

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

**September 27, 1995**

**Table of Contents**

<b><u>Subject</u></b>	<b><u>Page No.</u></b>	<b><u>Exhibit</u></b>
<b>1) Minutes of the Regular Meeting of August 29, 1995</b>	<b>2</b>	
<b>2) Financial Report for the Eight Months Ended August 31, 1995</b>	<b>3</b>	<b>`2-A'</b>
<b>3) Municipal and Rural Cooperative Economic Development Program - Allocation to Village of Fairport Resolution</b>	<b>4</b>	
<b>4) Allocation of Expansion Power - Dunkirk International Glass and Ceramics Corporation Resolution</b>	<b>6</b>	<b>`4-A'</b>
<b>5) Long-Term Incremental Power Supply Agreements with Rural Electric Cooperative Systems Resolution</b>	<b>8</b>	
<b>6) Allocations of FitzPatrick Economic Development Power - Racemark International and Harden Furniture Company Resolution</b>	<b>10</b>	<b>`6-A'</b>
<b>7) Southeast New York ("SENY") High Efficiency Lighting Program - Increased Funding Authorization Resolution</b>	<b>12</b>	
<b>8) Corporate Resolution - Management of Banking Relationships Resolution</b>	<b>16</b>	

<u>Subject</u>	<u>Page No.</u>	<u>Exhibit</u>
9) Procurement (Services) Contract - Third Party Administrative Services for Medical, Prescription Drugs, Dental and Short Term Disability Benefits Programs - Maurice Pompfrey and Co. - Award Resolution	18	
10) Procurement (Services) Contracts - James A. FitzPatrick and Indian Point 3 Nuclear Power Plants and Headquarters - Awards Resolution	22	` 10-A'
11) Procurement (Services) Contracts - James A. FitzPatrick, Indian Point 3 Nuclear Power Plants; Headquarters; and all Non-Nuclear Facilities - Extensions, Approval of Additional Funding, and Increase in Compensation Ceiling Resolution	26	` 11-A'
12) Procurement (Services) Contracts - Law Department - Coulter, Fraiser, Bolton, Bird & Ventre and MaCarthy Tetrault - Extensions; Steptoe & Johnson - Awards Resolution	31 ` 12-B'	` 12-A'
13) <u>INFORMATIONAL ITEM</u> - Execution of Permit with Schoharie County for Use of Blenheim-Gilboa Brown Mountain Radio Transmitter and Associated Equipment	34	
14) Financial Transactions with the State of New York Resolution	36	
15) Next Meeting	39	
Closing	40	

September 27, 1995

Minutes of the Regular Meeting of the Power Authority of the State of New York held at the Blenheim-Gilboa Pumped Storage Power Project at 10:30 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
Woodrow W. Crouch	Vice President - Project Management - Power Generation
Deborah Perry Estrin	Vice President - Human Resources
Sally L. Irving	Vice President - Corporate Finance
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
Richard E. Kuntz	Regional Manager - Southeast New York
James J. McCarthy	Regional Manager - Central New York
Daniel P. Berical	Director - Intergovernmental Relations
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
John B. Hamor	Assistant Director - Intergovernmental Relations
Anne Wagner-Findeisen	Corporate Secretary
Laura M. Badamo	Assistant Secretary - Legal Affairs
Vernadine E. Quan-Soon	Assistant Secretary - Corporate Affairs

---

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

**September 27, 1995**

**1. Approval of the Minutes**

The minutes of the Regular Meeting of August 29, 1995 were approved.

**September 27, 1995**

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

**3. Municipal and Rural Cooperative Economic Development Program - Allocation to Village of Fairport**

The President submitted the following report:

SUMMARY

"The Trustees are requested to approve an allocation of power under the municipal and rural cooperative economic development program ('Program') to the Village of Fairport ('Fairport').

BACKGROUND

"The 1991 amendment to the power sales agreement between the Authority and the Municipal and Rural Cooperative Systems reserved 108,000 kW of power for economic development in the systems. As of February 28, 1995, 17,200 kW have been allocated.

"Power from this block can be allocated to individual systems to meet the increased electric load resulting from eligible new or expanding businesses in their service area. Under the guidelines established for the Program, an allocation to a system should meet a target number of new jobs per megawatt. The guidelines provide that for businesses new to a system, the jobs per megawatt ratio is considered on a case-by-case basis. For projects involving existing businesses, the suggested jobs per megawatt ratio is determined by the level of employment prior to the expansion. Specifically, for companies employing 100 or less, the target ratio is 25 jobs per MW; for companies employing between 101 and 250, the ratio is 50; for companies employing between 251 and 500, the ratio is 75; and for companies employing over 500, the ratio is 100 jobs per megawatt.

"An application for power under the program has been submitted by Fairport for consideration by the Trustees.

DISCUSSION

"Ferronics Incorporated ('Ferronics') is a manufacturer of ceramic components for electronic applications. The components are used in electric data communications (networks), cable TV and noise suppressors. Ferronics is a long-standing and productive Fairport business. The company is planning an addition of 13,500 square feet to allow for expansion and relocation of existing functions. Total project costs, including machinery and equipment, are anticipated to exceed \$2 million. The project also involves the renovation of approximately 24,000 square feet of existing space and an addition of 13,500 square feet (anticipated building cost of \$1.2 million). Employment is projected to increase by 25, within three years, over the company's existing level of 79. Ferronics has a computerized and energy-efficient Kiln Control system which optimizes all energy consumption. Also, a more efficient internal power supply will be used. In 1993, Ferronics received a New York State Energy Office - Energy Investment Loan in the amount of \$108,750 for the implementation of various energy efficiency measures. It is recommended that up to 800 kW be approved for allocation.

"The Municipal Electric Utilities Association Executive Committee supports the recommended allocation.

"The recommended allocations under the program comprise half hydropower and half incremental power. In accordance with the Authority's marketing arrangement with the full requirements municipal and cooperative

customers, the hydropower will be added to the recipient system's contract demand at the time a project becomes

September 27, 1995

operational, and the incremental power will be sold on an as-used basis. The hydropower earmarked for this program is presently sold to the municipal and cooperative customers on a withdrawable basis.

RECOMMENDATION

"The Senior Vice President - Marketing and Economic Development recommends that the Trustees approve up to 800 kW for allocation under the Municipal and Rural Cooperative Economic Development Program to the Village of Fairport in accordance with the attached memorandum of the President.

"The General Counsel and I concur in the recommendation."

***In response to questions from Trustee Waldbauer, Ms. Morman and Mr. Hiney explained that the proposed allocation would not become effective until such time as the Ferronics project becomes operational; however, any issues of compliance with job commitments are between the Village of Fairport and the recipient, Ferronics. In response to questions from Trustee Daly, the Vice Chairman and President Schoenberger noted that under the terms of the 1991 Agreement, a block of 108,000 kW (54,000 kW of hydro and 54,000 kW of incremental) has been set aside for industrial development purposes in the municipal systems. Approximately 18,000 kW have been allocated to date. The balance of the hydro power portion of this block of power is in the interim being made available to the municipal customers on a withdrawable basis for serving their municipal loads. The Vice Chairman expressed concern that there has been insufficient use of this power for its primary purpose of industrial development.***

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

**RESOLVED, That an allocation of up to 800 kW to the Village of Fairport under the Municipal and Rural Cooperative Economic Development Program is hereby approved; and be it further**

**RESOLVED, That the Senior Vice President - Marketing and Economic Development, or her designee be, and hereby is, authorized to execute any and all documents necessary or desirable to effectuate the aforesaid allocation.**

**4. Allocation of Expansion Power - Dunkirk International Glas and Ceramics Corporation**

The President submitted the following report:

SUMMARY

"The Trustees are requested to approve an Expansion Power allocation of 1,500 kW to Dunkirk International Glass and Ceramics Corporation ('Dunkirk').

BACKGROUND

"The Power Authority Act, as amended by Chapter 32 of the Laws of 1987, provides for allocation of 250 MW of Expansion Power to businesses in New York within 30 miles of the Niagara Power Project and Chautauqua County. Of the 250 MW, 19,732 kW are set aside for allocation in Chautauqua County. There are currently 3,582 kW available for allocation to eligible industry in Chautauqua County. If the proposed allocation is approved, there will be 2,082 kW available in Chautauqua County.

"At their meeting of July 25, 1995, the Trustees approved a prospective allocation of 1,500 kW to Dunkirk International, subject to the solicitation and consideration of competing proposals. The minutes of such meeting are attached as Exhibit '4-A'. Notices of the proposed allocation were published in the Buffalo News, Jamestown Post & Journal and Dunkirk Evening Observer on August 1, 1995. Applications detailing the competing proposals were due to the Authority by August 30, 1995. No proposals were received in response to the Authority's notice.

DISCUSSION

"Dunkirk, a subsidiary of Conversion Technologies International, Inc. of Hazlet, New Jersey, is an environmentally friendly manufacturer that reformulates, through high temperature melting, waste products into Alumaglass. Alumaglass is a fine grain abrasive that is made by combining specified recovered resources from the metals and electronics industries with conventional glass-making materials. Dunkirk also recycles TV tube cullet from the tube manufacturing industry and returns it to the TV tube melt and form industry. The company is planning to add production capacity and has requested an allocation of Expansion Power.

"Dunkirk is located in a 230,000 square foot facility that was formerly occupied by Greater Buffalo Press in the City of Dunkirk. The company is planning to add production capacity within its existing structure in order to enter and grow in the fine abrasive market and to increase capacity for TV tube cullet recycling. Total capital investment is projected to be about \$8.6 million of which the majority will be used to purchase and install machinery and equipment. Dunkirk will commit to add 150 jobs, over a three year period, to its existing employment of 64 for a total job commitment of 214. The company anticipates that it will require 2.2 MW for this project. The recommended allocation of 1,500 kW is estimated to save the company \$500,000 annually over the standard tariff rates of the local utility. The power will be delivered by the Niagara Mohawk Power Corporation.

