

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

**March 29, 2011**

**Table of Contents**

<b><u>Subject</u></b>	<b><u>Page No.</u></b>	<b><u>Exhibit</u></b>
<b>1. Consent Agenda:</b>	3	
<b>a.</b> Minutes of the Regular Meeting held on January 25, 2011	4	
<b>b.</b> Power for Jobs Program – Extended Benefits	5	“1b-A-1”; “1b-A-2”
<b>c.</b> Allocation of 3,070 kW of Hydropower ( <b>TABLED</b> )	8	
<b>d.</b> St. Lawrence/Clark Energy Center – Microwave Communication System Upgrade – Increase in Capital Expenditure Authorization and Contract Award	9	
<b>e.</b> Procurement (Services) and Other Contracts – Business Units and Facilities – Awards, Extensions and/or Additional Funding	12	“1e-A”; “1e-B”
<b>f.</b> Annual Review and Approval of Guidelines and Procedures for and Annual Report of the Disposal of Personal Property	21	“1f-A”; “1f-A-1”
<b>g.</b> 2010 Annual Report of Procurement Contracts, Guidelines for Procurement Contracts and Annual Review of Open Procurement Service Contracts	23	“1g-A-1” – “1g-A-3”
<b>h.</b> Annual Review and Approval of Guidelines and Procedures for the Disposal of Real Property, Guidelines and Procedures for the Acquisition of Real Property and Annual Report for the Disposal of Real Property	25	“1h-A” – “1h-C”
<b>i.</b> Annual Review and Approval of Certain Authority Policies	27	“1i-A” – “1i-L”
<b>j.</b> Annual Review and Approval of Guidelines for the Investment of Funds and 2010 Annual Report on Investment of Authority Funds	29	“1j-A”
<b>k.</b> New York Power Authority’s Annual Strategic Plan	32	“1k-A”; “1k-B”
<b>Resolution</b>		

<u>Subject</u>	<u>Page No.</u>	<u>Exhibit</u>
<b>Discussion Agenda:</b>		
2. Q&A on Reports from:		
a. President and Chief Executive Officer	35	“2-A”
b. Chief Operating Officer	37	“2-B”
c. Chief Financial Officer	38	“2-C”
3. NYPA’s Governmental Customer Production Rate and Delivery Rate Structure Redesign – Notice of Proposed Rule Making Resolution	39	“3-A”
4. 2010 Financial Reports Pursuant to Section 2800 of the Public Authorities Law and Regulations of the Office of the State Comptroller Resolution	45	“4-A”; “4-B”
5. RM Flynn Power Plant 2011 Major Outage – Capital Expenditure Authorization Request Resolution	47	
6. Niagara Power Project – Lewiston Pump Generating Plant Life Extension and Modernization Program – GSU Installation – Contract Award Resolution	50	
7. Niagara Power Project – Lewiston Pump Generating Plant Life Extension and Modernization Program – Pothead Replacement – Contract Award Resolution	53	
8. NERC Reliability Standards Compliance Security Upgrades Capital Expenditure Authorization Request Resolution	56	
9. Motion to Conduct an Executive Session	58	
10. Motion to Resume Meeting in Open Session	59	
11. Next Meeting	60	
12. Closing	61	

Minutes of the Annual Meeting of the Power Authority of the State of New York held via videoconference at the following participating locations at approximately 11:00 a.m.

- 1) New York Power Authority, 123 Main Street, White Plains, NY
- 2) New York Power Authority, 95 Perry Street, Buffalo, NY
- 3) Harris Beach PLLP, 99 Garnsey Road, Pittsford, NY

The Members of the Board present were:

Michael J. Townsend, Chairman  
Jonathan F. Foster, Vice Chairman  
D. Patrick Curley, Trustee  
Eugene L. Nicandri, Trustee

---

Richard M. Kessel	President and Chief Executive Officer
Gil C. Quiniones	Chief Operating Officer
Francine Evans	Executive Vice President, Chief Administrative Officer and Chief of Staff
Elizabeth McCarthy	Executive Vice President and Chief Financial Officer
Edward Welz	Executive Vice President and Chief Engineer – Power Supply
Thomas Antenucci	Senior Vice President – Power Supply Support Services
Jordan Brandeis	Senior Vice President – Power Resource Planning and Acquisition
Steve DeCarlo	Senior Vice President – Transmission
Bert Cunningham	Senior Vice President – Corporate Communications
Thomas DeJesu	Senior Vice President – Public and Governmental Affairs
Paul Finnegan	Senior Vice President – Public, Governmental and Regulatory Affairs
William Nadeau	Senior Vice President – Energy Resource Management
James Pasquale	Senior Vice President – Marketing and Economic Development
Donald Russak	Senior Vice President – Corporate Planning and Finance
Joan Tursi	Senior Vice President – Corporate Support Services
Paul Belnick	Acting Senior Vice President – Energy Services and Technology
John Canale	Vice President – Project Management
Thomas Concadoro	Vice President and Controller
Dennis Eccleston	Vice President – Information Technology/Chief Information Officer
Michael Huvane	Vice President – Marketing
Rocco Iannarelli	Vice President – Human Resources
Joseph Leary	Vice President – Community and Government Relations
Patricia Leto	Vice President – Procurement
Lesly Pardo	Vice President – Internal Audit
Karen Pasquale	Vice President – Enterprise Shared Services
Christine Pritchard	Vice President – Media Relations and Corporate Communications
Randy Crissman	Vice President – Technical Compliance
Scott Scholten	Vice President and Chief Risk Officer
Vincent Esposito	Assistant General Counsel – Legislative and Regulatory Affairs
Karen Delince	Corporate Secretary
Brian McElroy	Treasurer
Paul Tartaglia	Regional Manager – SENY
Lisa Cole	Director – Financial Planning
Mike Lupo	Director – Marketing Analysis and Administration
Mark O’Connor	Director – Real Estate
Michael Saltzman	Director – Media Relations
Khalil Shalabi	Director – Power Resource Planning and Acquisition
Janis Archer	Strategy Change Specialist – Finance
Sarah Barish-Straus	Special Assistant – Project Development, President's Office
Patricia Lombardi	Associate Engineer – Hydro/Transmission

March 29, 2011

Lorna Johnson	Assistant Corporate Secretary
Oksana Karaczewsky	Senior Compliance Specialist – Procurement
Sheila Baughman	Senior Secretary – Corporate Secretary’s Office
Lisa Farrell	Executive Secretary to CEO – President's Office
Timothy Carey	CompUSA
Christopher Russo	Principal, Charles River Associates
Kenneth Deon	Managing Partner, KPMG LLP
Christian Alexander	Visitor

---

Chairman Townsend presided over the meeting. Corporate Secretary Delince kept the Minutes.

*Chairman Michael Townsend congratulated new Trustee, Mr. John Dyson, in absentia, on his appointment as Trustee by the Senate on Monday, March 28<sup>th</sup>, and welcomed him to the Board.*

1. Consent Agenda

*Trustee D. Patrick Curley recused himself from voting on item 1c, Allocation of 3,070 kW of Hydropower. Chairman Townsend said that item 1c will be tabled and considered at the next Board meeting.*

*In response to a question from Trustee Eugene Nicandri, Ms. Karen Delince confirmed that items 1f (Personal Property Disposal Guidelines), 1g (Annual Report of Procurement Contracts) and 1h (Real Property Acquisition Guidelines) were approved by the Governance Committee prior to submission the Board for its approval.*

*In response to questions from Trustee Nicandri, Mr. Rocco Iannarelli said that staff adheres to all of the guidelines outlined in the policies being presented to the Board for approval in item 1i. Mr. Iannarelli said that over the last year staff has updated all the policies, making material changes, with the goal of enhancing and enforcing the policies to their fullest extent. In response to another question from Trustee Nicandri, Mr. Donald Russak said that the maintenance of the Authority's assets is captured in the Authority's overall strategic plan in the Power Supply Department's Business Plan and the related Power Supply Optimization Strategic Goal. He said that staff reevaluates the strategic plan annually and will include language in the next update that makes clearer the importance of the maintenance and enhancement of the Authority's infrastructure.*

*Vice Chairman Jonathan Foster said that, based on the agenda before the Board, in the future, he would ask that the Authority be mindful of the Trustees' time.*

a. **Approval of the Minutes**

*The Minutes of the Regular Meeting held on January 25, 2011 were unanimously adopted.*

**b. Power for Jobs Program – Extended Benefits**

The President and Chief Executive Officer submitted the following report:

SUMMARY

“The Trustees are requested to approve payments for Power for Jobs (‘PFJ’) restitution to the companies listed in Exhibit ‘1b-A-1.’ These companies have been evaluated for restitution and are due a restitution payment. The Trustees have approved similar restitution payments at past Trustees’ meetings. In addition, the Trustees are requested to authorize prospectively the payment of restitution to PFJ customers that subsequently are evaluated and determined to be due restitution in an aggregate amount not to exceed \$4 million.

BACKGROUND

“In July 1997, New York State enacted the PFJ program to provide low-cost power to businesses and not-for-profit corporations that agree to retain or create jobs in New York State. In return for commitments to create or retain jobs, successful applicants received three-year contracts for PFJ electricity.

