New York Power Authority

New York Power Authority

Public Comments

2005 Rate Modification Proposal

Government Customers

Appendix B

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EXHIBIT A

ORIGINAL

NEW YORK POWER AUTHORITY

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PUBLIC FORUM ON PROPOSED REVISION
IN RATES TO GOVERNMENTAL CUSTOMERS

- -x

November 16, 2004
10:00 a.m.

Public hearing held in the above-entitled matter at the office of New York Power Authority, 501 Seventh Avenue - 9th Floor, New York, New York, before Linda A. Marino, Registered Professional Reporter, Certified Shorthand Reporter, and Notary Public within and for the State of New York.

11/16/04 PUBLIC FORUM - A. GRAVES

MS. GRAVES: Good morning all. I'd like to start the forum this morning. My name is Angela Graves. I'm the Deputy Secretary of the Power Authority.

This public forum is being conducted by the Authority in accordance with the terms of the policy and procedures adopted by the Authority's Trustees in November 1990. Such policy and procedures provide for the holding of public forums on all significant Authority production and transmission rate increase proposals; that is, increases of two percent or more. These forums are held in addition to written notice to each of the affected customers.

The purpose of this forum is to offer affected customers and the general public an opportunity to present data, views, or arguments concerning the proposed action to revise rates for the sale of electricity to New York City governmental customers, to assist the Trustees of the Authority in evaluating the proposed increase in the Authority's production rates.

11/16/04 PUBLIC FORUM - A. GRAVES

Notice of the holding of a public forum on the proposed rate action was published in the miscellaneous notices section of the New York State Register on October 13, 2004. Governmental customers were informed by direct mail of this forum regarding the proposed rate change on September 27, 2004.

If you're planning to make an oral statement this morning and have not filled out at a card at the sign-in desk, please do so now. We ask that you give copies of your written statement to the reporter and to me before or after you deliver your remarks.

Although your written statement can be whatever length you like, we ask that those presenting an oral statement limit his or her remarks to ten minutes. If your statement is summarizing your written statement, both will appear in the record.

The record of this forum will remain open until November 29, 2004, for the submission of any additional comments or statements. These should be addressed to the

11/16/04 PUBLIC FORUM - A. GRAVES

Deputy Secretary at 123 Main Street, 15-M, White Plains, New York, 10601, and may be faxed to 914-681-6949, or e-mailed to angela.graves@nypa.gov. Please see Ms. Johnson, the assistant secretary, on your way out if you have additional questions.

Full stenographic minutes of this forum will be made and will be incorporated along with the written submissions into the record, which will be reviewed by the Authority's Trustees. Copies of the stenographic transcript of this forum are available to the public. You should contact the reporter to make arrangements to purchase such a copy.

A copy of today's transcript will also be available for review at the following offices of the Authority: 30 South Pearl Street, 10th Floor, in Albany, or 123 Main Street, 15th Floor, in White Plains.

At this point, I will turn the microphone over to Mr. Jordan Brandeis, the Director of Supply Planning, Pricing, and Power Contracts of the Authority, who will describe the terms of the proposed contracts.

We will then call upon speakers. Our order will be to first call any elected officials and then proceed with any remaining speakers thereafter.

Mr. Brandeis.

MR. BRANDEIS: Thank you, Angela.

Good morning. My name is Jordan Brandeis. I'm the Director of Supply Planning, Pricing, and Power Contracts within the New York Power Authority. I am here today to talk about the reasons for the proposed modifications to production rates of the New York City-based government customers.

From February 1990 through March 2004, production rates charged to government customers remained essentially unchanged. In April 2004, the Authority increased rates for the first time in fourteen years. The 2004 increase was largely associated with increases in the cost of maintaining the then-existing supply portfolio; however, the new 2004 rates did not anticipate cost increases associated with shifts in the supply portfolio beginning in January 2005. Accordingly, customers were notified of the likelihood that the Authority would incur substantial additional costs in 2005 and beyond.

At their meeting of September 27, 2004, the trustees directed that public notice of a proposed increase in government rates be published in the State Register and, in accordance with Authority policy, a public forum would be held to hear comments of customers and the public. The Authority will fully evaluate all comments received and will recommend final action on their proposed rates at the December 2004 Trustees meeting.

The proposed increase would result in a 27.8 percent increase over current production rates. This represents about an 18.9 percent average increase over current total billed amounts, including production and delivery charges. These new rates would be effective with the January 2005 billing cycle. Application of the proposed rates to

11/16/04 PUBLIC FORUM - J. BRANDEIS

New York City-based government customers are expected to result in a $133 million increase in revenues.

The key changes that will result -- that will increase the total cost of serving the government customers in 2005 include the cost of replacing the expiring Entergy Indian Point 3 supply contract, the rising cost of purchase power from upstate sources, the anticipated cost of risk management and control, and the increased net cost of New York Independent System Operator charges.

The primary reason for the increase to New York City government customers is the estimated $75 million cost of replacing the expiring Entergy Indian Point 3 supply contract. This contract was entered into as part of the sale of the plant in November 2000. The new replacement supply being used for 2005 is from two private sector generators and the Authority's new 500 megawatt combined cycle unit. Despite their higher costs, these new resources offer savings of almost $90 million in 2005 when compared to the alternative cost of spot market electricity.

The second reason for the increase relates to the overall increases in the price of upstate market energy purchases. These higher prices are partially offset by the increasing value of other Authority plants dedicated to the government customer class, but the net effect is still about $20 million in additional costs.

The third major increase cost component is the cost of risk management and control. Under the current customer Supplemental Agreements, the energy charge adjustment is frozen and, therefore, rates cannot be adjusted monthly to account for changes in variable costs. The Authority expects to incur a cost of about $26 million to be able to stabilize the prices charged to New York City-based government customers.

The fourth and final major component is higher estimated costs relative to 2004 related to bulk power transmission under the control of the New York Independent

System Operator. These increased costs represent about $13 million.

In total, the Authority is projecting a revenue shortfall of $133 million for 2005. Even with the proposed increase, the Authority's government customers will continue to benefit from rates that are more than 30 percent less than those of Con Edison.

Immediately after the Trustees authorized notice of the proposed action, copies of the Authority's 2005 Rate Modification Plan were sent to affected customers. I also have additional copies of the Authority's 2005 rate Modification Plan available with me today. This report includes a detailed explanation and work papers behind the need for the requested increase.

Following distribution of these documents, numerous meetings were held with customers and their consultants to discuss in greater detail the underpinnings of the proposed action. Customers have expressed concern regarding the fiscal impacts on their respective budgets. In recognition of this, staff remains in discussions with customers on this matter in the context of our long-term business relationship.

As we have stated earlier, the Authority will accept your comments on the proposed production rates up to November 29. The Power Authority staff looks forward to your comments.

That ends my presentation, and I will now turn it back to Ms. Graves.

MS. GRAVES: Thanks, Mr. Brandeis.

I will now call on speakers, and first I have Mr. Jesse Samberg from the MTA.

MR. SAMBERG: Thank you.

I'm Jesse Samberg, Deputy Director, Interagency Issues, at Metropolitan Transportation Authority, one of NYPA's Southeast New York government customers. I appreciate the opportunity to testify on behalf of MTA in connection with NYPA's 2005 Rate Modification Plan for SENY customers that was promulgated on September 27, 2004.