"The allocation is strongly supported by the Chautauqua County Industrial Development Agency. The project will receive financial assistance from the Chautauqua County Industrial Development Agency; Dunkirk Local Development Corporation; New York Job Development Authority; and the Southern Tier Enterprise Development.

"The application was reviewed in accordance with the applicable criteria set forth in Part 460 of the Authority's Rules and Regulations governing the Allocation of Industrial Power (21 NYCRR 460 (1988)).

September 27, 1995

RECOMMENDATION

"The Director - Business Marketing and Economic Development recommends that the allocation of 1,500 kW of Expansion Power be approved for a term of 15 years, subject to the renewal of the Niagara Project license.

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

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

**RESOLVED, That an allocation of 1,500 kW of Expansion Power to Dunkirk International Glass and Ceramics be approved in accordance with the foregoing report of the President; and be it further**

**RESOLVED, That the Senior Vice President - Marketing and Economic Development or her designee be, and hereby is, authorized to execute any and all documents necessary or desirable to effectuate the above allocation.**

**5. Long-Term Incremental Power Supply Agreements with Rural Electric Cooperative Systems**

The President submitted the following report:

SUMMARY

"The Trustees are requested to authorize the Chairman or his designee to execute long-term agreements for incremental power service with the four New York Rural Electric Cooperative systems. The four Cooperative Systems are Delaware County Electric Cooperative, Inc.; Oneida-Madison Electric Cooperative, Inc.; Otsego Electric Cooperative, Inc.; and Steuben Rural Electric Cooperative, Inc. (the 'Coops').

BACKGROUND

"The Authority presently serves the Coops as full requirements systems. Full requirements systems purchase all their power needs, Niagara hydroelectricity and Incremental (consisting of a meld of FitzPatrick nuclear and Blenheim-Gilboa Pumped Storage capacity) from the Authority. These customers have the right to transfer to partial requirements status, purchasing only Authority hydro power, by providing the Authority three years' notice.

"In 1994, annual revenues from the Coops were approximately \$2.0 million, of which \$1.2 million was for hydro power purchases, \$0.4 million was for incremental power purchases and \$0.4 million was for power transmission.

DISCUSSION

"The Authority has reached agreement in principle with the Coops for a Long Term Incremental Power Supply Agreement. The agreement in principle is for a term of 12 years and provides for stable prices until 1998, with indexed increases thereafter. In addition, the Authority and the Coops agreed to cooperate on matters related to the Authority's regulation of the Coops' rates and regulations. The Coops agreed to support the relicensing of the Authority's power projects and promoting economic development in the electric cooperative systems.

"The agreement in principle with the Coops is consistent with the Authority's goals of ensuring sales and revenue stability and retaining customers in a highly competitive market. The long term agreement for incremental power would meet the Coops' concern for a secure and affordable power supply.

RECOMMENDATION

"The Senior Vice President - Marketing and Economic Development recommends that the Trustees authorize the Chairman and Chief Executive Officer, or his designee, to execute incremental power supply agreements with the Coops on terms substantially as set forth above.

"The General Counsel and I concur in the recommendation."

September 27, 1995

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

**RESOLVED, That the Chairman and Chief Executive Officer, or his designee be, and hereby is, authorized to execute long term incremental power supply agreements with the Rural Electric Cooperative Systems substantially as set forth in the foregoing report of the President; and be it further**

**RESOLVED, That the Chairman and Chief Executive Officer, or his designee be, and hereby is, authorized to execute any and all documents necessary or desirable to effectuate the foregoing.**

**6. Allocations of Fitzpatrick Economic Development Power**

The President submitted the following report:

SUMMARY

"The Trustees are requested to approve the allocation of 3,400 kW of Fitzpatrick Economic Development Power ('EDP') to Racemark International ('Racemark') (1,000 kW) and Harden Furniture Company ('Harden') (2,400 kW) as listed in Exhibit '6-A'.

BACKGROUND

"At its meeting of September 15, 1995 the Economic Development Power Allocation Board ('EDPAB') approved applications for EDP submitted on behalf of the two companies in Exhibit '6-A' and recommended these allocations to the Authority with certain conditions in addition to the quantity of EDP, number of jobs to be committed and term of contract, EDPAB recommends that the Authority's EDP service agreements with each company include provisions regarding affirmative action, reduction of power (if jobs or power usage is below committed levels), and energy efficiency. The companies are either in the service area of Niagara Mohawk Power Corporation ('Niagara Mohawk') or New York State Electric and Gas Corporation ('NYSEG'). Under existing contracts between the Authority and these two utility companies, EDP is sold to the relevant utility for resale to the designated industrial customer at a special tariff rate.

DISCUSSION

**Business Expansion Projects**

"EDPAB recommended a 1,000 kW allocation of EDP for business expansion that entails new electrical demand at facilities at which new jobs are to be created. Racemark International ('Racemark') is a private international manufacturer of luxury automobile floor mats and seat covers. Racemark's design and technological innovations have projected the company to the forefront of the floor mat producers, being the first to put fashion design in floor mats. The company manufactures and distributes its high-end mats to European and Japanese car makers. The company's operations have recently been enhanced to produce products more effectively and efficiently through investments in new CAD-CAM systems, supplier partnerships and employee development. Racemark recently reached an agreement with the Ford Motor Company which will significantly increase the company's sales volume. The company will provide mats for a variety of makes and models in the Ford line, as well as replacement mats for older Ford vehicles. The allocation would result in 197 jobs per megawatt. The Saratoga Economic Development Corporation supports the proposed allocation which would save Racemark about \$70,000 annually over New York State Electric & Gas ('NYSEG's') standard rates. The allocation of 1,000 kW of expansion power would be in effect for a term of ten years.

**Business Revitalization**

"EDPAB recommended a 2,400 kW allocation of EDP for business revitalization purposes where the business has demonstrated serious, long-term distress. Harden Furniture Company ('Harden') is a large manufacturer of home furnishings. The company's main product line consists of high-end cherry wood furniture and associated upholstery. The company employs 421 people at two local manufacturing sites, and an additional 40 at a plant in

September 27, 1995

North Carolina. The company is in the process of deciding which location to invest in and how it can reduce manufacturing costs to become more competitive. Escalating power costs have impeded the company's ability to compete in the industry. Profit margins and cash flow have declined drastically over the past several years. The company is actively considering relocating a large portion of its operations out of state to reduce manufacturing costs. The allocation of 2,400 kW would retain 421 jobs at a ratio of 175 jobs per megawatt. The company would save an estimated \$340,000 annually over Niagara Mohawk's standard rates. The proposed five year allocation of revitalization power is supported by the Oneida County Industrial Development Corporation.

"The proposed allocations have 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 Authority's standard EDP allocation agreements with each of the companies provide for reductions in an allocation in the event that employment or usage levels are not maintained at specific levels.

"Reports regarding employment and Affirmative Action commitments will be submitted to the Authority as provided by Section 460.4 of the Authority's Rules and Regulations. Additionally, each contract will include specific energy audits and implementation requirements.

#### RECOMMENDATION

"The Director - Business Marketing and Economic Development recommends that the Trustees approve the allocation of 3,400 kW of Fitzpatrick Economic Development Power to two companies in the amounts listed in Exhibit `6-A' and as described herein.

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

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

**WHEREAS, the Economic Development Power Allocation Board has recommended allocations of Economic Development Power to Racemark International and Harden Furniture Company listed in Exhibit "6-A" of the foregoing report of the President in the quantities listed in such exhibit;**

**NOW THEREFORE BE IT RESOLVED, That the Authority hereby approves the allocation of 3,400 kW of Fitzpatrick Economic Development Power to Racemark International and Harden Furniture Company listed in Exhibit "6-A" of the foregoing report of the President. Substantially in accordance with the terms described in such memorandum; 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 able to effectuate the above allocations.**

**Allocation of EDP**

<u>Company</u>	<u>County</u>	<u>Utility</u>	<u>EDP (kW)</u>	<u>Jobs Committed</u>	<u>Jobs/ MW</u>
<b>Expansion Projects</b>					
Racemark International	Saratoga	NYSEG 1,000	197	197	
<b>Revitalization Projects</b>					
Harden Furniture	Oneida	NMPC	<u>2,400</u>	<u>421</u>	175
TOTALS			<u>3,400</u>	<u>618</u>	

7. **Southeast New York ("SENY") High Efficiency Lighting Program - Increased Funding Authorization**

The President submitted the following report:

SUMMARY

"The Trustees are requested to authorize increased funding for the SENY High Efficiency Lighting Program ('HELP') in the amount of \$28 million for a total authorized funding level of \$110 million. The Trustees are also requested to extend the maximum repayment terms on Authority-provided financing from seven to ten years for projects ineligible for Authority incentives. Continued implementation of the HELP program was a significant part of the inducement for the SENY public customers to enter into long term power supply agreements with the Authority. The recommended changes will allow the Authority to fulfill its commitments to its customers and continue to implement this very successful program.

BACKGROUND

"At their meeting of December 21, 1989, the Trustees approved a major new Demand Side Management Program for Authority public customers located in Southeast New York and authorized initial funding of \$26.5 million for this program. SENY HELP is a turn-key approach to identify, procure, and implement energy efficiency improvements for the Authority's SENY customers. SENY HELP was the Authority's seminal lighting conservation program, and the launching platform for numerous other initiatives including Statewide, Long Island, Public Schools and County and Municipal HELP, all for the benefit of public institutions and public school districts throughout the State. At their meetings of May 30, 1990 and December 15, 1992, the Trustees approved an additional \$15 million and \$40.5 million respectively for SENY HELP bringing the total to \$82 million. Also at their December 15, 1992 meeting, the Trustees authorized the HELP measures be extended to include high efficiency motors, and heating, ventilation and air conditioning control systems.

