives concerning the manner in which LILCO computes the amounts payable by the Authority. In response to questions from Trustee Daly, Mr. Tscherne explained that the figure of \$118 million in the report represents the Authority's current debt service.

**4. Suffolk County Electrical Agency -
Allocation of Fitzpatrick Industrial Power**

The President submitted the following report:

SUMMARY

"The Trustees are requested to approve the allocation of 1,000 kW of FitzPatrick power to the Suffolk County Electrical Agency ('Suffolk County') for resale to National Westminster Bank N.A. ('Natwest').

BACKGROUND

"The Authority has reserved approximately 5,000 kW of Fitzpatrick Industrial power for sale to Suffolk County, which resells this power to industrial consumers designated by Suffolk County and approved by the Authority. Suffolk County has fully allocated its 5,000 kW to industrial customers. Northrup-Grumman's Great River facility has been receiving one megawatt of Fitzpatrick power through Suffolk County. Effective July 1, 1995, six megawatts of FitzPatrick power were transferred to Northrup-Grumman's Great River and Calverton facilities displacing the one megawatt of Fitzpatrick industrial power previously being supplied through Suffolk County. This relinquished one megawatt of Fitzpatrick industrial power has been reclaimed by Suffolk County for reallocation to NatWest.

DISCUSSION

"NatWest is the major operating affiliate of National Westminster Bancorp headquartered in Jersey City, New Jersey. The company operates more than 325 banking branches and 518 automated teller machines in New York City, Long Island, Westchester County, and New Jersey. NatWest's facility at Melville's Huntington Quad office complex houses the company's main data processing and communication center. The high costs of energy in the New York area have made it difficult for NatWest to remain competitive. Relocation to a new headquarters facility in Pennsylvania has offered the company significant savings on its operating costs. Over the past 12 months, NatWest has relocated approximately 2,000 employees, including 700 from its Melville facility, to a new 300,000 square foot headquarters building in Scranton, Pennsylvania which has room for more employees. This proposed allocation would lower NatWest's Long Island energy costs and assist it in sustaining its current employment level of 767 employees at its Melville facility. The company has a five year, \$60,000,000 renovation plan for its Melville site which includes the installation of new computer equipment and the upgrading of electrical and mechanical equipment components. The proposed allocation of 1000 kW would retain 767 jobs and produce a ratio of 767 jobs per megawatt. NatWest's facility is equipped with energy efficient lighting and motors. The proposed ten year allocation would save an estimated \$260,000 annually over Long Island Lighting Company's standard rates.

"The proposed allocation has been reviewed in accordance with Part 460 of the Authority's Rules and Regulations (Procedures for Allocation of Industrial Power and Enforcement of Contracts (21 NYCRR 460 (1988)). The standard power service contract between a business and Suffolk County provides for reductions in the allocation in the event that employment or power usage levels are not maintained at specified levels. Reports regarding employment and affirmative action commitments will be submitted to the Authority by Suffolk County as provided by Part 460.4 of the Authority's Rules and Regulations and pursuant to the contract between the Authority and Suffolk County. Additionally, each contract will include specific energy audit and implementation requirements.

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RECOMMENDATION

"The Director - Business Marketing and Economic Development recommends that the Trustees approve the allocation of 1,000 kW FitzPatrick power to Suffolk County Electrical Agency for resale to National Westminster Bank.

"The Senior Vice President - Marketing and Economic Development, the General Counsel, and I concur in the recommendation."

In response to questions from Chairman Rappleyea and Trustee Waldbauer, Ms. Morman stated that staff believes that NatWest has made a strong commitment to retaining the stated number of jobs on Long Island and that the company's job levels will be monitored by the Authority. In response to questions from Trustee Miller, Ms. Morman explained that this portion of NatWest's operations is eligible for an industrial power allocation since it comprises the data processing function rather than retail banking. Trustee Daly inquired whether job retention is the basis for the proposed allocation. Ms. Morman responded in the affirmative. President Schoenberger noted that this item is indicative of the ongoing consolidation in the banking industry.

The following resolution, as recommended by the President, was unanimously adopted:

RESOLVED, That the Authority hereby approves the allocation of 1,000 kW of FitzPatrick power to the Suffolk County Electrical Agency for resale to National Westminster Bank, N.A.; and be it further

RESOLVED, That the contract for the resale of FitzPatrick industrial power between the Suffolk County Electrical Agency and National Westminster Bank N.A. is subject to approval by the Director - Business Marketing and Economic Development; and be it further

RESOLVED, That the Director - Business Marketing and Economic Development or his designee be, and hereby is, authorized to execute any and all documents necessary or desirable to effectuate the above allocation.

5. Contract for the Sale of Fitzpatrick Power to Encore Paper Company, Inc.

The President submitted the following report:

SUMMARY

"The Trustees are requested to authorize the holding of a public hearing upon the terms of a proposed contract for the sale of 7,500 kW of FitzPatrick power to Encore Paper Company, Inc. ('Encore'). The company meets the high load factor, product content, and minimum electric demand requirements necessary to receive an allocation of FitzPatrick power under the Power Authority Act.

BACKGROUND

"Encore is New York State's largest independent recycler, annually processing over 100,000 tons of waste paper for the manufacture of 100 percent recycled paper towel, tissue, and napkin products. The company is privately owned and was established in March 1992 at the site of a former James River Mill in South Glens Falls. The South Glens Falls facility serves as Encore's manufacturing, converting and shipping site as well as its corporate and marketing headquarters. Encore's in-plant technology helps support the market for lower grade materials which directly aid municipal and other community based recycling efforts and keeps these lower-grade materials out of waste streams and possible disposal in landfills or by incineration. Although Encore manufactures in New York State, the company markets and competes nationally with distribution throughout the Eastern United States and Canada. Encore's electrical costs average 12% of product cost and 10% of overall annual revenues. Encore's out-of-state competitors enjoy significantly lower costs of electricity, putting Encore at a competitive disadvantage. An allocation of FitzPatrick power would enable Encore to utilize funds now dedicated to utility costs to further its business and manufacturing plans and preserve 254 jobs. Encore maintains an ongoing energy efficiency program to replace equipment with energy efficient units and to improve lighting efficiency. Encore would save an estimated \$2,160,000 annually over Niagara Mohawk Power Corporation's ('NMPC') standard rates. The allocation of 7,500 kW would be in effect for a term of five years.

"Although the company met existing FitzPatrick power allocation criteria and an allocation was recommended by the Economic Development Power Allocation Board at its November 9, 1993 meeting, the Authority did not proceed with Encore's request because the company entered into a contract for NMPC's Economic Revitalization Incentive Rider rate, which has expired.

DISCUSSION

"Approval of a long-term allocation to Encore would be appropriate since it is a major employer in an economically disadvantaged area and the 216 manufacturing jobs provided by Encore are threatened by electricity rates which are significantly higher than those paid by its competitors. The company will save over \$2,000,000 annually over NMPC's standard rates. This allocation to Encore would both strengthen and extend the company's presence in New York State.

"Submitted herewith is a copy of a proposed contract for the sale of 7,500 kW of FitzPatrick power (Exhibit '5-A') which has been negotiated with Encore. As with all FitzPatrick power contracts with industry, the proposed

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contract provides for annual reports to the Authority with respect to the number of employees in the facility where the power has been allocated as well as the amount of power used each month at such facility. If the employment level committed to or power use has been reduced by more than 10% for any 12 month period, the allocation may be subject to a proportionate reduction.

"Delivery to Encore will be made pursuant to existing transmission arrangements with NMPC.

"Encore has agreed to the proposed contract and to the advertisement thereof for a public hearing.

RECOMMENDATION

"The Director - Business Marketing and Economic Development recommends that the proposed contract with Encore Paper Company, Inc. be noticed for a public hearing, and that pursuant to Section 1009 of the Power Authority Act, the Secretary transmit copies of the proposed contract to the Governor and the Legislative leaders.

"The Senior Vice President - Marketing and Economic Development, the General Counsel, and I concur in the recommendation."

In response to questions from Trustee Waldbauer, Ms. Morman clarified that in addition to the 216 jobs in manufacturing, an additional number of non-manufacturing jobs will bring the total to 254 jobs as set forth in the President's memorandum.

Trustee Daly stated that he agrees that some FitzPatrick power allocations be for job retention purposes, but that new allocations of industrial hydro power should be made on condition of increasing the number of jobs, not merely retaining them, and that he thought that this should be a matter of Authority policy. Trustee Daly expressed the hope that the Trustees would agree that new industrial hydro power allocations should be used only for job creation.