“The PFJ program originally made 400 megawatts (‘MW’) of power available and was to be phased in over three years. As a result of the initial success of the program, the Legislature amended the PFJ statute to accelerate the distribution of the power and increase the size of the program to 450 MW. In May 2000, legislation was enacted that authorized additional power to be allocated under the PFJ program. Legislation further amended the PFJ program in July 2002.

“In 2005, provisions of the enacted State Budget extended the period PFJ customers could receive benefits until December 31, 2006. Chapter 645 of the Laws of 2006 (‘Chapter 645’) included provisions extending PFJ program benefits until June 30, 2007. Chapter 89 of the Laws of 2007 included provisions extending PFJ program benefits until June 30, 2008. Chapter 59 of the Laws of 2008 included provisions extending the PFJ program benefits until June 30, 2009. Chapter 217 of the Laws of 2009 included provisions extending the PFJ program benefits until May 15, 2010. Chapter 88 of the Laws of 2010 included provisions extending the PFJ program until June 2, 2010. Chapter 311 of the Laws of 2010 included provisions extending the program benefits until May 15, 2011.

“Chapter 645 also created the PFJ restitution obligation, which is now set forth in Economic Development Law (‘EDL’) §189(5) (second paragraph). This provision provides in pertinent part:

... for the period beginning January 1, 2006, for recipients who choose to elect a contract extension, and whose unit cost of electricity under the contract extension exceeds the unit cost of electricity of the electric corporation, the Power Authority shall reimburse the recipient for all dollars paid in excess of the unit cost of electricity of the electric corporation.

DISCUSSION

“As more specifically provided in EDL §189(5), restitution is based on whether the net amount paid by the customer for PFJ service exceeds the ‘unit cost of electricity’ of the host utility over the measurement period for the same quantity of electricity. Under current law, the measurement period begins January 1, 2006 and ends with the date that the eligible customer ceases to be in the PFJ program.

“The host utilities, in conjunction with the Authority and the Department of Public Service, determine what the otherwise applicable full-service electric rates of the host utility would have been for service throughout the measurement period; calculate what the customer charges would have been under those rates; compare that total to the total actual charges paid by the customer for PFJ electricity and determine whether the customer had net savings, overall, in the PFJ program or is due a restitution payment.

“Staff has evaluated five additional PFJ customers for restitution. Of those, four customers are eligible for restitution payments and are presented for approval as listed in Exhibit ‘1b-A-1.’ The fifth customer, listed in Exhibit ‘1b-A-2,’ had overall PFJ program savings, and therefore it is not eligible to receive restitution.

“The Authority will receive additional requests for restitution throughout the remaining life of the PFJ program. At this time, staff estimates that 184 customers in the PFJ program served by the following local utilities could potentially be eligible for restitution (Con Edison – 53 customers; National Grid – 95 customers; Long Island Power Authority – 17 customers; New York State Electric & Gas (‘NYSEG’) – 17 customers and Rochester Gas and Electric (‘RGE’) – 2 customers).

“Over the last several years, energy prices have stabilized so that there is little or no difference between the price of PFJ power and the power offered by the customer’s local utility. As a result, staff estimates restitution payments for the remaining PFJ customers will not exceed \$4 million for the period January 1, 2006 through May of this year.

“While the Trustees will not be asked for further authorization to make restitution payments within the \$4 million cap, information about restitution payments will be made available to the Trustees when requested.

#### FISCAL INFORMATION

“Funding of restitution payments to the four companies listed in Exhibit ‘1b-A-1’ is not expected to exceed \$98,000. Payments would be made from the Operating Fund. This is the tenth payment request to date, which, if approved, will bring the total approved for PFJ restitution payments to \$7.6 million. At this time, staff estimates that restitution payments to all remaining PFJ customers that subsequently are evaluated and determined to be due restitution will not exceed \$4 million.

#### RECOMMENDATION

“The Director – Market Analysis and Administration recommends that the Trustees approve the payment of PFJ restitution to the customers listed in Exhibit ‘1b-A-1,’ and authorize prospectively, the payment of restitution to PFJ customers that subsequently are evaluated and determined to be due restitution in a total amount not to exceed \$4 million.

“For the reasons stated, I recommend the approval of the above-requested action by adoption of a resolution in the form of the attached draft resolution.”

The following resolution, as submitted by the President and Chief Executive Officer, was unanimously adopted.

**RESOLVED, That based on staff’s recommendation, it is hereby authorized that payments be made for Power for Jobs (“PFJ”) restitution payments as described in the foregoing report of the President and Chief Executive Officer in the aggregate amount of up to \$98,000 for the companies listed in Exhibit “1b-A-1;” and be it further**

**RESOLVED, That based on staff’s recommendation, it is hereby authorized that payments be made for PFJ restitution to PFJ customers that subsequently are evaluated and determined to be due restitution, as described in the foregoing report of the President and Chief Executive Officer, in an aggregate amount not to exceed \$4 million; and be it further**

**RESOLVED, That it is hereby found that the foregoing amounts may properly be withdrawn from the Operating Fund to fund such payments; and be it further**

**RESOLVED, That such monies may be withdrawn, pursuant to the foregoing resolution, upon the certification on the date of such withdrawal by the Senior Vice President – Corporate Planning and Finance or the Treasurer that the amount to be withdrawn is not then needed for any of the purposes specified in Section 503(1)(a)-(c) of the General Resolution Authorizing Revenue Obligations, as amended and supplemented; and be it further**

**RESOLVED, That the Senior Vice President – Marketing and Economic Development or his designee be, and hereby is, authorized to negotiate and execute any and all documents necessary or desirable to effectuate the foregoing, subject to the approval of the form thereof by the Acting General Counsel; and be it further**

**RESOLVED, That the Chairman, the Vice Chairman, the President and Chief Executive Officer, the Chief Operating Officer and all other officers of the Authority are, and each of them hereby is, authorized on behalf of the Authority to do any and all things and take any and all actions and execute and deliver any and all certificates, agreements and other documents to effectuate the foregoing resolution, subject to the approval of the form thereof by the Acting General Counsel.**

c. **Allocation of 3,070 kW of Hydropower**

This item was tabled.

**d. St. Lawrence/Clark Energy Center – Microwave Communication System Upgrade – Increase in Capital Expenditure Authorization and Contract Award**

The President and Chief Executive Officer submitted the following report:

**SUMMARY**

“The Trustees are requested to approve an increase in capital expenditures in the amount of \$1.117 million and to approve the award of a contract to Aviat U.S., Inc. (‘Aviat’) in the amount of \$3,426,027 to upgrade the Microwave Communication System from the St. Lawrence/FDR Power Project (‘STL’) to the Frederick R. Clark Energy Center (‘CEC’), (the ‘Project’). This additional expenditure authorization will bring the total authorized by the Trustees for the project from \$4.683 million to \$5.8 million.

**BACKGROUND**

“Section 2879 of the Public Authorities Law and the Authority’s Guidelines for Procurement Contracts require the 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 or equipment purchase contracts in excess of \$3 million requires the Trustees’ approval.

“The microwave communication system supports the operation of the Bulk Power System transmission lines that are routed from STL to the Marcy Switchyard at CEC and serves as a back-up communication ‘link’ for the relay protection and control systems. The microwave communication system was built and commissioned in 1986; the equipment has reached the end of its operating life and spare parts are no longer available. An upgraded digital microwave system would ensure system reliability, provide a more efficient communication medium for data and expand the Authority’s capabilities to implement future ‘Smart Grid’ technology.

“At their meeting of March 23, 2010, the Trustees approved capital expenditures of \$4.683 million for the engineering, procurement, installation, testing and commissioning of the Project.

**DISCUSSION**

“The microwave communication system ‘link’ from STL to CEC contains four ‘repeater’ facilities. These repeater facilities ensure that the data is properly transmitted over the distance between the STL and CEC facilities. These repeater facilities are known as Belfort, Talcottville, Cooper Hill and Wilson Corners.

“The Project includes the replacement of all existing electronic equipment with ‘state-of-the-art’ hierarchical digital electronic equipment at STL, CEC and the four repeater facilities. The equipment to be replaced would include antennas and elliptical cables, lightning protection, dehydration equipment and channelization equipment. The Project includes the replacement of analog equipment serving the ‘spur link’ to the Adirondack substation.

“The work will be performed over a two-year period, with installation in 2011 and testing and commissioning in 2012.

“ The total estimated project cost to furnish and install an upgrade to the microwave communication system at STL, CEC and the four repeater facilities over this two-year period has increased by \$1.117 million from \$4.683 million to \$5.8 million as follows:

<b>Description</b>	<b>Previous Authorized Amount</b>	<b>Current Request</b>	<b>Total Authorized Amount</b>
Engineering	\$ 420,000	\$ 105,000	\$ 525,000
Installation Contractors	3,120,000	959,000	4,079,000
NYPA Installation Support	300,000		300,000
Project Mgt. & Const. Mgt.	620,000		620,000
Authority Indirect Expenses	223,000	53,000	276,000
<b>Total</b>	<b><u>\$4,683,000</u></b>	<b><u>\$1,117,000</u></b>	<b><u>\$5,800,000</u></b>

“This additional fund request results from increased scope as the design was refined, new batteries at several sites, a new tower at the Wilson Corners site, extra site work at Adirondack and the engagement of a new design consultant to finalize the engineering, as the original consultant ceased operations.