"Under SENY HELP, as of July 1995, about 240 projects have been identified representing a total construction effort of approximately \$110 million and customer savings of \$22 million per year<sup>1</sup>. So far, 138 projects have been completed at a total construction cost of \$59.3 million. Under the initial SENY program, the participating customer paid an amount equal to the estimated electricity cost savings for the first two years. The remaining costs were paid by the Authority as an incentive and then recovered in the electric rates applicable to all SENY public customers. The Authority financed the customer's cost share over a two-year period, following project completion. At their meeting of December 15, 1992, the Trustees authorized the staff to cap incentive payments at 50% of the total project cost and extended repayment periods to up to seven years for Authority-provided financing. Beginning in July 1996, the participating customers will be responsible for repaying the entire cost of projects engaged on their behalf, i.e., there will be no incentives provided by the Authority.

"The standard repayment provision for all of the Authority's other HELP conservation initiatives provides for

---

<sup>1</sup> Total actual spending to date under various contracts, including Authority overheads, is about \$73 million. Of this amount, about \$32 million has been recovered to date.

up to a ten-year term.

DISCUSSION

"Since launching the various HELP initiatives, staff has had the opportunity to assess initial program designs against actual experience. This is particularly true of the SENY HELP program, where a variety of projects have now been completed. The review of completed projects shows that the direct installation format of HELP continues to be the best, most effective method of implementing large scale conservation efforts within the public sector.

"The Authority's Capital Plan includes total funding for SENY HELP of \$110 million, of which \$82 million has been authorized to date by the Trustees. The SENY customers have been extremely responsive to the Authority's program offering since it was implemented in 1989, such that the authorized funding is nearly exhausted on the basis of actual spending to date. Moreover, projects identified to date (includes committed and uncommitted funds) currently total over \$110 million in construction costs. The remaining SENY market is anticipated to support achievable, cost effective conservation potential sufficient to use all the funds included in the Capital Plan. Consequently, it is recommended that the Trustees increase authorized funding for SENY HELP by an additional \$28 million for a total of \$110 million.

"In addition, as part of its competitive marketing strategy, the Authority is now pursuing ten-year electric power supply contracts with its SENY public customers which provide for a rate freeze, electric vehicles, and energy efficiency programs. At this time, 61 SENY public customers, including the County of Westchester, New York City, the New York City Housing Authority, and the Metropolitan Transportation Authority have entered into such long-term power supply contracts. The increased funding authorization for SENY HELP allows the Authority to fulfill its commitments to these customers. As with all of the Authority's energy efficiency measures, SENY HELP provides a means to reduce the customers' energy costs with no impact on their capital or operating budgets, and at no net cost to the Authority. All costs, including Authority overheads, will be recovered from the customers by either a lump sum payment or a surcharge on the customers' electric bills.

"In keeping with the elimination of Authority-provided incentives beginning in July 1996, it is also recommended that the Authority extend repayment terms on financing from seven to ten years, effective for each project not eligible to receive an incentive. This will also be consistent with financing terms provided in all other Authority HELP conservation initiatives.

FISCAL INFORMATION

"HELP expenditures are funded primarily from the Energy Conservation Effectuation and Construction Fund. All costs, including Authority overheads and the cost of advancing funds, will be recovered within a repayment period not to exceed ten years. Collection experience to date has been excellent.

RECOMMENDATION

"The Senior Vice President - Energy Efficiency and Technology recommends that the authorized funding level for SENY HELP be increased by \$28 million for a total authorized program funding level of \$110 million. It is also recommended that repayment terms on Authority-provided financing be extended from seven to ten years for all projects ineligible to receive an Authority incentive.

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

September 27, 1995

*In response to questions from Trustee Miller, Mr. Pellegrino explained that those customers whose repayment terms are being extended to 10 years will be billed directly by the Authority, which will be reimbursed in full. Trustee Miller requested that staff provide the Trustees with a report on the projected fiscal parameters of the HELP programs over the next several years within the overall context of the Authority's anticipated revenues and expenses. President Schoenberger responded that as part of the upcoming 1996 budgeting process, staff will be scrutinizing the DSM program and will submit recommendations to the Trustees in November.*

*In response to questions from Trustee Daly, Mr. Pellegrino explained that funding for the program is via a \$300 million line of commercial paper. The credit line has been accessed by staff in "blocks" on an as-needed basis for deposit into the Energy Conservation and Effectuation Fund. The Authority's cost of borrowing is being repaid to the Authority by the program participants. Mr. Tscherne further explained that although an initial block of \$50 million was required for the initiation of the program, future withdrawals will be in smaller amounts of \$10-\$20 million. Trustee Daly inquired whether the timing of the Authority's acquisition of debt for this purpose is cost effective. Ms. Irving responded that the interest rate payable by the Authority is very low, currently averaging between 3.75% and 3.85%, and is reset every 70 days or so. President Schoenberger added that staff endeavors to carefully match the Authority's borrowings to its cash flow needs, and that the customers repay the Authority at a rate of 6%.*

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

**RESOLVED, That the authorized funding level for SENY HELP be increased by \$28 million for a total authorized funding level of \$110 million; and be it further**

September 27, 1995

**RESOLVED, That the Senior Vice President - Energy Efficiency and Technology, or his designee, be authorized to execute cost sharing agreements and any other documents between the Authority and the SENY public customers which will cover the repayment terms and program responsibilities necessary or desirable for the implementation of SENY HELP, consistent with the recovery of all program costs within seven years for projects eligible to receive an Authority incentive, and within ten years for projects ineligible to receive an incentive, consistent with the foregoing report of the President, and as listed below:**

<b><u>Energy Conservation Effectuation and Conservation Fund</u></b>	<b><u>Expenditure Authorization</u></b>
<b>SENY HELP</b>	<b>\$ 28 million</b>
<b>Previous Authorizations (12/21/89, 5/30/90, 12/15/92)</b>	<b><u>82 million</u></b>
<b>TOTAL</b>	<b><u>\$110 million</u></b>

September 27, 1995

**8. Corporate Resolution - Management of Banking Relationships**

The President submitted the following report:

SUMMARY

"The Trustees are requested to approve the attached Corporate Banking Resolution ('Resolution') which amends the Resolution adopted on June 29, 1993, to reflect recent title changes for authorizing officers.

BACKGROUND

"The 1993 Banking Resolution authorized employees in certain positions to establish and maintain banking relationships and to execute related agreements or documents on behalf of the Authority. Amendments to the Resolution are required to recognize past changes in officer titles and allows additional facsimile signatures on checks.

DISCUSSION

"The proposed Resolution recognizes the current titles of Chairman & Chief Executive Officer, President & Chief Operating Officer and the creation of the title of Senior Vice President - Business Services. The Resolution has been updated throughout for these title changes. The existing Resolution also authorizes the use of facsimile signatures on checks by the Vice President - Corporate Finance or the Treasurer, and staff recommends that the Senior Vice President - Business Services be added as an additional facsimile signature.

"The Resolution establishes procedures and names those individuals by title who may establish bank accounts, sign checks, invest Authority funds and execute agreements and other documents on behalf of the Authority. The Resolution also establishes who may authorize other individuals within the Authority to sign checks, deposit money, transfer and invest funds on behalf of the Authority. This represents no change from the authorizations and procedures contained in the existing Resolution with the exception of those title changes noted above.

"The attached Resolution will provide ongoing flexibility to update bank records and documents, while assuring appropriate controls that are consistent with the Authority's policies and procedures. The Resolution has been reviewed by and meets with the approval of the Authority's Controller and the Director of Internal Audit.

RECOMMENDATION

"The Treasurer and the Vice President - Corporate Finance recommend that the Trustees approve the amended Corporate Banking Resolution.

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

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

**RESOLVED, That the resolution adopted by the Trustees on June 29, 1993 relative to the Management of Authority Banking Relationships is hereby amended as indicated below; and be it further**

September 27, 1995

**RESOLVED, That the following authorizations are established with respect to the national or state banks (hereinafter referred to individually as the "Bank") that may be designated as a depository of this corporation and the execution of account - related agreements or documents on behalf of the Authority:**

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

**9. Procurement (Services) Contract - Third-Party Administrative Services for Medical, Prescription Drug, Dental and Short Term Disability Benefit Programs - Maurice Pompfrey and Co. - Award**

The President submitted the following report:

SUMMARY

"The Trustees are requested to approve the award of a contract for third party administration of the medical, prescription drug, dental and short term disability ('STD') benefits to Maurice Pompfrey and Co. ('Pomco'), for a period of three years commencing January 1, 1996, in the amount of \$945,000, with an option to extend into a fourth and fifth year with the President's approval.

BACKGROUND

"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.

"The benefit plans listed below are self-insured and currently administered by two different third-party administrators ('TPAs'): Maurice Pompfrey and Co. ('Pomco') and MetraHealth, formerly Metropolitan Life Insurance ('MetLife').

Salaried Employees

MetraHealth administers medical and prescription drug benefits for 2,180 employees and retirees. Pomco administers dental benefits for 2,080 employees.

Utility Workers Union of America ('UWUA')

MetraHealth administers prescription drug benefits for 375 employees and retirees. Pomco administers dental benefits for 380 employees, and STD benefits for 380 employees located at the Charles Poletti Power Project and Indian Point 3 Nuclear Power Plant ('IP3')

International Brotherhood of Electrical Workers ('IBEW')

Pomco administers medical and prescription drug benefits for 880 employees and retirees, dental benefits for 1,000 employees, and STD benefits for 970 employees, located at the St. Lawrence/FDR Power Project; Niagara Power Project; Blenheim-Gilboa Power Project; James A. FitzPatrick Nuclear Power Plant; and the Frederick R. Clark Energy Center.