The following resolution, as recommended by the President, was unanimously adopted:

RESOLVED, That pursuant to Section 1009 of the Public Authorities Law, a public hearing be held on the proposed contract described in the foregoing report of the President; and be it further

RESOLVED, That notice of such hearing be given by publication once in each week during the 30 days prior to such hearing in each of six newspapers within the State; and be it further

RESOLVED, That copies of the proposed contract be made available for public inspection at the New York City offices of the Authority and other locations designated by the Authority; and be it further

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RESOLVED, That the Secretary shall transmit such contract to the Governor, the Speaker of the Assembly, the Minority Leader of the Assembly, the Chairman of the Assembly Committee on Ways and Means, the Temporary President of the Senate, the Minority Leader of the State and the Chairman of the Senate Finance Committee, pursuant to Section 1009 of the Public Authorities Law; and be it further

RESOLVED, That the Director - Business 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.

6. Robert Moses Niagara Power Project Upgrade - Expenditure Authorization and Increase in Compensation Ceilings

The President submitted the following report:

SUMMARY

"The Trustees are requested to authorize capital expenditures of \$50.7 million, which will be used to upgrade three additional generating units at the Robert Moses Niagara Power Project ('RMNPP') during the next three years at a rate of one unit per year. The \$50.7 million authorization request includes additional expenditure commitments to previously awarded contracts for engineering, equipment fabrication, and installation services which are required for the upgrade of the three units.

BACKGROUND

"In the early 1980's, the Authority developed plans for expanding the Niagara Power Project ('Niagara'), which included the construction of new underground powerhouses at both the RMNPP and the Lewiston Pump Generating Plant ('LPGP'). The purpose of the project expansion was to increase production during periods of peak electrical demand by about one billion kilowatt-hours per year, and to provide 330 megawatts of additional firm peaking capacity.

"The scope and schedule of the Niagara Project Expansion has evolved significantly since inception of the feasibility studies, due to changes in capacity projections and economic conditions. Plans for new powerhouses at both the RMNPP and LPGP were replaced by plans for upgrades of the existing units. Ultimately, extensive construction of new capacity by the Independent Power Producers ('IPPs') and projected effects of Demand Side Management programs resulted in the Authority applying to the Federal Energy Regulatory Commission ('FERC') to cancel all efforts to increase capacity at LPGP for the near future, while retaining the RMNPP upgrade. On April 5, 1995, FERC issued an order removing the LPGP expansion from the license for the Niagara Power Project.

"At RMNPP, the revised program includes upgrading the existing units to increase capacity, which allows retiming of production to periods of peak demand at the overall Niagara Project, and provides for higher unit efficiency. At the same time, the current program provides for major overhauls of the units, which are essential after 34 years of operation. In fact, more than half of the projected costs of the upgrade are related to major overhaul activities.

"Installation of the upgraded prototype unit at RMNPP was completed in June 1993. Performance of the prototype unit has met, and in many cases exceeded, the design objectives and its operating efficiency is higher than that of the existing units. At their meeting of August 31, 1993, the Trustees authorized expenditures of \$40.2 million for the upgrade of two additional units at the RMNPP. The upgrade work on the second unit was completed in June 1995. Work on the third unit will start in November 1995 and is scheduled for completion by July 1996.

"Economic and revenue analyses performed in 1994 support proceeding with the upgrade of the remaining ten units. The benefit to cost ('B/C') ratio is estimated to be 1.7. No significant changes to the program or to basic economic parameters have occurred since 1994.

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"While the economic analyses support continuation of the project, the condition of Unit 13 is a strong reminder of the importance of major maintenance on the remaining units. As part of the upgrade work, Unit 13 was completely disassembled for the first time since it was placed in operation 34 years ago. This unit had been selected for immediate upgrade due to a turbine seal ring failure which occurred and was temporarily repaired in 1992. During the disassembly of the unit, several other significant problems were identified. These included excessive water cavitation damage to the turbine seal rings and headcover, cracks in the internal generator guide bearing structure, and deterioration of the generator rim spring plates. The necessary repairs were effected during the upgrade outage.

"The updated total cost estimate for the RMNPP upgrade is \$293 million including escalation through 2005. The estimate consists of \$257 million capital costs and \$36 million O & M costs associated with the unit overhauls. The updated cost estimate, which represents a reduction of \$9 million for Capital Expenditures and \$11 million O&M expenditures from the 1994 estimate, takes into consideration the increased scope of the major maintenance activities, a reduction in the scope of the generator modifications, and the productivity gains achieved in the second unit upgrade.

"Since inception of the Niagara Project Expansion in 1981, the Trustees have authorized total expenditures in the amount of \$113.9 million, which includes \$105.7 million for capital expenditures and \$8.2 million for O & M related expenditures.

DISCUSSION

"The total estimated cost for the upgrade of additional three units at RMNPP is \$62.7 million, of this amount \$55.5 million is capital cost and \$7.2 million is O & M cost. The current authorization request is for the capital expenditure of \$50.7 million. The remaining \$4.8 million is available from previously authorized but unused capital funding resulting from cancellation of LPGP expansion. The O & M costs are approved annually by the Trustees as part of the O & M budget.

"In accordance with previous authorizations by the Trustees, contracts were awarded for engineering, major equipment fabrication, and installation services for the RMNPP upgrade. The expenditure commitments to these contracts are on an as-needed basis, subject to the Authority's Expenditure Authorization Procedures. To continue with the upgrade of the additional three units at the RMNPP, it is necessary at this time to commit to additional engineering services, fabrication of major equipment, and installation services.

Voith Hydro, Inc. ('Voith') - Turbine Runner Fabrication and Installation

"At their meeting of November 22, 1988, the Trustees approved the award of a contract for \$39.8 million plus escalation to Voith for fabrication of a prototype and 13 additional replacement turbine runners for the RMNPP upgrade, including one spare turbine. The contract has been adjusted for the schedule delays and scope changes. Under the terms of the contract, fabrication of turbine runners is to proceed based on phased releases by the Authority. To date, the Trustees have authorized expenditure commitments in the amount of \$13.4 million to Voith for fabrication of the prototype turbine runner, and for fabrication of three additional turbine runners.

"As necessitated by the 27 month lead time from fabrication authorization to delivery, the fifth turbine runner needs to be released for fabrication this summer for delivery during 1997. Delays in fabrication release would cause price increases for each unit due to loss of shop efficiency, changes in material costs and increases in escalation. By releasing the units for fabrication at least at the rate of one per year, potential price increases are minimized and an

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orderly overall program can be maintained. Continuity in fabrication releases can be achieved if the purchase of three additional units is authorized this year and fabrication releases are effected as required for one upgrade per year. Thus, it is recommended that Voith be authorized to fabricate three additional turbine runners with formal releases issued one unit at a time. The cost of these three units is estimated at \$11.6 million, including an allowance for escalation.

"The installation services for the second and third turbines were competitively bid, and at their meeting of February 22, 1994, the Trustees authorized the award of a contract to Voith Hydro for a firm lump sum price of \$3.3 million. Prior to the award of the contract, the Authority and Voith negotiated a price adjustment formula, to be exercised in the Authority's sole discretion, which will allow the Authority to award installation services for additional turbine unit upgrades at the RMNPP. Because of a minor issue of concern to Voith, no such optional provisions were included in the formal award of the contract, although a mutually acceptable price adjustment formula was drafted. The escalation formula is based upon actual millwright rates in the local area, thus ensuring equitable adjustments for each unit. Voith now agrees to withdraw its concern, and provide installation services for additional turbine runners in accordance with the agreed-upon price adjustment provisions.

"Voith is the supplier of the turbine runners and accessories for the RMNPP upgrade, and as such is responsible for meeting the turbine performance guarantees. In accordance with Voith's procurement contract, the performance guarantees are subject to Voith providing technical supervision during the turbine installation. Voith's installation services contract includes the cost of such installation supervision. If the turbine installation were to be performed by others, Voith would be required to provide installation supervision at an added cost of approximately \$150,000 per unit. This, combined with the experience gained on the installation of the initial two turbine runners, is a strong incentive for the Authority to continue with Voith for the turbine installation for the additional three units. In order to maintain the rate of one unit upgrade per year, it is recommended that Voith be authorized to provide installation services for the 4th, 5th and 6th units with formal releases to be issued to Voith one unit at a time. The estimated cost for the installation of these three units is \$5.1 million including an allowance for escalation.

ASEA, Brown, Boveri Power Generation ('ABB') - Generator Fabrication and Installation

"At their meeting of January 30, 1990, the Trustees authorized the award of a contract to ABB in the amount of \$49.7 million for the fabrication and installation of equipment for the upgrade of thirteen generators at RMNPP. The contract has been modified to reflect changes in the scope of work and for delays in the schedule. Under the terms of the contract, ABB will be authorized to proceed on a unit by unit basis. To date, the Trustees have authorized expenditure commitments in the amount of \$13 million to ABB for the upgrade of the prototype and two additional units. A lead time requirement for delivery of the generator materials is one year. Therefore, fabrication of the generator materials for the fourth unit, to be upgraded in 1996, needs to be released by the end of this year. Consistent with the turbine procurement, it is recommended that material and installation be authorized for three additional generator upgrades with formal releases given to ABB one unit at a time. The estimated cost of additional commitments to ABB for the next three unit upgrades is \$7.2 million.

