

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

December 17, 1996

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

Present: Clarence D. Rappleyea, Chairman
Thomas R. Frey, Vice Chairman
Louis P. Ciminell, Trustee
Hyman M. Miller, Trustee
Robert J. Waldbauer, Trustee

Robert G. Schoenberger	President and Chief Operating Officer
William J. Cahill	Chief Nuclear Officer
Peter W. Delaney	Senior Vice President - Business Services
John F. English	Senior Vice President - Transmission
Robert A. Hiney	Senior Vice President - Power Generation
Philip J. Pellegrino	Senior Vice President - Energy Efficiency & Technology
Robert L. Tscherne	Senior Vice President
Charles M. Pratt	General Counsel
Arnold M. Bellis	Vice President - Controller
Woodrow W. Crouch	Vice President - Project Management
John M. Hoff	Vice President - Procurement and Real Estate
Charles I. Lipsky	Vice President & Chief Engineer - Power Generation
Gerard V. Loughran	Vice President - Human Resources
Harry P. Salmon, Jr.	Vice President - Nuclear Operations
Stephen P. Shoenholz	Vice President - Public Relations
Russell J. Krauss	Chief Information Officer
Richard E. Kuntz	Regional Manager - SENY Southeast New York
James J. McCarthy	Regional Manager - Central New York
Daniel P. Berical	Director - Intergovernmental Affairs
John W. Blake	Director - Environmental Programs
Joseph J. Brennan	Director - Internal Audits
Carmine J. Clemente	Counsel
Jules Franko	Director - Nuclear Procurement
Robert H. Meehan	Director - Compensation and Benefits
John L. Murphy	Director - Public Information
Gary Paslow	Director - Policy Development
James H. Yates	Director - Business Marketing & Economic Development
George W. Collins	Treasurer
Anne Wagner-Findeisen	Corporate Secretary
Laura M. Badamo	Assistant Corporate Secretary - Legal Affairs
Vernadine E. Quan-Soon	Assistant Corporate Secretary - Corporate Affairs

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

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1. Approval of the Minutes

“The minutes of the Regular Meeting held on November 26, 1996 were approved.”

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2. Financial Report for the Eleven Months Ended November 30, 1996

3. Firm System Transmission Tariff - Final Action to Adopt Tariff Rates

The President submitted the following report:

SUMMARY

“The Trustees are requested to approve as a final action the adoption of a new open access transmission tariff to be submitted to the Federal Energy Regulatory Commission (‘FERC’). Under this tariff, a system-wide, rolled-in rate would be applicable to most users taking transmission service over more than one specific transmission facility. Current and future customers can also take transmission service on a point-to-point basis over specific transmission facilities at the same rate currently charged for such service so that no current customers taking such service will experience a rate increase and other users will have access to these lines on a comparable basis. This new tariff would thereby supersede existing Authority transmission Tariffs 31, 45, 47 and 52. A non-firm transmission rate is derived from the system firm rate. The Trustees are also requested to authorize the filing of this open-access tariff (Exhibit ‘3-A’ attached hereto) with FERC with a request that the tariff be determined to be substantially in accord with FERC’s pro forma open access tariff, thus entitling the Authority to reciprocal access to the transmission tariffs of the investor-owned utilities (‘IOUs’).

“At their meeting of July 23, 1996, the Trustees authorized a Notice of Inquiry process to seek comments from the public concerning: whether the Authority must revise its present transmission rate structure to become consistent with FERC’s pro forma tariff; how such changes might affect customers; and how changes might enhance competition in New York State. Two public meetings were held in early September. Numerous meetings were also held with various customer groups to obtain their views on this Authority rate issue. A report on comments received from the public was submitted to the Trustees’ at their meeting of September 24, 1996.

BACKGROUND

“At their meeting of September 24, 1996, the Trustees authorized the Secretary to file notice for publication in the State Register of the Authority’s proposed action to promulgate a transmission tariff which moves current rates into the format of the FERC open access tariff and establishes system firm and non-firm rates. The Trustees also authorized the scheduling of a public forum for the purpose of obtaining the views of interested persons concerning the Authority’s proposed action. Notice of the proposed action by the Authority and the public forum were published in the State Register on October 16, 1996. That forum was held on November 14, 1996.

DISCUSSION

“At present, the Authority’s transmission rates and practices are not regulated by the FERC. However, following the enactment of the Federal Energy Policy Act of 1992 (‘EPAct’) and the issuance of the FERC’s Order 888 promoting wholesale competition through open access and non-discriminatory transmission services by IOUs, the Authority’s transmission rates and practices could come under FERC jurisdiction. The EPAct allows the FERC to order that the Authority provide transmission services under section 211 of the Federal Power Act (‘FPA’) if the Authority and the requestor of transmission services are unable to resolve issues arising out of a good faith request for such services. FERC can also set the Authority’s rates for transmission service in response to a request made under FPA section 211.

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“The FERC has been encouraging non-jurisdictional entities to file pro-forma tariffs substantially the same as the pro forma tariffs required to be filed by IOUs under Order 888. On July 3, 1996, Chairman Rappleyea sent a letter to the Chair of the FERC stating that the Authority intended to voluntarily submit an open access tariff to the FERC by December 31, 1996 and that the Authority was continuing to work with the other members of the New York Power Pool (‘NYPP’) with the goal of agreeing on a state-wide transmission pricing plan. The letter also stated that the Authority open access tariff might contain necessary modifications to the open access tariff included in FERC’s Order 888 to reflect statutory and tax concerns of the Authority.

“The two goals of a system transmission tariff are: (1)substantial compliance with FERC’s Order 888 pro forma tariff including its comparability requirements, and (2) the avoidance of rate increases for users of specific parts of the Authority’s transmission system.

“The Authority has developed a system rate which it believes would be acceptable to the FERC and which meets the concerns of most entities that provided comments to the Authority. Using a ratemaking methodology consistent with that accepted by FERC, a rolled-in rate of \$2.23 per kW-month was developed for the Authority’s integrated transmission system. This system includes the Massena-Marcy, Marcy-South and Upstate Facilities projects, together with the three transmission lines of the Blenheim-Gilboa Project and the FitzPatrick-to-Edic transmission line. Costs related to the Long Island Sound Cable were excluded since this facility is not part of the Authority’s integrated transmission system. This system firm rate would be available to any customers desiring system transmission service rather than service over the foregoing specific facilities.

“Certain facility-specific transmission rates would be offered to existing and future customers using these facilities. These rates are the Marcy-South 345 kV line at \$1.60 per kW-month; the Massena-Marcy 765 kV line at \$1.60 per kW-month; and the ‘Upstate Facilities’ at \$1.30 per kW-month. The Upstate Facilities comprise the 345 kV lines from the Niagara Project to Niagara Mohawk’s Edic substation in Marcy and the 230 kV lines from the St. Lawrence Project southward to the Adirondack substation and eastward to Plattsburgh and the interconnection with Vermont. The Long Island Sound Cable which extends from Consolidated Edison Company of New York, Inc.’s (‘Con Edison’) Sprain Brook substation to Long Island Lighting Company’s (‘LILCO’) East Garden City substation was built for LILCO, which is paying for the use of the project. The current charge for firm service over the Long Island Sound Cable is \$4.21 per kW-month. Also, for service over the Authority’s facilities from the FitzPatrick nuclear plant to the Edic substation the rate would be \$0.76 per kW-month. Customers purchasing firm power from FitzPatrick are currently paying this transmission rate through a bundled demand charge.

“Consistent with FERC-accepted methodology, the non-firm transmission rate would be capped at \$6.43 per MWH. Discounts can be granted on a nondiscriminatory basis.

“With respect to ancillary services, Order 888 outlined two such services which are required to be included in an open access tariff. The Authority’s open access tariff will include charges of \$0.15 per kW-month. for Scheduling, System Control and Dispatch Service and a charge of \$0.21 per kW-month. for Reactive Supply and Voltage Control from Generation Sources Service provided by the Authority. The Authority does not intend at this time to separately charge Authority production customers for ancillary services which the Authority currently provides as part of its production services.

“Various language changes were made to the FERC pro forma tariff to account for the Authority’s non-jurisdictional status and regional practices. For example, the Authority included language allowing it to deny service if the provision of service would jeopardize the tax-exempt status of the Authority’s bonds. Also, since the FERC does not normally regulate the Authority’s rates and practices, disputes are to be resolved by arbitration rather than by the FERC. These and a number of other changes are consistent with deviations from the pro forma

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tariff accepted by the FERC in a reciprocity filing made by the South Carolina Public Service Authority ('Santee Cooper'), a public non-jurisdictional entity like the Authority. The Authority has also made changes to FERC's liability language to reflect the negligence standards applied to utilities under New York law.

"On October 31, 1996, staff held a Technical Conference for interested persons. This included formal presentations by staff and a question and answer session related to the proposed action. At the public forum held on November 14, 1996, the representative of the Municipal Electric Utilities Association of New York State ('MEUA') expressed support for the submittal of an open access transmission tariff to the FERC but raised certain concerns about the proposal. These were: (1) the transmission rate levels; and (2) differences from the FERC pro forma tariff, namely: the unilateral right to make changes in rates and terms and conditions of service with only 60 days' notice to the parties; language on indemnification and limitation on liability; language concerning tax exempt bonds; dispute resolution procedures using binding arbitration; and network service availability.

"As to the issue of rate setting, the only new rates are for system service (\$2.23 per kW-month), ancillary service and for unbundled use of the FitzPatrick-Edic lines. The Authority is in the process of providing backup on the new rates to MEUA. However, the other facility-specific rates were previously in effect, in particular the \$1.30 per kW-month 'Upstate Facilities' rate which applies to MEUA members. It is only necessary to note that these rates represent discounts from the rolled in rate of \$2.23 per kW-month.

"The differences in language from FERC's pro forma tariff are necessary to reflect statutory and tax concerns of the Authority and are very similar to provisions approved by FERC in the Santee Cooper filing. The indemnification and liability language changes would make the tariff comport with New York law which affords utilities some measure of protection as to liability based on ordinary negligence.

"The representative of Multiple Intervenors ('MI') was supportive of the open access transmission tariff, especially the provision that most customers would continue receiving transmission service at individual transmission segment rates until such time as power purchase agreements may be modified. MI asked that the Authority clarify language concerning a customer's right to reserve the transmission capacity that it currently uses, suggested that Authority customers be provided ample notice of proposed rate changes with opportunity to evaluate the cost basis for any such changes, and sought support for the actual transmission system losses experienced by the Authority's transmission system. The Tariff provides for a 60 day notice of any change in rates and terms and conditions of service before such change becomes effective. With respect to transmission line losses, the Authority does not operate a control area and any transmission line losses compensation made by the transmission customer will be determined by the utility control area operators.

"It should be noted that the proposed new tariffs are not intended to supplant any tariff or contract that guarantees either the Authority or a customer rights different than those offered by the new tariffs. For example, the provisions of Service Tariff 4-A between the Authority and the Con Edison prescribes a rate of \$3.34 per kW-month for Con Edison's priority use of the Marcy-North and Marcy South facilities. However, customers who are now paying the \$2.19 rate for the use of two or more transmission segments will pay the new \$2.23 rate.

FISCAL INFORMATION

"Implementation of the proposed firm system transmission tariff would result in an increase in firm transmission revenues of approximately \$150,000 on an annual basis. It is difficult to estimate the impact of implementing the revised nonfirm rate because it is a capped rate and the rate for each transaction may be different depending on the market conditions.

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RECOMMENDATION

“The Senior Vice President - Transmission recommends that the Trustees approve the adoption of a new transmission tariff which includes a firm system rate of \$2.23 per kW-month and a non-firm transmission rate capped at \$6.43 per MWH, both to be effective February 1, 1997, and the filing of an open-access tariff with the FERC by December 31, 1996. The adoption of the open access tariff would supersede existing Authority Transmission Service Tariffs 31, 45, 47 and 52, as set forth above. It is further recommended that the Trustees authorize the Secretary to file notice of adoption with the Secretary of State for publication in the State Register and to file such other notice as may be required by statute or regulation.

“The General Counsel, the Senior Vice President - Business Services, the Senior Vice President - Marketing and Business Economic Development, and I concur in the recommendation.”

Mr. English added that the proposed tariff action meets the dual objective of complying with the FERC's filing requirements while not unduly burdening Authority customers. In addition, the tariff is consistent with NYPP's plan of action. In response to questions from Trustee Miller, Mr. English explained that the tariff would be analogous to a take-or-pay arrangement and that, although the service would generally be allocated on a first-come, first served basis, the FERC rules permit some flexibility for providers to substitute longer-term purchasers for short-term purchasers. In response to questions from Vice Chairman Frey, Mr. English explained that the NYPP is one of the four "tight" power pools affected by the FERC mandate. The three others are New England; Pennsylvania, New Jersey and Maryland ("PJM"); and Michigan. All four tight pools must also file with the Commission by year's end. Mr. English further explained that, under the new FERC requirements, no ISO may make service available only to utilities and that the ISO must be free of utility dominance. Thus, for example, FERC has found the PJM filing unacceptable because the utilities would retain excessive control over the ISO even though the service would be made available to non-utility customers. Mr. English added that the NYPP will submit several filings to FERC within the next several months although the ISO itself will not be ready. Mr. English stressed that the NYPP's approach will have a major impact on the way the Authority does business, and that Authority staff will keep the Trustees abreast of future developments.

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In response to further questions from the Vice Chairman, Mr. English explained that once the ISO is established, there will be a uniform pool rate based on a formula. President Schoenberger added that staff is seeking to ensure recovery of the Authority's revenue requirements.

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

WHEREAS, at their meeting of September 24, 1996 the Trustees authorized the Secretary of the Authority to file notice of proposed action for publication in the State Register of the Authority's intention to promulgate a transmission tariff which moves current rates into the format of the Federal Energy Regulatory Commission ("FERC") open access tariff and establishes system rates, both firm and non-firm, as set forth in the foregoing memorandum from the President; and

WHEREAS, such notice was duly published in the State Register on October 16, 1996 and more than forty-five (45) days have elapsed since publication; and

WHEREAS, a public forum was held on November 14, 1996 for the purpose of obtaining the views of interested persons concerning the proposed system rate and open-access tariff filing with the FERC;

NOW THEREFORE BE IT RESOLVED, That the proposed system rates become effective February 1, 1997, and open-access tariff filing with the FERC by December 31, 1996 is hereby approved; and be it further

RESOLVED, That the Authority's existing Transmission Service Tariffs 31, 45, 47 and 52 are superseded by the open-access tariff as set forth in the memorandum from the President; and be it further

RESOLVED, That the Secretary of the Authority be, and hereby is, authorized to file notice of adoption with the Secretary of State for publication in the State Register and to submit such other notice as may be required by statute or regulation; and be it further

RESOLVED, That the Senior Vice President - Transmission be, and hereby is, authorized to submit the open access tariff to FERC for the purposes of receiving reciprocal open access transmission, and to do such other and further things as are necessary to accomplish the foregoing.