International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America ('Teamsters')

Pomco administers medical and prescription drug benefits for 35 employees and retirees, dental and STD

benefits for 85 employees, located at IP3.

**September 27, 1995**

"Prior to 1990, health and dental care coverage for the IBEW and the Teamsters was insured with The Travelers. In 1989, with the decision to self-insure these benefits (medical, prescription drugs, dental, and STD), Pomco was chosen as the most qualified low bidder to provide administrative services, effective January 1, 1990. Included in the change to self-insurance were the UWUA dental and STD benefits.

"Health coverage for salaried and UWUA employees was insured with Blue Cross (hospitalization) and MetraHealth, then MetLife (major medical and prescription drugs). Dental coverage (salaried only) was insured with CIGNA. In August 1992, salaried and UWUA major medical and prescription drug benefits became self-insured with the existing carrier (MetraHealth, then MetLife) as the TPA. Effective January 1993, salaried dental benefits also became self-insured with the existing carrier ('CIGNA') providing TPA services. Pomco became the TPA for salaried dental benefits effective January 1995. Hospitalization for these two groups continues to be insured with Blue Cross because of their exclusive negotiated discount of 13%. MetraHealth is the TPA for the salaried and UWUA major medical because of its extensive participating provider (physicians) network. UWUA employee medical coverage through Blue Cross and MetraHealth is negotiated in its labor agreement with the Authority.

#### DISCUSSION

"The Compensation and Benefits and Risk Management Units considered contracting with one TPA for administration of all self-insured benefit plans, except salaried and UWUA medical.

"An immediate advantage of this decision was to ensure that the various employee groups receive the same level of customer service. This step also allows the Authority to more efficiently monitor costs and services provided by the TPA. Further, by delivering a larger employee population, and therefore higher revenues to a single TPA, the Authority was in a stronger position to secure lower fees. This arrangement was successfully tested last year through an extension of the Authority's TPA agreement with Pomco and expanding its TPA services to include salaried dental benefits. Comments from staff indicate that Pomco has provided a high level of customer service.

"By the stated deadline of July 19, 1995, staff received nine responses to the Authority's Request for Proposal which also included noticing in New York State's Contract Reporter. Seven vendors were eliminated due to their inability to provide crucial elements of the benefits plans, appropriate banking relationships, adequate services, or higher pricing. A review of the two remaining proposals, Pomco, and RMSCO, Inc. ('RMSCO') reveals that Pomco can provide a superior level of benefits and service.

"Although RMSCO's bid is below that of Pomco, the selection of Pomco is recommended. First, Pomco performs utilization review and case management with its own staff of Registered Nurses and board certified consulting physicians. Utilization review and case management are services used to determine the necessity and appropriateness of the health care services and charges, including the review and evaluation of claims and hospital charges and managing large cases. Pomco performs these services on all medical claims over \$2,000 and claims for certain diagnoses associated with high claims costs. Pomco has demonstrated \$70,000 in savings in 1994. RMSCO subcontracts its utilization review and case management services and refers claims above \$10,000 to its subcontractor. RMSCO does not perform this type of review for claims below \$10,000. By having utilization review and case management services performed in-house they can be handled more expeditiously and Pomco, and in turn the Authority, can exercise closer quality control over the performance of these professional services.

"Secondly, TPAs typically subcontract prescription drug plan administration to specialized organizations which construct managed networks of participating pharmacies. These managed networks are not only convenient for

employees but reduce the cost of prescription drugs to the Authority by negotiating strict cost standards. Both Pomco and RMSCO subcontract these services. Pomco subcontracts with PCS which has over 53,000 participating

September 27, 1995

pharmacies, including all of the major pharmacy chains and 97% of all independent pharmacies. This is the current provider and the same provider MetraHealth contracts with for the salaried staff plan. A comparative analysis of the staff's home zip codes and PCS participating pharmacy zip codes revealed that 13% do not have a pharmacy within a five mile radius of their homes. RMSCO provided the same analysis for its selected subcontractor which has 25,000 participating pharmacies. That analysis revealed that 18% of Authority IBEW and Teamster employees would not have a participating pharmacy within the five mile standard.

"Thus, staff has determined that Pomco can provide substantially superior services in the area of claims management through its utilization review and case management services and in the area of prescription drug plan administration.

"New York State public sector labor law requires that any change in TPA be negotiated with the Authority's unions. The IBEW has indicated its agreement with the recommended selection.

#### FISCAL INFORMATION

"The estimated three year TPA costs are: 1995 - \$306,000; 1996 - \$315,000; and 1997 - \$324,000. The pass-through amount for employee claims is estimated to be: \$7,100,000 in 1996; \$7,750,000 in 1997; and \$8,400,000 in 1998.

"Funds for this contract will be included in the 1996 O&M Budget. Funds required for 1997, 1998, 1999 and 2000 will be included in the budget submittals for those years. Payment will be made from the Operating Fund.

#### RECOMMENDATION

"The Vice President - Human Resources and the Vice President - Procurement and Real Estate recommend that the Trustees approve the award of a three year contract (with an option to extend for an additional two years) to Maurice Pompfrey and Co. commencing January 1, 1996, in the amount of \$945,000.

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

***In response to questions from Trustee Daly, Mr. Meehan explained that although the RMSCO bid is lower on its face than POMCO's by approximately \$70,000, POMCO had succeeded in saving the Authority at least that amount in the last calendar year under its existing contract with the Authority. Vice Chairman Frey questioned the selection of a company which is not the lowest bidder. Ms. Estrin explained that Human Resources staff had paid two onsite visits to the low bidder and had ascertained that because RMSCO operates by subcontracting essential required tasks, and because RMSCO does not engage in utilization reviews for claims smaller than \$10,000, she feels that it will ultimately be more cost effective to award the contract to POMCO, which performs utilization***

***reviews at the much lower threshold cost of \$2,000. Ms. Estrin added that POMCO has a proven track***

September 27, 1995

*record of recouping monies due to the Authority under the Workers Compensation program and had recently enabled the Authority to recover some \$190,000. She further stressed that, consistent with management's implementation of cafeteria-style benefit plans commencing in 1996, it is not intended that employees receive a lesser level of TPA services than they currently enjoy. Mr. Meehan added that selecting the low bidder would deprive many upstate union employees of access to a participating pharmacy for prescription medications within five miles of home. Since RMSCO's network is smaller it would result in an additional 5% of employees having to travel beyond 5 miles to a participating pharmacy. In response to questions from Trustee Daly, President Schoenberger indicated that POMCO's services have been utilized by the Authority since 1990 and that the contract will be bid again in three years. Chairman Rappleyea commended staff's detailed research on the proposals submitted by the various bidders.*

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

**RESOLVED, That pursuant to Guidelines for Procurement Contracts adopted by the Authority, approval is hereby granted to award a contract for third party administrative services, with additional funding for employee claims, to Maurice Pompfrey and Co. for three years (with an option to extend for an additional two years with the President's approval), beginning on January 1, 1996 and closing on December 31, 1998, as recommended in the foregoing report of the President, in the amount and for the purpose listed below:**

<u>O&amp;M</u>	<u>Projected Closing Date</u>		<u>Contract Approval</u>
<b>Third-Party Administration</b>			
<b>Maurice Pompfrey and Co.</b>	<b>12/31/98</b>	<b>1996</b>	<b>- \$306,000</b>
		<b>1997</b>	<b>- 315,000</b>
		<b>1998</b>	<b>- 324,000</b>
<b>TOTAL</b>			<b><u>\$945,000</u></b>

**10. Procurement (Services) Contracts - James A. FitzPatrick and Indian Point 3 Nuclear Power Plants and Headquarters - Awards**

The President submitted the following report:

SUMMARY

"The Trustees are requested to approve the award and funding of the multi-year procurement contracts listed in Exhibit `10-A' for the James A. FitzPatrick (`JAF') and Indian Point 3 (`IP3') Nuclear Power Plants, and Headquarters. A detailed explanation of the nature of such services, the basis for the new awards, and the intended duration of such contracts are listed in the discussion below.

BACKGROUND

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

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

DISCUSSION

"While the Authority's policy is to use its own staff to perform necessary engineering and craft labor work, there are cases where it is necessary to utilize external contractors or consultants to supplement Authority staff during peak working periods in support of refueling and other outages, or if special expertise is required that is not available within the Authority.

"The terms of these contracts will be more than one year, therefore the Trustees' approval is required. All of these contracts contain provisions allowing the Authority to terminate the services at will, without liability other than paying for acceptable services rendered to the effective date of termination. Approval is also requested for funding all six contracts, ranging in estimated value from \$144,000 to \$2,000,000 and totaling \$5,072,000.

"These contract awards do not obligate the Authority to a specific level of personnel resources or expenditures. As the Authority performs more work in-house over the next several years, funding allocated for services performed pursuant to these contract awards will be correspondingly reduced.

"The issuance of multi-year contracts is recommended from both a cost and efficiency standpoint. In many cases, reduced prices can be negotiated for these longer term contracts. Since these services are typically required on a continuous basis, it is more efficient to award longer term contracts than to rebid these services annually.

**SYSTEM CONTRACTS IN SUPPORT OF BOTH NUCLEAR PLANTS:**

"Several categories of services have been selected for pilot `system' contracts, i.e., a consolidation of

common goods/services under one contract for both nuclear plants. This approach was based upon achieving cost savings due to bulk procurements of certain goods or services, as well as streamlining the procurement process by eliminating multiple contracts.