SMIT Transformatoren B.V. ('SMIT') - Transformer Fabrication

"At their meeting of January 30, 1990, the Trustees authorized the award of a contract to SMIT for fabrication of fourteen transformers for the RMNPP Upgrade in the amount of \$22 million, plus escalation. Under the terms of the contract, a release will be issued to SMIT to proceed with fabrication of the transformers on a unit by unit basis at the discretion of the Authority. The transformer delivery lead time is in excess of one year. To date, a total of \$4.8 million was committed for fabrication of the prototype and two additional units. Fabrication

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release for the fourth transformer needs to be issued to SMIT by the end of 1995. Consistent with the rationale for other major equipment, it is recommended that three additional transformers be authorized with formal releases given to SMIT one unit at a time. The estimated cost for the fabrication of the three transformers is \$5.4 million.

Parsons Main ('Parsons') - Engineering Services

"The engineering and design contract for the Niagara Project Expansion was awarded to Parsons of New York in November 1984, in the amount of \$21 million, with provision for escalation. As the scope and schedule of the project continued to evolve, the contract was modified to reflect the associated changes in the scope of engineering and design services. The revised total estimated cost as of November 1993 was about \$29 million. With cancellation of the LPGP work, the value of the complete contract is now estimated at \$23 million. Expenditure commitments for the engineering and design services were authorized as required. The latest such authorization, approved by the Trustees at their meeting of August 31, 1993, increased the compensation ceiling to \$19.3 million.

"The remaining engineering and design work is for completion of power tunnel cooling modifications for the RMNPP upgrade. Originally the cooling modifications to all tunnels were scheduled to be completed at the time of the prototype unit installation. However, with the delays in the schedule, staff decided to postpone the tunnel modifications as long as possible. To date, three tunnels have been modified to support the upgrade of four units. The remaining three tunnels, including construction of a new tunnel ventilation building, need to be completed before the fifth unit upgrade in 1998. In addition, engineering support during the installation, and preparation of the as-built drawings for the upgrade units will be required. At this time, additional funding in the amount of \$1.3 million is needed to complete the engineering and design for the RMNPP upgrade and to provide engineering support during the upgrade installation work for the next three units.

FISCAL INFORMATION

"Payments for capital costs associated with the upgrade of the next three units at the RMNPP will be made from the General Reserve Account or the Facilities Improvement Project Account. Payments of O & M costs associated with the upgrade will be made from the Operating Fund.

RECOMMENDATION

"The Project Manager, the Regional Manager - Western New York, the Vice President and Chief Engineer - Power Generation, and the Vice President - Project Management recommend that the Trustees authorize additional capital funding of \$50.7 million for the upgrade of three additional generating units at the Robert Moses Niagara Power Project. It is further recommended that the Trustees authorize expenditure commitments for the engineering, equipment fabrication and installation services to Voith Hydro, Inc.; ASEA, Brown, Boveri Power Generation; SMIT Transformatoren B.V., and Parsons Main in the amounts listed above.

"The General Counsel, the Senior Vice President - Power Generation, the Senior Vice President - Business Services, and I concur in the recommendation."

In response to questions from Trustee Waldbauer, Mr. Hiney explained that the individual units are being upgraded based upon their physical condition, with the most deteriorated units being given priority. Mr. Hiney further explained that a three-year lead time for fabrication is reasonable under the circumstances, and that the

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contractual agreements entered into by staff provide it with sufficient flexibility. In response to questions from Trustee Miller, Mr. Hiney explained that the funding sources for the upgrade are the O&M fund and the General Reserve Fund, and that the Authority has not sought to issue bonds for this purpose. Mr. Tscherne further explained that although the General Reserve has decreased by some \$72 million, staff anticipates that the Reserve funds will suffice to cover the costs associated with the upgrade. In response to further questions from Trustee Miller, Messrs. Hiney and English explained that it will not be possible to earmark any of the post-upgrade additional hydropower for job creation purposes because the upgrade will not produce additional capacity which can be marketed as firm power; rather it will result in more efficient utilization of the water already available under Treaty and, depending upon water conditions in the Great Lakes, a sporadic amount of additional energy. In response to questions from Trustee Daly, Mr. Hiney stated that the current firm capability of the Niagara Project is 2,400 MW and he explained that although the upgrade of each unit may generate two or three additional megawatts at certain times due to the increased turbine efficiency, low water levels in the future could still jeopardize the Authority's ability to meet its commitments. Mr. English added that the upgrade will not be complete for another 10 years or so. Trustee Daly asked whether, from an engineering standpoint, it would be possible to proceed with the earlier, planned "expansion" of the Niagara Project. Mr. Hiney responded in the affirmative, noting that the engineering work has been completed, but that any expansion plans would need to be coordinated with the relicensing of the Project in 2007.

In response to questions from Vice Chairman Frey, Mr. Hiney explained that plant staff is familiar with the operating eccentricities of each individual unit and is thus able to identify the order in which the units should be upgraded.

The following resolution, as recommended by the President, was unanimously adopted:

RESOLVED, That additional capital funding is hereby approved to be committed in accordance with the Authority's Expenditure Authorization Procedures for the upgrade of three units at the Robert Moses Niagara Power Project in the amount listed below:

Capital Funding Previously Authorized	\$105,700,000
Current Expenditure	
Authorization Request	<u>50,700,000</u>
TOTAL AMOUNT AUTHORIZED	<u>\$156,400,000</u>

AND BE IT FURTHER RESOLVED, That approval is hereby granted to commit funds for fabrication of three turbine runners and accessories for the upgrade of three additional units at the RMNPP by Voith Hydro, Inc. under Contract No. NEP-P-026701, in the amount listed below:

Expenditures Previously Authorized	\$13,400,000
Current Expenditure	
Authorization Request	<u>11,600,000</u>
TOTAL AMOUNT AUTHORIZED	<u>\$25,000,000</u>

AND BE IT FURTHER RESOLVED, That approval is hereby granted to award installation services for three additional turbine runners and accessories for the RMNPP upgrade to Voith Hydro, Inc. as part of the existing Contract No. S-9457816, in the amount listed below:

Expenditures Previously Authorized	\$3,251,810
Current Expenditure	
Authorization Request	<u>5,100,000</u>
TOTAL AMOUNT AUTHORIZED	<u>\$8,351,810</u>

AND BE IT FURTHER RESOLVED, That approval is hereby granted to commit funds for fabrication and installation of equipment required to upgrade three additional generators at RMNPP by ASEA, Brown, Boveri Power Generation, Inc. under Contract No. NEP-P-026702, in the amount listed below:

Expenditures Previously Authorized	\$13,001,000
Current Expenditure	
Authorization Request	<u>7,200,000</u>
TOTAL AMOUNT AUTHORIZED	<u>\$20,201,000</u>

AND BE IT FURTHER RESOLVED, That approval is hereby granted to commit funds for fabrication of three transformers for the upgrade of three additional units at the RMNPP by SMIT Transformatoren B.V. under Contract No. NEP-P-026703, in the amount listed below:

Expenditures Previously Authorized	\$ 4,983,000
Current Expenditure	
Authorization Request	<u>5,400,000</u>

TOTAL AMOUNT AUTHORIZED

\$10,383,000

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AND BE IT FURTHER RESOLVED, That an increase in the compensation ceiling to Contract No. 02-5001-84 with Parsons Main for engineering services for the RMNPP upgrade is hereby approved in the amount listed below:

Expenditures Previously Authorized	\$19,298,840
Current Expenditure	
Authorization Request	<u>1,300,000</u>
TOTAL AMOUNT AUTHORIZED	<u>\$20,598,840</u>

AND BE IT FURTHER RESOLVED, That the Trustees hereby authorize the payment to the Authority of funds available in the General Reserve Account for the lawful corporate purpose of paying the costs of the upgrade of the Robert Moses Niagara Power Project (the "Upgrade project") as specified in the attached President's Memorandum, which shall be paid over to the Authority from time to time at the direction of the Treasurer or Deputy Treasurer for such lawful corporate purpose, provided, however, that as a condition to each such payment of monies from the General Reserve Account for such purpose, the Treasurer or Deputy Treasurer shall certify that there is available from the General Reserve Account, and not needed for the purposes specified in paragraphs 1-4 of Section 512 of the General Purpose Bond Resolution, monies in the amount of such proposed withdrawal, and provided further that the aggregate amount withdrawn pursuant to this Resolution for such purpose shall not exceed \$50.7 million; and be it further

RESOLVED, That the Upgrade project is hereby authorized to be a task comprising a portion of the Facilities Improvement Project, as defined in the Twenty-Seventh Supplemental General Purpose Bond Resolution and any amounts expended for such Upgrade project shall be deemed to be a Cost of Construction for such Facilities Improvement Project; and be it further

RESOLVED, That the Trustees of the Authority hereby authorize the payment at the direction of the Treasurer or Deputy Treasurer into the Facilities Improvement Project Account in the Construction Fund of monies in the Bond Reserve Account for the purpose of paying costs associated with the Upgrade project, provided, however, that as a condition to each such payment of monies from the Bond Reserve Account into the Facilities Improvement Project Account for such purpose, the Treasurer or Deputy Treasurer shall certify that such amount to be withdrawn is in excess of the Bond Reserve Requirement, as such term is defined in the General Purpose Bond Resolution, and not required to make good any deficiency referred to in Paragraph 1 of Section 511 of the General Purpose Bond Resolution, and provided further that the aggregate of the amounts withdrawn from the Bond Reserve Account and the General Reserve Account for the Upgrade project pursuant to these Resolutions shall not exceed \$50.7 million.