“The Authority issued an advertisement to procure bids for the procurement, installation, testing and commissioning of this project in the New York State *Contract Reporter* and bid packages were available as of April 28, 2010. Bid documents were downloaded electronically from the Authority’s Procurement Web site by 44 firms, including those that may have responded to a notice in the New York State *Contract Reporter*. The following firms submitted proposals for the options shown below, where Option 1 is to furnish and deliver the microwave equipment and components, Option 2 is for the Civil/Structural, Electrical and Mechanical Scope of Work to refurbish the sites of the repeater facilities and Option 3 is for the Scope of Work/Services required by Options 1 and 2 combined:

<b><u>BIDDER</u></b>	<b><u>OPTION 1</u></b>	<b><u>OPTION 2</u></b>	<b><u>OPTION 3</u></b>
Perras Excavating, Massena, NY	No bid	\$879,000.00	No bid
Mosely Associates, Inc., Goleta, CA	\$2,439,131.50	See Note	\$3,409,781.50
Aviat US, Inc., Santa Clara, CA	\$2,449,885.00	See Note	\$3,308,195.00

Note: Price included in Option 3.

“Authority staff performed an extensive evaluation of these proposals, including conducting post-bid meetings with the bidders, issuance of post-bid addenda and obtaining written clarifications to the Authority’s comments to further refine the bidders’ understanding of the technical and commercial requirements of the bidding documents. The proposal from Mosely was determined to be non-compliant with the Authority’s technical specifications, as the equipment proposed did not meet the modulation and line rate required, the proposed system reliability was less than required, the proposed radio equipment did not meet the data-rate and bandwidth required and the company’s experience is with narrowband systems, not broadband microwave systems, as required by the Authority. The proposal submitted by Perras for the site work, Option 2, was not further evaluated since Aviat’s inclusive pricing was lower. Based on the contractor’s qualifications, experience and competitive pricing, Authority staff recommends the award of a contract to Aviat, the lowest-priced bidder, which is qualified to perform such services and meets the bid specification requirements, in the amount of \$3,426,027, which includes an optional price of \$31,824 to dispose of the existing batteries at the various facilities and an optional price of \$86,008 for spare parts.

**FISCAL INFORMATION**

“Payment will be made from the Authority’s Capital Fund.

RECOMMENDATION

“The Senior Vice President – Power Supply Support Services, the Vice President – Project Management, the Vice President – Engineering, the Vice President – Information Technology/Chief Information Officer, the Regional Manager – Northern New York and the Project Manager – Power Supply Support Services recommend that the Trustees approve the award of a contract to Aviat US, Inc., for \$3,426,027 and authorize an increase in capital expenditures of \$1.117 million, bringing the total authorized for the upgrade of the microwave communication system to \$5.8 million.

“For the reasons stated, I recommend the approval of the above-requested action by adoption of a resolution in the form of the attached draft resolution.”

The following resolution, as submitted by the President and Chief Executive Officer, was unanimously adopted.

**RESOLVED, That pursuant to the Authority’s Expenditure Authorization Procedures, additional capital expenditures in the amount of \$1.117 million are hereby authorized in accordance with and as recommended in the foregoing report of the President and Chief Executive Officer, in the amount and for the purposes listed below:**

<b>Capital</b>	<b>Previous Authorized Amount</b>	<b>Current Request</b>	<b>Total Authorized Amount</b>
<b>Engineering, Procurement, Construction, Project Const. Mgt., Authority Direct &amp; Indirect</b>	<b>\$4,683,000</b>	<b>\$1,117,000</b>	<b>\$5,800,000</b>

**AND BE IT FURTHER RESOLVED, That pursuant to the Guidelines for Procurement Contracts adopted by the Authority, approval is hereby granted to award a contract to Aviat US, Inc., of Santa Clara, CA, as recommended in the foregoing report of the President and Chief Executive Officer, in the amount listed below:**

<u><b>Contractor</b></u>	<u><b>Contract Approval</b></u>
<b>Aviat U.S., Inc. Santa Clara, CA</b>	<b><u>\$3,426,027</u></b>

**AND BE IT FURTHER RESOLVED, That the Chairman, the Vice Chairman, the President and Chief Executive Officer, the Chief Operating Officer and all other officers of the Authority are, and each of them hereby is, authorized on behalf of the Authority to do any and all things and take any and all actions and execute and deliver any and all agreements, certificates and other documents to effectuate the foregoing resolution, subject to the approval of the form thereof by the Acting General Counsel.**

**e. Procurement (Services) and Other Contracts –  
Business Units and Facilities –  
Awards, Extensions and/or Additional Funding**

The President and Chief Executive Officer submitted the following report:

**SUMMARY**

“The Trustees are requested to approve the award and funding of the multiyear procurement contracts listed in Exhibit ‘1e-A,’ as well as the continuation and funding of the procurement contracts listed in Exhibit ‘1e-B,’ in support of projects and programs for the Authority’s Business Units/Departments and Facilities. Detailed explanations of the recommended awards and extensions, including the nature of such services, the bases for the new awards if other than to the lowest-priced bidders and the intended duration of such contracts, or the reasons for extension, the additional funding required and the projected expiration dates, are set forth in the discussion below.

**BACKGROUND**

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

“The Authority’s Expenditure Authorization Procedures (‘EAPs’) require the Trustees’ approval for the award of non-personal services, construction, equipment purchase or non-procurement contracts in excess of \$3 million, as well as personal services contracts in excess of \$1 million if low bidder, or \$500,000 if sole-source or non-low bidder.

“The Authority’s EAPs also require the Trustees’ approval when the cumulative change- order value of a personal services contract exceeds the greater of \$500,000 or 25% of the originally approved contract amount not to exceed \$500,000, or when the cumulative change-order value of a non-personal services, construction, equipment purchase or non-procurement contract exceeds the greater of \$1 million or 25% of the originally approved contract amount not to exceed \$3 million.

**DISCUSSION**

**Awards**

“The terms of these contracts will be more than one year; therefore, the Trustees’ approval is required. Except as noted, all of these contracts contain provisions allowing the Authority to terminate the services for the Authority’s convenience, without liability other than paying for acceptable services rendered to the effective date of termination. Approval is also requested for funding all contracts, which range in estimated value from \$48,000 to \$5 million. Except as noted, these contract awards do not obligate the Authority to a specific level of personnel resources or expenditures.

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

**Extensions**

“Although the firms identified in Exhibit ‘1e-B’ 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. The Trustees’ approval is required because the terms of these contracts will exceed one year including the extension, the term of extension of these contracts will exceed one year and/or because the cumulative change-order limits will exceed the levels authorized by the EAPs in forthcoming change orders. The subject contracts contain provisions allowing the Authority to terminate the services at the Authority’s convenience, 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.

“Extension of the contracts identified in Exhibit ‘1e-B’ is requested for one or more of the following reasons: (1) additional time is required to complete the current contractual work scope or additional services related to the original work scope; (2) to accommodate an Authority or external regulatory agency schedule change that has delayed, reprioritized 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 or (4) the contractor provides a proprietary technology or specialized equipment, at reasonable negotiated rates, that the Authority needs to continue until a permanent system is put in place.

“The following is a detailed summary of each recommended contract award and extension.

### **Contract Awards in Support of Business Units/Departments and Facilities:**

#### **Corporate Support Services**

##### ***Corporate Support Services - Facility Management***

“The two contracts with **Bavier Design, LLC** (‘Bavier’) and **Environetics Group Architects, PC** (‘Environetics’) (Q11-4927; PO# TBA) would provide for architectural services for the Clarence D. Rappleyea Building, as needed. Services include, but are not limited to, reconfiguration /space planning services for Authority and tenant space in the Rappleyea Building, as well as the Authority’s power plant administrative facilities and visitors’ centers throughout New York State; architectural and interior design services, as needed; preparation of construction documents and construction administration activities. Architectural services are routinely used for the Rappleyea Building to ensure that the Authority is compliant with all applicable state and local codes for renovation projects and tenant build-outs. Such expertise is also used to maintain the Authority’s LEED-EB (Leadership in Energy and Environmental Design – Existing Building) Gold status. To this end, bid documents were downloaded electronically from the Authority’s Procurement website by 71 firms, including those that may have responded to a notice in the New York State *Contract Reporter*; 9 proposals were received and evaluated. The cost of a typical project was also calculated using each bidder’s rates. Based on the foregoing, staff recommends award of contracts to two firms: Bavier and Environetics, the two lowest-priced evaluated bidders, which are qualified to perform such services and meet the bid requirements, including LEED accreditation and experience. The award of contracts to two firms would benefit the Authority by ensuring sufficient coverage to support all such projects, accommodate tight schedules and multiple sites, as well as by fostering competitive pricing. The contracts would become effective on or about April 1, 2011 for an intended term of up to five years, subject to the Trustees’ approval, which is hereby requested. Approval is also requested for the aggregate amount expected to be expended for the term of the contract, \$375,000.