September 27, 1995

"The contract with **Interstate Nuclear Services (Q-02-1414; PO # TBA)** will commence on October 1, 1995, subject to the Trustees' approval. The purpose of this contract is to provide laundry services for contaminated protective clothing for both IP3 and JAF. Since these are specialty services, with limited sources of supply, only two bids were received (of five solicited, in addition to notice in the Contract Reporter). Interstate Nuclear Services was the low bidder. Cost evaluations of current individual contracts for each plant were compared with a consolidated, multi-year, system contract approach for both plants. The following benefits to the Authority can be realized using the latter approach: lower unit costs than those currently paid by both plants; stabilization and uniformity of unit costs at each plant; lease/rental unit rates for protective clothing remain firm for the duration of the contract; future rental of high volume items during plant outage periods will be furnished to the Authority at no charge; and overall reduction of O & M dollars at both plants. In addition to the aforementioned benefits, annual cost savings, based on consolidated protective clothing processing and lease costs, are expected on average to approximate \$150,000, depending upon the timing of refueling outages. The intended term of this contract is four years, subject to the Trustees' approval, which is hereby requested. Approval is also requested for the total amount expected to be expended for the term of the contract, \$2,000,000.

"The contract with **Rust Utility Services (Q-02-1415; PO #'s TBA)** will commence on October 1, 1995, subject to the Trustees' approval. The purpose of this contract is to provide conventional and nuclear underwater diving inspection and repair services for both IP3 and JAF. An extensive evaluation indicates that it would be more advantageous to the Authority to award two contracts; therefore, a backup contract with **Boswell Underwater Engineering** will also commence on October 1, 1995, subject to the Trustees' approval. Rust Utility Services and Boswell Underwater Engineering were the low and second low bidders, respectively, of 7 bids received (of 29 solicited, in addition to notice in the Contract Reporter). The following benefits to the Authority can be realized using the consolidated, multi-year, system contract approach for both plants: lower unit and 3-man hourly crew rates than those currently paid; firm unit costs at both plants through September 1997; and annual cost savings estimated to average \$100,000, depending upon the timing of refueling outages at IP3 and JAF. The intended term of these contracts is two years subject to the Trustees' approval, which is hereby requested with an option to extend for one additional year subject to the Expenditure Authorization Procedures. Approval is also requested for the total amount expected to be expended for the term of the contracts, \$1,653,000.

#### **IP3 AWARD:**

"The contract with **Mackenzie Group Inc. (C95-I6597)** will commence on October 1, 1995, subject to the Trustees' approval. The purpose of this contract is to provide labor and material to repair and maintain site fire barrier metal doors, on an `as required' basis, as well as to provide annual inspections thereof, at IP3. The Authority does not have this expertise in-house. Mackenzie Group Inc. was the low bidder of two bids received (of eight solicited, in addition to notice in the Contract Reporter). The intended term of this contract is three years, subject to the Trustees' approval, which is hereby requested. Approval is also requested for the total amount expected to be expended for the term of the contract, \$144,000.

#### **HEADQUARTERS CONTRACTS:**

##### **Payroll/Human Resources/Benefits Tracking System (PO # TBA):**

"For many years, the Authority has had separate payroll, human resources, and benefits tracking systems. Each of these systems is a `stand-alone' system, is not integrated, and has limited potential for future expansion. As

a result, an in-house task force consisting of representatives from Accounting, Human Resources, Budgets, and MIS

**September 27, 1995**

Divisions as well as the Operating facilities was established to review which system would be best suited to satisfy the Authority's future needs from both a payroll and a human resources standpoint.

"As part of a competitive search, a notice was published in the New York State Contract Reporter for any firms which have the capability to meet these needs. As a result of this notice, qualification and experience information was submitted by firms responding to the Contract Reporter notice. Responding firms included: Managistics, Automatic Data Processing ('ADP'), Ceridian Employer Services, Interboro Systems Corp., and Business Records Corporation.

"Based upon past experience, ability to process payroll at its facility, and ability to integrate the payroll system with the Authority's human resources and benefits tracking systems, the task force recommended that Automatic Data Processing be awarded a contract to develop and provide a fully integrated system for payroll, human resources, and benefits tracking. It is estimated that the ADP system, with significantly enhanced features, will cost the Authority approximately \$225,000 per year, as compared to the current combined cost of \$240,000 per year for separate payroll, human resources, and benefits tracking systems. Trustees' approval is requested for a five-year term commencing January 1, 1996 through December 31, 2000, as well as for the total amount expected to be expended for the duration of the contract, \$1,125,000.

**Independent Engineering Services - Q-02-1333:**

"The contract with **Management Resources International, Inc. ('MRI', PO # TBA)**, which provides independent engineering consulting services for general purpose bonds, will commence on October 1, 1995, subject to the Trustees' approval. Although an exhaustive search was conducted to identify potential bidders, only four bids were ultimately received after the first two rounds of bidding had elicited only one bid each. A total of fifty-four requests for proposals were sent out during three successive rounds of bidding, in addition to notices in the Contract Reporter as well as in Engineering News Record.

"After extensive evaluation, it was determined that MRI is the low qualified bidder. Although the bid submitted by CMPE3/Marathon Consulting Group ('CMPE3') appears to be commercially lower than that of MRI, the following factors must be considered. The General Purpose Bond Resolution requires, in connection with a bond issue, that the Authority utilize the services of an engineering firm of recognized standing which is not retained by the Authority for other purposes. Such independent certifications provide the financial community and rating agencies with an added measure of comfort and enhance the rating and marketability of Authority debt. In light of these criteria, it should be noted that CMPE3 is a subsidiary of Central Maine Power Company ('CMP'), a former (and potentially future) Authority utility customer; CMPE3's experience has been limited to providing services to CMP and its local affiliates; and CMPE3 did not have nuclear experience, thus necessitating that it subcontract such services to Marathon Consulting Group. In addition, CMPE3 does not have the requisite national and international experience and recognition of both the utility industry and financial institutions. The intended term of this contract is two years subject to the Trustees' approval, which is hereby requested with an option for one additional year, subject to the Authority's Expenditure Authorization Procedures. The Trustees' approval is also requested for a total of \$150,000.

**FISCAL INFORMATION**

"Funds required to support contract services for various headquarters and non-nuclear facility Power Generation Business Units have been included in the 1995 Approved O&M Budget. Funds for subsequent years,

where applicable, will be included in the budget submittals for those years. Payment will be made from the Operating Fund.

**September 27, 1995**

"Funds required to support contract services for capital projects have been included as part of the approved capital expenditures for those projects. Payment will be made from the appropriate Nuclear Improvement Fund.

"Funding for subsequent years for both JAF and IP3 will be included in the budget submittals for those years. Payment will be made from the Operating Fund.

RECOMMENDATION

"The Site Executive Officer - James A. FitzPatrick Nuclear Power Plant, the Site Executive Officer - Indian Point 3 Nuclear Power Plant, the Vice President - Nuclear Operations, the Vice President - Nuclear Engineering, the Vice President - Corporate Finance, the Vice President - Controller, and the Vice President - Procurement and Real Estate, recommend the Trustees' approval of the award of multi-year procurement contracts to the five companies listed in Exhibit `10-A' and as discussed above.

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

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

**RESOLVED, That pursuant to the Guidelines for Procurement Contracts adopted by the Authority, the award and funding of the multi-year procurement contracts listed in Exhibit "10-A" are hereby approved for the period of time indicated, in the amounts and for the purposes listed, as recommended in the foregoing report of the President.**

**11. Procurement (Services) Contracts - James A. FitzPatrick, Indian Point 3 Nuclear Power Plants; Headquarters; and all Non-Nuclear Facilities - Extensions, Approval of Additional Funding, and Increase in Compensation Ceiling**

SUMMARY

"The Trustees are requested to approve the continuation and funding of the procurement contracts listed in Exhibit `11-A' for the Indian Point 3 (`IP3') and James A. FitzPatrick (`JAF') Nuclear Power Plants, as well as for two Headquarters contracts and three contracts in support of all Non-Nuclear Facilities. In addition, the Trustees are requested to approve an increase in the compensation ceiling of the procurement contract with General Electric (`GE'), for multi-cycle refuel outage support services, to \$16,763,480 from the previously approved ceiling of \$16,103,480. A detailed explanation of the nature of such services, the reasons for extension, and the projected expiration dates are listed below.

BACKGROUND

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

"The Authority's Expenditure Authorization Procedures require Trustees' approval when a personal services contract exceeds a cumulative change order value of \$500,000, or when a non-personal services contract exceeds a cumulative change order limit of \$3,000,000.

DISCUSSION

"While the Authority's policy is to use its own staff to perform necessary engineering and craft labor work, there are cases where it is necessary to utilize external contractors or consultants to supplement Authority staff during peak working periods in support of refueling and other outages, or if special expertise is required which is not available within the Authority.

"Although the firms identified in Exhibit `11-A' have provided effective services, the issues or projects requiring these services have not been resolved or completed and the need exists for continuing these contracts. Trustees' approval is required because the terms of these contracts exceed one year and/or because the cumulative change order limits will exceed the levels authorized by the Expenditure Authorization Procedures in forthcoming change orders. All of the subject contracts contain provisions allowing the Authority to terminate the services at will, without liability other than paying for acceptable services rendered to the effective date of termination.

"These contract extensions do not obligate the Authority to a specific level of personnel resources or expenditures. As the Authority performs more work in-house over the next several years, funding allocated for services performed pursuant to these contract extensions will be correspondingly reduced.

"Extension of each of the contracts identified in Exhibit `11-A' is requested for one or more of the following reasons: 1) additional time is required to complete the current contractual work scope or additional services related to

the original work scope; 2) to accommodate an Authority or external regulatory agency schedule change, which has delayed, re-prioritized, or otherwise suspended required services; 3) the original consultant is uniquely qualified to perform services and/or continue its presence, and rebidding would not be practical; 4) the contractor provides a

September 27, 1995

proprietary technology or specialized equipment at reasonable negotiated rates, which the Authority needs to continue until a permanent system is put in place; or 5) issues are related to the IP3 Continuous Improvement Program.