Exhibit '3-A'
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New York Power Authority

Open Access Tariff Filing

VOLUMINOUS DOCUMENT

**COPIES AVAILABLE IN SECRETARY'S OFFICE
OR RECORDS INFORMATION CENTER UPON REQUEST**

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**4. Contract for the Sale of FitzPatrick Power to Cascades
Niagara Falls, Inc. - Transmittal to the Governor**

The President submitted the following report:

SUMMARY

"The Trustees are requested to approve transmittal to the Governor of the proposed ten year contract for the sale of 12,000 kW of FitzPatrick Power to Cascades Niagara Falls, Inc. ('Cascades') pursuant to Section 1009 of the Public Authorities Law. (Exhibit '4-A')

BACKGROUND

"Cascades is currently receiving a 1,600 kW allocation of Expansion Power. On August 7, 1996, the Chairman authorized the holding of a public hearing pursuant to Section 1009 of the Public Authorities Law on the terms of a proposed ten year contract with Cascades for the sale of FitzPatrick power that supports the retention of 140 jobs. Additional terms of service include: 1) a fixed term of service for three years which expires December 31, 1999; and 2) not less than 12 months' notice prior to the expiration of the three year term will be provided to the Authority to extend or discontinue service for an additional fixed term of seven years which expires December 31, 2007.

"Cascades plans to invest a minimum of \$3.5 million over the next two years following execution of the contract. In the fourth quarter of 1996, Cascades has slated expenditures of \$1.5 million for the purchase and installation of a new water tube boiler. Next, \$600,000 will be dedicated to the rebuild of the #2 pulper machine which will improve drive speeds and stock preparation time. Additionally, \$130,000 has been budgeted for a new broke system and \$190,000 budgeted for a compost facility - part of an overall goal to increase production by 20% - to 700 tons per day.

"The proposed allocation has been reviewed in accordance with Part 460 of the Authority's Rules and Regulations (Procedures for Allocation of Industrial Power and Enforcement of Contracts (21 NYCRR 460 (1988)). The Authority's standard power allocation agreement with this company provides for a reduction in allocation in the event that employment or power usage levels are not maintained at specified levels. Reports regarding employment and affirmative action commitments will be submitted to the Authority as provided by Section 460.4 of the Authority's Rules and Regulations.

DISCUSSION

"Copies of the proposed contract were transmitted to the Governor, the Speaker of the Assembly, the Minority Leader of the Assembly, the Chairman of the Assembly Ways and Means Committee, the Temporary President of the Senate, the Minority Leader of the Senate, and the Chairman of the Senate Finance Committee.

"A public hearing on the proposed contract was held on October 9, 1996, at the Authority's New York office. At least 30 days' notice of the Public Hearing on the terms of the proposed contract was given by publication in at least six newspapers throughout New York State. At the hearing, representatives of Cascades Niagara Falls spoke in favor of the proposed contract. It was outlined that Cascades, Inc. is a Canadian public corporation specializing in the manufacture of paper products with annual sales of \$2.3 billion and that Cascades, together with

its subsidiaries, employs approximately 8,000 people in more than 75 facilities worldwide.

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Cascades representatives explained that the parent company has invested over \$20 million in the Niagara Falls facility, without profitable results and, as a result, was contemplating a shut-down of its operations. Cascades stated that the price of energy was a determining factor in the ability of the Niagara Falls facility to compete and remain in operation in New York. In addition, Cascades stated that, following execution of the contract with the Authority, future expansion investments would be made in the Niagara Falls facility and that other locations within New York State would be considered for acquisition by the parent company, Cascades, Inc. Also at the hearing, the following individuals spoke in support of the proposed contract: David Quast, Assistant Mill Manager; Raymond O'Keefe, Special Projects Manager; Glenn Hackett, Attorney; and Angelo Cusatis, Employee Representative. Written statements in support of the proposed contract were received from, among others, Senator Joseph L. Bruno - President Pro Tem, and Senator George D. Maziarz - 61st. District. All written statements have been incorporated in the record of the hearing.

"Subsequent to the close of the record, two additional written statements in support of the proposed contract were received from Gerald Solomon, Member of Congress, House of Representatives, Washington D.C., and Charles Gargano - Chairman and Chief Executive Officer of the Empire State Development Corporation.

"Also at the hearing, George Pond, Senior Counsel, Niagara Mohawk Power Corporation ('NiMo') spoke on behalf of NiMo's President, Albert J. Budney, against the proposed allocation to Cascades. The NiMo testimony questions the legality and propriety of the proposed allocation of 12 MW of high load factor power to Cascades. Later, NiMo demanded in a letter dated October 16, 1996 that the Authority conduct 'a full evidentiary hearing' in which Cascades would have to show that it will leave Niagara Falls in the absence of the allocation and that NiMo is incapable of meeting Cascades' rate reduction requirements.

"NiMo contends that under the Public Authorities Law ('PAL'). the Authority may provide FitzPatrick high load factor power only for the incremental electricity needs of Cascades; that is, the load associated with Cascades' promised business expansion. NiMo's position is not supported by statute or regulations. The PAL, Section 1005, second undesignated paragraph authorizes the Authority '(ii) to supply low-cost power and energy to high load factor manufacturers which will build new facilities in the Authority's area of service or expand existing facilities provided such power and energy is made available to them...' Also, PAL Section 1005(6) states that the Authority is authorized and directed '... (ii) to attract and expand high load factor industry'. The statute does not place a limit on the amount of power that may be allocated to a high load factor customer once it has committed to build new or expand existing facilities in return for FitzPatrick power. Nor does the statutory language require that FitzPatrick high load factor power be used only for new load.

"According to the plain language quoted above, an allocation of FitzPatrick power can be made to Cascades if two conditions are met:

- 1) It is a high load factor user under PAL. NiMo apparently concedes that Cascades meets the requirements of PAL 1005, 4th undesignated paragraph regarding minimum demand, load factor and electricity as a percentage of produce content.
- 2) It will 'expand existing facilities provided such power and energy is made available to them'. The second test is met because the allocation of FitzPatrick power to Cascades for its existing and its promised expanded load and its resulting cost savings will induce a business expansion.

"NiMo claims that when the utility loses a customer to the Authority, a greater share of excessive state and local taxation coupled with mandated purchases of overpriced power from unregulated independent power producers

(‘IPPs’), must be borne by its remaining customers. NiMo further states that it has a duty to both its

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shareholders and customers to: 1) prevent the Authority from eroding its customer base; or 2) ‘increase wheeling charges to levels that will provide a fair level of compensation towards the cost of these state mandates.’

“While State IPP mandates and taxes account in part for NiMo’s high rates, the answer is not to shut down the FitzPatrick high load factor program. The allocations made by the Authority have helped keep companies in business in New York that are at risk of leaving or closing completely. An empty plant pays no taxes and no utility rates. The interests of the State and local economies are well served by these allocations which have helped stem an industrial exodus caused in part by high electric costs. Companies such as Cascades do not have the luxury of waiting for the promises of lower rates from industry restructuring. NiMo’s proposal to impose non-bypassable stranded cost recovery charges on firms which seek other supplies will only serve to accelerate the closing of at risk plants like Cascades.

“NiMo asserts the Authority’s regulations concerning industrial power allocations (21 NYCRR 460.5) require rejection of the proposed allocation. Specifically, NiMo notes the Trustees must consider the following subsections of 460.5(a):

- (4) the number of jobs (including construction jobs) to be created and the number of jobs to be retained as a result of a power allocation;
- (5) the types of jobs created, as measured by wage and benefit levels, security and stability of employment;
- (6) the effect the allocation will have on the business’s existing employment at the location for which power has been requested;
- (7) anticipated additional payroll; and
- (17) the impact of an allocation on the other electric ratepayers;

“The five items mentioned above are a few of a matrix of criteria set forth in the Authority’s regulations (21 NYCRR 460.5) that were evaluated before the allocation to Cascades was recommended. Details concerning Cascades’ jobs, benefits payroll and the like are contained in the firm’s application for power which has been made available to the Trustees.

“As to NiMo’s request for an ‘evidentiary hearing’, there is no such requirement either in PAL 1009 which governs approval of Authority power contracts, nor in the State Administrative Procedure Act which is inapplicable here. In any event, there is no need for the factual investigation NiMo requests. The Authority is under no obligation to explore why NiMo was unsuccessful in negotiating a discount rate with Cascades. The Authority’s role is to determine Cascades’ eligibility for FitzPatrick power as a matter of law and public policy.

“NiMo’s contention that the allocation will only hurt other ratepayers incorrectly assumes Cascades is not at risk of closing or curtailing operations. If the plant closes, the other NiMo customers will enjoy no revenues from Cascades. On the other hand, if the allocation is granted, NiMo will still receive transmission revenues for delivering the allocation.

“Cascades has made a satisfactory showing that its entire Niagara Falls operation is at risk of relocation or closure unless it succeeds in reducing its operating costs. Cascades’ application for power, along with the extensive

written statements from public officials and business organizations at the hearing, attest to the need to retain Cascades and the jobs it represents.

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“The proposed contract is consistent with the law, the legislative purposes behind the FitzPatrick high load factor program, and the Authority’s rules and regulations concerning allocation of industrial power. It is in the public interest and should be forwarded to the Governor for his consideration.

RECOMMENDATION

“The Director - Business Marketing and Economic Development recommends that the proposed contract for the sale of 12,000 kW of High Load Factor Industrial Power to Cascades Niagara Falls, Inc., as set forth in Exhibit ‘4-A’, be transmitted to the Governor with the recommendation that it be approved.

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

In response to questions from the Vice Chairman, Mr. Yates confirmed that the Authority has the ability to deliver FitzPatrick power in the Niagara Mohawk service territory.

At Trustee Miller's invitation, Mr. Ray O'Keefe of Cascades Niagara Falls described the company's fiscal difficulties and how this allocation of Authority power will enable it to stay in business in New York State as opposed to relocating out-of-state. Other states, such as Michigan, have offered significant discounts on electric power. Mr. O'Keefe expressed Cascades' thanks to the Authority's staff for their dedication and professionalism.

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

WHEREAS, the Authority reached agreement with Cascades Niagara Falls, Inc. on the terms of the contract for the sale of High Load Factor Industrial Power; and

WHEREAS, copies of such contract have been transmitted to the Governor, the Speaker of the Assembly, the Minority Leader of the Assembly, the Chairman of the Assembly Ways and Means Committee, the Temporary President of the Senate, the Minority Leader of the Senate, and the Chairman of the Senate Finance Committee and were made available for public inspection during a 30 day period at the offices of the Authority and at other locations throughout the State; and

WHEREAS, on October 9, 1996 the Authority held a public hearing on the terms of such contract upon more than 30 days' notice given by publication once each week during such period in at least six newspapers within the State of New York; and

WHEREAS, after such public hearing the Authority reconsidered the terms of such contract and does not deem it necessary or advisable to modify the contract;

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NOW THEREFORE BE IT RESOLVED, That the Authority hereby approves the form of the proposed contract for the sale of power between the Authority and Cascades Niagara Falls, Inc. which was submitted to this meeting, and that the Authority believes such contract to be in the public interest; and be it further

RESOLVED, That the Secretary shall transmit such contract to the Governor, the Speaker of the Assembly, the Chairman of the Assembly Committee on Ways and Means, the Temporary President of the Senate, and the Chairman of the Senate Finance Committee, together with the record of the public hearing held on such contract and the recommendation of the Authority that such contract be approved; and be it further

RESOLVED, That the Chairman and the Secretary be authorized and directed to execute such contract in the name and on behalf of the Authority whenever the contract shall be approved by the Governor; and be it further

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

5. St. Lawrence/FDR Power Project - Relicensing Cooperative Consultation Process Reimbursement of Participants' Expenses

The President submitted the following report:

SUMMARY

"The Trustees are requested to approve reimbursement of expenses for persons taking part in the Cooperative Consultation Process - St. Lawrence-F. D. Roosevelt Power Project ('St. Lawrence-FDR Project') relicensing effort. The budget for this program for the entire relicensing process is \$150,000.

BACKGROUND

"The Authority, working with the Federal Energy Regulatory Commission ('FERC') and the New York Department of Environmental Conservation ('DEC'), has developed a Cooperative Consultation Process ('CCP') as the principal means of identifying and resolving issues in connection with the relicensing of the St. Lawrence-FDR Project. The CCP differs from the process that would otherwise be required by the FERC regulations in that it accelerates the National Environmental Policy Act ('NEPA') analysis and combines it with license application preparation. This process requires all parties to make a more substantial expenditure of time and resources at an earlier stage in the relicensing process. The Authority staff expects that with agency and public participation in the definition of the issues, and the scoping and performance of the NEPA studies, the Authority will realize an overall reduction in the amount of time and resources that would otherwise be needed to relicense the Project.

"Three parties participating in the CCP have submitted funding requests to cover some of the expenditures associated with their participation in the process. The parties are New York Rivers United/American Rivers, Inc. ('NYRU/AR'); Pace University School of Law ('Pace'); and McNamee, Lochner, Titus and Williams ('MLT&W') on behalf of the St. Regis Mohawks and the Mohawk Council of Akwesasne, and the Lake St. Lawrence Local Government Coalition ('Local Government Coalition'). The Authority staff has developed a program to address these and any future requests in a fair and consistent manner.

DISCUSSION

"The CCP allows agencies and interested members of the public to participate in a process of identifying issues, planning and reviewing studies, and considering potential project enhancements and other necessary measures. This approach ensures that all interested parties are afforded an opportunity to participate in the activities that will form the basis for the Authority's application for a new license. The CCP seeks early resolution of issues. Persons participating in the CCP include representatives of the Authority, the FERC, DEC, other federal and state agencies, local governments, Authority customers, non-governmental organizations, the Mohawk community, and the public.