MTA is a public benefit

corporation of the State of New York created in 1965 and has the responsibility for developing and implementing a unified mass transportation policy for the City of New York and Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk, and Westchester Counties.

MTA carries out these responsibilities directly and through its subsidiaries and affiliates, including the New York City Transit Authority, Metro-North Commuter Railroad, Long Island Railroad, and the Triborough Bridge and Tunnel Authority.

MTA has been an NYPA customer since 1976. The current arrangements between NYPA and MTA is governed by a 1995 Supplemental Agreement. In 2003, NYPA gave notice to MTA that it was terminating the 1995 supplemental agreement as of December 31, 2006.

MTA, together with other SENY customers, are working diligently on negotiation of a long-term power supply contract with NYPA that makes sense to all involved in the context of the new deregulated electric energy marketplace.

According to MTA's July plan financial projections, MTA will have a budget -- have budget deficits of $436 million in 2005 and $1.359 billion in 2006. Significant cost reductions and fare increases are being considered to close these gaps. When the MTA prepared its budget for 2005, it estimated, after a consultation with NYPA representatives, that the NYPA rate increase for 2005 would be approximately 10 percent.

You can imagine our surprise and disappointment when we were informed at the end of September that the actual proposed NYPA rate increase was approximately 28 percent for the supply portion of its contract. This is on top of a proposed three-year Con Edison rate increase of up to $75 million for 2005, 2006, and 2007. Increases in NYPA and Con Edison rates of this magnitude would put further strain on our financial condition and translate into additional service cuts and further increases in fares or both.

MTA and the other SENY customers

have been working with NYPA on an analysis of the NYPA 2005 rate proposal, including the purported cost of service. We have pointed out several elements that we find unsupportable or overstated, including the amounts for risk management and control, shared services, and operation and maintenance. There are also several elements where we are awaiting additional information from NYPA in order to be able to make an informed judgment.

Given our desire to establish a long-term relationship going forward, the SENY customers have identified several elements of the rate increase that should be deferred and/or moderated to comport with past NYPA practice and recognized utility procedure. We urge NYPA's board of Trustees to favorably consider our suggested approach which takes into consideration the magnitude of the proposed increase, the desire to enter into a long-term power supply arrangement, and the need for a stable energy policy for the Southeastern New York region.

I want to thank you again for the opportunity to speak, and I respectfully reserve MTA's right to submit additional written testimony.

Thank you.

MS. GRAVES: Thanks, Mr. Samberg.

I'll call Ms. Gail Davis, who we're glad to see that she made it in one piece today.

MS. DAVIS: Thank you.

Good morning everybody. My name is Gail Yvette Davis. I am Senior Policy Manager in the Office of Policy and Planning of the Port Authority of New York and New Jersey. I want to thank you for this opportunity to make the following statement regarding NYPA's proposed action to increase rates for the sale of power to Southeastern New York governmental customers. The Port Authority proposes to submit written comment by November 29.

The Port Authority of New York and New Jersey is a bi-state agency that since 1921 has been providing critical transportation facilities for people and goods, movement of people and goods, in the New York/New Jersey metropolitan region. The agency also undertakes regional projects and infrastructure improvements that promote New York's economic well-being.

Since 1976, the Port Authority has been purchasing power under its contract with NYPA for most of its facilities in New York, including the Port Authority Bus Terminal, the Lincoln and Holland Tunnels, the George Washington Bridge, and LaGuardia Airport. In addition, the Port Authority also purchases power from NYPA for resale under its World Trade Center Economic Recovery Power Program, a powerful resale to businesses displaced or economically damaged by the World Trade Center disaster.

On September 27 of this year, NYPA notified the Port Authority of its intention to raise the production rates the Port Authority pays by 27.8 percent, effective with the January 2005 billing cycle.

If this increase is granted, it

would raise operating costs for key portions of New York's transportation infrastructure. By NYPA's estimate, the Port Authority's total electric bill would increase by 20 percent. Increases of this magnitude are extremely burdensome and, in fact, are far out of line with the norms of increases below 10 percent.

The increase under consideration in this forum is particularly problematic since, unfortunately, it's one of three increases in NYPA electric rates that the Port Authority is facing within a 12-month period.

In April 2004, NYPA raised these very same production rates by 6.5 percent; Consolidated Edison Company of New York, from whom NYPA buys delivery services for the Port Authority, has requested increases of over 40 percent in NYPA's delivery rates to be effective April 2005, with additional increases projected in 2006 and in 2007.

So all together, these three rate increases can subject the Port Authority by April of next year to a total electricity bill from NYPA that is 40 percent higher than what it was in April of this year. Furthermore, I should note that NYPA has not ruled out additional increases in production rates in 2006, 2007, and 2008.

The net result is that electricity costs would constitutes one of the fastest-growing components of the Port Authority budget, increasing effectively -- an effective increase in multiples of any standard measure of annual inflation.

The Port Authority and other major SENY customers of -- governmental customers have been collaborating with NYPA to increase the efficiency of our review of this rate increase proposal. The consultants to the major SENY customers have submitted joint information requests, shared analyses and data, and have worked together and closely with NYPA staff in reviewing pro forma models, risk management strategies, and the methodologies used in developing the 2005 Rate Modification Plan.

The Port Authority is going to make every effort to make its written comments that it proposes to submit as comprehensive as possible. I must note, however, that although NYPA has responded to many data and interview requests, there are, nonetheless, some outstanding requests in a number of areas which may effect the comprehensiveness of what we submit.

Final point is that a three-month interval between notification of an increase and implementation of the increase is far too short for the Power Authority -- for the Port Authority, sorry, to perform the requisite due diligence review of NYPA's pro forma costs.

In addition, it is also far too short a time to allow the Port Authority to most effectively consider and implement offsetting operational adjustments to moderate the impact of the increase. And in this particular instance, the situation has been complicated by the fact that the actual rates proposed is 27.8 percent, what's contained in the plan, is so much higher than NYPA's earlier estimate of 10 percent increase in production rates.

The Port Authority is, therefore, recommending that the notice period between formal notification and effective implementation dates be extended for at least eight months for future rate increases.

Thank you once again for the opportunity to comment on this proposed Rate increase. And we also appreciate NYPA's cooperation as we undertake this assessment of 2005 cost of service.

Thank you.

MS. GRAVES: Thanks, Ms. Davis.

And I will now call on Ms. Susan Cohen from the New York City DCAS.

MS. COHEN: Good morning. My name is Susan Cohen. I represent the City of New York and in particular the Department of Citywide Administrative Services. I'm the Executive Director of Program Evaluation and Energy in the Division of Fiscal Management and Operations at DCAS. Also representing the City of New York today is Gil Quiniones, Senior Vice President of Energy and Telecommunications, New York City Economic

Development Corporation.

DCAS is the agency responsible under the New York City Charter for making the arrangements that furnish the City with electricity and other energy sources. Accordingly, DCAS holds a long-term contract with the New York Power Authority for purchase of electric services for New York City agencies, The Health and Hospitals Corporation, and City University of New York.

It is our understanding that the City of New York, through DCAS, is the New York Power Authority's largest single customer. Our budgeted metered purchases from NYPA this current fiscal year are 3.6 million megawatt hours.

The City appreciates this opportunity to express its concerns with the preliminary 2005 Rate Modification Plan. In addition to this statement, the City will be filing more detailed comments on the Plan within the comment period.