7. Selection of Nuclear Decommissioning Trust Fund Investment Managers - RCM Capital Management and Strong Capital Management

The President submitted the following report:

SUMMARY

"The Trustees are requested to approve the selection of RCM Capital Management ('RCM') and Strong Capital Management ('Strong') to provide investment management services for the Authority's Nuclear Decommissioning Trust Funds for a three year term which may be extended by the Authority for an additional two years.

BACKGROUND

"Pursuant to the Nuclear Regulatory Commission ('NRC') ruling, NUR-0584, the Authority established a Nuclear Decommissioning Trust ('Trust') in 1990. The monies must be beyond the Authority's day-to-day administrative control and, accordingly, the Authority competitively selected two professional investment managers to manage the funds in the Trust and the Bank of New York as Trustee. Monthly, the Authority contributes an amount of money that is expected, together with earnings on that money, to be sufficient to pay the costs of decommissioning the James A. FitzPatrick ('JAF') and Indian Point 3 ('IP3') Nuclear Power Plants upon expiration of their licenses in 2014 and 2015, respectively.

"As of June 30, 1995, the Trust contained \$377 million. Of this amount, \$292 million was set aside from revenues and \$85 million was earned from the investment of these funds. To provide sufficient monies by the dates required, the Authority's annual addition to the fund is \$35.3 million.

"Trust funds are actively managed, with the objective of preserving principal and maximizing the earnings on the funds in order to minimize the rate impact on Authority customers. The Trust authorizes the investment managers to invest in government securities, and high quality corporate and foreign bonds rated 'AA' or better. Investment in foreign securities is also permitted, with the investment managers limited to investing no more than 20% of the portfolio in such securities and with no more than 5% of that total being exposed to foreign exchange risk. The use of futures is limited to 10% of the portfolio and is used as a cost efficient method for adjusting the portfolio's duration.

"The two investment managers the Authority retained in 1990 were Morgan (New York City) and RCM (San Francisco, CA). Performance has been well above average in the aggregate with returns exceeding the Lehman Aggregate Bond Index each year. The Lehman Aggregate Bond Index is used as a benchmark because it is representative of the universe of investments allowable under the guidelines of the Trust and has a duration of five years on average. This duration over time produces optimal returns while mitigating market risk. Through June 30, 1995, the managers have produced an annualized rate of return of 9.98% compared to 9.04% for the index over the past five years.

DISCUSSION

"With the current investment managers' contracts due to expire, the Authority solicited proposals from 38 firms known to provide these services and advertised the request for these services in the Contract Reporter. The

Authority received 25 proposals for investment management services, all of which were evaluated and deemed to be qualified bids.

"Because a high level of performance in the Trust funds is the primary factor in preserving principal and maximizing earnings, staff first determined each firm's average fee-adjusted, four-year return for managed portfolios with an intermediate duration of four to five years. Based upon staff's calculations, the following six firms were the top performers: Artemis Capital; Mass Mutual; Morgan; RCM; Scudder, Stevens and Clark; and Strong. The average annual returns for these six firms over the four year period were as follows:

<u>Firm</u>	<u>Average 1991-94</u>	<u>Firm</u>	<u>Average 1991-94</u>
RCM	9.19%	Mass Mutual	8.47%
Strong	9.06%	Scudder	8.32%
Artemis	9.05%	Morgan	8.17%
Benchmark	7.56%	Benchmark	7.56%

"Using a numerical point system, the six top performing firms were examined further. Considered second to performance was the consistency of each manager's yearly performance returns; whether they had consistently exceeded the benchmark, exhibited a trend, or produced sporadic returns. Finally, qualitative factors were considered, including caliber and depth of personnel, the firm's technological support, credit research capabilities, and experience and performance in foreign bond markets.

"RCM and Strong clearly ranked first and second based upon their extremely high four year average returns, and as the only two firms which exceeded the benchmark in every year of the evaluation. J.P. Morgan ranked third due to its strong technical capabilities and its above-benchmark performance in 1994, the most difficult year in bond market history. Mass Mutual, Artemis and Scudder ranked fourth, fifth and sixth due to inconsistent year-to- year results and their below-benchmark performance in 1994.

"Further, staff believes that RCM's and Strong's technological support, credit research, foreign bond market capabilities and personnel are superior to those of the other top firms. Strong, located in Milwaukee, WI, manages the Strong Mutual Funds with over \$13.5 billion in assets under management. RCM, located in San Francisco, CA, manages over \$18 billion of assets for clients with \$10.1 billion in fixed income.

"Staff recommends that RCM and Strong each be awarded a three-year investment management contract, to commence on October 1, 1995, which may be extended for an additional two years at the Authority's option. The Authority will reserve the right to terminate these services on thirty days' notice. Staff will closely monitor performance and submit summary reports quarterly to the Trustees highlighting the investment managers' performance. The Authority's Trustees will also be provided with an annual report on the investment managers' performance.

FISCAL INFORMATION

"Fees for trust investment management services will be paid from the Trust Fund based upon the fee schedule set forth in Exhibit `7-A'. Based upon June 30, 1995 Trust fund balances, management fees for one year would be \$565,500. This is a \$400,000 savings compared to the current annual fees and was obtained through staff's negotiation of lower fees in a competitive environment.

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RECOMMENDATION

"The Treasurer and the Vice President - Corporate Finance recommend that the Trustees approve the appointment of RCM Capital Management and Strong Capital Management to provide investment management services for the Nuclear Decommissioning Trust.

"The General Counsel, the Senior Vice President - Business Services, and I concur in the recommendation."

In response to questions from Trustee Waldbauer, Mr. Collins explained that in reviewing the proposals, staff found that RCM had consistently outperformed Morgan over a period of five years and that, as applied to the Authority, such performance could make a difference of several million dollars. In response to further questions from Trustee Waldbauer, Mr. Tscherne explained that over the next several years, staff will be considering whether to add a third investment manager for these funds. Trustee Miller inquired about the use of derivatives by the fund managers. Ms. Irving and Mr. Collins explained that derivatives are not used for purposes of leveraging the Authority's portfolio, as was the case in Orange County, California and that no more than 5% of the Authority's portfolio is at any time comprised of derivatives; however, certain kinds of derivatives such as futures have proven to be a cost effective investment mechanism when carefully managed.

The following resolution, as recommended by the President, was unanimously adopted:

RESOLVED, That RCM Capital Management and Strong Capital Management be, and hereby are, appointed to serve as investment managers for the Master Decommissioning Trust under such terms and conditions as the Senior Vice President - Business Services, Vice President - Corporate Finance, or Treasurer deems advisable for a term of three years, commencing October 1, 1995, and each of the foregoing officers is authorized to execute a contract with such companies to effectuate this resolution, having such terms and conditions as deemed necessary or advisable by such officer; and be it further

RESOLVED, That the Senior Vice President - Business Services, Vice President-Corporate Finance, and Treasurer be, and each hereby is, authorized to execute, if such officer deems it advisable, on behalf of the Authority, one two-year extension to each investment managers' contract.

Nuclear Decommissioning Trust
Fee Schedule for Investment Manager Services

INVESTMENT MANAGERS

Fees are based upon the market value of the portfolio at quarter end.

RCM Capital Management

Scale on portfolios of less than \$150 million

- .30% on first \$25 million
- .20% on next \$25 million
- .13 3/4% on next \$100 million

On portfolios of \$150 million or more the above scale is eliminated and the flat fee on total portfolio is 0.15% with fees decreasing to 0.10% on amounts above \$250 million.

Strong Capital Management

Scale on portfolios of less than \$100 million

- .20% on the first \$50 million
- .17 1/2% on the next \$50 million

On portfolios of \$100 million or more the above scale is eliminated and the flat fee on total portfolio is 0.15% with fees decreasing to 0.10% on amounts above \$250 million.