"Participating in the CCP requires extensive commitment of time and resources by all parties involved in the process. As part of the reimbursement program, parties committing such resources and time and demonstrating that their efforts would add value to the process (such as comments on issues and study plans) would be reimbursed for certain expenses incurred in connection with their participation in the CCP.

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"Under the program, any party could submit an application for the Authority's approval. The application would state that the deliverables the party would contribute and the party's commitment to a good faith effort to meet the schedule requirements of the process. The Director - Licensing Division, with concurrence from senior management, would determine if the application should be granted.

"The Authority would reimburse a party for actual reasonable travel and living expenses of the type normally reimbursed by corporations. Spending caps have been established for meals, travel and other reasonable expenses in connection with each meeting. The program would also provide for reasonable office expenses with spending caps per month.

"The recommended amount of this fund is \$150,000. The Authority staff's St. Lawrence Relicensing Steering Committee approved this program at its October 1, 1996 meeting. The draft program was presented and discussed with the CCP participants at the October 23 and 24, 1996 meeting. Subsequent to this meeting, the St. Regis Mohawks and the Mohawk Council of Akwesasne withdrew their application. The Local Government Coalition revised its application to conform to the Authority's program guidelines. NYRU/AR's application has not been revised. Additional applications are anticipated.

FISCAL INFORMATION

"Funds required for 1997 have been included in the proposed 1997 budget. Funds through 2003 will be included in future budget submittals. Payment will be made from the Authority's General Reserve Account.

RECOMMENDATION

"The Director - Licensing and the General Counsel recommend that the Trustees approve reimbursement of a portion of the expenses incurred by parties participating in the St. Lawrence-FDR Project Cooperative Consultation Process. The budget for this program for the entire relicensing process is \$150,000.

"The Director - Intergovernmental Relations, the Vice President - Public Affairs, the Senior Vice President - Business Services, the Senior Vice President - Marketing and Economic Development, the Senior Vice President - Power Generation, and I concur with this recommendation."

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

RESOLVED, That the Trustees hereby authorize a program of reimbursement of expenses for persons participating in the St. Lawrence-FDR Project Cooperative Consultation Process, provided that the parties demonstrate to the Authority's satisfaction that they would participate in good faith and that such participation would be in the public interest; and be it further

RESOLVED, That the Director - Licensing Division, with the concurrence of senior management be, and hereby is, authorized to determine eligibility of an applicant's proposal for reimbursement under the program; and be it further

RESOLVED, That in accordance with the Authority's Expenditure Authorization Procedures, expenditures are hereby approved, in the amount and for the purposes listed below:

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Capital

**Expenditure
Approval**

St. Lawrence-FDR Relicensing - Cooperative Consultation Process Reimbursement of Participants' Expenses	<u>\$150,000</u>
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RESOLVED, That it is hereby authorized that up to \$150,000 of General Reserve Account monies be withdrawn from such account and utilized for making the reimbursements of a portion of the expenses incurred by parties participating in the St. Lawrence/FDR Project Cooperative Consultation Process; 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.

6. 1997 Operations and Maintenance and Capital Budget

The President submitted the following report:

SUMMARY

“The Trustees are requested to approve the 1997 budgets for operations and maintenance (‘O&M’) including research and development (‘R&D’) and fuel purchases, and the 1997 capital budget as follows:

	1997 Budget (<u>\$ Millions</u>)
O&M	\$465.1
R&D	12.7
Fuel	102.5
Capital	217.2

“The Authority is currently conducting an intensive review of its cost structure (the FOCUS Z-team process). We believe this process will produce significant savings in the Authority’s O&M and capital requirements over the next three years. Review of hydro, fossil, transmission and most headquarter functions are complete. Review of nuclear operations and the remaining headquarters functions will be completed by the end of the first quarter 1997.

BACKGROUND

“In 1996 the Authority initiated a revised strategic planning process which encompassed an overall corporate mission statement, decision drivers and strategic result areas. The Authority’s mission and its strategic decision drivers are focused on our commitment to performance excellence and leadership in a restructured and competitive electric utility industry. The strategic results areas represent specific measurable performance targets necessary to succeed in our mission. It appears the Authority will meet or exceed these targets for 1996.

“The 1997 budgets are intended to provide the Authority’s business units and support organizations with the resources necessary to accomplish the mission and meet the corresponding 1997-1999 performance targets.

DISCUSSION

“The O&M budget of \$465.1 million is an increase of 6.3% over the 1996 budget of \$437.7 million. It provides for a refueling outage at Indian Point 3 Nuclear Power Plant (‘IP3’) and includes funds for extensive engineering and maintenance work at the plant to improve the plant’s material condition and ensure continued safe and reliable operations. IP3’s 1997 budget is \$153.3 million representing an increase of \$55.7 million over the 1996 budget. \$38.3 million is budgeted for the refuel outage and \$14.2 million for other major non-recurring engineering and maintenance work at IP3. At present the budget request for IP3 is based on a best estimate of outage costs and major non-recurring work for 1997. Outage plans and schedules as well as engineering and maintenance requirements are being finalized and may result in the need for additional funding. As noted above, these issues will be finalized during the first quarter of 1997 and if necessary additional funding will be requested net of any savings identified by the comprehensive review of nuclear costs.

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“The budget for the remainder of the organization including the non-nuclear organizations as well as nuclear headquarters and James A. FitzPatrick Nuclear Power Plant (‘JAF’) is \$311.8 million. This is \$28.3 million or 8.3% lower than the budget for 1996. On a comparable basis, after adjusting for outage spending at JAF, Charles Poletti Power Project (‘Poletti’) and Richard M. Flynn Power Plant (‘Flynn’) which were included in the 1996 budget, the 1997 budget is virtually unchanged from 1996. The 1997 budgets for these organizations therefore absorb all inflationary and salary increases within 1996 amounts. In 1996 there were 24 positions eliminated through vacancy reductions and attrition. There are no new position requests in the 1997 budget.

“The R&D budget of \$12.7 million is a decrease of 16.4% from 1996 primarily from decreased spending in electric transportation and renewable energy technologies.

“The fuel budget of \$102.5 million is a decrease of \$44.6 million from 1996. This is a cash budget reflecting planned fuel purchases in 1997 and includes the fabrication and enrichment of nuclear fuel purchased in 1996 for IP3’s outage (\$24.9 million) and fossil fuel purchases for Poletti and Flynn (\$77.6 million).

“The capital budget of \$217.2 million is a 40% increase from 1996. \$11.1 million of this increase is at IP3 reflecting the tasks necessary to ensure the continuous safe and reliable operation of the plant. The Energy Efficiency and Technology capital budget represents an increase of \$46.5 million to reflect the inclusion of Petroleum Overcharge Restitution fund disbursements which the Authority is administering on behalf of New York State as well as the funds necessary to fulfill contractual energy conservation and efficiency commitments to the Authority’s long term SENY customers.

“The FOCUS Z-team process is intended to accomplish two main tasks: a) tie requested resources to the accomplishment of Authority goals; and b) reduce O&M and capital costs to meet the challenges of deregulation of the State’s electric utility industry. As part of these savings, the Z-teams have and will identify staffing reductions. The Authority will realize these savings over the next three years without layoffs, using attrition, retirements and redeployment of personnel.

FISCAL INFORMATION

“Payment will be made from the Operating Fund for operations and maintenance, the Fuel Reserve Account for fuel purchases and the Projects Study Fund for research and development expenditures.

“Payment will be made from the Nuclear Improvement Fund, appropriate Construction Fund, Energy Conservation Effectuation and Construction Fund or General Reserve for capital expenditures.

RECOMMENDATION

“The Vice President - Controller and the Senior Vice President - Business Services recommend approval of the 1997 Operations & Maintenance, Research and Development, Fuel and Capital budgets as discussed herein and as set forth in Exhibit ‘6-A’ attached hereto.

“The respective Vice Presidents, Regional Managers, Site Executive Officers and I concur in the recommendation.”

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Trustee Waldbauer inquired whether the amount of \$12.7 million will be sufficient to cover the Authority's commitment to electric vehicles and other energy efficiency measures. Mr. Pellegrino responded in the affirmative. Mr. Bellis added that other energy efficiency funding is in the Energy Efficiency and Conservation Fund. President Schoenberger stated that the proposed 1997 budgets contain no new staff positions and that recently, positions have actually been reduced through attrition. President Schoenberger stressed that the 1997 nuclear budget is to some extent still a "work in progress" since the 'Z' Team, that will examine the nuclear function with a view towards cutting costs, will not commence its work until January 1997 and the Team's final recommendations will not be available until March.

In response to questions from Trustee Waldbauer concerning the April 1997 outage at IP3, President Schoenberger explained that because of the work that needs to be performed, the IP3 outage is anticipated to be lengthier than the recent JAF outage.

Trustee Miller commended Mr. Bellis and staff for their efforts in connection with the proposed budget, and noted a \$400,000 reduction for costs arising from completion of the State Comptroller's audit. Trustee Miller inquired as to the feasibility of the Authority's retention of another auditing entity which would provide a more accurate picture of the Authority. Chairman Rappleyea requested that staff look into any applicable legal ramifications. President Schoenberger added that such an audit should await the recommendations of the Z Team in March.

The following resolution, as submitted by the President, was unanimously adopted.

RESOLVED, That the 1997 Operation and Maintenance budget including research and development and fuel expenditures, and the 1997 Capital budget, as discussed in the foregoing report of the President, are hereby approved; and be it further

RESOLVED, That the Trustees of the Authority hereby: (1) authorize the payment to the Authority of funds available in the General Reserve Account for the lawful corporate purpose of paying the costs of the capital projects, and improvements thereto, specified in the attached 1997 Capital Budget of the Authority to the extent such costs are

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intended to be funded from such account, and (2) determine, after consideration of prior authorized

but unexpended payments from such Account, that there is available from the General Reserve Account monies for such purposes, and not needed for any purpose specified in Paragraphs (1) - (4) of Section 512 of the General Purpose Bond Resolution adopted on November 26, 1974, as amended and supplemented, having a priority over the effectuation of such capital projects, which shall be paid over to the Authority for such purposes, provided, however, that prior to the approval of any such capital project the Treasurer or Deputy Treasurer of the Authority confirms by certificate the determination set forth in clause (2), above after consideration of any additional authorizations of expenditures from the General Reserve Account by the Trustees made after the date hereof; and be it further

RESOLVED, That it is hereby authorized that up to \$440,000 of General Reserve Account monies be withdrawn from such account and utilized for making the payment specified to be made by the Authority in the long term agreement relating to the provision of electric service between the Authority and the Metropolitan Transportation Authority, and that up to \$50,000 of General Reserve Account monies be withdrawn from such account and utilized for making the payment specified to be made by the Authority in the long term agreement relating to the provision of electric service between the Authority and the Westchester County; 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.

Exhibit '6-A'
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O&M, R&D AND FUEL
1997 BUDGET
(\$ MILLIONS)

<u>Business Unit/Department</u>	<u>1996</u>	<u>1997</u>	<u>% Change</u>
Office of the Chairman/CEO	10.5	10.5	-
Office of the President/COO	16.1	18.6	16
Business Services	35.8	34.8	(3)
Marketing	5.3	5.3	-
 <u>Transmission</u>			
Headquarters	11.6	11.4	(2)
Facilities	<u>17.5</u>	<u>21.6</u>	23
Total Transmission	<u>29.1</u>	<u>33.0</u>	<u>13</u>
 <u>Energy Efficiency</u>			
	2.0	2.0	-
 <u>Power Generation</u>			
Headquarters Support	10.5	6.7	(37)
Niagara	41.0	36.8	(10)
St. Lawrence - FDR	22.7	21.3	(6)
Blenheim-Gilboa	16.4	13.5	(18)
C.P. Poletti	20.2	15.6	(23)
Small Hydro	1.6	2.1	37
R. M. Flynn	<u>7.4</u>	<u>5.7</u>	(24)
Total Power Generation	<u>119.8</u>	<u>101.7</u>	<u>(15)</u>
 <u>Nuclear Generation</u>			
Headquarters Support	11.9	9.7	(19)
Indian Point 3	97.6	153.3	57
J. A. FitzPatrick	<u>109.6</u>	<u>96.2</u>	(12)
Total Nuclear	<u>219.1</u>	<u>259.2</u>	<u>18</u>
 Total O&M Expenditures			
	<u>\$437.7</u>	<u>\$465.1</u>	<u>6</u>
 R&D and Institutional Funding			
	<u>15.2</u>	<u>12.7</u>	<u>(16)</u>
 <u>Fuel</u>			
Oil/Gas Purchases	65.4	77.6	19
Nuc. Fuel Purchases	<u>81.7</u>	<u>24.9</u>	(70)
Total Fuel Purchases	<u>147.1</u>	<u>102.5</u>	<u>(30)</u>

**CAPITAL
1997 BUDGET
(\$ MILLIONS)**

	<u>1996</u>	<u>1997</u>	<u>% Change</u>
<u>Generation</u>			
Niagara Upgrade	16.1	17.6	9
R.M. Flynn	<u>3.3</u>	<u>1.8</u>	<u>(45)</u>
Total Generation	<u>19.4</u>	<u>19.4</u>	<u>-</u>
<u>Energy Conservation</u>	71.7	118.2	65
<u>Transmission</u>	7.8	5.0	(36)
<u>Power Generation Facility Improvements</u>			
Blenheim-Gilboa	3.4	2.9	(15)
Niagara	3.1	3.6	16
Poletti	1.2	.6	(50)
St. Lawrence	<u>5.2</u>	<u>5.5</u>	<u>6</u>
Total Power Generation	<u>12.9</u>	<u>12.6</u>	<u>(2)</u>
<u>Nuclear Improvements</u>			
J. A. FitzPatrick	16.2	11.7	(28)
Indian Point 3	<u>13.8</u>	<u>24.9</u>	<u>80</u>
Total Nuclear	<u>30.0</u>	<u>36.6</u>	<u>22</u>
<u>Administration/Support</u>			
<u>Administrative Projects</u>	5.4	12.3	127
<u>General Plant/Minor Additions</u>			
Transmission	1.0	1.9	90
Production	<u>6.9</u>	<u>11.2</u>	<u>62</u>
Total Gen. Plant/Minor Additions	<u>7.9</u>	<u>13.1</u>	<u>66</u>
TOTAL CAPITAL BUDGET:	<u>\$155.0</u>	<u>\$217.2</u>	<u>40</u>

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7. **Establishment of Audit Committee and Amendment of the Authority's By-laws**

The President submitted the following report:

SUMMARY

"The Trustees are requested to approve the establishment of an Audit Committee. The Audit Committee would have four principal functions: (1) oversight of the relationship with the Authority's independent accountants; (2) oversight of the Authority's internal audit process; (3) oversight of the integrity of the Authority's internal control system; and (4) oversight of issues raised by the Authority's Code of Conduct.