Separately, the City has already expressed its disappointment about the timing and process for this rate modification plan, given that the parties are in good faith negotiations over a long-term contract that's expected to incorporate the period covered here.

That aside, the City has done an extensive review of the plan, its exhibits, and supporting work papers. As a result of that review, the City is unable to verify that, at current rates, NYPA's revenues from SENY customers will fall $149.3 million short of full cost recovery in 2005.

To the contrary, the City's experts have identified numerous areas where costs appear to be overstated or where costs can be deferred. These include costs for Risk Management and Control, Poletti Combined Cycle Operations and Maintenance, Poletti Station Demolition, Debt Service Acceleration, and Shared Services. All told, these cost overestimates have inflated the 2005 revenue requirements by a substantial amount.

The City is in ongoing discussions with NYPA staff on these matters and continues to explore other areas that may further reduce the revenue requirement.

The City asks that in making its rate decision here, the NYPA Board of trustees take note of these various categories, reject cost overestimates, and enable deferrals. We also ask that, before a rate decision is made, the Trustees of America's largest state-owned power organization take note of the very difficult circumstances facing the City.

The City of New York is already working to eliminate an almost $3 billion budget deficit for fiscal year 2006. With respect to energy rates in 2004, the City's already been burdened with a $15 million or 6.5 percent increase in NYPA rates, effective April 1, 2004, a $2.9 million or 16 percent increase in Con Edison's steam rates effective this past October, and a $1.6 million or 9.8 percent increase in Con Edison gas rates, also effective this past October.

The Con Edison steam and gas rate cases also called for additional increases in 2006. In addition, the City, as NYPA's

11/16/04 PUBLIC FORUM - S. COHEN

customer, is facing very large increases in electricity delivery rates charged by Con Edison effective April 2005. Con Edison has requested an increase of $58.5 million or 44 percent for year one alone.

Now NYPA is proposing to increase the City's cost of electricity, including the New York City Housing Authority, by another $78 million in 2005. The rate request is extreme and is one that the City simply cannot shoulder for 2005.

NYPA rate moderation is critical to the City's financial security. With responsibility for paying the energy costs of schools, streetlights, hospitals, universities, shelters, and numerous other important public facilities, the City simply cannot afford the 27.8 percent rate increase that NYPA has proposed for 2005.

Customer impact is an important regulatory concern and one which regulators often cite in seeking ways to moderate increases so that customers are not unduly impacted by very large rate increases.

The argument for the use of rate moderators is particularly strong where, as here, management decisions by the supplier, for example, the sale of generating stations, as well as the limited term of the fixed-price supply contracts from sold plants, are a major cause of the spiraling cost of service.

In light of all of the circumstances cited above, and as we work diligently to come to agreement on terms that would create a new long-term arrangement beyond December 31, 2006, the City urges the NYPA Board to combine a rejection of certain cost estimates with deferral and moderation of other cost elements in the proposed 2005 Rate Plan.

Thank you again for this opportunity to speak.

MS. GRAVES: Thanks, Ms. Cohen.

I have no one else down that's designated to speak, so I will, therefore, close this forum.

Thank you all for coming.

(Time noted: 10:40 a.m.)

November 16, 2004

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C E R T I F I C A T E

STATE OF NEW YORK)
)ss.:
COUNTY OF NEW YORK)

I, LINDA A. MARINO, a Registered Professional Reporter, Certified Shorthand Reporter, and Notary Public within and for the State of New York do hereby certify:

I reported the proceedings in the within-entitled matter to the best of my ability, and that the within transcript is a true record of such proceedings.

I further certify that I am not related, by blood or marriage, to any of the parties in this matter and that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this 22nd day of November, 2004.

Linda Marino's

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LINDA A. MARINO, RPR, CSR

DEPARTMENT OF CITYWIDE ADMINISTRATIVE SERVICES
OFFICE OF THE FIRST DEPUTY COMMISSIONER
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Commissioner

Lewis S. Finkelman
First Deputy Commissioner / General Counsel

Citywide Personnel Services

Facilities Management & Construction

Municipal Supply Services

Real Estate Services

Citywide Equal Employment Opportunity

Citywide Occupational Safety & Health

Transportation Services

The City Record

CityStore

November 16, 2004

Statement of Susan Cohen, at New York Power Authority Public Forum on Proposed 2005 Rate Increase

Good morning. My name is Susan Cohen. I represent the City of New York and in particular the Department of Citywide Administrative Services. I am Executive Director of Program Evaluation and Energy, in the Division of Fiscal Management and Operations, at DCAS. Also representing the City of New York today is Gil Quiniones, Senior Vice President of Energy and Telecommunications, New York City Economic Development Corporation.

DCAS is the agency responsible under the New York City Charter for making the arrangements that furnish the City with electricity and other energy sources. Accordingly, DCAS holds a long-term contract with the New York Power Authority for purchase of electric services for New York City agencies, the Health and Hospitals Corporation, and the City University of New York. It is our understanding that the City of New York, through DCAS, is the New York Power Authority's largest single customer. Our budgeted metered purchases from NYPA this current fiscal year are 3.6 million megawatt hours.

The City appreciates this opportunity to express its concerns with the Preliminary 2005 Rate Modification Plan ("Plan"). In addition to this statement, the City will be filing more detailed comments on the Plan within the comment period. Separately, the City has already expressed its disappointment about the timing and process for this rate modification Plan, given that the parties are in good-faith negotiations over a long-term contract that is expected to incorporate the period covered here.

That aside, the City has done an extensive review of the Plan, its Exhibits and supporting workpapers. As a result of that review, the City is unable to verify that, at current rates, NYPA's revenues from SENY customers will fall $149.3 million short of full cost recovery in 2005. To the contrary, the City's experts have identified numerous areas where costs appear to be overstated or where costs can be deferred. These include costs for Risk Management and Control, Poletti Combined Cycle O&M, Poletti Station Demolition, Debt Service Acceleration and Shared Services. All told, these cost overestimates have inflated the 2005 revenue requirement by a substantial amount. The City is in ongoing discussions with NYPA staff on these matters, and continues to explore other areas that may further reduce the revenue requirement. The City asks that, in making its rate decision here, the NYPA Board of Trustees takes note of these various categories, reject cost overestimates and enable deferrals.

We also ask that, before a rate decision is made, the Trustees of America's largest state-owned power organization take note of the very difficult circumstances facing the City. The City of New York already is working to eliminate an almost 3 billion dollar budget deficit for Fiscal Year 2006. With respect to energy rates, in 2004, the City already has been burdened with a $15 million (6.5 percent) increase in NYPA rates (effective April 1, 2004), a $2.9 million (16.0 percent) increase in Con Edison steam rates (effective October 1, 2004) and a $1.6 million (9.8 percent) increase in Con Edison gas rates (effective October 1, 2004). The Con Edison steam and gas rate cases also call for additional rate increases in 2006. In addition, the City, as NYPA's customer, is facing very large increases in the electric delivery rates charged by Con Edison effective April 1, 2005. Con Edison has requested an increase of $58.5 million, or 44 percent, for year one alone. Now, NYPA is proposing to increase the City's cost of electricity, including the New York City Housing Authority, by another $78 million in 2005. The rate request is extreme and is one that the City simply cannot shoulder for 2005.