##### ***Corporate Support Services – Aviation and Travel Operations***

“The contract with **Turboprop East, Inc.** (‘Turboprop’) (Q10-4902; PO# TBA) would provide for maintenance services for the Authority’s Beechcraft King Air 350 series aircraft, in order to ensure continued safe and reliable operation. Services include scheduled inspections at prescribed intervals specified per the King Air series maintenance manual, unscheduled maintenance (including Aircraft On Ground field support), avionics installation, troubleshooting and repairs, as necessary, and in compliance with all applicable federal and state regulations and requirements, as well as industry standards. Bid documents were downloaded electronically from the Authority’s Procurement Web site by 10 firms, including those that may have responded to a notice in the New York State *Contract Reporter*; two proposals were received and evaluated. Staff recommends award of a contract to Turboprop, the lower-priced bidder, which is qualified to perform such services, meets the bid requirements and has provided satisfactory services under an existing contract for such work. The new contract would become effective on or about April 1, 2011 for an intended term of up to five years, subject to the Trustees’ approval, which is hereby requested. Approval is also requested for the total amount expected to be expended for the term of the contract, \$2,544,775.

**Energy Services and Technology ('ES&T')**

***Engineering and Design***

“The contracts with **Castle Power Solutions, LLC ('Castle')**, **Eaton Corporation ('Eaton')** and **General Electric International Inc. ('GEI')** (Q10-4885; PO#s TBA) would provide for power factor correction and power quality improvements for Energy Services Projects at Authority customers' facilities, on an 'as needed,' project-by-project basis. Services include, but are not limited to, audits to evaluate the power system profile in order to identify the preferred solution; engineering services to design the improvements and furnishing and installing equipment to provide suitable correction, installation and commissioning in a turnkey project. Such reactive power mitigation resulting from the installation of capacitors is expected to provide cost savings and improved power quality for Authority customers. To this end, bid documents were downloaded electronically from the Authority's Procurement Web site by 66 firms, including those that may have responded to a notice in the New York State *Contract Reporter*. Three proposals were received and evaluated. The bids were reviewed in detail and the cost of a typical project was also calculated using each bidder's unit rates. Staff recommends award of contracts to all three firms: Castle, Eaton and GE, which are qualified to perform such services and meet the bid requirements. Although Castle is the lowest-priced bidder, staff recommends award of contracts to all three firms in order to provide sufficient resources to accommodate the potential volume and/or scheduling of work that may be requested by Authority customers, as well as to provide customers with product choices. The contracts would become effective on or about April 1, 2011 for an intended term of up to five years, subject to the Trustees' approval, which is hereby requested. Approval is also requested for the aggregate total amount expected to be expended for the term of the contracts, \$5 million. Such contracts will be closely monitored for utilization levels, available approved funding and combined total expenditures. It should also be noted that all costs will be recovered by the Authority.

**Enterprise Shared Services ('ESS')**

***Information Technology***

“In March 2009, the Authority acquired and implemented a suite of Sophos software products (under a New York State Office of General Services (“OGS”) State Contract with an authorized distributor, SHI International Corp.) to protect desktop computers and servers at all Authority sites from security intrusion. The software enables the Authority to meet regulatory mandates established by New York State, the North American Electric Reliability Council ('NERC') and the Federal Energy Regulatory Commission ('FERC'), as well as an internal study on network security and vulnerability. In order to fulfill the terms and conditions of the vendor's quoted discount, a contract was issued on February 23, 2011 to **SHI International Corp. ('SHI')** (Quote #4294911; PO# 4500200071) in accordance with the Authority's Guidelines for Procurement Contracts and EAPs, subject to the Trustees' subsequent approval as soon as practicable. The subject contract would provide for updates, maintenance and technical support for the Sophos software product suite that protects the Authority against cyber network security intrusions. Currently such services are renewed annually. Since the Authority anticipates long-term use of these products and related services, staff considers it prudent to enter into a multiyear contract for maintenance services. This would benefit the Authority by providing uninterrupted high-quality reliable service and would also result in significant savings of approximately 46% over a three-year term. Based on the foregoing, staff recommends the award of a contract to SHI, an OGS State Contract vendor. The new contract would become effective on March 30, 2011 for an intended term of up to three years, subject to the Trustees' approval, which is hereby requested. Approval is also requested for the total amount expected to be expended for the term of the contract, \$84,300. It should be noted that SHI is a New York State-certified Minority Business Enterprise ('MBE').

**Human Resources**

***Talent Development***

“The contract with **Development Dimensions International, Inc. (‘DDI’) (Q11-4943; PO# TBA)** would provide for executive assessment services for two levels of Authority leadership (Mid-level and Business Unit) to measure the manager’s or executive’s performance against specific competencies, which can be used in evaluating the individual’s leadership skills and predicting future effectiveness. Staff recommends that the subject award be made on a single-source basis, since DDI has a unique assessment methodology, which is widely recognized as the ‘gold standard’ in the assessment industry and involves role playing and videotaping. The Authority has used this methodology consistently to assess many of its key executives and managers under a previous contract for such services, which was competitively bid. Staff submits that it would not be prudent or practical to change assessment methodologies at this time and that it is in the best interests of the Authority to retain DDI’s services, in order to continue to provide consistency in comparing future assessments with those performed previously. The new contract would become effective on or about April 1, 2011 for an intended term of up to five years, subject to the Trustees’ approval, which is hereby requested. Approval is also requested for the aggregate total amount expected to be expended for the term of the contract, \$175,000.

**Marketing & Economic Development (‘MED’)**

***Marketing Analysis & Administration***

“The contract with **Black & Veatch New York, LLP (‘Black & Veatch’) (Q10-4921; PO# TBA)** would provide for general electric rate consulting services on behalf of the Authority. Such services involve, but are not limited to, the following two general areas: (1) rate development, rate design, rate evaluations and analyses (with respect to the sale of the Authority’s electric commodity) for the Authority’s customer sectors, including SENY governmental and business customers, as well as municipal and other customers throughout the State; and (2) general rate, pricing, power contract evaluation, market analysis and support services for the Authority. To this end, bid documents were downloaded electronically from the Authority’s Procurement Web site by 72 firms, including those that may have responded to a notice in the New York State *Contract Reporter*; 6 proposals were received and evaluated on weighted criteria that included, but were not limited to, responsiveness and understanding of the work scope; soundness of the proposed methodology; breadth, depth, experience and expertise of the bidder’s team; quality and clarity of the proposal; references; compensation, etc. Based on the foregoing, staff recommends award of a contract to Black & Veatch, the lowest-priced bidder as well as one of the most qualified. The contract would become effective on or about April 1, 2011 for an intended term of up to five years, subject to the Trustees’ approval, which is hereby requested. Approval is also requested for the total amount expected to be expended for the term of the contract, \$2 million.

**Power Supply**

“The contract with **All State Fire Equipment of WNY (‘All State’) (6000118890; PO# TBA)** would provide for inspection and testing services for fire protection systems at the Niagara Power Project, in accordance with all applicable codes. Services include, but are not limited to, all labor, supervision, equipment and material to perform quarterly and annual tests and inspections of the Project’s fire protection systems, including semiannual inspection and testing of the fire suppression system for the ice breaker Latham. Bid documents were downloaded electronically from the Authority’s Procurement Web site by 34 firms, including those that may have responded to a notice in the New York State *Contract Reporter*; 2 proposals were received and evaluated. Staff recommends award of a contract to All State, the lower-priced bidder, which is qualified to perform such services and meets the bid requirements. The contract would become effective on or about April 1, 2011 for an intended term of up to four years, subject to the Trustees’ approval, which is hereby requested. Approval is also requested for the total amount expected to be expended for the term of the contract, \$60,000.

“The contract with **BIDCO Marine Group, Inc. (‘BIDCO’) (6000119132; PO# TBA)** would provide for penstock inspections of generating units at the Niagara Power Project’s Robert Moses Plant (‘RMNPP’). Services include, but are not limited to, all labor, supervision, technical expertise, equipment, tools and materials to perform

all operations and activities associated with such inspections and services, including supplying videotapes /DVDs and inspection reports. Bid documents were downloaded electronically from the Authority's Procurement Web site by 34 firms, including those that may have responded to a notice in the New York State *Contract Reporter*; 3 proposals were received and evaluated. Staff recommends award of a contract to BIDCO, the lowest-priced bidder, which is qualified to perform such services and meets the bid requirements. The contract would become effective on or about May 1, 2011 for an intended term of up to two years and eight months, subject to the Trustees' approval, which is hereby requested. Approval is also requested for the total amount expected to be expended for the term of the contract, \$100,000.