"The Audit Committee would consist of two Trustees who are not employees of the Authority within the meaning of Sections 1003 and 1004 of the Public Authorities Law. The proposed power, scope and membership criteria of the Audit Committee are set forth in greater detail in a draft Charter (Exhibit '7-A' attached hereto).

"The Trustees are further requested to amend (1) Article V of the Authority's By-laws by adding a new Section 3 to reflect their authorization of the establishment of such Audit Committee; and (2) Section 1 of Article X, entitled 'Appointments', to add the head of Internal Audit to the list of staff positions currently enumerated therein. The Trustees are also requested to approve a revised Corporate Policy entitled 'Internal Audit Program' (Exhibit '7-B' attached hereto).

BACKGROUND

"The Chairman & Chief Executive Officer and the President & Chief Operating Officer of the Authority are assisted in the day-to-day management of the Authority's affairs by a Management Committee which was established in accordance with Article V, Section 1 of the Authority's By-laws (as most recently adopted by the Trustees at their meeting of August 29, 1995). The By-laws define the composition of the Management Committee, including the Chairman and the President in its membership, and vest it with specific strategic, policy and programmatic responsibilities.

"At their meeting of January 28, 1988, the Trustees adopted a Conflict of Interest policy reflecting legislative restrictions on public employee behavior as set forth in Section 73 of the Public Officers Law. This policy was amended and renamed the 'Code of Conduct' at their meeting of June 20, 1994.

"At their meeting of May 31, 1989, as required by the then-new Governmental Accountability, Audit and Internal Control Act of 1987 (Sections 2930 through 2932 of the Public Authorities Law, hereafter the 'Internal Control Act') the Trustees approved an Internal Audit Program Corporate Policy.

"Present-day developments in connection with the regulatory restructuring of the utility industry are affecting the way the Authority conducts business and may impose additional and/or new kinds of strictures on the conduct of utility executives and employees and greater demands for public accountability. This is particularly true in the case of a public authority such as the Authority whose Trustees and employees are subject to codes of ethical conduct as set forth in Sections 73, 73-a and 74 of the New York Public Officers Laws, and as more specifically embodied in the Authority's Code of Conduct. Audit committees have been established at several other public authorities including the Metropolitan Transportation Authority, the Port Authority of New York and New Jersey, New York State Energy Research and Development Authority and the Dormitory Authority.

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"It is an appropriate time to increase the involvement of the Trustees in overseeing (1) the integrity of the Authority's financial reporting process and internal control system; and (2) issues raised by the Authority's Code of Conduct.

DISCUSSION

"The proposed creation of an Audit Committee would provide such a vehicle by involving two non-executive Trustees. The Audit Committee would serve an advisory function to the Trustees and make recommendations for Board action. The existence of such an Audit Committee would help assure the exercise of such oversight functions in an independent fashion.

"The four principal functions of the Audit Committee would comprise: (1) oversight of the relationship with the Authority's independent accountants; (2) oversight of the Authority's internal audit process; (3) oversight of the integrity of the Authority's internal control system; and (4) oversight of issues raised by the Authority's Code of Conduct.

Independent Accountants

"Section 2800 of the Public Authorities Law requires the Authority to file with certain legislative leaders an annual report of the Authority's financial statements and accompanying notes, which are prepared by management and certified by independent accountants.

"The Audit Committee would seek to enhance the integrity, quality, reliability and fairness of the Authority's annual financial statements and accompanying notes. Management is responsible for the integrity and objectivity of the Authority's financial statements. The Controller's Division coordinates management's efforts in this regard. The independent accountants issue an opinion as to the fairness of the financial statements in accordance with generally accepted accounting principles. The Audit Committee members would be active in the external audit process by advising management and the Trustees on the selection and discharge of the independent accountants; by meeting periodically with the independent accountants to review the independent accountants' work plans and objectives; and discussing financial statement presentation and recommendations arising from the independent accountants examination.

Internal Audit

"The Audit Committee would be vested with oversight powers concerning the activities of the Authority's internal audit functions. The Authority's internal audit program, in compliance with statutory requirements, provides for audits of Authority-wide internal controls and activities by Internal Audit. Internal Audit, which reports to the Office of the President, is independent of other departments, divisions, projects or facilities within the Authority, and has direct access to the Trustees. Such direct access would be increased and improved by the formation of an Audit Committee.

"The Audit Committee would promote the vital coordination between the internal auditors and independent accountants, ensuring that all material areas of activities are adequately covered. The Audit Committee shall also oversee Internal Audit so that the latter maintains the organizational status, independence and support to fully discharge its duties.

The Internal Control System

“As a logical extension of the foregoing, the Audit Committee would also have oversight of the
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Authority’s internal control system. The Authority maintains a system of internal controls to provide reasonable assurance that transactions are executed in accordance with management’s authorization, that financial statements are prepared in accordance with generally accepted accounting principles and that assets of the Authority are properly safeguarded.

Code of Conduct Issues

“The fourth area in which the Audit Committee would assume a role is in connection with reviewing issues raised under the Authority’s Code of Conduct, approved by the Trustees in 1989 and as amended in June, 1994, and compliance with Sections 73, 73-a and 74 of the Public Officers Law. This is a crucial aspect of the asserting and maintaining a business culture in any public organization, and oversight is essential.

“The proposed power, scope and membership criteria of the Audit Committee are set forth in greater detail in an Audit Committee Charter which is attached as Exhibit ‘7-A’. The Audit Committee may perform all or some of its oversight responsibilities with the assistance of existing staff, or it may appoint such other staff members as it sees fit, and may retain external advisors consistent with current practices and policies.

“Although Section 2 of Article V of the By-laws currently envisions the creation of committees in addition to the Management Committee,¹ the importance of the proposed Audit Committee warrants a specific reference in the By-laws. It would likewise be appropriate to add the position of the head of Internal Audit to the list of staff positions which require the Trustees’ approval for appointment. This would ensure the ability of that individual to fulfill his or her function in a manner independent from the possibility of management suasion.

RECOMMENDATION

“The Chairman and I recommend that the Trustees approve the establishment of an Audit Committee. Such Audit Committee would at all times comprise two Trustees who do not otherwise serve as employees of the Authority within the meaning of Sections 1003 and 1004 of the Public Authorities Law, and would operate consistent with the proposed parameters set forth in Exhibit ‘7-A’.

“The Chairman and I further recommend that the Trustees amend Article V of the Authority’s By-laws by adding a new Section 3 to reflect their authorization of the establishment of such Audit Committee and amend Section 1 of Article X to include the head of Internal Audit to the list of staff positions whose appointment is subject to the approval of the Trustees.

“It is further recommended that the Trustees approve revision of the Authority’s Corporate Policy CP 5-1 (formerly CP 5.4), entitled ‘Internal Audit Program’, to reflect the Audit Committee’s oversight of Internal Audit as set forth in Exhibit ‘7-B’ attached hereto.”

In response to questions from Trustee Waldbauer, Mr. Pratt explained that the members of the Audit Committee can call on all Authority resources in the discharge of their duties and that the Committee is empowered to make recommendations for action, including the retention of service providers, such as auditors, to the full

¹ Section 2 provides that ‘the Trustees or the Management Committee may appoint other committees which shall have and may exercise such powers as shall be authorized by the Trustees or by action of the Management Committee.’

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

RESOLVED, That revisions to the Corporate Policy, entitled 'Internal Audit Program', are hereby approved as set forth in Exhibit '7-B' attached hereto; and be it further

RESOLVED, That the Trustees approve the establishment of an Audit Committee, comprising two Trustees who do not otherwise serve as employees of the Authority within the meaning of Sections 1003 and 1004 of the Public Authorities Law, and as substantially set forth in the Charter attached hereto as Exhibit '7-A' hereto; and be it further

RESOLVED, That the By-laws of the Power Authority of the State of New York, as adopted February 28, 1989 and last amended August 29, 1995, pursuant to Section 1004 of Title 1 of Article 5 of the Public Authorities Law, as amended, be further amended, pursuant to said statute, to add a new Section 3 to Article V, as follows:

Section 3. Audit Committee. The Audit Committee shall consist of two Trustees, other than the Chairman. The Audit Committee shall have oversight of such activities of the Authority as set forth in the Audit Committee Charter adopted by the Trustees and may exercise such powers as the Trustees shall from time to time determine.

AND BE IT FURTHER RESOLVED, That Section 1 of the By-laws be amended as Article X as follows:

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

AUDIT COMMITTEE CHARTER

MEMBERSHIP AND ORGANIZATION

Committee Composition

The Committee shall be comprised of two (2) members of the Board of Trustees, neither of whom serves as Chief Executive Officer or in any other position of Authority management.

Method of Selection

Committee members shall be selected from eligible Trustees by vote of the Trustees.

Term

Committee members shall serve for a period of two years subject to their term of office under Section 1003 of the Public Authorities Law. Committee members may be reelected to serve for additional periods of one year subject to their term of office. A Committee member may resign his or her position on the Committee while continuing to serve as a Trustee. In the event of a vacancy on the Committee due to death, resignation or otherwise, a successor shall be selected in the manner and for the period described above.

Removal

Committee members may be removed only if they are removed as Trustees for cause, subject to Section 2827 of the Public Authorities Law.

Meetings and Quorum

The Committee shall meet at regularly scheduled meetings at least three times per year. One Committee member may call a special meeting of the Committee if requested to do so by either the Authority's General Counsel, the Controller or head of Internal Audit.

One Committee member shall constitute a quorum for the purposes of conducting business and receiving reports at a regularly scheduled or special meeting of the Committee.

Any meeting of the Committee may be conducted by video conferencing.

To the extent permitted by law, the Committee may hold meetings or portions of meetings in executive session.

FUNCTIONS AND POWERS

General Powers

The Committee may call upon the resources of the Authority to assist the Committee in the discharge of its functions. Such assistance may include the assignment of Authority employees to assist the Committee, and the retention of external advisors subject to Section 2879 of the Public Authorities Law and the Authority's Expenditure Authorization Procedures.

The Committee may direct any Authority employee to make oral or written reports to the Committee on issues and items within the Committee's purview. The Committee may direct the Authority's internal auditors to conduct special audits of items and issues of concern to the Committee.

The Committee may make recommendations concerning the staffing of Internal Audit and related functions.

Relationship to the Independent Accountants

The Committee shall seek to enhance of the integrity, quality, reliability, thoroughness and fairness of the Authority's financial statements and accompanying notes, and shall oversee the relationship with the Authority's independent accountants. To effect this objective, the Committee shall advise in the selection and discharge of the independent accountants and shall meet at least twice a year with such independent accountants to discuss the independent accountants' work plans, objectives, opinion, and recommendations. Individual Committee members may have additional meetings with the independent accountants.

The Committee shall annually review the scope, objectives and results of the independent accountants' examination of the annual financial statement and accompanying notes, and shall report its findings to the Trustees. The Committee may at any time report on and make recommendations to the Trustees on any matter in connection with the independent accountant's audit process.

Relationship to Internal Audit and Controller

The Committee shall have oversight of Internal Audit, its resources and activities so that Internal Audit is directed toward those activities and processes where the potential benefit to improving internal controls is the greatest. The Committee shall promote coordination between the internal auditors and independent accountants so that all material areas of activities are adequately covered.

The Committee shall meet at least twice a year with the Authority's head of Internal Audit and the Controller, and may direct the aforementioned individuals to attend any meeting of the Committee, and to prepare and deliver such reports as requested.

The Committee shall report at least annually to the Trustees as to its findings concerning the internal audit function, and may make recommendations at any time as it deems appropriate.

Oversight of Issues Arising Under the Authority's Code of Conduct

The Committee shall have oversight of issues arising under the Authority's Code of Conduct, and statutory enactments such as Sections 73, 73-a and 74 of the Public Officers Law, and compliance therewith.

The Committee may direct Authority employees to prepare and deliver reports to the Committee and to meet with the Committee regarding compliance issues, and may direct the General Counsel to prepare such revisions to the Code of Conduct as the Committee may deem appropriate to enhance its objectives, for approval by the Trustees.

NEW YORK POWER AUTHORITY

CP: 5-1

CORPORATE POLICY

DATE: 12/17/96

REVISION: 1

SUBJECT: INTERNAL AUDIT PROGRAM

1.0 SCOPE

This policy establishes the Internal Audit Program to perform audits at the operating plants, corporate offices, construction sites and contractor offices to assist Senior Management and the Audit Committee in evaluating the effectiveness of the Authority's Internal Control System.

2.0 IMPLEMENTATION

This policy shall be adhered to by the staff of all Authority Business Units and Departments. Implementing procedures shall be prepared as necessary to provide appropriate guidance in meeting the management controls described. Recommendations for changes to this policy or a new corporate policy shall be processed in accordance with CP 1-1 'Corporate Policy Program Administration'.

3.0 MANAGEMENT CONTROLS

3.1 General

Internal Audit reports to the Office of the President to provide maximum independence from any area or activity audited. The Audit Committee of the Board of Trustees shall have oversight responsibility of the activities and results of Internal Audit.

Internal Audit performs independent evaluations of the effectiveness of the Authority's Internal Control System. All Power Authority activities and functions are subject to potential review by Internal Audit.

These evaluations may result in recommendations for corrective action. Any recommended corrective action that, in the judgment of Internal Audit, does not receive adequate attention, will be escalated to an appropriate level of management for resolution. The escalation process may involve successive levels of management and may include the Trustees in the event a significant issue is not satisfactorily resolved. Management of the audited organization shall be notified of intent to escalate a particular issue and will be encouraged to participate.

The head of Internal Audit is delegated the authority and organizational freedom to perform internal audits of Business Units, Operating Projects, Facilities, Functional Activities, Support Groups and Construction/Maintenance Projects.

3.2 Definitions

3.2.1 Internal Control System

The Internal Control System is a process, effected by the Authority's Trustees, management and other personnel. This process is designed to provide reasonable assurance regarding the achievement of Authority goals and objectives in the following categories:

- a) Safeguard of Authority assets.