NYPA rate moderation is critical to the City's financial security. With responsibility for paying the energy costs of schools, streetlights, hospitals, universities, shelters and numerous other important public facilities, the City simply cannot afford the 27.8 percent rate increase that NYPA has proposed for 2005. Customer impact is an important regulatory concern and one which regulators often cite in seeking ways to moderate increases so that customers are not unduly impacted by very large rate increases. The argument for the use of rate moderators is particularly strong where, as here, management decisions by the supplier (e.g., the sale of generating stations, as well as the limited term of the fixed-price supply contracts from the sold plants) are a major cause of the spiraling cost of service.

In light of all of the circumstances cited above, and as we work diligently to come to agreement on terms that would create a new long-term arrangement beyond December 31, 2006, the City urges the NYPA Board to combine a rejection of certain cost estimates with deferral and moderation of other cost elements in the proposed 2005 rate Plan.

Thank you again for this opportunity to speak on this rate Plan.

November 16, 2004

Oral Statement of Gail Yvette Davis at NYPA Public Forum 0n November 16, 2004

Good Morning,

My name is Gail Yvette Davis. I am Senior Policy Manager in the Office of Policy and Planning at the Port Authority of New York and New Jersey. I would like to thank you for the opportunity to make the following statement regarding NYPA's proposed action to increase rates for the sale of power to its Southeastern New York governmental customers. The Port Authority proposes to submit written comments by November 29, 2004.

The Port Authority of New York and New Jersey is a bi-state agency that since 1921 has been providing critical transportation facilities to move people and goods in the New York-New Jersey metropolitan region. The agency also undertakes regional projects and infrastructure improvements that promote New York's economic well being. Since 1976, the Port Authority has been purchasing power under its contract with NYPA for most of its facilities in New York including the Port Authority Bus Terminal, the Lincoln and Holland Tunnels, the George Washington Bridge, and La Guardia Airport. In addition, the Port Authority also purchases power from NYPA for resale under its World Trade Center Economic Recovery Power Program to businesses displaced or economically damaged by the World Trade Center disaster.

On September 27, 2004, NYPA notified the Port Authority of its intention to raise the production rates the Port Authority pays by 27.8% effective January 2005. If granted, this rate hike would raise operating costs for key portions of New York's transportation infrastructure. By NYPA's estimate, the Port Authority's total electricity bill would increase by twenty percent. Increases of this magnitude are burdensome and far out of line with industry norms of increases below 10%.

The increase under consideration in this forum is particularly problematic since unfortunately it is one of three increases in NYPA electric rates that the Port Authority is facing within a 12-month period. In April 2004 NYPA increased these very same production rates by 6.5%. Consolidated Edison Company of New York, from whom NYPA buys delivery services for the Port Authority, has requested increases of over 40% in NYPA's delivery rates to be effective in April 2005. All together the three rate increases can subject the Port Authority by April of next year to a total electricity bill from NYPA that is 40% higher than in April of this year. Furthermore, NYPA has not ruled out additional increases in production rates in 2006, 2007 and 2008. The net result is that electricity costs will constitute one of the fastest growing components of the Port Authority budget, increasing effectively by a multiple of any standard measure of inflation.

The Port Authority and the other major SENY customers have been collaborating with NYPA to increase the efficiency of the review process for the rate increase proposal. The consultants to the major SENY customers have submitted joint information requests, shared analyses and data, and have worked together, and closely with NYPA's staff in reviewing pro forma models as well as the methodologies used in developing the 2005 Rate Modification Plan. The Port Authority will make every effort to make its written comments submitted by November 29, 2004 as comprehensive as possible. I must note however, that, although NYPA has already responded to many data and interview requests, there are nonetheless, outstanding requests in a number of significant areas, which may affect the comprehensiveness of what we submit.

Finally, a three-month interval between notification and implementation of an increase is far too short for the Port Authority to perform the requisite rigorous due diligence on NYPA's pro forma costs. In addition, it is also far too short a time to allow the Port Authority to most effectively consider and implement offsetting operational adjustments to moderate the impact of the increase. In this particular instance, this situation has been complicated by the actual rate (27.8%) contained in the plan being so much higher than NYPA's earlier estimate of a 10% increase in production rates. The Port Authority recommends therefore that the notice period between the formal notification date and the effective implementation date be extended to at least 8 months for future rate increases.

Thank you once again for the opportunity to comment on the proposed rate increase for 2005. The Port Authority appreciates NYPA's cooperation as it undertakes its assessment of the 2005 cost of service.

MTA Testimony Before
New York Power Authority
2005 Rate Modification Plan for the
Southeast New York Government Customers
November 16, 2004

I am Jesse Samberg, Deputy Director Interagency Issues at Metropolitan Transportation Authority, one of NYPA's Southeast New York Government Customers. I appreciate the opportunity to testify on behalf of MTA in connection with NYPA's 2005 Rate Modification Plan for the SENY Customers that was promulgated on September 27, 2004.

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Given our desire to establish a long-term relationship going forward, the SENY customers have identified several elements of the rate increase that should be deferred and/or moderated to comport with past NYPA practice and recognized utility procedure. We urge NYPA's Board of Trustees to favorably consider our suggested approach which takes into consideration the magnitude of the proposed increase, the desire to enter into a long-term power supply arrangement and the need for a stable energy policy for the Southeastern New York region.

I want to thank you again for this opportunity to speak and respectfully reserve MTA's right to submit additional written testimony.

EXHIBIT B

THE PORT AUTHORITY OF NY & NJ

November 29, 2004

VIA E-MAIL AND DHL EXPRESS MAIL

Ms. Angela D. Graves
Deputy Secretary
Secretary's Office
New York Power Authority
123 Main Street, 15 – M
White Plains, NY 10601

Re: Power Authority of the State of New York
New York Register ID No. PAS-41-04-00006-P
Rates for the Sale of Certain Power and Energy

Dear Deputy Secretary Graves:

Pursuant to the State Administrative Procedures Act, on behalf of The Port Authority of New York and New Jersey, we hereby submit the enclosed Joint Comments of the City of New York, the Metropolitan Transportation Authority, the Port Authority of New York and New Jersey, and the New York City Housing Authority, in response to the New York Power Authority's proposed revision in rates for the sale of firm power to governmental customers located primarily in New York City.

Thank you for permission to serve these Joint Comments via e-mail. Please contact the undersigned if you have any questions.

Very truly yours,

Gail Yvette Davis

Gail Yvette Davis
Senior Policy Manager

Enc.

cc: Ms. Louise Morman (via e-mail and U. S. Mail)
Mr. James H. Yates (via e-mail and U.S. Mail)
Cruz C. Russell (Port Authority)
Ronald Senio (Port Authority)

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Martha K. Hirst
Commissioner

Lewis S. Finkelman
First Deputy Commissioner /
General Counsel

Citywide Personnel Services

Facilities Management & Construction

Municipal Supply Services

Real Estate Services

Citywide Equal Employment Opportunity

Citywide Occupational Safety & Health

Transportation Services

The City Record

CityStore

November 29, 2004

VIA E-MAIL AND U.S. MAIL

Ms. Angela D. Graves
Deputy Secretary
Secretary's Office
New York Power Authority
123 Main Street, 15 – M
White Plains, NY 10601

Re: Power Authority of the State of New York Register ID No. PAS-41-04-00006-P, Rates for the Sale of Certain Power and Energy

Dear Deputy Secretary Graves:

Pursuant to the State Administrative Procedures Act, on behalf of the City of New York, we hereby submit the enclosed Joint Comments of the City of New York, the Metropolitan Transportation Authority, the Port Authority of New York and New Jersey, and the New York City Housing Authority, in response to the New York Power Authority's proposed revision in rates for the sale of firm power to governmental customers located primarily in New York City. A hard copy is being forwarded via U.S. Mail.