"Since 1991, the Authority has leased winter mooring space at the First Buffalo Marina ('Marina') for three of its vessels used to support critical ice boom operations. In the spring of 2008, the Marina operator (Ganco, Inc.) placed the property on the market and was no longer willing to lease the mooring space to the Authority. Ganco also refused the Authority's offer to purchase only that portion of the property leased by the Authority for winter ice boom operations. The Authority conducted an extensive search for alternative winter mooring sites and identified the Marina location as best suited for the Authority's short- and long-term needs. At their meeting of June 29, 2010, the Trustees authorized the acquisition of the entire Marina site. Since closing on the property on October 15, 2010, the Authority has administered contracts and collected fees for 2010-11 winter storage and 2011 summer slip rentals. In November 2010, staff solicited proposals (**Q10-4906**) for the services of a qualified and experienced marina management company with the demonstrated knowledge and resources to operate, maintain and manage the Marina. Bid documents were downloaded electronically from the Authority's Procurement website by 34 firms, including those that may have responded to a notice in the New York State *Contract Reporter*; three proposals were received and evaluated. Based on a thorough review of each bidder's proposal, including demonstrated knowledge, experience and capability to provide the required services, technical and safety considerations, as well as proposed compensation to the Authority, staff recommended award of a contract to **Brand-On First Buffalo Marina Inc. ('Brand-On')**, which is qualified to perform such services, meets the bid requirements and offers the highest compensation / percentage of return to the Authority at 12.25% of gross receipts. (Gross receipts shall mean the total amount received by or accruing to the Marina operator, its agents, employees and contractors by reason of the privileges granted under the contract, from any and all sales for cash or credit, for consumption, or use on or off the premises of any goods or services as outlined in the contract and approved by the Authority.) The Authority would receive 12.25% of the revenue collected by Brand-On for the winter storage and summer slip rental contracts, as well as park and launch activities. The Authority may also collect its share of the revenue received from any additional future Authority-approved services that may be offered at the Marina by the operator (e.g., concessions). In addition, Brand-On proposed greater Marina improvements than the other bidders, including a new security system with surveillance cameras, upgrades to the restroom, shower and office facilities, as well as new landscaping. Brand-On will fund such enhancements as part of its operating costs. Due to the need to commence services, the contract with **Brand-On (PO# 4500200149)** became effective on March 1, 2011, in accordance with the Authority's Guidelines for Procurement Contracts and EAPs and subject to subsequent Trustees' approval as soon as practicable. Such interim approval to award was obtained in order to allow Brand-On sufficient time to become familiar with the Marina facilities and responsibilities, as well as for the timely installation of docks and launching of vessels for the summer season, which commences on April 15. The intended term of the contract is up to five years, subject to the Trustees' approval, which is hereby requested. No funding is requested since this is a revenue-generating contract. While not presently certified, Brand-On is a Woman-owned Business, and has committed to obtaining New York State certification as such during the contract term.

"The contract with **Casella Waste Service ('Casella') (6000119914; PO# 4600002376)** would provide for refuse removal and disposal services for the St. Lawrence/FDR Power Project. Services include furnishing all necessary containers for refuse, recyclables, wood and insulators, as needed, and include the container, hauling, landfill and disposal fees. Bid documents were downloaded electronically from the Authority's Procurement website by 11 firms, including those that may have responded to a notice in the New York State *Contract Reporter*; one proposal was received and evaluated. Staff recommends award of a contract to Casella, the sole responding bidder, which is qualified to perform such services, meets the bid requirements and has provided satisfactory services under an existing contract for such work. (Reasons for the lack of other responses include, but are not limited to, the work was not in the scope of their services or was too small, lack of geographic proximity, or the bid documents were downloaded for information purposes only.) The new contract would become effective on or about April 1, 2011 for an intended term of up to three years, subject to the Trustees' approval, which is hereby requested. Approval is also requested for the total amount expected to be expended for the term of the contract, \$400,000.

“The contract with **General Electric International Inc. (‘GEII’) (6000117383; PO# TBA)** would provide for technical assistance services, on an ‘as needed’ basis, to support the Authority’s 500 MW Plant. Although the existing contract for such services was awarded on a sole source basis, staff attempted to identify additional / new firms that would be able to perform such services. To this end, bid documents were downloaded electronically from the Authority’s Procurement website by 95 firms, including those that may have responded to a notice in the New York State *Contract Reporter*; one proposal was received and evaluated. A crucial component of the work scope is the ability to submit technical questions for engineering review to the Power Answer Center (‘PAC’) and execute the recommendations of such PAC cases, which are proprietary to GE. Multiple vendors were unable to fulfill this work scope requirement and others downloaded the bid documents for information purposes only. GEII is the original equipment manufacturer and, as such, is uniquely qualified to provide such services. Based on the foregoing, staff recommends award of a contract to GEII, which is qualified to perform such services, meets the bid requirements and has provided satisfactory services under an existing contract for such work. Rates for the field engineer and specialty rates will be based on GE’s published rates in effect at the time of service. The new contract would become effective on or about April 1, 2011 for an intended term of up to three years, subject to the Trustees’ approval, which is hereby requested. Approval is also requested for the total amount expected to be expended for the term of the contract, \$300,000.

“The contract with **Hoerbiger Service Inc. (‘Hoerbiger’) (6000118082; PO# TBA)** would provide for maintenance services for reciprocating gas compressors serving gas turbines at the Richard M. Flynn and the Small Clean Power Plants. Services include, but are not limited to, annual inspections / maintenance and technical services for each of the units. Bid documents were downloaded electronically from the Authority’s Procurement website by 17 firms, including those that may have responded to a notice in the New York State *Contract Reporter*; one proposal was received and evaluated. The principal reasons for the lack of other responses include, but are not limited to: work scope was too technical, they did not have the capability or expertise to perform such services, they were unable to perform the required work and/or to support emergent issues on a 24/7 basis or they downloaded documents for information purposes only. Staff recommends award of a contract to Hoerbiger, which is qualified to perform such services, meets the bid requirements and has provided satisfactory services for such work in the past. Hoerbiger has both the expertise and the machine shop capabilities to handle the repairs that the Authority would require. The contract would become effective on or about April 1, 2011 for an intended term of up to three years, subject to the Trustees’ approval, which is hereby requested. Approval is also requested for the total amount expected to be expended for the term of the contract, \$600,000.

“The contract with **MOST Healthcare Systems, Inc. (‘MOST’) (6000118309; PO# TBA)** would provide for on-site physical examinations and other medical services, including respirator fit testing, for approximately 50 employees at the 500 MW Plant, in accordance with all applicable safety and health standards. Such examinations will be performed on-site in a self-contained mobile medical testing facility (trailer) to be provided by the aforementioned firm. Bid documents were downloaded electronically from the Authority’s Procurement website by 13 firms, including those that may have responded to a notice in the New York State *Contract Reporter*; two proposals were received and evaluated. Staff recommends award of a contract to MOST, the lower-priced bidder, which is qualified to perform such services, meets the bid requirements and has provided satisfactory services under an existing contract for such work. The contract would become effective on or about April 1, 2011 for an intended term of up to three years, subject to the Trustees’ approval, which is hereby requested. Approval is also requested for the total amount expected to be expended for the term of the contract, \$48,000.

“The contract with **Test Products, Inc. (‘TPI’) (Q11-4937; PO# TBA)** would provide for capacity testing of station batteries and associated chargers located in power generating stations and switching stations owned and/or operated by the Authority. The battery systems to be tested are multi-cell systems of 25-250 volts for use as an emergency direct current power supply; capacities range up to 3,900 amp-hour at the eight-hour rate. Such testing is performed to determine the physical, chemical and electrical condition of the equipment, as well as the available capacity of the batteries. Bid documents were downloaded electronically from the Authority’s Procurement Web site by 19 firms, including those that may have responded to a notice in the New York State *Contract Reporter*; three proposals were received and evaluated. The proposal submitted by the lowest-priced bidder did not fully meet the requirements of the specification, as more fully set forth in the Award Recommendation memorandum. Staff therefore recommends award of a contract to TPI, the next lowest-priced bidder, which is more qualified to perform such services, demonstrated full compliance with the technical specifications and other bid requirements, and has provided satisfactory services under an existing contract for such work. The new contract would become effective

on or about April 1, 2011 for an intended term of up to five years, subject to the Trustees' approval, which is hereby requested. Approval is also requested for the total amount expected to be expended for the term of the contract, \$325,000.

"The contract with **Thinking Outside the Square, Inc. ('TOTS') (6000119002; PO# TBA)** would provide for maintenance and repair of displays and exhibits at the Niagara Power Project's Power Vista Visitors' Center. Services consist of providing all labor, supervision, equipment and supplies to maintain and repair displays, and include, but are not limited to, lighting, audio, carpentry, electrical and mechanical work, graphic design and fabrication, to be performed on a scheduled or 'as needed' basis, as well as pickup, delivery and installation, as may be required. Bid documents were downloaded electronically from the Authority's Procurement website by 14 firms, including those that may have responded to a notice in the New York State *Contract Reporter*; two proposals were received and evaluated. Staff recommends award of a contract to TOTS, the lower-priced bidder, which is qualified to perform such services and meets the bid requirements. The contract would become effective on or about April 1, 2011 for an intended term of up to four years, subject to the Trustees' approval, which is hereby requested. Approval is also requested for the total amount expected to be expended for the term of the contract, \$100,000.

"In order for the Authority to ensure compliance by its vendors / suppliers / contractors with its technical specifications, as well as all applicable ISO quality requirements, design drawings, industry codes and standards, the Authority retains the temporary services of experienced Quality Assurance ('QA') engineers / inspectors and metallurgists for assignments on an on-call, 'as needed' basis. Such QA services include, but are not limited to, monitoring, surveillance and inspection of field work performed by contractors at Authority facilities or manufacturers' / vendors' activities at their respective factories / facilities worldwide, in order to ensure that purchased equipment, components, materials or systems and/or the installation thereof meets specifications. Services may also include metallurgical evaluation of welding, corrosion, coatings, failure mechanism and prevention. To this end, bid documents were downloaded electronically from the Authority's Procurement website by 97 firms, including those that may have responded to a notice in the New York State *Contract Reporter*; 9 proposals were received and evaluated. Staff recommends award of contracts to four firms, **ASR International Corp. ('ASR'), Bureau Veritas North America, Inc. ('Bureau Veritas'), Procurement Services Consulting, Inc. ('PSCI') and Quality Inspection Services, Inc. ('QISI'), a wholly owned subsidiary of APPLUS RTD (Q10-4925; PO#s TBA)**, the lowest-priced bidders, which are qualified to perform such services and meet the bid requirements. The award of contracts to four firms would enable the Authority to benefit from their respective complementary strengths and areas of expertise, as well as to utilize the lowest-cost provider for the appropriate services required. The contracts would become effective on or about April 1, 2011 for an intended term of up to five years, subject to the Trustees' approval, which is hereby requested. Approval is also requested for the aggregate total amount expected to be expended for the term of the contracts, \$2 million. Such contracts will be closely monitored for utilization levels, available approved funding and combined total expenditures. It should be noted that ASR is a NYS-certified Minority Business Enterprise ('MBE').