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- b) Effectiveness and efficiency of operations.
- c) Reliability of financial reporting.
- d) Compliance with applicable laws and regulations.

This definition reflects certain fundamental concepts: (1) internal control is a *process*, (2) internal control is effected by *people*, (3) internal control can be expected to provide only *reasonable assurance*, not absolute assurance, to the Authority's management and Trustees, and (4) internal control is geared to the achievement of goals and objectives in one or more separate but overlapping categories.

3.2.2 Components of the Internal Control System

The Internal Control System consists of the following interrelated components. These are derived from the way the Authority operates and are integrated with its management process.

- a) Control Environment - The core of the Authority is its people - their individual attributes, including integrity, ethical values and competence - and the environment, established by Senior Management, in which they operate.
- b) Risk Assessment - The Authority establishes mechanisms to identify, analyze and manage risks in achieving Authority goals and objectives. These mechanisms are integrated with the production, transmission, marketing, finance and other activities so that the organization is operating in concert.
- c) Control Activities - Control policies and procedures are established and executed to help ensure that the actions identified by senior management to address risks are effectively carried out.
- d) Information and Communication - Surrounding Authority activities are information and communications systems. These enable the Authority's people to capture and exchange the information needed to conduct, manage and control its operations.
- e) Monitoring - The Internal Control process is monitored and modifications made as necessary.

3.3 Responsibilities

- 3.3.1 Senior Management creates a working environment that fosters the integrity, ethical values and competence necessary for implementing a strong Internal Control System.
- 3.3.2 The Audit Committee oversees the activities of Internal Audit. It will meet periodically with the head of Internal Audit, the Controller, the independent accountants and appropriate Senior Management to discuss the status of the Authority's financial statements, internal control system, legal matters, ethical issues and internal audit function.
- 3.3.3 The head of Internal Audit, as designated by the Trustees, develops and executes a broad and

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comprehensive Internal Audit Program at the Authority. The Program's objectives are to examine and evaluate the adequacy and effectiveness of the Authority's Internal Control System. Internal Audit will:

- a) Use its full, free and unrestricted access to all records, personnel and physical properties within the Authority in an ethical manner as to avoid undue interruption of normal operations.
- b) Provide the Trustees through the Audit Committee with periodic reports (oral and written) on the overall activities and use and results of the resources of Internal Audit.
- c) Communicate to management (and the Audit Committee as necessary) any information disclosed during the course of its audits which it believes would have an impact on the decision making process.

3.3.4 The Internal Control Officer primarily coordinates all Business Units and Departments of the Authority in implementing and maintaining cost effective internal controls. Senior Management has designated the Vice President - Controller as the Internal Control Officer as required by applicable legislation.

3.3.5 Business Units and Department Heads, Vice Presidents, Regional Managers and site executive officers implement, maintain and document an effective Internal Control System. They take an active part in the internal audit process within their areas and provide assistance to Internal Audit as requested.

3.3.6 All Authority employees maintain the integrity of the Internal Control System in performance of their day-to-day activities.

4.0 REFERENCES

- 4.1 CP 1-1 Corporate Policy Program Administration

President and Chief Operating Officer

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

The President submitted the following report:

SUMMARY

"The Trustees are requested to authorize the transfer of up to \$9 million to the State of New York ('State') in exchange for Petroleum Overcharge Restitution ('POCR') funds from the State in an equal amount, upon execution of an agreement between the State and the Authority memorializing the understandings between the State and the Authority concerning such transfer. This sum shall be withdrawn from the General Reserve Account.

"The Trustees are also requested to authorize the Senior Vice President - Energy Efficiency and Technology to develop and implement the various programs utilizing POCR funds authorized by the 1996 legislation discussed below. The Trustees are also requested to authorize certain modifications to the existing POCR programs approved by the Trustees in January 1996.

BACKGROUND

"On July 13, 1996, the Governor approved the 1996 Budget Bill as Chapter 309 of the Laws of 1996 ('Chapter 309'). Sections 133-135 of this legislation authorize the transfer of \$9 million in POCR funds to the Authority for various energy related programs. Section 137 of this legislation indicates that the Authority shall transfer \$9 million to the State prior to March 31, 1997. Those legislative provisions reflect an understanding between the Authority and the State that the Authority will transfer \$9 million to the State and that the State will transfer to the Authority a like amount received from POCR monies. Sections 133-135, 137, and other relevant provisions of Chapter 309 are set forth in Exhibit '8-A' hereto.

"In January 1996, the Trustees approved five POCR programs, including a Solar Electric Grant Program and a HELP and New Construction Revolving Loan Program.

DISCUSSION

"The payment by the Authority of the \$9 million in funds matching the POCR funds identified in Chapter 309, would be reasonable and consistent with the Authority's mission and statute. The POCR funds that the Authority receives as a part of the understanding with the State will be used for energy conservation and renewable energy projects, and for the development of advanced vehicle technology.

"Section 133 of this legislation authorizes the Authority to use \$3 million in POCR funds for the following purposes: (1) \$1.5 million for a boiler conversion program for New York City public schools; (2) \$635,000 for an advanced vehicle technology center as part of a development district at the Griffiss air force base; (3) \$220,000 for two energy management dairy farm projects, in cooperation with the counties of Montgomery and Schenectady, including saving energy through milk cooling and pipeline washing and milking; (4) \$30,000 for the installation, in cooperation with the Montgomery County Infirmery, of a wind energy system at a nursing facility; and (5) \$615,000 for a statewide energy efficiency program for primary and secondary public schools.

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“Section 134 of this legislation authorizes the Authority to use \$3 million in POCR funds for additional funding for the independent college and university energy assistance loan fund established by the Authority pursuant to Chapter 83 of the Laws of 1995.

“Section 135 of this legislation authorizes the Authority to use \$3 million in POCR funds for existing programs of the Authority which are eligible under Federal guidelines for the use of POCR funds.

“Before the State can disburse the POCR funds, the Authority is required to develop the various energy-related programs which would utilize the POCR funds and, with the assistance of the New York State Energy Research and Development Authority, apply to the DOE for approval of the programs. POCR funds cannot be used for purposes or programs which the DOE does not approve, notwithstanding what the referenced New York State law might envision. This is recognized in the statute authorizing the funds transfer.

“Judicial decisions and Federal regulations that apply to the POCR funds require that the funds ultimately be used for consumer restitution through energy-related programs. Because of the nature of the POCR funds, the Authority is presently prohibited from utilizing these funds for general Authority purposes.

“The Trustees are also requested to authorize the Senior Vice President - Energy Efficiency and Technology to develop and implement the various programs utilizing POCR funds authorized by the 1996 legislation.

“The Trustees are also requested to authorize certain modification to the Solar Electric Grant Program and the HELP and New Construction Revolving Loan Program, as follows:

- 1) In regard to the Solar Electric Grant Program, a modification to permit a grant to allow the direct installation of a Photovoltaic System rather than the participation in the Authority's PV equipment installation program, as permitted by the 1996 Legislation.
- 2) In regard to the HELP and New Construction Revolving Loan Program, a modification to expand the target audience for this program to include the Statewide HELP Program which would include New York State-operated facilities.

FISCAL INFORMATION

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

RECOMMENDATION

“The Senior Vice President - Business Services and the Senior Vice President - Energy Efficiency and Technology recommend that the Trustees authorize the payment to the State for the purposes, and under the conditions described above, that the Trustees authorize the implementation of the Petroleum Overcharge Restitution programs as described above, and that the Trustees authorize certain modifications to existing POCR programs, as discussed above.

“The General Counsel and I concur in the recommendation.”

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In response to questions from Trustee Waldbauer, Mr. Pellegrino explained that while the funds will be transferred by the end of March 1997, actual monetary expenditures will take place over a number of months since the Department of Energy must first approve the individual programs to ensure appropriate use of the monies. Mr. Pellegrino further explained that the \$9 million fund covers specific programs enumerated in the 1996 legislation which are distinct from and/or supplement the existing POCR programs approved by the Trustees in January 1996. In response to questions from Trustee Miller, Mr. Pellegrino explained that of the total cost of \$11 million for school boiler conversions, some \$6 million is being funded under the already-existing POCR program, and the remaining \$5 million is being disbursed in the form of financing from the Authority.

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

RESOLVED, by the Trustees of the Power Authority of the State of New York that the payment to the State of up to \$9 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, and the Senior Vice President - Business Services 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 the Chairman, the President and Chief Operating Officer, the Senior Vice President - Business Services, the Senior Vice President - Energy Efficiency and Technology, and the Treasurer 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 \$9 million of General Reserve Account monies be withdrawn from such account and utilized for making the payment 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 29, 1974, as amended and supplemented; and be it further

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RESOLVED, That the Senior Vice President - Energy Efficiency and Technology is hereby authorized

to develop and implement the various programs utilizing POCR funds authorized by the 1996 legislation discussed in the foregoing report of the President, provided that such programs shall be implemented only upon approval of such programs by the United States Department of Energy and by any other agency or court having jurisdiction over such programs; and be it further

RESOLVED, That the existing POCR programs approved by the Trustees at their meeting of January 30, 1996, are modified in accordance with the foregoing report of the President.

**POCR PROVISIONS OF CHAPTER 309
OF THE LAWS OF 1996**

133. The power authority of the state of New York is authorized to use \$3,000,000 in petroleum overcharge restitution funds made available to the authority in fiscal year beginning April 1, 1996 for the following purposes and in the following amounts:

1. \$1,500,000 to undertake the conversion of coal-fired boiler and associated facilities of the board of education of the city of New York to modern, efficient and environmentally compatible equipment. Funding made available by this subdivision may be matched with funds from the city of New York.
2. \$635,000 to establish, in cooperation with the New York state technology enterprise corporation, an advanced vehicle technology center as part of a development district at the Griffiss air force base.
 - a. Funding made available by this subdivision shall be matched with funds from private sector sources, including but not limited to, any participating businesses, universities, and utilities and shall be supplemented with any federal and state funds which may be available for this purpose and/or related purposes.
 - b. The authority and the corporation shall assist a consortium of businesses, public and private universities, gas and electric corporations, and alternate energy entrepreneurs in the development of an alternative fuel program at the center. Such program shall create and retain jobs, offer educational cooperative experiences, as well as, develop and implement the use of cost-effective and environmentally sensitive alternatives to fossil fuels.
 - c. For the purposes of this subdivision, 'alternative fuel' shall mean electricity (including electricity from solar energy) and any other fuel, identified by the authority, which is consistent with the goals of protecting safety and health and minimizing emissions of air pollutants and which is consistent with any applicable federal alternative fuel requirements.
3. \$220,000 for two energy management dairy farm projects, in cooperation with the counties of Montgomery and Schenectady, including saving energy through milk cooling and through pipeline washing and milking.
4. \$30,000 for the installation, in cooperation with the Montgomery County Infirmary, including all associated labor and material costs, of a wind energy system at a nursing facility.
5. \$615,000 for a statewide energy efficiency program for primary and secondary public schools.

134. The power authority of the state of New York is authorized to use \$3,000,000 in petroleum overcharge restitution funds made available to the authority in fiscal year beginning April 1, 1996, and transferred from the miscellaneous special revenue fund (339) statewide energy improvement account, to continue support of the independent college and university energy assistance loan fund as established by section 78 of chapter 83 of the laws of 1995. Such funds shall be used to provide interest free loans for energy efficiency projects at private colleges and universities throughout New York state. Such funds shall

be allocated to projects from schools that submit applications to the power authority of the state of New York

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pursuant to a request for proposal issued by the power authority of the state of New York on or after the effective date of sections one hundred twelve through one hundred forty-four of this act.

135. The power authority of the state of New York is authorized to use \$3,000,000 in petroleum overcharge restitution funds made available to the authority in fiscal year beginning April 1, 1996 for existing programs of the power authority of the state of New York which are eligible under federal guidelines governing petroleum overcharge restitutionary funds; and which also may include a suballocation to the energy research and development authority for the services and expenses of a state facilities energy conservation program and other energy conservation purposes.

136. Funds appropriated from the statewide energy improvement account, special revenue fund - other, for services and expenses of the power authority of the state of New York shall be available for energy efficiency projects which yield energy savings sufficient to repay the cost of the project in ten years or less as determined by the board of the power authority. The use of these funds is not intended to limit the right or obligation of the power authority to comply with the provisions of any existing contract, including any existing contract with or for the benefit of the holders of any obligations of the power authority. The power authority shall ensure that the funds provided pursuant to this appropriation are expended in accordance with the conditions and restrictions imposed by the federal district court and the federal department of energy in connection with the expenditure of funds received pursuant to the petroleum overcharge settlement cases. Projects eligible for funding from this account include those projects described in sections one hundred thirty-two, one hundred thirty-three and one hundred thirty-four of this act subject to the provisions of this section.

137. The power authority of the state of New York shall transfer nine million dollars to New York state prior to March 31, 1997. Such payment shall satisfy any obligations of the power authority incurred in state fiscal year 1996-97 pursuant to section 1013 of the public authorities law.

138. Notwithstanding section 1010-a of the public authorities law, the comptroller is hereby authorized and directed to transfer to the power authority of the state of New York \$9,000,000, constituting monies appropriated to the power authority of the state of New York pursuant to a chapter of the laws of 1996, and the power authority of the state of New York is authorized to hold such monies for the purposes specified in a chapter of the laws of 1996.

139. In accordance with section 4 of the state finance law, the comptroller is hereby authorized and directed to transfer, upon request of the director of the budget, up to \$8,800,000 from the federal operating grants fund (290) to the miscellaneous special revenue fund (339), statewide energy improvement account on or before March 31, 1997.

140. Subdivision 2 of section 77 of chapter 83 of the laws of 1995, amending the state finance law and other laws generally relating to the financial plan for the state fiscal year, is amended to read as follows:

'2. To undertake energy efficiency and renewable energy projects, including but not limited to, a photovoltaic system on a jail which is to be constructed in Montgomery county, and...'

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**9. Procurement (Services) Contracts - All Facilities
Requiring Oil Spill Clean-Up Services - Awards**

The President submitted the following report:

SUMMARY

“The Trustees are requested to approve the award of four long-term procurement contracts for Oil Spill Clean-Up Services. This request does not include expenditure approval. Funds for such services will be included in budget submittals for each year of the contract. The expiration date for each contract will be January 1, 2002.

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 in excess of one year.