Thank you for permission to serve these Joint Comments via e-mail. Please contact the undersigned if you have any questions.

Very truly yours,

[LSF; Signature by mail]

Lewis S. Finkelman

Enc.
cc: Ms. Louise Morman (via e-mail and U.S. Mail)
Mr. James H. Yates (via e-mail and U.S. Mail)

347 Madison Avenue
New York, NY 10017-3739
212 878-7000 Tel

Metropolitan Transportation Authority
State of New York

November 29, 2004

VIA E-MAIL AND U.S. MAIL

Ms. Angela D. Graves
Deputy Secretary
Secretary's Office
New York Power Authority
123 Main Street, 15 – M
White Plains, NY 10601

Re: Power Authority of the State of New York Register ID No. PAS-41-04-00006-P, Rates for the Sale of Certain Power and Energy

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Thank you for permission to serve these Joint Comments via e-mail. Please contact the undersigned if you have any questions.

Very truly yours,

S/ Jesse Samberg

Enc.
cc: Ms. Louise Morman (via e-mail and U.S. Mail)
Mr. James H. Yates (via e-mail and U.S. Mail)

POWER AUTHORITY OF THE STATE OF NEW YORK

New York State Register ID No. PAS-41-04-00006-P,
Rates for the Sale of Certain Power and Energy

JOINT COMMENTS OF THE CITY OF NEW YORK, THE NEW YORK CITY HOUSING AUTHORITY, THE METROPOLITAN TRANSPORTATION AUTHORITY AND THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY ON THE NEW YORK POWER AUTHORITY'S 2005 RATE PLAN FOR SOUTHEASTERN NEW YORK CUSTOMERS

DATED: NOVEMBER 29, 2004

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PRELIMINARY STATEMENT

Pursuant to the provisions of the State Administrative Procedures Act, the City of New York ("City"), and the New York City Housing Authority, the Metropolitan Transportation Authority ("MTA") and the Port Authority of New York and New Jersey ("Port Authority") (together, "Major SENY Customers") hereby submit these comments on the New York Power Authority's ("NYPA") Preliminary Staff Report and 2005 Rate Modification Plan for Southeast New York Government Customers ("2005 SENY Rate Plan"). The Rate Plan was noticed for public comment in the October 13, 2004 New York State Register.

The Major SENY Customers currently contract with NYPA for purchase of full requirements electric supply service. The electricity purchased by the Major SENY Customers is used to provide or support critical public services (e.g., schools, housing, health care, transportation) and for economic development purposes. Collectively, it is estimated that all SENY customers will purchase over 2,000 megawatts ("MW") of electric capacity from NYPA in 2005. Similarly, it is estimated that the total revenues from all SENY customers during 2004 will exceed $500 million. [1]

[1] In general, the Major SENY Customers represent approximately 89% of the total SENY customer load and revenues.

BACKGROUND INFORMATION

In 1976, NYPA became party with each of the Major SENY customers to an Application for Electric Service ("Applications for Service") under which NYPA furnishes capacity and energy to certain Major SENY Customer facilities in New York State. These Applications for Service have been supplemented and amended from time to time including pursuant to agreements executed in 1995 or 1996 ("Supplemental Agreements"). The Supplemental Agreements had an initial term of ten years, and they provided, *inter alia*, that the monthly Energy Charge Adjustment ("ECA") would be set at zero for the term of the agreement.

The electric industry has changed dramatically since 1995. In particular, the commencement of the bid-based markets administered by the New York Independent System Operator ("NYISO") has affected NYPA's operations. In addition, NYPA has sold its Indian Point units, entered into an agreement to close the existing Poletti plant, and commenced construction of a new 500 MW Combined Cycle Unit ("CCU") at the Poletti site. These changes have had a significant effect on NYPA's costs and revenues, in particular because NYPA now relies heavily on the NYISO's short-term markets to satisfy the SENY customers' requirements.

In December, 2003, NYPA provided a notice of termination of some of the Supplemental Agreements ("Notice") for the purpose of reverting to the rate structure under the Applications for Service, including the ECA, effective January 1, 2007. Negotiations are underway to determine whether new long-term agreements addressing, among other terms, the appropriate rate structure and product slate, and the conditions for reactivating the ECA, can be completed in a relatively short time frame. Despite these negotiations, NYPA is seeking here to unilaterally impose an unprecedented 27.8 percent increase in production rates, effective January 1, 2005.

Pursuant to the Supplemental Agreements, effective April 1, 2004, NYPA increased production rates for all SENY customers by 6.5 percent. However, that 6.5% increase now appears relatively modest compared to NYPA's pending 2005 SENY Rate Plan, which would increase electric supply rates for all SENY customers by $149.3 million, or 27.8 percent, effective January 1, 2005.

SUMMARY OF POSITION

The Major SENY Customers recognize that NYPA has the potential to be a low-cost supplier of electricity in the future. Because of this, the Major SENY Customers are interested in a new business relationship with NYPA that reflects that changes that have occurred in the industry. However, for the reasons set forth herein, it is imperative that the NYPA Board of Trustees defer any action on increasing the Major SENY Customer rates in 2005 until the conclusion of ongoing negotiations for new long-term agreements with governmental customers in New York City. The Board of Trustees should direct NYPA Staff to continue to work with the Major SENY Customers to complete new, long-term agreements beneficial to all parties as soon as possible.

To the extent that the Board decides to adopt new rates effective January 1, 2005, it should do so only after: (a) revising the 2005 SENY Rate Plan downward to reflect errors and/or unsubstantiated costs contained in the 2005 Embedded Cost of Service Study (Exhibit A to the 2005 SENY Rate Plan; hereinafter "2005 Cost Study"); and (b) investigating ways to moderate the level of the rate increase in 2005 to reflect the current energy price increases affecting the Major SENY Customers. In this way, NYPA will not be in the position of imposing a 27.8 percent increase that is far outside the norm of industry standards.

Finally, with a view to further lightening the customer cost burden and ensuring that NYPA's operations are consistent with industry standards, the Trustees should also undertake an independent organizational review of its overhead and risk management and control functions. The reasons for this position are set forth below.

POINT I

ACTION ON THE PROPOSED 2005 RATE INCREASE SHOULD BE DEFERRED TO ALLOW NYPA AND THE MAJOR SENY CUSTOMERS TO COMPLETE NEGOTIATIONS OF NEW LONG-TERM AGREEMENTS

As noted earlier, NYPA has taken action to terminate the Supplemental Agreements between itself and some Major SENY Customers. NYPA's Notice stated that it was taking this action because the pricing arrangements of the Supplemental Agreements are no longer appropriate in light of the structural charges in the markets. The Major SENY Customers also would note that NYPA has made significant unilateral decisions in response to the changes in the industry, including selling assets and modifying its supply portfolio to rely heavily on purchases from the NYISO markets. Despite NYPA's Notice, the pricing terms of the Supplemental Agreements remain effective through December 31, 2006, and NYPA is seeking to increase rates dramatically effective January 1, 2005, purportedly in accordance with its contractual authority. Nevertheless, it is possible that pending negotiations could lead to new long-term agreements that would be effective prior to January 1, 2007. In fact, NYPA and the Major SENY Customers have been engaged in negotiations to that end over the past two months.