Estimated annual fees based upon market value of trust funds at 6/30/95

RCM Capital Management	\$282,750
Strong Capital Management	<u>282,750</u>
Total Fees	<u>\$565,500</u>

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**8. James A. FitzPatrick Nuclear Power Plant -
Security Systems Upgrade - Expenditure Authorization**

The President submitted the following report:

SUMMARY

"The Trustees are requested to approve an expenditure of \$2,000,000 for the Security Systems Upgrade project at the James A. FitzPatrick Nuclear Power Plant ('JAF'). These funds are needed for the engineering, design, procurement and installation of the Vehicle Barriers Modification, and to complete the procurement and construction phases of the Fixed Closed Circuit Television ('CCTV') Systems and related Upgrade Yard Lighting Modifications.

BACKGROUND

"Six of the nine modifications in the JAF Security System Upgrade project are complete. The three remaining modifications, Vehicle Barriers, Fixed CCTV System, and Yard Lighting Upgrades are the subject of this request.

"On May 31, 1988, the President approved an expenditure of \$250,000 for preliminary engineering associated with the Security System Upgrade. At their meetings of July 26, 1988, April 25, 1989 and November 28, 1989, the Trustees approved additional capital expenditures in the amount of \$7,686,000 which funded the installation of various short and long term Security System upgrades. The short term modifications, which included upgrade of the Pan/Tilt/ Zoom ('PTZ') CCTV camera system, installation of physical barriers and modifications to the perimeter detection system, are complete. The long term improvements, including Access Control System, Secondary Access Upgrade and partial installation of fixed cameras on the south east corner of the plant, are also complete.

"Evolving NRC requirements were identified in previous requests for funds for this project. The installation of a fixed CCTV system with the Upgraded Yard Lighting has not been fully funded. Based on additional information provided by the NRC and subsequent NRC inspections, a complete fixed CCTV system with Upgraded Yard Lighting is required for the entire JAF facility.

"A new rule, 10 CFR 73.55 issued by the NRC, requires Vehicle Barriers to be installed along the perimeter fence for 'the Protection Against Malevolent Use of Vehicles at Nuclear Power Plants'. This Vehicle Barrier System, with design criteria, was not defined until the end of 1994. This requirement had not been anticipated in the original 1988 Capital Expenditure Request. This rule requires installation of the Vehicle Barriers by February 29, 1996. This modification is mandated by the NRC and has not been previously funded.

DISCUSSION

"This funding request is required to provide funds for: (1) the procurement and installation of a Fixed CCTV system and a related Yard Lighting Upgrade; and (2) the engineering, design, procurement and installation of Vehicle Barriers at JAF.

"As a result of a recent inspection, the NRC indicated that the existing CCTV system at JAF should be replaced with a new fixed CCTV system. The new system is needed to improve the effectiveness of plant security. The new system will allow the security personnel to continuously and simultaneously monitor the entire plant perimeter. With the existing system, the security staff is able to monitor only a portion at a time using movable

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cameras. The proposed system will require the installation of fixed video cameras and monitors throughout the plant perimeter with additional supporting equipment in the main security and secondary access buildings. For the protection of electronic equipment from electrical surges, independent Uninterruptable Power Supply ('UPS') units will also be installed. In addition, for the proper operation of CCTV at night, the yard lighting system needs to be upgraded.

"NRC rule 10 CFR 73.55 requires Vehicle Barriers installation by February 29, 1996. To meet the new requirement, a modification has been designed to install passive and active barriers at a minimum distance of 360 feet from the outermost vital barriers along the perimeter fence. The design meets the criteria identified in NUREG/CR-6190, Volume 1 & 2 - Vehicle Barrier System Selection Guidance and has been accepted by the NRC.

"The completed cost for the Security Systems Upgrade project, including this request for \$2,000,000 and previous expenditures approved by the Trustees, is currently estimated at \$9,686,000. Installation is scheduled to start in the third quarter of 1995, and is expected to be completed by the fall of 1996.

"As of July 31, 1995, the financial summary of the project is as follows:

	(\$ thousands)	
Previous Trustee Authorization (1/89):		
- Six completed modifications	\$5,334	
- Three ongoing modifications	<u>2,352</u>	
	7,686	
Actual Expenditures @ 7/31/95		\$6,574
Current Funding Request:		
- Fixed CCTV System	1,000	
- Yard Lighting Upgrade	200	
- Vehicle Barriers	<u>800</u>	
	<u>2,000</u>	
TOTAL	<u>\$9,686</u>	

The \$2 million increase requested is due primarily to changing requirements, price inflation since 1988 (original cost estimate date), and the new vehicle barrier modification.

FISCAL INFORMATION

"The JAF Improvement Projects Proceeds Account has a current balance of \$58 million of which \$33 million is available to fund this request and additional tasks identified in the Capital Plan but not yet authorized. Based upon current cash flow projections, funds are available through the year 1998. Payment will be made from the appropriate Construction Fund - JAF Improvement Project Proceeds Account.

RECOMMENDATION

"The Site Executive Officer - James A. FitzPatrick Nuclear Power Plant, the Vice President - Nuclear Engineering, the Vice President - Engineering and Project Management, and the Chief Nuclear Officer recommend

the Trustees' approval of additional expenditures of \$2,000,000 for the Security Systems Upgrade project for the

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engineering, design, procurement and installation of the Vehicle Barriers Modification, and the completion of the procurement and construction phases of the Fixed CCTV Systems and Upgrade Yard Lighting Modifications.

"The General Counsel, the Senior Vice President - Business Services, and I concur in the recommendation."

In response to questions from Trustee Waldbauer, Mr. Josiger explained that the NRC requires that the Authority complete the Vehicle Barriers work by February, 1996 and that the CCTV Systems and related Upgrade Yard Lighting Modifications would be completed at a later date. In response to questions from the Vice Chairman concerning the perimeter fencing, President Schoenberger stated that, unlike the IP3 plant which has a common entry point with Con Edison, the JAF plant comprises a separate "campus" from Niagara Mohawk's facility, but that the NRC deadline is firm.

The following resolution, as recommended by the President, was unanimously adopted:

RESOLVED, That expenditures are hereby approved in accordance with the Authority's Expenditure Authorization Procedures, as recommended in the foregoing report of the President, in the amount and for the purpose listed below:

<u>Capital</u>		<u>Expenditure Authorization</u>
James A. FitzPatrick Nuclear Power Plant - Security Systems Upgrade		
Current Request		\$2,000,000
Previously Authorized:		
May 31, 1988	\$ 250,000	
July 26, 1988	2,400,000	
April 25, 1989	2,110,000	
November 28, 1989	2,926,000	<u>7,686,000</u>
TOTAL AMOUNT AUTHORIZED		<u>\$9,686,000</u>

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9. Proposed Amendments to the By-Laws of the Authority

The President submitted the following report:

SUMMARY

"Pursuant to Article IX, Section 1 of the Authority's By-laws, the Trustees are requested to amend applicable sections of such By-laws in order to reflect the recent organizational changes at the Authority. The text of the proposed amendments is set forth in Exhibit `9-A'.

BACKGROUND

"Article IX, Section 1 of the Authority's By-laws provides that the Trustees shall have the power to amend, alter or repeal any provision or provisions of these By-laws at any regular or special meeting. At their meeting of February 22, 1994, the Trustees amended the By-laws to reflect the designation of a President and Chief Executive Officer of the Authority, which amendments were to remain in effect until the termination of the employment of S. David Freeman or March 1, 1997, whichever occurred earlier. Mr. Freeman's employment terminated on July 25, 1995. As a result, pursuant to the Trustees' Resolution of February 22, 1994, the By-laws automatically reverted, without further action by the Trustees, to the text in effect immediately prior to the February 1994 amendments.

"At their meeting of April 26, 1994, the Trustees adopted another amendment to the By-laws, adding to Article X a new Section 3 entitled `Defense and Indemnification of Trustees and Employees.'" Under the terms of the Trustees' Resolution, the new Section 3 remains in effect notwithstanding the reversion of the By-laws to their earlier format.

DISCUSSION

"By virtue of the automatic reversion of the By-laws to those in effect prior to February 1994, the currently effective version of the By-laws comprises the text adopted by the Trustees in February 1989, as supplemented by the Defense and Indemnification provisions of April 1994. It is appropriate to again amend these By-laws to reflect certain interim organizational changes such as the new Business Unit structure and the abolition of several position titles in 1994. The text of the proposed amendments is set forth in Exhibit `9-A" attached hereto.

FISCAL INFORMATION

"There is no fiscal impact.

RECOMMENDATION

"The General Counsel recommends that the proposed amendments to the By-laws of the Authority as set forth Exhibit `9-A' attached hereto be adopted."