DISCUSSION

“The Authority’s operating facilities, substations, electrical transmission facilities, and maintenance and support facilities store and use various types of oils or oil products in their normal operating practices. Government regulations require that owners and operators of facilities that store oil and have the potential to spill oil to land or to waters of the United States or adjoining shorelines prepare Spill Prevention Control and Countermeasure (‘SPCC’) Plans. In addition, Government regulations require that a strong spill contingency plan be contained in the SPCC plan which provides a written commitment of manpower, equipment and materials required to expeditiously control and remove any harmful quantity of oil discharged. Significant efforts are made to prevent oil spills at all Authority projects.

“The Authority’s operating facilities have sufficient equipment and trained personnel to respond to and clean up minor oil spills. In the event that an oil spill should exceed the capability of the project’s resources, contractors that can furnish clean-up expertise, manpower and equipment are listed in each facility’s SPCC plan. Authority facilities employ these contractors on an as-needed basis to provide emergency oil spill containment and clean-up services.

“To ensure that each Authority facility will have sufficient resources to control and clean up discharged oil in compliance with Government regulations, and to contract with oil spill clean up service providers in the proximity of Authority facilities, the Environmental Division and the Contract Administration Division prepared a competitive bid document and advertised for contractors in the Contract Reporter during October of this year. Seven bidders responded. The bids were evaluated for response time, clean-up capabilities, available resources, experience, certification by the U.S. Coast Guard and cost. An estimated cost associated with response and clean-up was established using bidder-supplied rates for labor and equipment based upon a postulated oil spill on land and on

water. Qualified bidders were ranked based on this cost analysis. Where response time and clean-up capability were equivalent among bidders, cost was a factor in determining which bidder will be the primary response contractor for each Authority facility. Using these criteria, four bidders were selected to provide the required services for the Authority as a whole. Establishing standard contracts with these contractors will provide Authority facilities with reliable and timely emergency oil response services. In addition, pre-negotiated contracts will ensure cost effective and consistent rates throughout the contract period.

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“The approval of the Trustees is requested to award contracts to: Clean Harbors Environmental Services; Environmental Products and Services; Miller Environmental Group and OP-TECH Environmental Services. These contracts will remain in place through January 1, 2002. A five year contract term is deemed appropriate due to the desirability and efficiency of establishing long term relationships with spill clean-up contractors in proximity of Authority facilities which can provide services in compliance with government regulations.

FISCAL INFORMATION

“This request does not include expenditure approval. Approval of funds will be requested on a project basis in accordance with the Authority’s Expenditure Authorization Procedures in the event that purchase orders must be issued against the standard contracts for any required spill clean-up.

“Funds which will be available for such services will be included in budget submittals for each year of the contract.

“Although such costs have not been segregated in the past, it is anticipated that they will be less than \$50,000 most years.

RECOMMENDATION

“The Director - Environmental Division, and the Vice President - Procurement, recommend the Trustees’ approval of the award of procurement contracts to Clean Harbors Environmental Services; Environmental Products and Services; Miller Environmental Group and OP-TECH Environmental Services.

“The General Counsel, the Senior Vice President - Power Generation, 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 multi-year procurement contracts to Clean Harbors Environmental Services; Environmental Products and Services; Miller Environmental Group and OP-TECH Environmental Services., are hereby approved for the period of time indicated, as recommended in the foregoing report of the President, in the amount and for the purpose listed below:

<u>O & M</u>	<u>Projected Contract Date</u>	<u>Contract Approval (Estimated)</u>
Oil spill clean-up services		

**Clean Harbors Environmental Services
Environmental Products and Services
Miller Environmental Group
OP-TECH Environmental Services**

01/01/2002

**Not to exceed
\$50,000 per year
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**10. Procurement (Services) Contracts - James A. FitzPatrick,
Indian Point 3 Nuclear Power Plants; Headquarters; and
Non-Nuclear Facilities - Extensions, Approval of
Additional Funding, and Increases in Compensation Ceiling**

The President submitted the following report:

SUMMARY

“The Trustees are requested to approve the continuation and funding of the procurement contracts listed in Exhibit ‘10-A’ for the Indian Point 3 (‘IP3’) and James A. FitzPatrick (‘JAF’) Nuclear Power Plants, as well as for Headquarters and the non-nuclear facilities. In addition, the Trustees are requested to approve an increase in the combined compensation ceiling of the three procurement contracts with Atometrics, Inc.; Cataract, Inc.; and MDM Engineering, for engineering services in support of instrumentation and control tasks, to \$4,500,000 from the previously approved ceiling of \$2,000,000. 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 ‘10-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 '10-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

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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 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 as well as Refuel Outage 9 ('RO9').

Contracts in Support of the Nuclear Plants:

"The three contracts with **Atometrics Inc. (S94-62317)**, **Cataract Inc. (S94-62322)**, and **MDM Engineering (S94-62323)** provide for engineering support for Instrumentation and Control ('I&C') tasks for the IP3 and JAF Design Engineering groups. This includes preparation and issue of engineering and/or modification packages, test requirements, and modification acceptance tests. These contracts commenced on July 25, 1994; they were approved by the Trustees at their meeting of October 25, 1994, through December 31, 1996, in the total combined amount of \$2,000,000. An extension is requested to exercise an option to extend services for one additional year, in order to achieve the NRC and INPO-mandated backlog reduction, as well as to prepare for the forthcoming RO9 at IP3. This backlog reduction, which entails many I&C-related issues, is a pre-requisite to removal of IP3 from the NRC's 'Watch List'. Tasks include, but are not limited to: the setpoint control program (e.g., consistency review, calculations to support change requests, procedure improvement, etc.); loop accuracy calculations; Deviation Event Reports ('DERs'), Licensee Event Reports ('LERs'), Action Commitment Tracking ('ACTs') and licensing support; equipment obsolescence; design basis document updates and open items; and modification and setpoint closeouts. The current contract amounts total \$1,639,440. It is estimated that an additional \$2,500,000 will be required to support the aforementioned additional activity to be performed during the extended term. Rates will remain firm for the duration of the contracts. Trustees' approval is requested to extend the subject contracts through December 31, 1997 and to approve the additional funding, thus increasing the combined compensation ceiling to \$4,500,000.

"The contract with **Westinghouse Electric Corp. (S96-81311)**, which commenced on July 8, 1996, provides for engineering services to support a comprehensive and integrated reconciliation of the IP3 24-month surveillance interval extension program with the licensing basis safety analyses. Extending Technical Specification ('Tech Spec') instrument calibration (surveillance) intervals potentially increases instrument channel uncertainties (due to instrument drift) beyond those uncertainties used in current IP3 licensing basis safety analyses and Emergency Operating Procedures ('EOP') setpoint calculations. NRC Generic Letter 91-04 required that the effects of 24-month instrument uncertainties be reconciled with a plant's licensing basis safety analyses. Westinghouse will perform engineering and evaluation to address the effects of the 24-month interval extension on major safety equipment, including the Reactor Cooling System and Steam Generator. An extension through September 30, 1997 is required in order to close out all action items and NRC commitments to support RO9 24-month surveillance extensions in a timely manner. The current contract amount is \$949,800. It is estimated that an additional \$1,052,800 will be required for the extended term. Trustees' approval is requested to extend the subject contract through September 30, 1997 and to approve the additional funding.

"The contract with **Yankee Atomic Electric Company (S96-80960)**, which commenced on May 21, 1996, provides for engineering services to support selected IP3 Tech Spec surveillance frequency extension requests to the NRC.

Currently, NRC requirements impose mandatory testing of certain equipment, on a routine basis. Such testing would have required an outage prior to next year's refueling outage, unless engineering analyses were performed to postpone such testing until a later date. Yankee personnel, who have worked for other utilities to perform similar analyses, have been performing this work and coordinating with Authority

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personnel to obtain NRC approvals to postpone such testing. An extension through September 30, 1997 is required in order to: complete work in progress prior to Refueling Outage 9; the generation, processing and implementation of 22 setpoint change requests; and to provide technical support for: closing out Action Items and NRC commitments associated with tech spec surveillance extended to 24-month intervals in cycle 9; and submitting licensing amendment requests to extend the remainder of tech spec surveillances to 24-month intervals beginning in cycle 10. The current contract amount is \$500,000. It is estimated that an additional \$350,000 will be required for the extended term. Trustees' approval is requested to extend the subject contract through September 30, 1997 and to approve the additional funding.

Contracts in Support of Headquarters and Non-nuclear facilities:

"At their meeting of October 31, 1991, the Trustees approved the award of a contract to **Alden Research Laboratory, Inc.** (S91-19916) to design, build, and operate a physical model of the Grass Island Pool area of the upper Niagara River to study potential physical, structural, and/or operational improvements in the Grass Island Pool that might reduce the severity and frequency of ice jam events in the upper Niagara River. The study was conducted pursuant to a July 21, 1989 Federal Energy Regulatory Commission ('FERC') order amending the Niagara Project license, and directing the Authority to undertake studies aimed at determining the relationship between project operation and ice flow in the upper Niagara River. The requirements for implementing the studies were set forth in new license Articles 305, 306, and 307. The contract became effective on November 1, 1991, and was subsequently reviewed and approved by the Trustees for extensions and additional funding at their meetings of April 27, 1993 and November 29, 1994, respectively. The studies conducted in the model were completed in December 1995, but the final report for the study was not filed with FERC until June 1996. According to the Plan of Study approved by FERC, the model is to be maintained for a period of at least one year after filing of the final report to FERC, to accommodate any follow-up modeling that may be required subsequent to FERC's review of the study. Since FERC is not expected to complete its review of the study report until December 1997, a one-year extension is requested to continue to store the model in usable condition. The current contract amount is \$1,220,202; it is estimated that an additional \$60,000 will be required to provide these services during the extended term. The Trustees' approval is requested to extend the subject contract through December 31, 1997 and to approve the additional funding.

"In conjunction with the aforementioned upper Niagara River studies mandated by FERC, the Authority also awarded a contract to **Clarkson University** (CZ-9494) to develop, calibrate, and use numerical models to study potential physical, structural, and/or operational improvements in the upper Niagara River, including the design of the Lake Erie - Niagara River ice boom, which might reduce the severity and frequency of ice jam events and maximize hydropower generation during ice-affected flow periods. These services, which were originally approved by the Trustees at their meeting of June 23, 1988, became effective under this contract on August 1, 1989; the Trustees subsequently approved extensions and additional funding at their meetings of May 29, 1991, April 27, 1993 and November 29, 1994, respectively. The numerical models developed and studies conducted were essentially completed in June 1996; however, a review of the draft report for the last of the studies revealed inconsistencies between the results presented in the report and observations and results included in other related reports filed with FERC in June 1996. As a result, additional modeling work and revisions of the report are required before it can be filed with FERC. A one-year extension is requested to update the simulations and revise the report by March 31, 1997 and to provide the opportunity to conduct additional studies that may be required pending FERC's review of the

report in 1997. The current contract amount is \$644,173; it is estimated that an additional \$15,000 will be required to cover the costs of the aforementioned tasks during the extended term. The Trustees' approval is requested to extend the subject contract through December 31, 1997 and to approve the additional funding.

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“The three contracts with **Black & Veatch** (S94-63804); **Harris Energy Systems** (S94-63805); and **HEC Energy Services** (S94-63803), which became effective September 1, 1994, provide for the management and implementation services for the Authority's SENY electrotechnologies program ('EP'). At their meeting of March 29, 1994, the Trustees approved EP for the Authority's SENY customers. EP is a turnkey approach to identifying, procuring, and implementing energy efficient electrical technologies that promote economic efficiency for SENY public customers and benefit the environment, often by displacing alternative fueled energy technologies. The program offers project financing, financial incentives (where applicable), as well as design, procurement, and installation services. As the general contractor for EP, the Authority contracts for the installation of energy projects through the use of Implementation Contractors ('IC'). The services provided by an IC complement headquarters office administrative staff resources in implementation of EP. The typical IC contract scope of work consists of the following: preliminary survey (initial site visits for the purpose of defining the project); feasibility study (detailed studies for building energy systems or energy efficiency measures); preparation of a customer installation commitment; competitive solicitation of equipment and installation labor; quality assurance and warranty services. The IC is required to work directly with the customer from the preliminary site survey to the final acceptance of equipment installation. The installation of the recommended EP measures will be competitively bid by the ICs. The ICs guarantee the quality of all work performed by their subcontractors. The program is directly administered by the Authority. Cost sharing agreements are executed by the SENY public customers in the program and the Authority, covering repayment terms and program responsibilities.

“The Trustees approved the award of three-year contracts to the aforementioned ICs and release of up to \$8,500,000 in funding for the program at their meeting of August 30, 1994. (This amount included the award of a contract to Joseph Technologies Corp. in the amount of \$1,000,000. That firm subsequently withdrew from the program and the agreement was mutually terminated.) The current contract amount for each of these three contracts is \$2,500,000. It is currently anticipated that the following additional amounts will be required: \$2,500,000 for Black & Veatch; \$5,500,000 for Harris Energy Systems; and \$7,500,000 for HEC. Funding for these additional amounts was approved by the Trustees at their July 30, 1996 meeting, as part of the authorization to fund energy efficiency services included in the Authority's ten-year Long Term Energy Partnership Agreements ('LTEPA') with those SENY public customers that have already executed such agreements. Although the initial three-year term does not expire until the end of August 1997, approval is now also sought to exercise the option in the contracts to extend services for an additional two years. The Trustees' approval is therefore requested to extend the subject contracts through August 31, 1999 and to approve the release and allocation of previously approved funding to each of these three contracts, as set forth above.

“The contract with **Planergy New York** (S95-76267), which became effective on January 2, 1996, provides for refrigerator installation, removal, recycling, and disposal services, as part of the Public Housing Conservation Program. The Authority will purchase a minimum of 20,000 refrigerators per year for installation in the New York City Housing Authority tenant apartments. Planergy will install the new refrigerators as well as remove and recycle/dispose of old refrigerators using Authority-approved environmental processing/recycling/disposal facilities, in compliance with all existing federal, state and local laws, rules, regulations, permits, and/or ordinances applicable to these services. This program is also offered to all Authority Public Housing customers. The original award was for a one-year term, with the option to extend for up to two additional years, subject to the Trustees' approval. The current contract amount is \$643,000. It is estimated that an additional \$1,360,000 will be required for the extended term. Pricing will remain firm the duration of the contract. The Trustees' approval is requested to extend this

contract through December 31, 1998 and to approve the additional funding.