#### **Contract Extensions and/or Additional Funding:**

##### **Power Supply**

"At their meeting of February 24, 2004, the Trustees approved the award of a competitively bid contract to **Alstom Power Inc. ('Alstom')**, in the amount of \$25.1 million, for the procurement of a second set of eight turbines and other replacement equipment for the Allis-Chalmers ('AC') units, as part of the Life Extension and Modernization ('LEM') Program at the St. Lawrence/FDR Power Project ('St. Lawrence'). Such Work was separated into two contracts: Contract #**4600001236** for the procurement of major components, including fabrication of new turbine runners and rehabilitation of head covers at Alstom's facility and Contract #**4600001237** for labor and materials required to refurbish the existing AC units at the St. Lawrence facility, e.g., field machining the discharge ring. Additional funding was subsequently authorized by the Trustees, most recently at their meeting of September 23, 2008, for turbine overhaul and associated work under the subject contracts, increasing the aggregate compensation ceiling to \$33.3 million. Alstom has been successfully furnishing and rehabilitating the units in accordance with the LEM schedule, currently expected to be completed by the end of 2013; 13 of the 16 units have been completed to date. Recently, several emergent issues were identified, which will require additional work and funding. Such issues include, but are not limited to: 1) lead and PCB paint abatement of the intermediate and outer head covers at Alstom's facilities; 2) additional shop work related to additional stiffeners on the outer and

intermediate head covers, turbine guide bearing support, turbine shaft, servo motors and wicket gate levers at Alstom's facilities; and 3) additional site work related to Non-Destructive Testing and weld repair of the bottom ring, the addition of 30 stiffeners to the stayring, stayring flange repairs, wall repair plates for the discharge ring and stayring flange weld build-up. Staff estimates that an additional \$4.5 million will be required to correct as-found conditions with the turbine components for the balance of LEM and to accommodate the aforementioned additional required scope. The Trustees are requested to approve the additional funding requested, increasing the aggregate compensation ceiling to \$37.8 million. It should be noted that this amount is within the previously approved Capital Expenditure Authorization Request ('CEAR').

"Blueback herring has been identified by the U.S. Fish and Wildlife Service ('FWS'), the New York State Department of Environmental Conservation ('DEC') and the Federal Energy Regulatory Commission ('FERC') as the key fish species requiring downstream passage protection at the Crescent Hydroelectric Project ('Project'). Pursuant to the FERC Orders of January and July 2007, the Authority was mandated to install and test an acoustic fish deterrence system at the Project. On June 29, 2010, the Authority awarded a competitively bid contract to **Normandeau Associates, Inc. (4500190871)**, for a one-year term and an approved amount of \$425,000, to conduct a hydroacoustic study at the Project. The purpose of the study was to ascertain the effectiveness of the reconfigured fish deterrence system on juvenile blueback herring ('JBBH') as they out-migrate. Near-drought conditions followed by a major flood event in 2010 precluded the collection of sufficient useful data to assess the effectiveness of the acoustic fish deterrence system and resulted in cessation of the study; the appropriate regulatory agencies were duly notified. In January 2011, FERC issued a letter requiring that a new study be performed in 2011, in accordance with FERC's 2007 Orders. A two-year extension is now requested to comply with this mandate and to allow Authority staff and contractors sufficient time to ensure the acoustic deterrence system is performing optimally. Preliminary information collected in 2010 suggests that the system may need to be adjusted to more effectively inhibit JBBH from approaching the Project. Furthermore, depending upon the results of a separate contract to install, maintain and recommend improvements to the current system, Authority staff may request that Normandeau delay the hydroacoustic study until 2012, subject to approval by the appropriate regulatory agencies. The current contract amount is \$424,291; staff anticipates that an additional \$425,000 will be required for the extended term. The Trustees are requested to approve the extension of the subject contract through June 28, 2013, as well as the additional funding requested, thereby increasing the approved compensation ceiling to \$850,000.

#### FISCAL INFORMATION

"Funds required to support contract services for various Business Units/Departments and Facilities have been included in the 2011 Approved O&M Budget. Funds for subsequent years, where applicable, will be included in the budget submittals for those years. Payment will be made from the Operating Fund.

"Funds required to support contract services for capital projects have been included as part of the approved capital expenditures for those projects and will be disbursed from the Capital Fund in accordance with the project's Capital Expenditure Authorization Request. Payment for certain contracts in support of Energy Services Programs will be made from the Energy Conservation Effectuation and Construction Fund.

#### RECOMMENDATION

"The Deputy General Counsel, the Vice President – Project Management, the Vice President – Engineering, the Vice President – Environment, Health and Safety, the Vice President – Technical Compliance, the Vice President – Procurement, the Vice President – Information Technology and Chief Information Officer, the Director – Engineering and Design (ES&T), the Director – Corporate Support Services, the Regional Manager – Northern New York, the Regional Manager – Central New York, the Regional Manager – Western New York, the Regional Manager – Southeastern New York and the General Manager – Clark Energy Center recommend that the Trustees approve the award of multiyear procurement contracts to the companies listed in Exhibit '1e-A,' and the extension and/or additional funding of the procurement contracts listed in Exhibit '1e-B,' for the purposes and in the amounts discussed within the item and/or listed in the respective exhibits.

“For the reasons stated, I recommend the approval of the above-requested action by adoption of a resolution in the form of the attached draft resolution.”

The following resolution, as submitted by the President and Chief Executive Officer, was unanimously adopted.

**RESOLVED, That pursuant to the Guidelines for Procurement Contracts adopted by the Authority, the award and funding of the multiyear procurement services contracts set forth in Exhibit “1e-A,” attached hereto, are hereby approved for the period of time indicated, in the amounts and for the purposes listed therein, as recommended in the foregoing report of the President and Chief Executive Officer; and be it further**

**RESOLVED, That pursuant to the Guidelines for Procurement Contracts adopted by the Authority, the contracts listed in Exhibit “1e-B,” attached hereto, are hereby approved and extended for the period of time indicated, in the amounts and for the purposes listed therein, as recommended in the foregoing report of the President and Chief Executive Officer; and be it further**

**RESOLVED, That the Chairman, the Vice Chairman, the President and Chief Executive Officer, the Chief Operating Officer and all other officers of the Authority are, and each of them hereby is, authorized on behalf of the Authority to do any and all things, take any and all actions and execute and deliver any and all agreements, certificates and other documents to effectuate the foregoing resolution, subject to the approval of the form thereof by the Acting General Counsel.**

**f. Annual Review and Approval of Guidelines and Procedures for and Annual Report of the Disposal of Personal Property**

The President and Chief Executive Officer submitted the following report:

**SUMMARY**

“The Trustees are requested to review and approve the Guidelines and Procedures for the Disposal of Personal Property (‘Personal Property Guidelines’), which address the disposal of Authority-owned materials, tools, equipment and vehicles with a value in excess of \$5,000, in compliance with the Public Authorities Accountability Act (‘PAAA’) of 2005 and the Public Authorities Law (‘PAL’), as set forth in Exhibit ‘1f-A’ and attached hereto. The Trustees are also requested to review and approve the 2010 Annual Report of the Disposal of Personal Property, as set forth in Exhibit ‘1f-A-1’ and attached hereto.

**BACKGROUND**

“On January 13, 2006, Governor Pataki signed the PAAA into law, codifying the Model Governance Principles established for public authorities in 2004 by the Governor’s Advisory Committee on Authority Governance. Among its provisions, the PAAA established rules for the disposal of public authority personal property. The law also required each authority to draft guidelines consistent with the legislation dealing with these issues, to review and approve such guidelines annually and to prepare an annual report of the disposal of personal property (including the full description, name of the purchaser and price received for all such property disposed of by the authority during such period). Such Guidelines were initially approved by the Trustees at their meeting of March 28, 2006 and have been reviewed annually and amended as deemed advisable and necessary since then.

“Chapter 506 of the Laws of 2009 made substantial amendments to the PAL, including changes to certain procedures governing the disposal of personal property that were incorporated in the Authority’s Personal Property Guidelines. Such Guidelines, as last amended and presented to the Authority’s Governance Committee on February 23, 2010, were reviewed and approved by the full Board of Trustees at their meeting of the same date.

**DISCUSSION**

“The Personal Property Guidelines set forth the methodology detailing the Authority’s policy regarding the use, award, monitoring and reporting of contracts for the disposal of personal property and designate a Contracting Officer responsible for the Authority’s compliance with, and enforcement of, such Guidelines.