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The Vice Chairman requested that the Trustees be apprised in greater detail of the applicable policies and procedures. Mr. Schoenberger responded that staff is in the process of reviewing them for submittal to the Trustees. In response to questions from Trustee Miller, Mr. Pratt indicated that staff is monitoring proposed legislation concerning the video-conferencing of public meetings.

The following resolution, as recommended by the President, was unanimously adopted:

RESOLVED, That the By-laws of the Power Authority of the State of New York, as adopted February 28, 1989 and last amended April 26, 1994, pursuant to Section 1004 of Title 1 of Article 5 of the Public Authorities Law, as amended, be further amended pursuant to said statute as set forth in Exhibit "9-A".

BY-LAWS
of the
POWER AUTHORITY
OF THE STATE OF NEW YORK

Statutory authority

Public Authorities Law §1004

Originally Adopted April 9, 1954
and amended July 28, 1954;
September 28, 1956; May 1, 1961;
December 19, 1966; July 1, 1968;
April 27, 1978; November 28, 1978;
October 31, 1979; December 18, 1984;
January 22, 1985; October 29, 1985;
April 29, 1986; February 28, 1989;
[February 22, 1994 and April 26, 1994](#) |

Power Authority of the State of New York
1633 Broadway
New York, New York 10019

**BY-LAWS
of the
POWER AUTHORITY
OF THE STATE OF NEW YORK**

Article I - Offices

Section 1. Principal Office	X
Section 2. Other Offices	X
Section 3. Books and Records	X

Article II - Trustees

Section 1. Number, Term, Appointment and Vacancies	X
Section 2. Powers and Duties	X

Article III - Trustees' Meetings

Section 1. Place of Meetings	X
Section 2. Annual Meeting	X
Section 3. Regular Meetings	X
Section 4. Special Meetings	X
Section 5. Quorum	X

Article IV - Officers

Section 1. Officers	X
Section 2. Election	X
Section 3. Term of Office	X
Section 4. Vacancies	X
Section 5. Removal	X
Section 6. Duties	X
A. Chairman	X
B. Vice Chairman	X
C. President	X
D. Vice President	X
E. General Counsel	X
F. Secretary	X
G. Treasurer	X
H. Controller	X
I. Assistant Secretaries	X

Article V - Committees

Section 1. Management Committee	X
Section 2. Other Committees	X

Article VI - Corporate Seal

Section 1. Seal	X
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Article VII - Fiscal Management

Section 1. Fiscal Year	X
Section 2. Strategic Plan	X
Section 3. Annual Budgets	X

Section 4. Capital Expenditure Plan	X
Section 5. Expenditure Authorization Procedures	X
Section 6. Disbursement of Funds	X

Article VIII - Execution of Instruments

Section 1. Execution of Instruments	X
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Article IX - Amendment

Section 1. Amendment	X
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Article X - Miscellaneous

Section 1. Appointments	X
Section 2. Annual Report	X
Section 3. Defense and Indemnification of Trustees and Employees	X
Section 4. Table of Organization Chart Corporate Policies and Procedures	X

ARTICLE I

Offices

Section 1. **Principal Office.** The principal office of the Power Authority of the State of New York (hereinafter referred to as the "Authority") shall be its New York City Office.

Section 2. **Other Offices.** The Authority may also have offices at such other places as the Trustees may from time to time determine or the business of the Authority may require.

Section 3. **Books and Records.** Except as otherwise determined by the Trustees, or as the business of the Authority may require, all books and records of the Authority shall be kept at its principal office.

ARTICLE II

Trustees

Section 1. **Number, Term, Appointment and Vacancies.** The number and term of Trustees and the appointment and process of filling vacancies shall be governed by Title 1 of Article 5 of the Public Authorities Law, Chapter 870, Laws of New York, 1939, as amended (hereinafter referred to as "Power Authority Act").

Section 2. **Powers and Duties.** The powers and duties of the Trustees shall be governed by the Power Authority Act.

ARTICLE III

Trustees' Meetings

Section 1. **Place of Meetings.** Meetings of the Trustees shall be held at the principal office of the Authority or at such other place as the Trustees may from time to time designate.

Section 2. **Annual Meeting.** The annual meeting of the Trustees shall be held in April of each year, unless otherwise determined by them, and at such time and place as the Trustees may from time to time designate.

Section 3. **Regular Meetings.** Regular meetings of the Trustees shall be held on the last Tuesday of each month or on such other day in such month as the Trustees may from time to time designate.

Section 4. **Special Meetings.** Special meetings of the Trustees may be called by the Chairman or Vice Chairman or upon the request of any two Trustees. The Secretary shall give notice of the time, place and purpose or purposes of each special meeting by ~~mailing the same mail~~ at least three days before the meeting or in person or by ~~telephoning or telegraphing the same telephone or telefacsimile~~ at least two days before the meeting to each Trustee. The notice required to be given under this section may be waived by the Trustee to whom such notice is required to be given.

Section 5. **Quorum.** At all Trustees' meetings, the presence of three Trustees shall be necessary to constitute a quorum and shall be sufficient for the transaction of business. Any act shall be sufficient for the transaction of business if such three Trustees are in agreement and any act of such three Trustees present at a meeting and which constitutes a quorum shall be an act of the Trustees.

ARTICLE IV

Officers

Section 1. **Officers.** The statutory officers of the Authority shall be a Chairman and a Vice Chairman, whose offices are created by and named in Section 1004 of the Public Authorities Law and who shall be chosen from among the Trustees; the non-statutory officers of the Authority shall be a President, one or more Executive Vice Presidents, a General Counsel, one or more Senior Vice Presidents, one or more Vice Presidents, one or more Assistant General Counsels ~~of which one may be designated First Assistant General Counsel~~, a Secretary, a Treasurer, a Controller and one or more Assistant Secretaries, all of whom shall be employees of the Authority.

Section 2. **Election.** All officers, except the Chairman and Vice Chairman, shall be elected annually at the annual Trustees' meeting. Officers may be appointed and elected from time to time at any regular or special meeting of the Trustees.

Section 3. **Term of Office.** All officers, except the Chairman and Vice Chairman, shall hold office for a term expiring at the next annual Trustees' meeting or until their successors are elected.

Section 4. **Vacancies.** The Trustees may leave unfilled for any such period any office except those of Chairman, Vice Chairman, President or Secretary.

Section 5. **Removal.** Any officer shall be subject to removal at any time by the Trustees with or without cause.

Section 6. **Duties.**

A. **Chairman.** The Chairman shall preside at all meetings of the Trustees and shall be the Chief Executive Officer of the Authority and shall exercise such duties and powers as hereinafter described and as customarily pertain to the Office of Chairman. In carrying out the policies as determined by the Trustees, the Chairman shall have the general supervision and control of the affairs of the Authority. The Chairman may appoint such assistants and employees as he may deem necessary in order to administer the affairs of the Authority and may fix their powers, duties and compensations. The Chairman may delegate to the Vice Chairman, President or other officer or officers such of the Chairman's powers and functions in the general supervision, administration and control of the business of the Authority.

B. **Vice Chairman.** The Vice Chairman shall possess such powers and shall perform such duties as may be assigned to him from time to time by the Trustees. The Vice Chairman shall be Acting Chairman in the absence or incapacity of the Chairman and shall assume the powers and perform all duties of the Chairman if the Chairman is unable to perform such duties for any reason. The Vice Chairman, when acting in the capacity of Acting Chairman under this section, may delegate the powers or duties of Chairman to another Trustee or the President during the period of disability or incapacity of the Chairman.

C. **President.** The President shall be the Chief Operating Officer of the Authority and shall exercise such duties and powers as hereinafter described and as customarily pertain to the Office of President, subject, however, at all times to the supervision and control of the Chairman and the Trustees and subject further to any limitations which the Chairman or Trustees may from time to time prescribe. Except as may be prescribed by the Chairman or the Trustees, the President shall have general supervision over the property, business and affairs of the Authority and over its several officers, employees and agents other than the Chairman, the Vice Chairman and those officers reporting directly to the Chairman. The President may sign, execute and deliver in the name of the Authority powers of attorney, contracts, agreements, leases, notes, checks, drafts, bonds, obligations and such documents other than those required by these By-laws, law or resolution to be executed by the Chairman and/or the Secretary.