It would be a mistake for the NYPA Board of Trustees to approve a massive rate increase effective January 1, 2005, while negotiations for longer term agreements are underway. From the perspective of the Major SENY Customers, imposition of the 2005 SENY Rate Plan prior to completion of negotiations will adversely impact those negotiations and would lead to unwarranted rate shocks for the Customers and uncertainty for NYPA. The preferred course of action is to defer action on the January 1, 2005 increase to allow the completion of negotiations.

New, long-term agreements would afford the parties the opportunity to put in place new rates in early 2005, as well as develop a new rate structure for the longer term. They also could include important provisions that allocate risks and responsibilities in a manner that recognize the changes that NYPA has undertaken and the new market risks and opportunities resulting therefrom, and position the parties to better deal with a changing industry. Finally, and importantly, new, long-term agreements also would allow the parties to identify ways to moderate the rate increase attributable to the higher cost of service that NYPA appears to be enduring. In short, new, longer-term agreements offer the best opportunity for NYPA and the Major SENY Customers to address their needs in a mutually acceptable manner.

In light of the ongoing negotiations, the Major SENY Customers request that the Board of Trustees defer action on the 2005 SENY Rate Plan until a subsequent meeting early in 2005. If, by that time, the parties either have signed new long-term agreements or, as the prelude to such agreements, executed term sheets, the 2005 SENY Rate Plan will not be needed. In the event that longer term agreements are not in place at that time, the Major SENY Customers would agree that the final 2005 SENY Rate Plan (i.e., as modified in consideration of the comments below) would be implemented retroactive to January 1, 2005.

Another important reason to defer action on the 2005 SENY Rate Plan is that, despite the efforts of all concerned, the Major SENY Customers have not completed their review of the data and documents that purport to support the requested rate increase. In many cases, requests remain outstanding and this has denied Major SENY Customers the ability either to further refine the adjustments set forth below or to propose additional adjustments. For example, the consultants retained by the Major SENY Customers still are waiting for updated O&M information, including the updated O&M study for the Poletti CCU, and additional information on Risk Management and R&D costs.

Finally, the request for deferral of action on the 2005 SENY Rate Plan also is justified due to the timing of the release of the 2005 Rate Plan. The Major SENY Customers had been led to believe that preliminary 2005 pro forma prices might be provided in July 2004, or in any event no later than August 2004. Instead, the 2005 SENY Rate Plan was not served on customers until September 21, 2004. Given the magnitude of the rate increase being sought, the time for review of the 2005 SENY Rate Plan has been insufficient. Deferral of action on the Plan will provide the time needed to complete this process.

POINT II

THE 2005 SENY RATE PLAN IS OVERSTATED AND, IF IMPLEMENTED AT ALL, SHOULD BE REDUCED

The proposed rates for 2005 are based on Exhibit A to the 2005 SENY Rate Plan. However, with the recent changes to the NYPA supply portfolio, the cost drivers in the cost-of-service have dramatically shifted. Of the total revenue required of $1,055,700,000, over $844,800,000 relates to the Fuel Expense and Purchased Power. These cost components, in turn, are derived largely from estimates of what the clearing price will be in various markets, e.g., Zone A of the NYISO's energy market or the price of natural gas at the Henry Hub. These largely unsupported estimates (and the estimates of NYISO Revenues) are utilized to develop the projected Overall Revenue Shortfall. NYPA Staff then proposes fixed rates to recover all of its (estimated) costs. The Major SENY Customers note that NYPA bears little risk and has shifted the risk to its customers.

Since the 2005 SENY Rate Plan was issued on September 27, 2004, SENY Customers have been engaged in an extensive review of the Plan. Two consulting firms – CCN Management Counsel ("CCN") and Science Applications International Corporation ("SAIC") (together, "SENY Consultants") – were retained and have reviewed data and documents that purportedly support the requested $149.3 million increase. The SENY Consultants, based on their separate, professional analyses, have jointly identified to date the following minimal adjustments that must be made to the 2005 Cost Study:

1. Risk Management and Control Expenses are overstated by approximately $29 million;
2. Debt Service is overstated by approximately $15.0 million;

3. Non-Fuel O&M Expenses can be adjusted by approximately 4.0 million without affecting reliability;

4. Shared Services are overstated by approximately $2.3 million;

5. Other Expenses are overstated by approximately $1.0 million.

These adjustments of approximately $51.3 million, each which is explained more fully below, reduce the 2005 revenue requirement from $149.3 million to approximately $98.0 million. In addition, as noted above, there are a number of areas where the Major SENY Customers have not yet been able to confirm 2005 Cost Study components due to delays in getting information from NYPA. For example, other issues under review include the lack of credits for ancillary service revenues generated by Blenheim Gilboa or for payments for Poletti reliability calls. Therefore, the cost of service adjustments might change from the $51.3 million identified to date.[2]

1. Risk Management and Control

The methodology used to derive the $29 million Risk Management and Control charge is not related to any active risk management or control activities. The $29 million is an arbitrary adjustment to a probabilistic simulation intended to limit NYPA's probability of an expected loss to one year in every eight years. The SENY Consultants have concluded that NYPA's estimate of the Risk Management and Control Charge is overstated and not justified.

[2] The cost of service adjustments identified herein are not meant to, and do not, waive any legal remedy the Major SENY Customers may have with regard to these rate increases.

The large Risk Management and Control Charge has not been justified. Initially, the "costs" associated with the charge have not been tied providing service to the Major SENY Customers and, therefore, are not recoverable under the Supplemental Agreements because they are not a part of the cost of service. Second, the market exposure "calculated" does not reflect the hedging actions already taken. Finally, the net risk exposure appears to be much lower than what NYPA has estimated and, thus, can be addressed at a much lower cost. NYPA's probabilistic approach is designed to limit its risk of loss to one year out of every eight. It does nothing to limit the risk of customers paying too much for this extraordinary protection. This lack of balance in the area of risk management appears to be the result of a failure to adequately investigate alternatives that meet the needs of Major SENY Customers.[3]

In sum, the Risk Management and Control Expense is overstated and should be reduced by approximately $29 million.

2. Debt Service

Debt service is projected by NYPA to more than double from $40.9 million in 2004 to $82.1 million in 2005. Most of the rate impact is the result of NYPA's use of a compressed period to amortize the unamortized capital cost of the Poletti Steam Unit to coincide with NYPA's decision to retire the Unit before the end of its economic life. The SENY Consultants believe the Debt Service included in the 2005 SENY Rate Plan should be

[3] Identifying an appropriate risk management strategy on a going-forward basis is a critical requirement for the Major SENY Customers. Given the changes that NYPA has made to its asset portfolio and its reliance on purchased power to serve the Major SENY Customers, the Customers must be satisfied that the risk management strategy is acceptable (See Point IV).

reduced by approximately $15 million, to reflect a more realistic amortization period that is closer to the unit's economic life.