Contracts in Support of the Nuclear Plants:

"The contract with **B & W Nuclear Technologies**, formerly Power Distribution Technology ('PDT'), (S94-62345) provides for repair/refurbishment services, additional parts and the associated dedication package for the spare AK2A-5OS-2 Circuit Breaker at JAF. The original award was issued to Power Distribution Technology on July 22, 1994 in the amount of \$7,000; the breaker was sent to PDT on August 8, 1994. Several months later, the vendor submitted a request for additional parts to complete the overhaul. JAF shipped some parts from the site to the vendor and issued Change Order 1, authorizing an increase of \$1,643 for the additional work and purchase, by the vendor, of parts the Authority could not supply. PDT was subsequently acquired by B & W Nuclear Technologies. This further delayed work on the breaker, since PDT first had to incorporate B & W procedures into its work process. In addition, JAF then imposed an additional Equipment Qualification requirement, which was subsequently rescinded. JAF Procurement Engineering staff are currently reviewing the dedication package prepared by PDT and, upon acceptance, will notify JAF Quality Assurance to perform a source inspection. A five-month extension is requested in order to execute the aforementioned steps and complete the original work scope. The Trustees' approval is therefore requested to extend the subject contract through December 31, 1995 at no anticipated additional cost.

"The two contracts with **Carolina Power & Light** ('CP&L'; S94-64330) and **National Inspection & Consultants** ('NIC'; S94-66661) provide management consulting services to the Chief Nuclear Officer, and advice and guidance to IP3 senior staff, as part of the Nuclear Mentoring Program, recommendations as well as independent assessments to improve overall plant performance. The contract with Carolina Power & Light provides for the services of Charles Dietz to advise and guide IP3 senior staff; National Inspection & Consultants provides for the services of Eugene Glassbergen to provide management consulting for the engineering group at IP3 and to serve as Senior Technical Advisor to the Chief Nuclear Officer, performing special assignments as requested. These contracts commenced on September 26, 1994 and November 7, 1994, respectively. An extension of the contract with CP&L through December 31, 1996 is requested in order to continue the services of Mr. Dietz on a full-time basis during the critical period following restart when the plant must demonstrate its ability to maintain safe, consistent operations and implement the Continuous Improvement Program. An extension of the contract with NIC through December 31, 1995 is requested to continue the services of Mr. Glassbergen on an 'as required' basis. The current contract amounts are \$200,000 and \$230,000, respectively. It is estimated that an additional \$170,000 will be required for the services of Mr. Dietz and an additional \$30,000 for the services of Mr. Glassbergen during the respective extended terms. The Trustees' approval is requested to extend these contracts as specified above and to approve the additional funding.

Contracts in Support of Headquarters:

"The contract with **Graciano Corp. (S94-63846)**, which provides garage renovation services at the Authority's White Plains Office, became effective on September 19, 1994. The original award, in the amount of \$1,477,812, was based on required repairs identified per surface inspection. At the time of the award, it was noted that the full extent of necessary repairs would not be known until reconstruction began and that the final cost would include additional work to be billed on a 'time and material' basis. Phase 1 of the Garage Rehabilitation Project, which is the scope of this contract, consists of structural repairs, replacement of expansion joints, application of new floor coatings, drainage improvements, and replacement of electric cables and conduits for lighting. The project is approximately 77% complete, although additional work items may be identified as remaining work progresses. While

work is progressing well, recently identified additional work, such as repair of the ends of deteriorated beams at the L2 Level north parapet wall and loading dock beams and concrete planks, has impacted the projected

September 27, 1995

completion date. In addition, work must be suspended during the cold weather months. The current contract amount is \$1,675,727; it is currently estimated that an additional \$525,000 will be required for services provided during the extended term. (It should be noted that the current CEAR estimate is \$2,480,000). The Trustees' approval is therefore requested for an extension through July 31, 1996 in order to accommodate the additional work identified above, allow for other potential/anticipated but as yet unidentified problem areas, and accommodate the cessation of work from December through March. Approval is also requested for the additional funding, which will revise the total compensation ceiling to \$2,200,000.

"The contract with **Testwell Craig Laboratories, Inc.** (S94-66735) provides for laboratory and field testing and inspection services for soil, concrete, steel, sealants, coatings, and waterproofing membranes, on an `as required' basis, for the White Plains Office garage rehabilitation project. The original award became effective on December 5, 1994. An extension is required to have services available under this contract, which must coincide with the term of the garage rehabilitation project, currently projected to be completed by July 31, 1996. The current contract amount is \$50,000. The Trustees' approval is requested to extend the subject contract through July 31, 1996 at no additional cost.

Contracts in Support of All Non-Nuclear Facilities:

"The contract with **Modern Management Inc.** (S94-66373), which provides for the development and presentation of a planner training course to support the implementation of the Maintenance Management Program implemented by Power Generation, commenced on December 8, 1994. The training is intended to provide the staff that were reassigned maintenance planning responsibilities at the Power Generation facilities with an in-depth understanding of what will be required of them and how to properly utilize the software. The contract was awarded for a one-year term in the amount of \$100,000. To date, training has been conducted at the Niagara, St. Lawrence, and Blenheim-Gilboa Projects as well as at the Clark Energy Center. A seven-month extension is requested in order to complete the training at the Poletti and Flynn Projects, which has been delayed while other implementation steps were being completed. The Trustees' approval is requested to extend this contract through June 30, 1996 at no anticipated additional cost.

"The contract with **Nucon Engineering Associates** (S94-65997), which provides for the development of a User's Manual for the Maintenance Management Program implemented by Power Generation, commenced on November 1, 1994. The contract was awarded to this Minority Business Enterprise for up to a one-year term in the amount of \$75,000. The purpose of the User's Manual is to integrate the administrative procedures governing the Maintenance Management Program with the software vendor's manual that supports the process. An eight-month extension is requested in order to complete the original work scope, which has been delayed due to the following reasons: the release of the latest version of `Maximo', the proprietary maintenance management software supplied by Project Software & Development, Inc., was delayed; and the Authority's development of various screen applications/modifications to this software as well as the internal review process have taken much longer than anticipated. The Trustees' approval is therefore requested to extend this contract through June 30, 1996 at no anticipated additional cost.

"The contract with **Quality Systems, Inc.** (S94-65581) provides for the development and presentation of a training course to support the implementation of the Maintenance Management Program (Maintenance Resource Management) for Power Generation staff. The contract was awarded to this Women's Business Enterprise on November 14, 1994 for a one-year term, in the amount of \$110,000. The original schedule was predicated on implementing the process, which includes providing the organization of the facility to run the program, developing

electronic databases, and writing descriptive maintenance job plans, at each facility during the first quarter of 1995.

September 27, 1995

Although training has been conducted at the Authority's Blenheim-Gilboa and St. Lawrence facilities, training at the Niagara and Poletti Projects was postponed while additional prerequisite tasks were being completed. A seven-month extension is therefore requested in order to complete this original work scope. The Trustees' approval is requested to extend this contract through June 30, 1996 at no anticipated additional cost.

Extension/Increase in Compensation Ceiling:

"The contract with **General Electric** ('GE'; C91-Z0038), which provides for multi-cycle outage support services for JAF, commenced on March 25, 1991. At their meeting of April 30, 1991, the Trustees approved the award of a contract for such services for three refueling outages, in the amount of \$6,500,000 to fund services in support of the first such outage. At their meeting of November 24, 1992, the Trustees approved an increase in the compensation ceiling to \$9,900,000, due to the increased scope of this outage and unanticipated delays in the refueling schedule. At their meeting of September 29, 1994, the Trustees approved an additional \$5,300,000, which was required for these services to support the 1994-95 JAF Refueling and Maintenance Outage. The total amount authorized to date includes an additional \$903,480, which has been authorized by the Department Head, in accordance with the Expenditure Authorization Procedures.

"An extension is now requested to extend the contract for an additional year through December 31, 1996, in preparation for the 1996 Refueling Outage, and also to authorize the Outage Reduction Engineering ('ORE') concept for this process. ORE is a team process developed by GE to help BWR utilities shorten overall outage length. ORE services involve targeting the number of days a utility wants to establish for an outage. The next step in the ORE services GE will provide is identification of 'barriers' (work that will impact achieving the target). GE will provide high level technical and operational support to a joint Authority/GE team, to implement actions required to achieve the target. GE's payment for these services will be on a graduated scale based on outage day reductions starting at 80 days down to the target of 45 days. The maximum payment to GE would be \$1,100,000 for a 45 day outage. For each day below 45 days, GE would be paid an additional \$100,000. If the outage goes beyond 80 days, GE will not be compensated. In addition, GE has offered these services subject to the Mark I Torus Settlement Agreement with the Authority. This offers a 40% discount off the amount of payment due GE per the ORE program, so that the maximum payment for achieving a 45-day outage period would be \$660,000. GE could earn additional incentives for each day the actual outage is below 45 days.

"The ORE services are a new scope to the multi-cycle outage support services agreement. At this time, staff intends to only try this for the next outage scheduled for October 1996. Approval for the funding of this effort is required at this time to start the process in September 1995. Staff plans to seek the Trustees' approval at a later date of the funding for the next outage, currently scheduled for October 1996.

"The Trustees' approval is requested to extend this contract through December 31, 1996, to authorize the ORE approach, and to approve the additional funding.

FISCAL INFORMATION

"Funds required to support contract services for various non-nuclear Headquarters departments/Business Units have been included in the 1995 Approved O&M Budget. Funds for subsequent years, where applicable, will be included in the budget submittals for those years. Payment will be made from the Operating Fund.

"Funds required to support contract services for capital projects have been included as part of the approved

capital expenditures for those projects. Payment will be made from the appropriate Nuclear Improvement Fund.