“Staff has reviewed the Personal Property Guidelines and recommends additional changes to make them more consistent with the law, to clarify or improve the Authority’s disposal process, and also to reflect titular or organizational changes in the Authority. The most significant of such changes, as reviewed by the Governance Committee on March 14, 2011, are highlighted below:

- Changes the designated title of the Contracting Officer to account for organizational changes, as more fully described in II.A and revised throughout the document, and of the Director – Site Purchasing & Materials Management as set forth in V.B and changed throughout the document.
- Modifies the procedure for disposal of Property from soliciting proposals from ‘at least three’ bidders to ‘qualified’ bidders to reflect realistic market conditions while still encouraging full and adequate competition, as more fully set forth in Article VI.
- Clarifies that the methods by which all bids shall be publicly disclosed include posting to the Authority’s internet website to formalize current Authority practice, as further set forth in VI.A.3.c.
- Expands on and clarifies disposal options where no bids or no acceptable bids are received by the Authority, as further described in VI.B.

- Recognizes and establishes disposals as part of a competitive procurement, including trade-ins, as a method of disposal and sets forth the requirements for such disposals to ensure compliance with the PAL, as further described in XII.A.
- Clarifies that the return to the original equipment manufacturer is only permissible where the Fair Market Value of the Property does not exceed \$15,000, as further described in XII.B.
- Restates and clarifies the statutory requirements for an explanatory statement in connection with disposals by negotiation, as further set forth in XIV.D.

“Such changes, as well as a number of non-substantive and editorial or stylistic changes, were made to the Guidelines, as set forth in the redlined copy attached hereto as Exhibit ‘1f-A.’

“After being reviewed and approved annually by the Trustees on or before the 31<sup>st</sup> day of March, the Guidelines and corresponding Annual Report must be filed with the State Comptroller, the Director of the Division of the Budget, the Commissioner of General Services, the State Legislature and the Authorities Budget Office and posted on the Authority’s internet website.

#### FISCAL INFORMATION

“There will be no financial impact on the Authority.

#### RECOMMENDATION

“The Vice President – Procurement and the Vice President – Internal Audits recommend that the Trustees approve the Guidelines and Procedures for the Disposal of Personal Property for the disposition of Authority-owned materials, tools, equipment, and vehicles with a value in excess \$5,000, and the corresponding 2010 Annual Report of the Disposal of Personal Property, as set forth in Exhibits ‘1f-A’ and ‘1f-A-1,’ respectively.

“For the reasons stated, I recommend the approval of the above-requested action by adoption of a resolution in the form of the attached draft resolution.”

The following resolution, as submitted by the President and Chief Executive Officer, was unanimously adopted.

**RESOLVED, That pursuant to the provisions of the Public Authorities Accountability Act of 2005 and the Public Authorities Law, the Authority hereby reviews and approves the Guidelines and Procedures for the Disposal of Personal Property, as set forth in Exhibit “1f-A” and attached hereto; and be it further**

**RESOLVED, That pursuant to the provisions of the Public Authorities Accountability Act of 2005 and the Public Authorities Law, the Authority hereby reviews and approves the 2010 Annual Report for the Disposal of Personal Property, as set forth in Exhibit “1f-A-1” and attached hereto; and be it further**

**RESOLVED, That the Chairman, the Vice Chairman, the President and Chief Executive Officer, the Chief Operating Officer and all other officers of the Authority are, and each of them hereby is, authorized on behalf of the Authority to do any and all things, take any and all actions and execute and deliver any and all agreements, certificates and other documents to effectuate the foregoing resolution, subject to the approval of the form thereof by the Acting General Counsel.**

**g. 2010 Annual Report of Procurement Contracts, Guidelines for Procurement Contracts and Annual Review of Open Procurement Service Contracts**

The President and Chief Executive Officer submitted the following report:

**SUMMARY**

“The Trustees are requested to approve the 2010 Annual Report of Procurement Contracts (‘Annual Report’) (Exhibit ‘1g-A-3’) and the Guidelines for Procurement Contracts (‘Guidelines’) (Exhibit ‘1g-A-2’) and to review open service contracts exceeding one year that were active in 2010 as detailed in the Annual Report (Exhibit ‘1g-A-3’). An Executive Summary is set forth in Exhibit ‘1g-A-1.’

**BACKGROUND**

“Section 2879 of the Public Authorities Law (‘PAL’) governs the administration and award of procurement contracts equal to or greater than \$5,000. Section 2879 of the PAL requires public authorities to adopt comprehensive guidelines detailing their operative policy and instructions concerning the use, awarding, monitoring and reporting of procurement contracts. The Authority’s Guidelines were adopted by the Trustees at their meeting of October 31, 1989 and were implemented as of January 1, 1990. The Guidelines have been amended as deemed advisable and necessary, and reviewed and approved annually since that date. The current Guidelines were last approved by the Trustees at their meeting of February 23, 2010.

“Section 2879 of the PAL also requires authorities to review and approve such guidelines annually and to file a report regarding procurement contracts with the Director of the Division of the Budget, the Department of Audit and Control, the Department of Economic Development, the Senate Finance Committee, the Assembly Ways and Means Committee and the Authorities Budget Office. The Annual Report must include a copy of the Authority’s current Guidelines, details concerning any changes to the Guidelines during the year and particular information concerning procurement contracts. For each procurement contract included in the report, the following information must be identified:

*[A] listing of all procurement contracts entered into [by the Authority], all contracts entered into with New York State business enterprises and the subject matter and value thereof, all contracts entered into with foreign business enterprises, and the subject matter and value thereof, the selection process used to select such contractors, all procurement contracts which were exempt from the publication requirements of article four-C of the economic development law, the basis for any such exemption and the status of existing procurement contracts.*

“Lastly, Section 2879 of the PAL requires an annual review by the Trustees of open service contracts exceeding one year. Those long-term service contracts exceeding one year and awarded after January 1, 1990 are also included in the Annual Report.

**DISCUSSION**

“The 2010 Annual Report is attached for the Trustees’ review and approval (Exhibit ‘1g-A-3’). The Annual Report reflects activity for all procurement contracts equal to or greater than \$5,000, as identified by the Authority’s SAP computer system, that were open, closed or awarded in 2010, including contracts awarded in 1990 through 2010 that were completed in 2010 or were extended into 2011 and beyond. In addition, fossil fuels transactions reported by the Fuels Planning and Operations group and financial-related services reported by Corporate Finance (of the Energy Resource Management and Business Services Business Units, respectively), are included in the Annual Report of Procurement Contracts. All additional information required by the statute is also included. The Trustees are requested to approve the attached Annual Report pursuant to Section 2879 of the PAL prior to submittal thereof to the Director of the Division of the Budget, the Department of Audit and Control, the Department of Economic Development, the Senate Finance Committee, the Assembly Ways and Means Committee and the Authorities Budget Office.

“A copy of the Guidelines effective March 31, 2011 (Exhibit ‘1g-A-2’) is attached to the Annual Report. These Guidelines are amended in accordance with recently enacted provisions of Sections 2879 and 2879-a of the PAL, as further set forth in Exhibit ‘1g-A-1.’

“The Guidelines generally describe the Authority’s process for soliciting proposals and awarding contracts. Topics detailed in the Guidelines include solicitation requirements, evaluation criteria, contract award process, contract provisions, change orders, Minority/Women Business Enterprise (‘M/WBE’) requirements, employment of former officers and reporting requirements.

RECOMMENDATION

“The Vice President – Procurement recommends that the Trustees approve the 2010 Annual Report of Procurement Contracts, the Guidelines for Procurement Contracts and the review of open service contracts as attached hereto in Exhibits ‘1g-A-1’ through ‘1g-A-3.’

“For the reasons stated, I recommend the approval of the above-requested action by adoption of a resolution in the form of the attached draft resolution.”

The following resolution, as submitted by the President and Chief Executive Officer, was unanimously adopted.

**RESOLVED, That pursuant to Section 2879 of the Public Authorities Law and the Authority’s Procurement Guidelines, the Annual Report of Procurement Contracts, as listed in Exhibit “1g-A-3,” and the Guidelines for the use, awarding, monitoring and reporting of Procurement Contracts (Exhibit “1g-A-2”), as amended and attached hereto, be, and hereby are, approved; and be it further**

**RESOLVED, That the open service contracts exceeding one year be, and hereby are, reviewed and approved; and be it further**

**RESOLVED, That the Chairman, the Vice Chairman, the President and Chief Executive Officer, the Chief Operating Officer and all other officers of the Authority are, and each of them hereby is, authorized on behalf of the Authority to do any and all things, take any and all actions and execute and deliver any and all agreements, certificates and other documents to effectuate the foregoing resolution, subject to the approval of the form thereof by the Acting General Counsel.**

**h. Annual Review and Approval of Guidelines and Procedures for the Disposal of Real Property, Guidelines and Procedures for the Acquisition of Real Property and Annual Report for the Disposal of Real Property**

The President and Chief Executive Officer submitted the following report:

**SUMMARY**

“The Trustees are requested to review and approve the following, which comply with the requirements of the Public Authorities Accountability Act of 2005 (‘PAAA’) as amended by the Public Authorities Reform Act, Chapter 506 of the Laws of 2009: (1) 2011 Guidelines and Procedures for the Disposal of Real Property (‘Real Property Disposal Guidelines’) for transfers of land or interests in land; and (2) 2011 Guidelines and Procedures for the Acquisition of Real Property (‘Real Property Acquisition Guidelines’). The Guidelines are set forth in Exhibits ‘1h-A’ and ‘1h-B’ attached hereto. In addition, the Trustees are also requested to review and approve the 2010 Annual Report of the Disposal of Real Property set forth in Exhibit ‘1h-C’ attached hereto.