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“The contract with **Sargent & Lundy, LLC** (‘S & L’; S95-74868), which became effective on October 16, 1995, provides for a hot windbox repowering feasibility study for the Poletti Project. The objective of this study is to evaluate the technical and economic feasibility of several repowering alternatives for the purpose of generating low cost electric power for the SENY region, and meeting the proposed 2003 Clean Air Act requirements, while improving the heat rate. The result of this feasibility study will be a report comparing performance, emissions, and capital and O & M costs to enable the Authority to identify design alternatives for further development. Foster Wheeler, the original equipment manufacturer of the Poletti boiler, has also been awarded a contract in conjunction with these services, to perform an engineering study of the effects of the S & L recommendations on the Poletti boiler. Additional review by S & L of potential issues raised by Foster & Wheeler may be required, prior to forwarding final recommendations to the Authority. An additional delay resulted from temporary reassignment of lead Authority staff. A one-year extension is therefore requested to exercise an option to extend services for one additional year to address the aforementioned issues and perform additional case studies, as may be required, in order to finalize the recommendations of the study. The current contract amount is \$209,000. The Trustees' approval is requested to extend the subject contract through October 15, 1997 with no anticipated additional funding.

“The Historic Structures Report identified repairs deemed necessary to preserve or restore the structures comprising the Lansing Manor Historical Facility located at the Authority's Blenheim-Gilboa Project. The contract with **James Daly Tobin Architects** (S95-74053), which became effective on August 28, 1995, provides for architectural and engineering and design services to prepare detailed design drawings and specifications for major construction projects at Lansing Manor. Projects include subsurface drainage, foundation analysis and strengthening, basement water sealing, fireproof corridor design and construction, lightning protection system, masonry work, and other structural improvements. Restoration work revealed additional deterioration of buildings that could not have been foreseen or addressed in the original scope; such work cannot be completed within the original schedule. These changes also resulted in delaying completion of minor portions of the original work until 1997. A one-year extension is requested in order to accommodate the additional work and resulting schedule delay, due to the additional deterioration discovered during preliminary excavation and removal of exterior surfaces. The current contract amount is \$18,130; it is estimated that an additional \$4,575 will be required to cover the additional services during the extended term. The Trustees' approval is requested to extend the subject contract through August 27, 1997 and to approve the additional funding.

“The contract with **Turboprop East Inc.** (S96-78320) provides for aircraft maintenance services for the Authority's corporate plane (1988 Beechcraft B-200 King Air). Services include: scheduled inspections per Beechcraft Super King Air 200 series maintenance manual consisting of a four-phase, 200-hour interval inspection program; unscheduled maintenance as required by manufacturer's operational and FAA requirements; and avionics installation, troubleshooting, and repair, as necessary. The original award, which became effective on February 1, 1996, was for a term of one year, with an option for one additional year. A one-year extension is now requested in order to exercise this option. The current contract amount is \$150,000. The Trustees' approval is requested to extend this contract through January 31, 1998 with no anticipated additional funding.

“The three contracts with **Key Air Incorporated** (S95-77134), **Richmor Aviation Inc.** (S95-77135), and **Westchester Air Inc.** (S95-77137) provide for charter aircraft services, on an ‘as required’ basis, to meet the travel needs of Authority staff from Westchester County Airport to destinations within New York State (primarily Oswego (90%), Niagara, and Massena). Planes have passenger capacities of 6-19; turboprop planes with pressurized cabins are preferable. Past usage has ranged from zero to six trips per month; the heaviest usage months are June, July,

and August. Most trips are of same day duration. These contracts, which became effective on December 22, 1995, were awarded for an initial term of one year, with an option for one additional

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year. A one-year extension is now requested in order to exercise this option. The current contract amounts are: \$10,009 for Key Air, \$13,526 for Richmor, and \$6,554 for Westchester Air. Based on current usage, it is estimated that an additional \$40,000 may be required for the extended term. Rates will remain firm for the duration of the contracts. The Trustees' approval is requested to extend the subject contracts through December 21, 1997 and to approve the additional funding.

“The Maintenance Resource Management (‘MRM’) program is Power Generation's new workforce management process, which focuses on continuously identifying, achieving, and sustaining incremental workforce performance improvement through more effective use of labor and material resources. Each maintenance task or work order includes a description of the work to be done, estimate of task duration, drawings needed, specific tools and equipment required, material list, number of people and skills required, and work coordination requirements including necessary permits, job safety, analysis, equipment to be removed from service, etc. Data is collected after each job is completed, including feedback from workers regarding problems encountered, and suggested improvements which will help managers better track maintenance cost and performance of specific equipment, and optimize maintenance planning and performance. Improvements in labor productivity will be achieved through better job planning and coordination, eliminating idle waiting time for material and equipment needed to perform the maintenance tasks. The program will result in substantial savings in labor dollars, overtime and contractor costs; it is already yielding financial benefit to the Authority. The planning and scheduling emphasis of the program has already reduced the need for routine overtime without increasing the maintenance backlog of the Power Generation facilities. In addition, improved coordination of contract labor with Authority workers has reduced outage time for major maintenance and identified opportunities to reduce the need for contract labor.

“The contract with **H.B. Maynard and Company Inc.** (S95-68327), which was competitively bid, provides for the development of maintenance labor standards (i.e., time standard) at Power Generation facilities. This contract, which was approved by the Trustees at their meeting of December 15, 1994 in the amount of \$1,700,000, became effective on January 1, 1995. The original scope of work involved three phases of development: 1) assessment of the maintenance services provided at each facility for the purpose of defining the extent of the program for labor standards; 2) a pilot program of the technique with the development of labor standards for a limited number of maintenance tasks; and 3) expansion of the program to cover a broader spectrum of maintenance tasks. Due to delays in the implementation of the first two phases and slow progress in collecting needed information, a two-year extension is requested. This will allow sufficient time to complete the pilot program, currently in progress, for the development of labor standards for the overhaul of the turbines at Lewiston Pumped Storage facility at the Niagara Project. This will be followed by monitoring the implementation of this process during the 1998 Lewiston overhaul. Based on work to date, indications are that measuring work through the techniques developed by this firm will result in a significant reduction in the labor hours for the Lewiston overhaul, with an associated decrease in cost for that work. The current contract amount is \$1,700,000. It is estimated that an additional \$200,000 will be required for the extended term. Trustees' approval is requested to extend the subject contract through December 31, 1998 and to approve the additional funding. An assessment of the Maynard approach to measure and plan work will be performed at the conclusion of the 1998 Lewiston overhaul and a decision regarding phase three of the original work scope will be made.

“The contract with **Project Software and Development, Inc.** (‘PSDI’; S93-51382), which was competitively bid, provides for the specialized application software and associated maintenance services and licensing fees, training, and consulting services to support the MRM program. This contract became effective on September 30, 1993; extension and additional funds were approved by the Trustees at their meeting of December 15, 1994. The PSDI software has

become integral to the MRM program; it has demonstrated the flexibility and robustness needed to accomplish the goals of the program. Annual updates supplied by PSDI as a result of the

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licensing agreements have allowed the Authority to employ and maintain state-of-the-art software for this important application. These specialized software licenses, maintenance and other related services are expected to be required for the life of the program; a three year extension is requested at this time. The current contract amount is \$1,428,908. It is estimated that an additional \$850,000 will be required for the extended term. Trustees' approval is requested to extend the subject contract through December 31, 1999 and to approve the additional funding.

"The contract with **Quality Systems, Inc.** ('QSI'; S94-65581), which was competitively bid, provided for the development and presentation of a training course to support the implementation of the MRM program. During the course of training the supervisors in the requirements of the MRM program, it became evident that 'mentoring' of the supervisor and MRM planner would be beneficial to acceptance and implementation of the program; this intensive individualized approach reinforces the roles of the planner and supervisor in the new MRM culture and has proven to be very effective. The contract with this New York State certified Women's Business Enterprise became effective on November 14, 1994; extensions and additional funds were approved by the Trustees at their meetings of September 27, 1995 and June 25, 1996, respectively. With a renewed emphasis on the MRM program as a result of the FOCUS sessions, a one-year extension is requested to: 1) continue the coaching of maintenance planners and supervisors at the non-nuclear facilities in order enable them to better utilize the administrative procedures/manual critical to the MRM program; 2) provide additional feedback to Power Generation facility management concerning planner and supervisor performance, reflecting both observed strengths and areas for improvement; and 3) provide constructive input to Power Generation senior management concerning work process improvement and similar performance enhancement. The current contract amount is \$225,000. It is estimated that an additional \$50,000 will be required for the extended term. Rates will remain firm for the duration of the contract. Trustees' approval is requested to extend the subject contract through December 31, 1997 and to approve the additional funding. The need for these services will be assessed intermittently during the extended period to determine whether they can be discontinued at an earlier date.

Contracts on behalf of the Law Department:

"The contract with **Dr. Louis DeVorse, Jr.** (CZ-9245) provides for advice and counsel to the Authority concerning significant geographical issues. Dr. DeVorse is professor emeritus of geography at the University of Georgia; he has been and will continue to be a key consultant in gathering, collating, and evaluating documents (particularly those relative to geographical concerns) necessary for the resolution of significant Authority matters; he may also serve as an expert witness, as required. This contract became effective on February 1, 1988 and was reviewed and approved by the Trustees at their meetings of December 19, 1988, November 27, 1990, and September 28, 1993, respectively. A three-year extension through December 31, 1999 is now requested to continue the services of Dr. DeVorse, as required, since the issues are still unresolved. The current contract amount is \$100,000. The Trustees' approval is requested to extend the subject contract through December 31, 1999 with no anticipated additional funding.

"The contract with **Robert J. Surtees, Ph.D.** (CZ-9076) provides for consulting services by an expert historian concerning significant Authority matters. Dr. Surtees, an eminent Canadian history professor, will continue to provide support for the Authority's research, documentation, and testimony related to such matters. This contract became effective on May 8, 1987 and was reviewed and approved by the Trustees at their meetings of February 23, 1988, November 27, 1990, and September 28, 1993, respectively. A three-year extension through December 31, 1999 is now requested to continue the services of Dr. Surtees, as required, since the issues are still unresolved. The current contract amount is \$193,000. It is estimated that an additional \$50,000 may be

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required for the extended term. The Trustees' approval is requested to extend the subject contract through December 31, 1999 and to approve the additional funding.

"The contract with **Howard S. Bellman** (S91-17607) provides for mediation consulting services relating to the St. Regis Mohawk land claims Task Force/settlement group. The Task Force is attempting to negotiate a settlement to the land claim brought by the St. Regis against the State, Franklin and St. Lawrence counties and the Authority. Mr. Bellman has attended and will continue to attend all the meetings of the Task Force. He assisted in mediating the Chippewa claim in Wisconsin, and is highly qualified to act as mediator to the Task Force. This agreement became effective on January 25, 1991 and was reviewed and approved by the Trustees at their meetings of January 27, 1992 and January 25, 1994, respectively. A three-year extension through January 25, 2000 is now requested; this extension reflects an anticipated continued need for such services, since the issues involved are still unresolved. The current contract amount is \$85,000. The Trustees' approval is requested to extend the subject contract through January 25, 2000 with no anticipated additional funding.

"The contract with **Smith, Sovik, Kendrick & Sugnet, P.C.** (S96-80014) provides for legal representation services of local counsel in the Kenneth Jones matter in Syracuse, New York. Since the Smith firm has special knowledge of local rules, procedures, and judges, and representation by Authority staff would require frequent and costly flights to Syracuse, it is more cost-effective to retain local counsel. Mr. Michael Ringwood, of this firm, has represented the Authority in this matter and has proven himself to be an able counsel in protecting the Authority's interests. This contract became effective on March 1, 1996. A three-year extension through February 28, 2000 is now requested; this extension reflects an anticipated continued need for such services, since the issues involved are still unresolved. The current contract amount is \$15,000. The Trustees' approval is requested to extend the subject contract through February 28, 2000 with no anticipated additional funding.

FISCAL INFORMATION

"Funds required to support contract services for various non-nuclear Headquarters departments/Business Units, JAF, and IP3 have been included in the 1996 Approved and the 1997 submitted O&M Budgets. 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.

RECOMMENDATION

"The Plant Manager - James A. FitzPatrick Nuclear Power Plant, the Plant Manager - Indian Point 3 Nuclear Power Plant, the Vice President - Nuclear Operations, the Vice President - Nuclear Engineering, the Senior Vice President - Power Generation, and the Senior Vice President - Energy Efficiency and Technology recommend the Trustees' approval of the extension and additional funding of the procurement contracts listed in Exhibit '10-A', and of an extension and increase in compensation ceiling of the contracts with Atometrics, Inc.; Cataract, Inc.; and MDM Engineering, 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."

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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 '10-A' is hereby approved and extended for the period of time indicated, as recommended in the foregoing report of the President, in the amounts and for the purposes listed below:

<u>O & M</u>	<u>Contract Approval (Increase in Compensation Ceiling</u>	<u>Projected Closing Date</u>
Provide Engineering Support for I&C tasks for NED Group		
Atometrics Inc. (S94-62317)	\$ 2,500,000	12/31/97
Cataract Inc. (S94-62322)		
MDM Engineering (S94-62323)		
Previously Approved Compensation Ceiling	<u>\$ 2,000,000</u>	
TOTAL REVISED COMPENSATION CEILING	<u>\$ 4,500,000</u>	

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11. Procurement (Services) Contracts - James A. FitzPatrick and Indian Point 3 Nuclear Power Plants; Headquarters and Non-Nuclear Facilities - 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 ‘11-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 contracts, ranging in estimated value from \$9,700 to \$5,000,000.

“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.

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Headquarters-issued Multiple Awards/'General Services Agreements' in Support of Headquarters and Both Nuclear Plants:

“Competitive bids for multi-year services contracts were solicited by Headquarters' procurement staff for temporary engineering personnel in several specialized areas to support one or both of the Authority's nuclear power plants. Commercial and technical evaluations of the respective proposals determined that, in most cases, multiple awards known as ‘General Services Agreements’ (‘GSAs’) to several lowest or most technically qualified bidders in each category of services would be most efficient and cost-effective to the Authority. The selected firms in each category will competitively bid against each other for services, as tasks are identified to be performed, by submitting resumes of their most technically qualified personnel, corresponding rates, and their ability to meet the schedule for each task required. Change orders directing performance of specific services as needed, will be made on a lump sum or time and materials basis, as appropriate, and will ensure the best possible services and price for the Authority. Commitments will be made to the individual contracts as tasks are assigned to the successful bidder(s) within the group; commitments and expenditures for all contracts within each grouping will also be tracked against the approved total for that category.