September 27, 1995

"Funding for subsequent years for both JAF and IP3 will be included in the budget submittals for those years. Payment will be made from the Operating Fund.

RECOMMENDATION

"The Site Executive Officer - James A. FitzPatrick Nuclear Power Plant, the Site Executive Officer - Indian Point 3 Nuclear Power Plant, the Vice President - Nuclear Operations, the Vice President - Nuclear Engineering and the Senior Vice President - Power Generation, recommend the Trustees' approval of the extension and additional funding of the procurement contracts listed in Exhibit `11-A' and of an extension and increase in compensation ceiling of the contract with General Electric, as set forth above.

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

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

**RESOLVED, That pursuant to the Guidelines for Procurement Contracts adopted by the Authority, each of the contracts listed in Exhibit "11-A" is hereby approved and extended for the period of time indicated, in the amounts and for the purposes listed below, as recommended in the foregoing report of the President; and be it further**

**RESOLVED, That pursuant to the Authority's Expenditure Authorization Procedures, an increase in the compensation ceiling of the contract with General Electric be, and hereby is, approved as recommended in the foregoing report of the President, in the amount and for the purpose listed below:**

<u>O &amp; M</u>	<u>Contract Approval (Increase in Compensation Ceiling</u>	<u>Projected Closing Date</u>
<b>Provide Multi-Cycle Outage Support Services for JAF - Outage Reduction Engineering</b>		
<b>General Electric (C91-Z0038)</b>	<b>\$ 660,000</b>	<b>12/31/96</b>
<b>Previously Approved Compensation Ceiling</b>	<b><u>16,103,480</u></b>	
<b>TOTAL REVISED COMPENSATION CEILING</b>	<b><u>\$16,763,480</u></b>	

**12. Procurement (Services) Contracts - Law Department -  
Coulter, Frasier, Bolton, Bird & Ventre and McCarthy  
Tetrault - Extensions; Steptoe & Johnson - Award**

The President submitted the following report:

SUMMARY

"The Trustees are requested to approve the extension of consultant services contracts for two law firms: Coulter, Frasier, Bolton, Bird & Ventre ('Coulter, Frasier') and McCarthy Tetrault. The contracts are identified below and described in detail in attached Exhibits '12-A' and '12-B'. The Trustees are also requested to approve the award of a procurement contract to the law firm Steptoe & Johnson, in an amount not to exceed \$100,000, for a term ending September 30, 1998, with the Authority having the option to extend such contract on an annual basis for two additional years.

BACKGROUND

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

DISCUSSION

Extensions

"The contracts for which extensions are requested are with Coulter, Frasier and McCarthy Tetrault. It is appropriate that the contracts be extended as some of the work in question will not be completed for some time. The contracts were awarded in accordance with the Authority's Expenditure Authorization Procedures. A brief description of the work being performed by these firms is as follows.

"Coulter, Frasier has been retained on an 'of counsel' basis in a discrimination lawsuit filed by a former James A. FitzPatrick Nuclear Power Plant ('JAF') employee in the U.S. District Court for the Northern District of New York. Discovery is currently being conducted in the case and Coulter, Frasier legal services on an 'of counsel' basis will be needed through 1996 (the date when the trial is currently scheduled).

"McCarthy Tetrault was retained in connection with Hydro-Quebec issues. With the termination of the 1,000 MW firm power contract in Spring 1992, the need for the firm's work dropped substantially. Nevertheless, the Authority continues to have the 800 MW Diversity Contract, a major interchange agreement with Hydro-Quebec. The 1998 date for extension or termination of this contract will lead to its review in 1996. The Authority may require Canadian counsel irrespective of whether the contract is entered into by the Authority or the utility purchasers (e.g., Consolidated Edison Company of New York, Inc.).

"In addition, the Authority is involved in commercial matters with Canadian businesses that require legal representation in Canada. McCarthy Tetrault has offices across all of Canada and thus can provide legal services in such other matters.



September 27, 1995

**Award**

"Steptoe & Johnson is being retained as a result of the dissolution of the Newman & Holtzinger, P.C. ('Newman') firm, retained in September 1992 to provide legal services with respect to proceedings before the Federal Energy Regulatory Commission ('FERC'). The contract with the Newman firm was awarded after a competitive search of Washington D.C. law firms experienced in FERC matters, and interviews of three firms by Authority attorneys. The contract was approved by the Trustees and was to extend until September 8, 1996.

"Attorneys at the Newman firm with FERC expertise, principally partner David Raskin and associates working with him, have been consulted on a variety of FERC matters. The Law Department has found Mr. Raskin's legal advice timely and sound.

"Earlier this year Mr. Raskin advised that the Newman firm had dissolved and he and other attorneys involved with FERC matters were joining the Washington D.C. firm of Steptoe & Johnson. Because the Law Department is pleased with the advice Mr. Raskin has provided and wishes to continue to consult with him on FERC matters, staff recommends the cancellation of the earlier contract with the Newman firm and entering into a new contract with Steptoe & Johnson, Mr. Raskin's new firm. This arrangement is both practical and cost effective and permits the Authority to continue a relationship with a group of attorneys whom it selected following a competitive search and who over the past three years became familiar with the Authority and its business interests in important industry matters now before FERC. Because the initial contract was approved through September 8, 1996, staff recommends that the initial term of this new contract extend to September 8, 1998.

**FISCAL INFORMATION**

"Payment for services covered by these contracts rendered in 1995 will be made from the 1995 Approved O&M Budget. Funds required for subsequent years will be included in the budget submittals for those years.

**RECOMMENDATION**

"The General Counsel recommends that the Trustees approve the extension of consultant services contracts with two law firms: Coulter, Frasier, Frasier, Bolton, Bird & Ventre and McCarthy Tetrault. The Trustees are further requested to approve the award of a procurement contract to the law firm of Steptoe & Johnson for a term ending September 30, 1998.

"I concur in the recommendation."

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

**RESOLVED, That pursuant to the Guidelines for Procurement Contracts adopted by the Authority, the contracts listed in attached Exhibits "12-A" and "12-B" are hereby approved for the purpose indicated, and/or extended for the period of time indicated:**

<u>O &amp; M</u>	<u>Projected Closing Date</u>	<u>Contract Approval</u>
1) Legal Services		

**Coulter, Frasier, Bolton,  
Bird & Ventre**

**10/17/97**

**To be made by staff  
pursuant to Expenditure  
Authorization Procedures**

September 27, 1995

2) Legal Services

McCarthy Tetrault

12/01/97

To be made by staff  
pursuant to Expenditure  
Authorization Procedures

AND BE IT FURTHER RESOLVED, That pursuant to the Guidelines for Procurement Contracts, the award of a contract to Steptoe & Johnson for legal services is approved for a term ending September 30, 1998, with the Authority having the option, with the approval of the President, to extend such contract on an annual basis for two additional years.

3) Legal Services

Steptoe & Johnson

09/30/98

\$100,000

**PROCUREMENT (SERVICES) CONTRACT**

Provider: Coulter, Fraser, Bolton, Bird & Ventre  
Contract No.: S95-70920  
Dept./Division: Law\Litigation  
Contract Description: Reckwall v. PA  
Basis of Award: Bid \_\_\_\_\_  
Competitive Search   x    
Sole Source \_\_\_\_\_

<u>Effective Date of Original Contract or Change Order</u>	<u>Date of Trustee Approval</u>	<u>Projected Closing Date</u>	<u>Amount Authorized or Committed</u>
O.C 10/18/94	N/A	10/17/95	\$20,000
Total Amount Authorized or Committed:			<u>\$20,000</u>
Total Amount Expended to Date:			<u>\$ 5,640</u>
Projected additional commitments through 10/17/97 to be made by staff pursuant to Expenditure Authorization Procedures from authorized Capital and O&M Budgets			<u>\$25,000</u>

**PROCUREMENT (SERVICES) CONTRACT**

Provider: McCarthy Tetrault  
 Contract No.: 029325-88  
 Dept./Division: Law Department/General Counsel  
 Contract Description: Legal Services - Hydro-Quebec and other Canadian Matters  
 Basis of Award: Bid —  
 Competitive Search x  
 Sole Source —

<u>Effective Date of Original Contract or Change Order</u>	<u>Date of Trustee Approval</u>	<u>Projected Closing Date</u>	<u>Amount Authorized or Committed</u>
O.C 06/07/88		06/06/89	\$ 30,000
C.O. #1: 08/31/88			30,000
C.O. #2: 04/27/89	12/19/88	12/31/89	20,000
C.O. #3: 01/22/90	12/19/88	12/31/90	30,000
C.O. #4: 02/13/90			-0-
C.O. #5: 04/18/90			75,000
C.O. #6: 05/30/90			-0-
C.O. #7: 08/22/90			75,000
C.O. #8: 12/05/90	11/27/90	12/31/92	-0-
C.O. #9: 07/22/92			-0-
C.O. #10: 10/29/92	10/28/92	12/01/95	75,000

Total Amount Authorized or Committed: \$350,000

Total Amount Expended to Date: \$291,243

Projected additional commitments through 12/01/97 to be made by staff pursuant to Expenditure Authorization Procedures from authorized Capital and O&M Budgets \$ 0

**13. Informational Item - Execution of Permit with Schoharie County for Use of Blenheim-Gilboa Brown Mountain Radio Transmitter and Associated Equipment**

The President submitted the following report:

SUMMARY

"By this item the Trustees are informed of the execution of a ten year permit with Schoharie County for use of the Blenheim-Gilboa Pumped Storage Project's ('B-G') Brown Mountain radio site.

BACKGROUND

"The Authority's BG Project has operated a radio transmitter from the Brown Mountain location since the inception of the Project. The Project's upper reservoir is located on Brown Mountain.