NYPA also appears to have accelerated the amortization of certain other capital items to coincide with an end-date of 2008. This has the effect of increasing debt service charges during the next three years. This approach is inconsistent with NYPA's stated goal of negotiating new long-term agreements and is inappropriate at a time when NYPA is seeking such large rate increases from customers. On the other hand, if these amortization schedules are lengthened to 2013 or beyond under long-term agreements, debt service costs over the 2005 to 2008 period can be reduced substantially.

Finally, the Major SENY Customers reserve the right to provide further comments on the final cost of the CCU being built to replace the Poletti plant. It is well known in the industry that the units are behind schedule and over budget. To the extent that the final costs exceed what could be considered reasonable given industry standards or are the result of NYPA's failure to manage the project properly, the Debt Service may have to be reduced further.

3. Non-Fuel O&M Expenses

Based on the analyses that the SENY Consultants have been able to complete to date, NYPA's 2005 non-fuel O&M costs are overstated by approximately $4.0 million. For example, in light of the commitment by NYPA to shut down the Poletti Steam Unit by no later than May, 2008, it is appropriate to review future O&M spending at that plant compared to historical levels and determine whether they can be reduced. With respect to the CCU, the SENY Consultants compared the O&M costs used by NYPA to the O&M costs of similar plants in the region. To be conservative (and to account for the higher costs in New York City), the Consultants included a 25 percent premium on the fixed portion of the O&M costs. The results are that the NYPA O&M estimates for the Poletti units exceeded even the conservative O&M estimates for the proxy group of similar plants by up to $3.5 million in 2005.

Thus, for 2005, it appears that the combined O&M costs for the Poletti Steam and CCU can be reduced by approximately $4.0 million while maintaining plant reliability standards. This number may need to be adjusted after the SENY Consultants are able to complete their analyses.

4. Shared Services

The $17 million proposed by NYPA is comprised almost entirely of $15.8 million in allocated headquarters expense and $1.7 million in research and development ("R&D") expenses. The R&D expenses include $1.6 million for dues to the Electric Power Research Institute. The Major SENY Customers requested justification for the allocation of these costs to them. Although a list of programs was provided, the rationale for the allocation never was provided. Therefore, until the necessary justification is received, the $1.6 million allocation for EPRI expenses should be eliminated.

In addition, the Major SENY Customers are unable to verify the level of the costs, especially headquarters, or to reconcile the upward trend of these costs with overall utility industry efforts to reduce general and administrative expenses. A 2002 article in Transmission and Distribution World – an industry periodical – reported that electric utility staffing fell by 30 percent over the previous decade.[4] NYPA's overhead cost and staffing patterns do not reflect this trend. Pending a more complete justification of the overall level of administrative costs, the Major SENY Customers believe that an additional $0.5 million adjustment should be made in the 2005 Cost Study until such time as a much-needed, more comprehensive study of these costs is completed.

5. Other Expenses

These expenses are, as the name suggests, a collection of not-elsewhere-classified costs. NYPA has proposed to increase this category by $1 million in 2005. The Major SENY Customers believe, however, that the new "asset retirement charge", which covers the future demolition and site restoration for the new 500 MW combined cycle plant, the retired Poletti steam plant, and the demineralizer for the Poletti steam unit, is excessive and recommend a reduction of $1 million.

NYPA's projections of the future asset retirement charge used an inflation estimate of 3.5 percent and a discount rate of 4.75 percent. The Major SENY Customers believe that the former is overstated by 1.0 percent and the latter understated by 1.0 percent. When these adjustments are made, the revenue requirement for Poletti demolition falls from $3.7 million to approximately $2.7 million annually.

As noted above, the total of the SENY Customers' revenue requirement adjustments to date, is approximately $51.3 million for 2005. In addition, as noted earlier, further investigation is awaiting receipt of responses to outstanding discovery requests. Depending on those responses, the Major SENY Customers may request additional

[4] Transmission and Distribution World, September 1, 2002. <http://www.findarticles.com/p/articles/mi_m0CXO/is_2002_Sept_1/ai_91812913>.

adjustments to the 2005 Rate Plan. For example, one potential issue is whether the amortization period used for Post-Retirement Benefits Other Than Pensions ("PBOPS") is too short. In any event, as noted earlier, deferral of action on the Rate Plan is necessary to allow the discovery process to be completed and for the parties to properly structure their future contractual arrangements.

POINT III

NYPA SHOULD INVESTIGATE WAYS TO MODERATE THE RATE INCREASES BEYOND WHAT THE CORRECTED COST STUDY REFLECTS

In addition to the adjustments necessary to correct the 2005 Cost Study that are noted above, NYPA should look for additional ways to moderate the proposed rate increase to the Major SENY Customers on the following grounds: (1) the Major SENY Customers already are subject to current and future excessive energy rate increases; and (2) the Supplemental Agreements do not contemplate rate increases of the magnitude proposed here.

1. The Energy Rates of Major SENY Customers Are Increasing At An Alarming Rate

In rendering a decision on the proposed rate increase, the Major SENY Customers respectfully request that the Board of Trustees consider the very difficult budget constraints facing those customers. Each of the Major SENY Customers faces substantial budget deficits in upcoming years (e.g., the City is working to close an almost $3.0 billion budget deficit for fiscal year 2006). With respect to energy rates, in 2004, some or all of the Major SENY Customers already have been burdened with a 6.5 percent increase in NYPA electric production rates (effective April 1, 2004), a 16.0 percent increase in Con Edison steam rates (effective October 1, 2004) and a 9.8 percent increase in Con Edison natural gas rates (effective October 1, 2004). The Con Edison steam and natural gas rate cases also call for additional rate increases in 2006. In addition, the SENY Customers are facing very substantial annual increases in the electric delivery rates charged by Con Edison in each of the next three years, starting April 1, 2005 (Con Edison requested an increase of approximately 43 percent for the first rate year alone). On top of all this, NYPA now is proposing to increase the Major SENY Customers' cost of electric supply by another 27.8 percent on January 1, 2005. The rate request is extreme and is one that Major SENY Customers simply cannot shoulder for 2005.

Customer impact is an important regulatory concern and one that regulators often cite in seeking ways to moderate increases so that customers are not unduly impacted by very large rate increases. To achieve rate moderation, regulators such as the New York State Public Service Commission often utilize multi-year rate plans, defer expenses, extend amortization periods and/or defer the recognition of regulatory gains in order to reduce or "smooth" the bill impacts on customers. The Major SENY Customers believe that a 27.8 percent increase in rates would be considered extraordinary by most regulators and subject to rate moderation efforts. The argument for the use of rate moderators is particularly strong where, as here, management decisions by NYPA (e.g., the sale or closure of generating stations that had been dedicated to providing lower-cost power to SENY customers, as well as the limited term of the fixed-price supply contracts from the sold plants, and the accelerated amortization of the Poletti Steam Unit to coincide with its premature economic retirement in 2008) are a major cause of the spiraling cost of service.

In light of all the circumstances cited above, and as the parties work diligently to come to agreement on terms that would create a new long-term arrangement beyond December 31, 2006, the Major SENY Customers urge the NYPA Board of Trustees to combine the reduction of certain cost estimates with deferral and/or moderation of other cost elements in the proposed 2005 Rate Plan.