D. **Vice Presidents.** Executive Vice Presidents, Senior Vice Presidents, Vice Presidents, ~~the First Assistant General Counsel~~ and Assistant General Counsels shall have such powers and perform such duties as customarily pertain to such offices and as may be assigned to them by the Chairman, Trustees, or the President, subject, however, at all times to the supervision and control of the Chairman and Trustees and subject further to any limitations which the Chairman or Trustees may from time to time prescribe. The activities of the Authority shall be

organized within ~~five major Offices~~ six Business Units and an Office of the Chairman. ~~These five Offices shall be an Office of the Chairman, a Marketing and Development Office, a Finance and Administration Office, a Nuclear Generation Office Unit, and a System Operations Office.~~ These six Units shall be a Business Services Unit, an Energy Efficiency and Technology Unit, a Marketing and Economic Development Unit, a Nuclear Generation Unit, a Power Generation Unit and a Transmission Unit. Each ~~Office Unit, other than the Office of the Chairman,~~ shall be headed by ~~an Executive a Vice President, a Senior Vice President or Executive Vice President~~ who shall perform such specific duties as may be assigned by the Chairman or President or prescribed by the Trustees. In addition to the foregoing, there shall be separate Departments of Appraisal and Compliance Services and Human Resources which shall report directly to the President. Any ~~Senior or~~ Executive Vice President at the direction of the Chairman, Trustees or President, may perform any of the duties of the President.

E. **General Counsel.** The General Counsel shall be the chief legal officer of the Authority and in that capacity shall advise and represent the Authority generally in all legal matters and proceedings, including legislative proceedings, and possess such powers and shall perform such other duties as customarily pertain to such office or may be from time to time assigned by the Chairman or prescribed by the Trustees, subject, however, at all times to the supervision and control of the Chairman and the Trustees and subject further to any limitations which the Chairman or Trustees may from time to time prescribe.

F. **Secretary.** The Secretary shall attend all meetings of the Trustees and act as Secretary thereof and record all votes and shall keep a record of the proceedings of the Trustees in a Minute Book to be kept for that purpose. The Secretary shall cause notice to be given of all meetings of the Trustees and shall be custodian of the records of the actions of the Trustees and shall keep in safe custody the seal of the Authority and shall have the authority to affix such seal to all documents and papers authorized to be executed by the Trustees or officers of the Authority requiring such seal to be affixed. The Secretary shall attest to the signatures of the Trustees and officers of the Authority and shall have the authority to cause copies to be made of all minutes, resolutions, records and documents of the Authority and to deliver certificates under seal to the effect that such copies are true and accurate and that all persons dealing with the Authority may rely on same. The Secretary shall possess such powers and perform such other duties as customarily pertain to the office or may be from time to time assigned by the Chairman, President or prescribed by the Trustees, subject, however, at all times to the supervision and control of the Chairman and the Trustees and subject further to any limitations which the Chairman or Trustees may from time to time prescribe.

G. **Treasurer.** The Treasurer shall have general custody of all funds and securities of the Authority and have general supervision of the collection and disbursement of Authority funds and shall endorse on behalf of the Authority for collection checks, notes and other obligations, and shall deposit the same to the credit of the Authority in such bank or banks or depositories as the Trustees may designate. The Treasurer may sign with the President, or such other person or persons as may be designated for such purpose by the Trustees, all bills of exchange or promissory notes of the Authority and shall possess such powers and shall perform such other duties as customarily pertain to the office or as may be assigned from time to time by the Chairman, the President or prescribed by the Trustees, subject, however, at all times to the supervision and control of the Chairman and the Trustees and subject further to any limitations which the Chairman or Trustees may from time to time prescribe.

H. **Controller.** The Controller shall be in charge of the accounting operations, the preparation of fiscal accounts and the coordination of all external audits of the Authority and shall possess such powers and shall perform such duties as customarily pertain to the office or as may be assigned by the Chairman, the President or prescribed by the Trustees, subject, however, at all times to the supervision and control of the Chairman and the Trustees and subject further to any limitations which the Chairman or Trustees may from time to time prescribe.

I. **Assistant Secretaries.** The Assistant Secretaries shall possess such powers and shall perform such duties as may be assigned from time to time by the Chairman or the President or prescribed by the Trustees, subject, however, at all times to the supervision and control of the Chairman and the Trustees and subject further to any

limitations which the Chairman or Trustees may from time to time prescribe. Each Assistant Secretary may, in the absence or incapacity of the Secretary, assume and perform all powers and duties of the Secretary.

ARTICLE V

Committees

Section 1. **Management Committee.** The Management Committee shall consist of the Chairman, the President, the ~~Executive Vice Presidents in charge of the four Offices of Nuclear Generation, System Operations, Marketing and Development, and Finance and Administration~~ persons heading the Business Services, Energy Efficiency and Technology, Marketing and Economic Development, Nuclear Generation, Power Generation and Transmission Units and the ~~Senior~~ Vice Presidents - Public Affairs and Human Resources and the General Counsel, and, at the discretion of the Chairman and the President, up to one additional member, such that the total Committee membership shall not exceed ~~nine~~ twelve members.

The Management Committee shall annually review Authority corporate strategies, policies and programs and shall make recommendations to the Trustees to modify such strategies, policies and programs as appropriate. The Chairman, or in his absence or disability the President, shall preside at ~~management committee~~ Management Committee meetings, which shall meet quarterly or more often as the Chairman or President may designate.

Section 2. **Other Committees.** The Trustees or the Management Committee may appoint other committees which shall have and may exercise such powers as shall be authorized by the Trustees or by action of the Management Committee. ~~A majority of any such committee may determine its action and fix the time and place of its meetings unless the Trustees or Management Committee shall otherwise provide. The Trustees or the Management Committee shall have the power at any time to change the powers and membership of any such committee, to fill vacancies and to dispose of any such committee.~~

ARTICLE VI

Corporate Seal

Section 1. **Seal.** The seal of the Authority shall be a design symbolizing its activities and shall be surrounded by the words "Power Authority of the State of New York" as shown by the following impression of such seal:

ARTICLE VII

Fiscal Management

Section 1. **Fiscal Year.** The Trustees shall have the power to fix, and may from time to time change by resolution, the fiscal year of the Authority. Unless otherwise fixed by the Trustees, the calendar year shall be the fiscal year.

Section 2. **Strategic Plan.** The Trustees shall annually review a strategic plan which shall become the basis for the development of departmental plans, the annual budget and the capital expenditure plan.

Section 3. **Annual Budgets.** The Trustees shall annually adopt an operations and maintenance budget and a capital budget for the Authority's operating facilities and support departments.

Section 4. **Capital Expenditure Plan.** The Trustees shall annually review a capital expenditure plan which shall summarize all present and proposed capital projects.

Section 5. **Expenditure Authorization Procedures.** The Trustees shall adopt expenditure authorization procedures which shall govern the annual budget, capital expenditure plan, contract executions and all approval authorizations.

Section 6. **Disbursement of Funds.** The Trustees, except as otherwise provided in these By-laws, may authorize any officer or other employee to execute any requisition, voucher, draft or check for the disbursement or transfer of funds

of the Authority.

ARTICLE VIII

Execution of Instruments.

Section 1. **Execution of Instruments.** The Trustees, except as otherwise provided in these By-laws, may authorize any officer, employee or agent pursuant to the expenditure authorization procedures or otherwise, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Authority, and such power to execute and deliver may be general or specific; unless so authorized, no officer, employee or agent shall have any power or authority to bind the Authority by any contract or engagement or pledge its credit or to render it liable pecuniarily for any purpose or in any amount.

ARTICLE IX

Amendment

Section 1. **Amendment.** The Trustees shall have the power to amend, alter or repeal any provision or provisions of these By-laws at any regular or special meeting.

ARTICLE X

Miscellaneous

Section 1. **Appointments.** The appointments of all officers and resident managers, except the Chairman and Vice Chairman, shall require approval of the Trustees. The Trustees may extend employment contracts to one or more officers of the Authority, except the Chairman and Vice Chairman, in order to insure continuity of senior management.

Section 2. **Annual Report.** The Trustees shall submit an annual report, as prescribed by the Public Authorities Law, within ninety days after the close of the fiscal year.

Section 3. **Defense and Indemnification of Trustees and Employees.** The provisions of the Defense and Indemnification Policy ("Policy") of the Authority as amended and adopted on April 26, 1994, and the provisions of the resolution as amended and adopted by the Authority on April 26, 1994 conferring the benefits of Section 18 of the New York Public Officers Law ("POL § 18") on the Authority's Trustees and Employees and agreeing to be held liable for the costs thereof, shall constitute a contract between the Authority and each of its Trustees and Employees, as such persons are defined in the Policy, and the Authority agrees that the benefits thereof shall be made available to each Trustee or Employee with respect to any act or omission which has occurred or may in the future occur during the period such Policy and the resolution conferring the benefits of POL § 18 are in effect, and no amendment to such Policy or such resolution which modifies the provisions thereof shall take effect with respect to any act or omission of a Trustee or Employee which occurred prior to the effective date of such amendment unless the effect of such amendment is to increase the defense and indemnification protection afforded to such Trustee or Employee prior to such effective date.