“Six contracts with **Cataract, Inc.; Classic Management Group; G.D. Barri & Associates, Inc.; Lehigh GIT, Inc.; NPTS, Inc.; and Rotator Services, Inc.** (Q-02-1716; PO #'s TBA) will become effective on January 1, 1997, subject to the Trustees' approval. The purpose of these contracts is to provide temporary nuclear and non-nuclear design and drafting personnel, on an ‘as required’ basis, in support of corporate nuclear and non-nuclear engineering WPO, IP3 and JAF. Typical services include, but are not limited to: developing drawings and designs to support the Authority's design and modification activities; performing drawing updates; document control activities; and data acquisition and input activities to maintain the cable and raceway systems for both plants. The range of positions includes design engineers, designers/drafters (manual and/or computer aided design and drafting ‘CADD’ operators and programmers), and administrative staff (e.g., design document coordinator, technical clerk, secretary/data entry).

“Twelve proposals were received (in addition to seventeen non-responding vendors and notice in the Contract Reporter). Based on the commercial and technical evaluations, staff recommends award to the six low bidders. G.D. Barri and NPTS are New York State certified Minority/Women's Business Enterprises (‘M/WBE's’). The intended term of these contracts is two years, subject to the Trustees' approval, which is hereby requested (with an option for one additional year, to be exercised in accordance with the Authority's Guidelines for Procurement Contracts and Expenditure Authorization Procedures). Mark-up rates will remain firm for the term of the contracts. Approval is also requested for the total amount expected to be expended for the initial two-year term of the contracts, \$5,000,000.

“Five contracts with **Duke Engineering Services; NUS Corp.; Proto Power Corp.; Science Applications International Corp. (‘SAIC’); and Yankee Engineering Services** (Q-02-1744; PO #'s TBA) will become effective on January 1, 1997, subject to the Trustees' approval. The purpose of these contracts is to provide fire protection engineering services, including technical evaluations, engineering analyses, design changes, staff augmentation services, and participation in the fire protection oversight committee, in support of IP3 and JAF. Typical tasks include, but are not limited to: 10CFR50, Appendix R, nuclear safety evaluations, fire hazards analysis, suppression effects analysis, design basis documentation, NFPA code compliance reviews and non-conformance evaluations, hydraulic calculations, multiple high impedance fault analysis, performance-based fire code evaluations, and computer modeled fire, smoke and hot gas analyses.

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“Eleven proposals were received (in addition to 15 non-responding vendors and notice in the Contract Reporter). The purpose of the technical evaluation was to identify a ‘short list’ of technically qualified bidders, from which the Authority could competitively bid fire protection tasks. While all 11 firms submitting proposals were technically qualified, the five firms selected have shown that they excel in one or more of the technical parameters used for evaluation of the proposals; they are therefore the low evaluated most technically acceptable bidders. Selection of the aforementioned companies will provide a diversified field of expertise. The Authority's staff, at times, is not large enough to deal with all the issues that must be addressed in the fire protection area, nor are they specialized in many of the technical areas. This is often due to incidents that arise at other plants or NRC issues, which must be addressed in a timely manner. The intended term of these contracts 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 contracts, \$3,150,000.

“Five contracts with **Cataract, Inc.; Enercon Services, Inc.; G.D. Barri & Associates, Inc.; NPTS, Inc.; and Raytheon Engineers & Constructors** (Q-02-1665; PO #'s TBA) will become effective on January 1, 1997, subject to the Trustees' approval. The purpose of these contracts is to provide temporary nuclear licensing engineers, on an ‘as required’ basis, in support of IP3 and JAF. These engineers will coordinate and prepare technical submittals to the Nuclear Regulatory Commission (‘NRC’). Typical assignments include, but are not limited, to the preparation and/or coordination of Technical Specification Change Packages, (including nuclear safety evaluations and proposed changes to the operating license), Interpretations, and Amendments; preparation of NRC submittals (e.g., information transmittals, special reports, and responses to NRC letters); and coordination and documentation of licensing commitments. Additional tasks may include assisting Authority staff in establishing licensing position papers, certifying that surveillance tests and other plant implementing procedures satisfy license requirements, developing licensing design bases interpretations, and dispositioning discrepancies between the as-built plant and licensing documents.

“Eighteen proposals were received (in addition to 13 non-responding vendors and notice in the Contract Reporter). Based on the commercial and technical evaluations, staff recommends award of contracts to the three low evaluated technically acceptable bidders as well as to the two most technically qualified bidders. This selection provides the Authority with the option of choosing either relatively low-cost personnel for long-term assignments, or more highly experienced licensing engineers for more complex nuclear licensing issues that may arise. G.D. Barri and NPTS are New York State certified Minority/Women's Business Enterprises (‘M/WBE's’). The intended term of these contracts is two years, subject to the Trustees' approval, which is hereby requested (with an option for one additional year, to be exercised in accordance with the Authority's Guidelines for Procurement Contracts and Expenditure Authorization Procedures). Mark-up rates will remain firm for the duration of the contracts. Approval is also requested for the total amount expected to be expended for the initial two-year term of the contracts, \$1,500,000.

“Four contracts with **Atometrics Inc., Cataract, Inc., D & Z Utility (formerly NPS), and Lehigh GIT, Inc.** (Q-02-1790; PO #'s TBA) will become effective on January 1, 1997, subject to the Trustees' approval. The purpose of these contracts is to provide temporary civil/structural engineering services for the Nuclear Engineering Design and Analysis Group, on an ‘as required’ basis, in support of headquarters, IP3 and JAF. Ten proposals were received (in addition to 13 non-responding vendors and notice in the Contract Reporter). Based on the commercial and technical evaluations, awards are recommended to the four lowest bidders, as listed above. The intended term of these contracts 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 contracts, \$600,000.

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Headquarters-issued Contracts in Support of the Nuclear Plants:

“A contract with **Bartlett Nuclear, Inc.** (Q-02-1780; PO # TBA) will become effective on January 1, 1997, subject to the Trustees' approval. The purpose of this contract is to provide qualified decontamination personnel and services to support the IP3 plant during operational and outage periods. The scope includes providing all necessary labor, equipment, and services required to perform: 1) decontamination services during scheduled transmission outages and at other times as requested by the Authority; and 2) cavity decon during outages as required by the Authority. The method utilized will be application and removal of strippable coating by qualified personnel with the necessary training, skills, and experience, in accordance with applicable NRC requirements and the Contractor's Quality Assurance Manual approved by the Authority. These services will help reduce plant contamination and decrease radiation exposure rates. Six bids were received (in addition to 7 non-responding vendors and notice in the Contract Reporter). The three lowest bids were reviewed in detail for technical capability, specific experience, potential costs based on man-loading for three years, and responsiveness to the requirements of the Authority's request for proposals. Based on the technical and commercial evaluations, staff recommend award of this contract to Bartlett Nuclear Inc., the lowest evaluated technically acceptable bidder. In addition, Bartlett specializes in this kind of work, and is therefore able to provide the stability of an experienced staff as well as sufficient manpower loading for the duration of a job. The intended term of this contract is three years, subject to the Trustees' approval, which is hereby requested. Approval is also requested for \$2,000,000 the total amount expected to be expended for the term of the contract.

“A contract with **Main Line Engineering Associates** (PO # TBA) commenced on December 2, 1996, with the President's approval, subject to the Trustees' ratification and approval. The purpose of this contract is to provide the services of senior engineers experienced in the performance of detailed design basis inspections at nuclear power plants, including Safety System Functional Inspections ('SSFIs'), for JAF. Immediate award of this contract was required to address the design basis issues in NRC Letter 50.54(f), which was precipitated by the problems at the Millstone nuclear power plants. It is necessary that the Authority demonstrate control of plant design and configuration, in compliance with NRC guidance, by performing design basis and FSAR validations and SSFI's, to ensure there are no unreviewed safety questions or conflicts with tech specs. These services will ensure that design basis information is being appropriately incorporated into the plant procedures and documents, in order to make certain that the configuration control of the plant is maintained. This work is based on design calculations that support the safety aspects of the design and the FSAR. Validation of the design basis is needed to satisfy NRC requirements that the Authority's equipment and procedures will provide the required safe operating conditions. Follow-up work may also include resolution of open design issues, review of work in progress, development of a program to enable Authority staff to perform SSFIs, and training of JAF engineering personnel to better understand design basis issues.

“Four bids were received in response to the Authority's request for proposals (in addition to two non-responding vendors). They were assessed according to the following criteria: 15 or more years of experience in nuclear power plant design, including experience with original plant design; experience with design, preparation, and review of design, calculations, and analyses in accordance with NRC requirements for nuclear power plants; experience in performing inspections and/or assessments for the NRC at nuclear power plants, particularly in response to the issues raised at Millstone, or in response to license or design basis questions; and ability to assess the impact of any discrepancies and determine if operability or reportability issues are involved. Based on the technical evaluation, staff recommends award of a contract to Main Line, the only technically qualified bidder that met all requirements set forth in the Authority's bid specification. The intended term of this contract is two years,

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subject to the Trustees' approval, which is hereby requested. The President authorized up to \$25,000 for the initial award. Approval is also requested for \$800,000, the total amount expected to be expended for the term of the contract.

"A contract with **Winston & Strawn** (PO # TBA) will commence on January 1, 1997, subject to the Trustees' approval. The purpose of this contract is to provide legal and consulting services on Nuclear Utility Owners' Group generic issues applicable to both JAF and IP3. In addition, Winston & Strawn provides advice and counsel on licensing issues for both plants in the following specialized areas: fire protection, equipment qualification, backfitting and reform, and the licensing and design bases clearinghouse. Since staff knows of no other firm to provide comparable services, this award is made to Winston & Strawn on a sole source basis. The intended term of this contract is three years, subject to the Trustees' approval, which is hereby requested. Approval is also requested for \$240,000, the total amount expected to be expended for the term of the contract.

JAF Awards:

"A contract with **Life Science Laboratories, Inc.** (C97-J0037) will commence on January 1, 1997, subject to the Trustees' approval. The purpose of this contract is to provide analytical services of samples of sewage, hazardous waste, and potable and non-potable water as well as other environmental analyses as required, for JAF. Life Science Labs was the low acceptable/qualified bidder of seven bids received (in addition to 8 non-responsive firms and notice in the Contract Reporter). The intended term of this contract is two years, subject to the Trustees' approval, which is hereby requested. Rates will remain firm for the duration of the contract. Approval is also requested for \$20,000, the total amount expected to be expended for the term of the contract.

"A contract with **OBG Laboratories Inc.** (C97-J0077) will commence on January 1, 1997, subject to the Trustees' approval. The purpose of this contract is to provide analysis of waste oil samples and composites for JAF. OBG was the sole responding bidder of three bids solicited (in addition to notice in the Contract Reporter). The intended term of this contract is two years, subject to the Trustees' approval, which is hereby requested. Rates will remain firm for the duration of the contract. Approval is also requested for \$9,700, the total amount expected to be expended for the term of the contract.

"A contract with **S & W X-Ray** (C97-J0095) will commence on January 1, 1997, subject to the Trustees' approval. The purpose of this contract is to provide on-site preventive maintenance services for vertical chest x-ray machine at JAF. Maintenance shall include, at a minimum, two planned maintenance services during each year, focal spot and receptor alignment, radiation output and linearity calibration, gantry mechanical inspection, and repair as required. S & W was the low bidder of two bids received (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. Rates will remain firm for the duration of the contract. Approval is also requested for \$9,750, the total amount expected to be expended for the term of the contract.

"A contract with **Walkers Cleaners** (C97-J0325) will commence on January 1, 1997, subject to the Trustees' approval. The purpose of this contract is to provide laundering, dry cleaning, waterproofing, and miscellaneous mending repairs and tailoring of security force uniforms for JAF. Walkers Cleaners was the low bidder of three bids received (in addition to notice in the Contract Reporter). The intended term of this contract is two years, subject to the Trustees' approval, which is hereby requested. Rates will remain firm for the duration of the contract. Approval is also requested for \$30,000, the total amount expected to be expended for the term of the contract.

December 17, 1996

Contracts in Support of Headquarters:

“A contract with **HMS Services Inc.** (Q-02-1807) will commence on January 1, 1997, subject to the Trustees' approval. The purpose of this contract is to provide telephone technician services for the Authority's White Plains Office. HMS was the low bidder of five bids received (in addition to one bid received after the due date, twelve non-responsive firms and notice in the Contract Reporter). Based on the firm's qualifications, experience, and rates, staff recommends award of contract to HMS. The intended term of this contract is three years, subject to the Trustees' approval, which is hereby requested (with an option for one additional year, to be exercised in accordance with the Authority's Guidelines for Procurement Contracts and Expenditure Authorization Procedures). Approval is also requested for \$135,000, the total amount expected to be expended for the three-year term of the contract.

FISCAL INFORMATION

“Funds required to support contract services for various headquarters Business Units, JAF, and IP3 have been included in the 1997 submitted O&M Budget. Funds for subsequent years 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.

RECOMMENDATION

“The Plant Manager - James A. FitzPatrick Nuclear Power Plant, the Plant Manager - Indian Point 3 Nuclear Power Plant, the Vice President - Nuclear Operations, the Vice President - Nuclear Engineering, the Vice President and Chief Engineer - Power Generation, and the Vice President - Procurement and Real Estate, recommend the Trustees' approval of the award of multi-year procurement contracts to the companies listed in Exhibit '11-A' and as discussed above.

“The General Counsel, the Senior Vice President - Business Services, the Senior Vice President - Power Generation, 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 “11-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.

December 17, 1996

12. Report from the President & Chief Operating Officer

President Schoenberger introduced the members of the Financial Z Team. The Z Team made a presentation to the Trustees on their cost-cutting recommendations which had been submitted to the Management Committee.

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13. Next Meeting

“The next regular meeting of the Trustees will be held on **Tuesday, January 28, 1997, at the New York City Office at 11:00 a.m.**, unless otherwise designated by the Chairman with the concurrence of the Trustees.

December 17, 1996

Closing

Upon motion made and seconded, the meeting was closed at 12:50 p.m.

Anne Wagner-Findeisen
Corporate Secretary

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