2. The Supplemental Agreements Do Not Contemplate Increases of the Magnitude Sought Here

The terms of the Supplemental Agreements are still in place, unless they are changed by mutual agreement. In its Notice, NYPA admits that the pricing arrangements are no longer appropriate in the current industry structure. However, the Supplemental Agreements do not contemplate rate hikes of the scale proposed by NYPA Staff. For example, the Supplemental Agreements generally provide that the SENY cost of service will be calculated in a manner generally consistent with that supporting the February 1, 1990 public customer rate increase. The NYPA Rate Plan, at page 22, states that the "2005 cost-of-service is generally consistent with 1990 and 2004 cost-of-service studies." However, the Major SENY customers do not concede that they are consistent. For example, there are major cost categories that were not recognized in the 1990 cost-of-service. These include risk management, PBOPS, ancillary services asset management charges, etc. The Major SENY Customers do not waive their right to assert that these components of the charges are not generally consistent with the 1990 cost-of-service.

Similarly, the Supplemental Agreements allow NYPA to make modifications to the rate design. However, the Agreements also require that the changes in rate design have no net impact on the total electric bill. Obviously, this is a standard that NYPA cannot satisfy with the 2005 SENY Rate Plan.

Finally, the Supplemental Agreements provided Major SENY Customers with the right to transfer load, on six months notice, in the event that a cumulative two-year rate increase, based on cost of service, exceeds 7 percent. While this provision is not dispositive of the level of rate increase that NYPA can seek in any particular year, and does not prevent NYPA from seeking the 2005 SENY Rate Plan increase, it does indicate just how far removed the 2005 rate proposal is from what the parties anticipated in 1995. The single year rate increase at issue here is almost four times the level of the cumulative two-year increase that would have triggered an option for the Major SENY Customers to remove load from NYPA. Clearly, the sheer magnitude of the increase being sought here should cause NYPA to use more reasonable amortization periods, cost deferrals or similar available mechanisms, including available non-dedicated internal resources, to moderate this rate increase.

POINT IV

NYPA SHOULD PERFORM AN INDEPENDENT ORGANIZATIONAL REVIEW OF ITS OVERHEAD COSTS AND ITS RISK MANAGEMENT AND CONTROL FUNCTIONS TO IDENTIFY FURTHER OPPORTUNITIES FOR COST-CUTTING AND MANAGEMENT EFFICIENCIES

The SENY Consultants have indicated that almost all investor-owned utilities with whom they have worked over the last decade have undertaken thorough, independent organizational reviews with the aim of reducing overhead costs. In addition, there has been much discussion during the course of the long term agreement negotiations of how the increasingly market-driven environment in which NYPA is purchasing and producing power for its customers is demanding more complex and sophisticated planning and risk management techniques and controls to minimize customer costs without sacrificing reliability or service. It is with these two points in mind that the Major SENY Customers recommend that the Board of Trustees undertake an independent organizational review of its overhead and risk management and control functions with the goal of identifying further opportunities for cost-cutting and management efficiencies.

CONCLUSION

For the reasons set forth above, the Major SENY Customers request that action on the 2005 Rate Modification Plan be deferred until negotiations for long term agreements are completed (or terminated). In the event that the NYPA Board of Trustees moves to adopt new rates effective January 1, 2005, it first should reduce the rates contained in the 2005 Rate Plan to recognize the adjustments the Major SENY Customers have identified to date and then develop and implement a plan to provide additional rate moderation. Finally, the Trustees should initiate an independent organizational review to identify opportunities to reduce costs and improve management efficiencies.

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EXHIBIT C

DEPARTMENT OF CITYWIDE ADMINISTRATIVE SERVICES
OFFICE OF THE FIRST DEPUTY COMMISSIONER/GENERAL COUNSEL

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Martha K. Hirst
Commissioner

Lewis S. Finkelman
First Deputy Commissioner / General Counsel

Citywide Personnel Services

Facilities Management & Construction

Municipal Supply Services

Real Estate Services

Citywide Equal Employment Opportunity

Citywide Occupational Safety & Health

Transportation Services

The City Record

CityStore

December 20, 2004

Ms. Angela Graves
Deputy Secretary
New York Power Authority
123 Main Street
White Plains, NY 10601

Dear Ms. Graves:

As you are aware, this agency, on behalf of the City of New York ("City"), received notice at the end of September, 2004, of a rate increase that the New York Power Authority (NYPA) staff requested its Trustees to approve effective January 1, 2005. That notice came in the form of a NYPA Preliminary Staff Report, 2005 Rate Modification Plan for the Southeast New York Government Customers, dated September 21, 2004. At a public forum on the proposed rates that NYPA held on November 16, 2004, the City commented on the proposal on the record. Later in the month, on November 29, the City along with certain other SENY customers (the New York City Housing Authority, the MTA and the Port Authority, referred to as the "Major Governmental Customers") filed joint comments on the proposed 2005 rates.

On December 13, 2004, the Major Governmental Customers reached a conceptual agreement with NYPA staff on the terms of a new Long Term Agreement ("LTA") and on rate levels for 2005. We understand that in accordance with the conceptual agreement, on December 14, 2004 the Power Authority's Trustees adopted final rates in the above-referenced proceeding that will raise revenues by $105 million. As a consequence of this agreement, and the impending completion of a new LTA, the City agrees that it is not necessary for NYPA to respond to our comments. It is our understanding, however, that all such comments will nonetheless remain part of the record of the proceeding.

Respectfully,

Lewis S. Finkelman

c: Joseph J. Carline, Assistant General Counsel, NYPA
S. Cohen, DCAS

NEW YORK CITY HOUSING AUTHORITY
250 BROADWAY • NEW YORK, NY 10007
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January 18, 2005

Ms. Angela Graves
Deputy Secretary
New York Power Authority
123 Main Street
White Plains, NY 10601

Re: New York State Register ID No. PAS-41-04-00006-P
2005 Governmental Customer Rates

Dear Ms. Graves:

On September 27, 2004, the Power Authority Trustees authorized publication of a notice of a proposed increase in electricity rates for 2005 in accordance with the State Administrative Procedures Act. Such notice was published on October 13, 2004 in the New York State Register. A public forum on the proposed rates was held on November 16, 2004, at which interested parties were offered an opportunity to comment on the proposal. Representatives of the City of New York ("City"), the Metropolitan Transportation Authority ("MTA") and the Port Authority of New York and New Jersey ("Port Authority") made statements for the record. On November 29, 2004, the City, the New York City Housing Authority, the MTA and the Port Authority (the "Major Governmental Customers") filed joint comments on the Power Authority's proposed 2005 rates. No other comments were filed.

On December 13, 2004 the Power Authority and the Major Governmental Customers reached a conceptual agreement on the terms of a new Long Term Agreement ("LTA") and on rate levels for 2005. In accordance with the conceptual agreement, on December 14, 2004 the Power Authority's Trustees adopted final rates in the above-referenced proceeding that will raise revenues by $105 million, instead of the $133 million proposed in September.

As a consequence of this agreement, and the impending completion of a new LTA, New York City Housing Authority agrees that it is not necessary for the Power Authority to respond to the comments made by the Major Governmental Customers at the public forum and in writing on November 29, 2004. The comments of the Major Governmental Customers should nonetheless remain part of the record of the proceeding.

Very truly yours,

William Steinmann

William Steinmann,
Director
Energy Department