Section 4. **Table of Organization Chart.** The Trustees shall adopt, and may from time to time change by resolution, the table of organization chart, which is annexed to these By laws and made a part hereof. For purposes of these By laws a department shall be an organizational unit headed by a Senior Vice President, an Executive Vice President or the President.

Section 4. **Corporate Policies and Procedures.** Unless otherwise provided by statute or these By-laws, the Trustees

and every officer or employee of the Authority shall be subject to the Authority's corporate policies and procedures as embodied in its corporate policies program.

**10. Sachem Central School District - Boiler Plant Conversions -
Implementation Services - HEC Energy Services - Change Order**

The President submitted the following report:

SUMMARY

"The Trustees are requested to authorize funds not to exceed \$2.0 million for the implementation of boiler plant conversions for the Sagamore Junior High School, the Chippewa Elementary School, and the Waverly Avenue Elementary School in the Sachem Central School District ('Sachem'). These installations are to be done in conjunction with a comprehensive lighting and Energy Management System ('EMS') being implemented under the Long Island High Efficiency Lighting Program ('HELP'). The Trustees are also requested to approve a change order to HEC Energy Services' HELP implementation contract.

BACKGROUND

"Sachem is the largest school district on Long Island operating in several towns and comprised of about 17 school related buildings. The Authority has offered assistance to the district via Long Island HELP. Through HELP all aspects of conservation services from initial energy audits through direct installation of eligible conservation equipment are being provided by the Authority. The district had received a proposal from another source which included a cogeneration option, but after intense discussions with staff and the Long Island Lighting Company ('LILCO'), Sachem has decided to participate in the HELP program.

"The Authority now also has an opportunity to mitigate a specific concern of the community local to the Richard M. Flynn Plant ('Flynn Plant'). The Flynn Plant is required to meet stringent environmental requirements. The community complained, however, that during start-up testing, odors were detected at a junior high school approximately one mile from the Plant. The Authority in response has agreed to partially fund an air monitoring program in an attempt to determine the source of alleged foul odors in the community.

"A comprehensive energy efficiency program has been discussed with Sachem which would include not only lighting and EMS, but also a review of boiler plant conversions. This has been very well received. The Sachem School Board has provided the Authority with its good faith acknowledgement by a vote of approval for the lighting phase at its August 11, 1995 meeting. This phase which is being handled under the Long Island HELP initiative includes lighting, occupancy sensors, motors, and variable speed drives and is estimated to have a \$3.6 million total project cost. The EMS phase of the program which is yet to be approved by the school board is estimated to have a total project cost of \$5.9 million and will also be handled under the Long Island HELP initiative.

DISCUSSION

"The Authority has the opportunity to promote good community relations with the community within which the Flynn Plant is located. Consequently, it is proposed that the Authority provide a comprehensive program to include the replacement of existing boilers in the three schools which are in closest proximity to the Flynn Plant. The existing boilers are old, require considerable maintenance, and are thermally inefficient. The installation of several small boilers will improve thermal efficiency, permit operation of only those boilers that are required to meet the immediate heating load and will also contribute to improvement of local air quality because the boilers are more

efficient and will burn natural gas.

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"The new modular boilers, which are estimated to cost \$2.0 million, will be designed to operate with either natural gas or No. 2 fuel oil. This will allow the purchase of natural gas at the lowest interruptible rate. In addition the new boilers will eliminate the practice of keeping the boilers warm all summer to avoid start-up problems in the winter. This will result in additional energy savings.

"It is anticipated that the comprehensive energy program which includes lighting/occupancy sensors, motor replacement, variable speed drives and an EMS for the entire district, as well as boiler conversions for the three aforementioned schools will have a total project cost of approximately \$11.5 million with an effective payback of under seven years.

"Implementation services for the lighting phase and EMS have been assigned to HEC Energy Services ('HEC'), a HELP implementation contractor selected through competitive solicitation and awarded a contract that was approved by the Trustees. HEC was asked by staff to develop a feasibility study to determine the cost effectiveness of a comprehensive energy conservation program for Sachem which included the lighting phase, EMS and boiler replacements.

"State Energy Aid is available to Sachem to offset a portion of the total project cost. Sachem's current aid ratio exceeds 75% of the covered capital improvements. However, due to recent requirements of the State Education Department that include the submittal of design specifications by October 1, 1995 in order to receive the lump sum aid, it is imperative that the appropriate documents be filed immediately. HEC's existing contract with the Authority does not include boiler conversion in the scope of work. Normally, staff's practice would be to issue a Request for Proposals ('RFP') and competitively bid the services. However, this would preclude the availability of State Energy Aid. Consequently the design, engineering and construction of the boiler plants must be awarded to HEC on a sole source basis. HEC has completed the feasibility study which included much of the audit and design specification process.

"HEC has been an exemplary contractor to the Authority for the past four years in connection with HELP. HEC has broad experience in complex energy projects, including chiller and boiler replacement projects at various sites in the United States as well as the \$6 million refrigeration plant approved by the Trustees for the Hunts Point Cooperative Market.

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

FISCAL INFORMATION

"Expenditures will be provided from the Energy Conservation Effectuation and Construction Fund. The cost of installing the recommended boiler plants will not exceed \$2.0 million and will be recovered within a period not to exceed ten years directly from Sachem, along with the cost of advancing funds and Authority overheads. It is anticipated that the Commercial Paper Program will be used to fund the improvements.

RECOMMENDATION

"The Senior Vice President - Energy Efficiency and Technology recommends that the Trustees authorize the implementation and associated funding for boiler plant conversions for the Sagamore Junior High School, the Chippewa Elementary School, and the Waverly Avenue Elementary School. It is further recommended that the Senior Vice President - Energy Efficiency and Technology, or his designee, be authorized to execute any agreements

or documents between the Authority, and the Sachem Central School District, as necessary or desirable to implement the eligible measures.

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"It is also recommended that the Trustees approve a change order to the HELP procurement contract with HEC Energy Services in an amount not to exceed \$2 million for the implementation of boiler plant conversions for the specified schools mentioned above.

"The Vice President - Procurement and Real Estate, the General Counsel, the Senior Vice President - Business Services, and I concur in the recommendation."

In response to questions from Trustee Daly, Mr. Pellegrino explained that 75% of the funds advanced by the Authority would be repaid to it as a lump sum, with only the balance to be financed by the Authority. Trustee Daly inquired whether this work could be done in a community where the Authority does not operate a project. Mr. Pratt responded that the existence of the Flynn plant provides a legal basis for the proposed action. Trustee Daly noted that undertaking such work in other communities could establish a precedent. Mr. Pellegrino responded that energy efficiency measures are being offered by the Authority in all 700 school districts throughout the State.

Trustee Daly inquired whether debt service is pooled or accounted for on a project-specific basis. Messrs. Tscherne and Pratt explained that for ratemaking purposes, the Authority did allocate the debt associated with the financing of that particular facility; however, for repayment purposes, the debt service is pooled. In response to further questions from Trustee Daly, Mr. Tscherne explained that it was originally anticipated that revenues from the Marcy-South line would be sufficient for debt service, but since they have not been, the funds are taken from elsewhere. Mr. Schoenberger added that this policy is consistent with the provisions of the Authority's General Purpose Bond Resolution. Similarly, explained Mr. Tscherne, if the Authority were to issue general purpose debt to fund the Niagara Upgrade, the repayment would be made out of general revenues if the specific revenues from the upgrade work proved to be insufficient for that purpose.

The following resolution, as recommended by the President, was unanimously adopted:

RESOLVED, That an expenditure of \$2.0 million is hereby approved for the implementation of boiler plant conversions for the Sagamore Junior High School, the Chippewa Elementary School, and the Waverly Avenue Elementary School all located in the Sachem Central School District; and be it further

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RESOLVED, That pursuant to the Guidelines for Procurement Contracts adopted by the Authority, approval is hereby granted to issue a change order to HEC Energy Services' HELP contract to provide project management and implementation services in connection with the Sachem School District Boiler Plant Conversion; and be it further

RESOLVED, That the Senior Vice President - Energy Efficiency and Technology, or his designee, be authorized to execute any agreements or documents between the Authority, and the Sachem Central School District, as necessary or desirable to implement the eligible measures.

<u>Energy Conservation Effectuation and Construction Fund</u>	<u>Contract Approval</u>	<u>Expenditure Authorization</u>
Sachem Boiler Conversion		<u>\$2.0 Million</u>
HEC Energy Services	<u>\$2.0 Million</u>	

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11. Next Meeting

The next Regular meeting of the Trustees will be held on **Wednesday, September 27, 1995, at the Blenheim-Gilboa Pumped Storage Project at 10:30 a.m.**, unless otherwise designated by the Chairman with the concurrence of the Trustees.

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Closing

Upon motion made and seconded, the meeting was closed at 11:45 a.m.

Anne Wagner-Findeisen
Corporate Secretary

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