"For several years the Schoharie County Emergency Communications Group has been interested in improving two-way emergency radio transmissions in the southern part of Schoharie County. The coverage difficulties from the existing County radio base stations result in numerous problems in this region.

"Approximately five years ago, the County approached the Authority relative to using an existing spare transmitter at the Brown Mountain radio transmission location and attaching a County antenna to the Authority's tower. Subsequently, the County withdrew its interest and undertook additional communication studies.

"About two years ago, the Authority completed the installation of an upgraded transmitter and antenna to a new site on the edge of the upper reservoir dike that has provided improved radio coverage, particularly for the maintenance activities of the Marcy South Project. Presently, the Authority is in the position to completely abandon the Brown Mountain site and dispose of the equipment in accordance with surplus property procedures.

"The County reinitiated its request in March 1995 with a formal request (Attachment #1). Preliminary discussions have occurred to advise the County that it would be sole occupant of the Brown Mountain site. This fact has not caused any change in the interest of the County communications task force.

DISCUSSION

"Since the Brown Mountain transmitter site and equipment is presently surplus to the Authority's needs and improved emergency communications in southern Schoharie County benefits the area residents, the Authority and its employees, the use of this site for County emergency communications services is beneficial to all.

"In consultation with Law Department, Communications Engineering, Insurance, Real Estate, Community Affairs, and O&M personnel at the site and in discussion with County officials, it is the opinion of staff that the execution of a ten-year permit for the County to assume responsibility for an 'as is' condition (including required maintenance) is in the best interest of the Authority. This would permit the real estate property to remain in the Authority's control and eliminate any need to file with the Federal Energy Regulatory Commission ('FERC') for a real property disposal. All of the equipment would continue to be owned by the Authority with the County responsible for maintenance and reasonable wear and tear. The County would be responsible for the cost of electric and telephone

services to the site.

**September 27, 1995**

"The permit would provide to Schoharie County the use of the entire Brown Mountain site and all property as detailed (Attachment #2). The County would provide the Authority with indemnification in the event one of its employees (or an employee of the contractor hired by the County) were to be subsequently injured. The Authority would be `held harmless' of liability. A ten-year agreement period would provide the County with assurances that any investment they incurred in rehabilitating the transmitter, changing frequencies, FCC licensing, etc. would have a reasonable payback period. The ten-year period would also allow the County to assess the service reliability of this base station under various meteorological conditions. At the conclusion of the ten-year permit, both parties could renew or determine final arrangements for the property and all of the appurtenances in accordance with the appropriate Authority policies.

FISCAL INFORMATION

"There is no fiscal impact related to this action.

RECOMMENDATION

"The Director - Real Estate, the Regional Manager - Central New York, the Vice President - Power Generation Engineering, and the Senior Vice President - Power Generation approve the proposed permit with Schoharie County.

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

**14. Financial Transactions with the State of New York**

The President submitted the following report:

SUMMARY

"The Trustees are requested to authorize (1) the transfer of up to \$34 million to the State of New York ('State') upon execution of an agreement between the State and the Authority memorializing the understandings between the State and the Authority concerning that transfer, and (2) the transfer of an additional \$15 million to the State or to the State's designee in exchange for the State's acknowledgment that all obligations under a 1992 agreement concerning Indian Point 3 Nuclear Power Plant ('IP3') transition assessment payments ('transition payments') were satisfied. These sums shall be withdrawn from the General Reserve Account. The Trustees are further requested to authorize communication to the State of the Authority's inability to transfer an additional \$15.9 million to the State.

BACKGROUND

"On June 20, 1995 the Governor approved the 1995 Budget Bill as Chapter 83 of the Laws of 1995. Section 80 of this legislation indicates that the Authority shall transfer \$34 million to the State. This legislative provision reflects an understanding between the Authority and the State that the Authority will transfer \$34 million to the State and that the State will transfer to the Authority a sum of like amount derived from Petroleum Overcharge Restitution ('POCR') monies.

"In 1992, the Authority agreed with the State that the Authority would reimburse the State for \$50 million of transition payments made by the State pursuant to Section 545 of the Real Property Tax Law for property acquired by the Authority from the Consolidated Edison Company of New York, Inc. In 1992, the Authority paid \$35 million of this amount. The State now seeks the payment of the balance, \$15 million.

"Section 347 of Chapter 83 of the Laws of 1995 authorizes and directs the Authority to make payment to the State of an additional sum of \$15.9 million. This section indicates that the \$15.9 million is to be set off against any payments the Authority might make to the State pursuant to paragraph (b) of subdivision 2 of Section 2975 of the Public Authorities Law (the 'Cost Recovery Act' (hereinafter 'CRA')).

"On May 26, 1995, Acting Chairman Thomas R. Frey wrote the State and indicated that the Authority would reimburse the State for the final \$15 million in connection with the transition payments and that the Authority would proceed with the understanding with the State concerning the then-expected \$30 million in POOCR monies. Acting Chairman Frey also stated in this letter that the Authority faces increasing competition in the utility industry and that it had incurred, through April 1995, a loss of \$33 million. As a result, Mr. Frey stated that the Authority could not agree to further requests by the State for transfers of funds.

DISCUSSION

"The two payments agreed to by Acting Chairman Frey in the May 26, 1995 letter, the \$15 million reimbursement for transition payments and the \$34 million in funds matching the POOCR funds identified in Chapter 83 of the Laws of 1995, are reasonable and consistent with the Authority's mission and statute. The reimbursement of the State for transition payments addresses the financial impact that the Authority's IP3 plant has had on local

governments. The POCR funds that the Authority receives as a part of the understanding with the State will be used for energy conservation, renewable energy and electrotechnology projects.

September 27, 1995

"The transfer of the \$34 million to the State in connection with POGR will be made only upon the execution of an agreement acceptable to the Authority and the State. The State has requested that \$3.4 million of the \$15 million reimbursement of transition payments be transferred directly to the Long Island Power Authority ('LIPA'). The State will provide appropriate acknowledgement that any and all obligations the Authority had under the 1992 agreement concerning reimbursement of transition payments have been met.

"The third payment sought by the State, the \$15.9 million in lieu of Cost Recovery Act payments, however, is in a distinct category. The identification in Chapter 83 of this money as a substitute for CRA payments raises for this requested transaction the legal infirmities that affect the application of the CRA to the Authority. In 1989, at the time of the enactment of the CRA, the Authority's bond counsel, Hawkins, Delafield & Wood, and its bond trustee, The Chase Manhattan Bank, N.A., raised serious questions regarding CRA applicability to the Authority, particularly the implied assessment against Authority revenues and its abridgement of the Authority's covenant with its bondholders.

"Payment of this amount also is not feasible given that the Authority's General Reserve Account, after reduction on account of the \$15 million and \$34 million amounts, will be \$26 million. This is low by the Authority's historical standards and staff strongly believes it neither would be fiscally prudent or responsible to go below this level. Thus, for financial reasons, as indicated in Acting Chairman Frey's May 26, 1995 letter, it would be imprudent to make the \$15.9 million payment requested by the State.

#### FISCAL INFORMATION

"The funds to be paid to the State and LIPA, as described above, will be disbursed from the General Reserve Account.

#### RECOMMENDATION

"The Senior Vice President - Business Services recommends that the Trustees authorize the payments to the State and LIPA in the amounts, for the purposes, and under the conditions described above.

"The General Counsel and I concur in the recommendation."

***Trustee Miller noted that in 1992 he had opposed the contribution of Authority monies in connection with the 1974 bailout of the Con Edison company. The Vice Chairman concurred with the assessment of the Authority's purchase of Indian Point 3 and Poletti, and urged that the Trustees' approval of the proposed financial transactions be contingent upon staff obtaining appropriate written confirmations from the entities involved. The Trustees expressed their agreement.***

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

September 27, 1995

**BE IT RESOLVED** by the Trustees of the Power Authority of the State of New York that the payment to the State of up to \$34 million for the purpose described in the foregoing report of the President, is hereby authorized contingent upon the execution of an agreement between the Authority and the State relating to such payment, and that the Chairman, the President and Chief Operating Officer, the Senior Vice President - Business Services, and the Vice President - Corporate Finance are, and each hereby is, authorized to execute such agreement with the State having such terms and conditions as such officer deems necessary or desirable; and be it further

**RESOLVED**, That payment to the State and, at the direction of the State, to LIPA, of monies in the aggregate amount of \$15 million is hereby authorized for the purposes specified in the foregoing report of the President; and be it further

**RESOLVED**, That the Chairman, the President and Chief Operating Officer, the Senior Vice President - Business Services, and the Vice President - Corporate Finance are, and each hereby is, authorized to do and perform or cause to be done and performed in the name and on behalf of the Authority, all other acts, to execute and deliver or cause to be executed and delivered all other notices, requests, demands, directions, consents, approvals, orders, applications, agreements, certificates, supplements, and further assurances or other communications of any kind under the corporate seal of the Authority or otherwise as he, she or they may deem necessary, advisable or appropriate to effect the intent of the foregoing resolutions; and be it further

**RESOLVED**, That it is hereby authorized that up to \$49 million of General Reserve Account monies be withdrawn from such account and utilized for making the payments specified in the foregoing report of the President; and be it further

**RESOLVED**, That such amounts to be withdrawn from the General Reserve Account are not required for any of the purposes specified in Paragraphs (1)-(4) of Section 512 of the General Purpose Bond Resolution adopted on November 26, 1974, as amended and supplemented.

**September 27, 1995**

**15. Next Meeting**

The next Regular meeting of the Trustees will be held on **Tuesday, October 31, 1995, at the New York Office at 10:00 a.m.**, unless otherwise designated by the Chairman with the concurrence of the Trustees.

**September 27, 1995**

**Closing**

Upon motion made and seconded, the meeting was closed at 11:30 a.m.

Anne Wagner-Findeisen  
Corporate Secretary

SEPMINS.95