**BACKGROUND**

“On January 13, 2006, Governor Pataki signed the PAAA into law, codifying the Model Governance Principles established for public authorities in 2004 by the Governor’s Advisory Committee on Authority Governance. The PAAA was subsequently amended by the Public Authorities Reform Act (Chapter 506 of the Laws of 2009) which Governor Paterson signed into law on December 11, 2009. Among its provisions, the PAAA established rules for the disposal and acquisition of real property owned by public authorities. In addition to requiring each authority to draft and annually review and approve guidelines consistent with the legislation, each authority must also prepare an annual report of all real property of such authority having an estimated fair market value in excess of fifteen thousand dollars that the authority acquires or disposes of during such period. The report shall contain the price received or paid by the authority and the name of the purchaser or seller for all such property sold or bought by the authority during such period.

**DISCUSSION**

“The 2011 Real Property Disposal Guidelines and the 2011 Real Property Acquisition Guidelines set forth the methodology detailing the Authority’s policy regarding the use, award, monitoring and reporting of contracts for the disposal and acquisition of real property and designate a Contracting Officer responsible for the Authority’s compliance with, and enforcement of, such Guidelines. At their meeting of February 23, 2010, the Trustees reviewed and approved the Authority’s 2010 Guidelines and Procedures for the Disposal of Real Property (Real Property Disposal Guidelines) and the 2010 Guidelines and Procedures for the Acquisition of Real Property (Real Property Acquisitions Guidelines). The only substantive change in the 2011 Guidelines is a title change, which reflects operational changes made within the past year. The Vice President – Enterprise Shared Services is named as the Authority’s contracting officer in place of the Senior Vice President – Enterprise Shared Services (a position that no longer exists).

“The Real Property Disposal Report lists the real property disposal transactions conducted during the reporting period having an estimated fair market value in excess of \$15,000, including a description of the property, the purchaser’s name and the price received by the Authority, as required by New York Public Authorities Law §2800. The Real Property Acquisition Report lists the real property acquisition transactions conducted during the reporting period having an estimated fair market value in excess of \$15,000, including a description of the property, the seller’s name and the price received by the Authority, as required by New York Public Authorities Law §2800.

“These acquisitions and dispositions were among those reviewed and approved by the Authority’s Governance Committee at their meeting of March 14, 2010. The Trustees are now requested to review and approve the Authority’s 2010 Annual Report of the Disposal of Real Property and the Authority’s 2010 Annual Report of the Acquisition of Real Property.

“The 2011 Real Property Disposal Guidelines and the 2011 Real Property Acquisition Guidelines, if approved, will be posted on the Authority’s internet website. On or before the 31<sup>st</sup> day of March, the Real Property Disposal Guidelines, the Real Property Acquisition Guidelines and the corresponding 2010 Annual Reports, as reviewed and approved by the Trustees, will be filed with the State Comptroller, the Director of the Budget, the Commissioner of General Services, the State Legislature and the Authorities Budget Office. The 2010 Annual Reports will also be posted on the Authority’s internet website.

FISCAL INFORMATION

“There will be no financial impact on the Authority.

RECOMMENDATION

“The Vice President – Enterprise Shared Services and the Director of Real Estate recommend that the Trustees approve the amended Guidelines and Procedures for the Disposal of Real Property, the amended Guidelines and Procedures for the Acquisition of Real Property and the 2010 Annual Report of the Disposal of Real Property as set forth in the attached Exhibits.

“For the reasons stated, I recommend the approval of the above-requested action by adoption of a resolution in the form of the attached draft resolution.”

The following resolution, as submitted by the President and Chief Executive Officer, was unanimously adopted.

**RESOLVED, That pursuant to the provisions of the Public Authorities Accountability Act of 2005, as amended by the Public Authorities Reform Act, Chapter 506 of the Laws of 2009, the Authority hereby reviews and approves the 2011 Guidelines and Procedures for the Disposal of Real Property and the 2011 Guidelines and Procedures for the Acquisition of Real Property as set forth in Exhibits “1h-A” and “1h-B” attached hereto; and be it further**

**RESOLVED, That pursuant to the provisions of the Public Authorities Accountability Act of 2005, as amended by the Public Authorities Reform Act, Chapter 506 of the Laws of 2009, the Authority hereby reviews and approves the 2010 Annual Report for the Disposal of Real Property as set forth in Exhibit “1h-C” attached hereto; and be it further**

**RESOLVED, That Authority staff may take any and all steps necessary or convenient to implement such Guidelines; and be it further**

**RESOLVED, That the Chairman, the Vice Chairman, the President and Chief Executive Officer, the Chief Operating Officer and all other officers of the Authority are, and each of them hereby is, authorized on behalf of the Authority to do any and all things and take any and all actions and execute and deliver any and all agreements, certificates and other documents to effectuate the foregoing resolution, subject to the approval of the form thereof by the Acting General Counsel.**

**i. Annual Review and Approval of  
Certain Authority Policies**

The President and Chief Executive Officer submitted the following report:

**SUMMARY**

“The Trustees are requested to approve certain Authority policies as required by Section 2824 of the Public Authorities Law and Section 2 of Article II of the Authority’s By-laws.

“The Trustees are also requested to delegate to the President and Chief Executive Officer the authority to modify these policies, as necessary, except in the event that any powers, duties or obligations of the Trustees would be affected by such modification.

**BACKGROUND AND DISCUSSION**

“Section 2824 of the Public Authorities Law requires the Authority’s Trustees to, among other things, establish policies regarding the payment of salary, compensation and reimbursements to, and establish rules for the time and attendance of, the chief executive and senior management; and Section 2 of the Authority’s By-laws requires the Authority’s Trustees to review and approve annually the policies and procedures governing: (i) the salary, (ii) compensation, (iii) benefits and (iv) time and attendance of the chief executive and senior management.

“The Authority’s policies relating to salary, compensation, benefits and time and attendance of its employees, inclusive of the chief executive and all senior management, are attached as Exhibits ‘1i-A’ through ‘1i-L’ and respectively entitled:

- A. Recruitment and Job Posting (EP 1.2), last revised 1/13/11;
- B. Salary Administration Policy (EP 2.1), last revised 8/18/10;
- C. Salaried Non-Exempt and Facility-Based Exempt Overtime (EP 2.4), last revised 3/23/11;
- D. Variable Pay Plan (EP 2.6), Deleted 7/20/10;
- E. Employee Benefits Eligibility (EP 3.1), last revised 7/15/09;
- F. Reimbursement of Employee Meal Costs (CAP 1.5), last revised 2/25/10;
- G. Attendance & Flexible Hours (EP 4.6), last revised 12/1/09;
- H. Vacation (EP 3.2), last revised 5/13/09;
- I. FMLA (EP 3.3), last revised 5/19/10;
- J. Sick Time (EP 3.9), last revised 2/20/09;
- K. Relocation Benefits for New and Transferred Employees (EP 3.8), last revised 1/1/10; and
- L. Travel (CP 2-1), last revised 11/15/06.

**RECOMMENDATION**

“It is recommended that the Trustees approve the Authority’s policies related to salary, compensation, benefits and time and attendance, which are applicable to all Authority employees, including the chief executive and senior management. It is further recommended that the Trustees delegate to the President and Chief Executive Officer the authority to modify these policies, as necessary, except in the event that any powers, duties or obligations of the Trustees would be affected by such modification.

“For the reasons stated, I recommend the approval of the above-requested action by adoption of a resolution in the form of the attached draft resolution.”

The following resolution, as submitted by the President and Chief Executive Officer, was unanimously adopted.

**RESOLVED, That pursuant to Section 2824 of the Public Authorities Law and Section 2 of Article II of the Authority's By-laws, the below-listed policies of the Authority relating to salary, compensation, benefits and time and attendance of its employees, including the chief executive and senior management, are hereby approved:**

- A. Recruitment and Job Posting (EP 1.2), last revised 1/13/11;
- B. Salary Administration Policy (EP 2.1), last revised 8/18/10;
- C. Salaried Non-Exempt and Facility-Based Exempt Overtime (EP 2.4), last revised 3/23/11;
- D. Variable Pay Plan (EP 2.6), Deleted 7/20/10;
- E. Employee Benefits Eligibility (EP 3.1), last revised 7/15/09;
- F. Reimbursement of Employee Meal Costs (CAP 1.5), last revised 2/25/10;
- G. Attendance & Flexible Hours (EP 4.6), last revised 12/1/09;
- H. Vacation (EP 3.2), last revised 5/13/09;
- I. FMLA (EP 3.3), last revised 5/19/10;
- J. Sick Time (EP 3.9), last revised 2/20/09;
- K. Relocation Benefits for New and Transferred Employees (EP 3.8), last revised 1/1/10; and
- L. Travel (CP 2-1), last revised 11/15/06.

**AND BE IT FURTHER RESOLVED, That the President and Chief Executive Officer is authorized to modify the foregoing policies, as necessary, except in the event that any powers, duties or obligations of the Trustees would be affected by such modification; and be it further**

**RESOLVED, That the Chairman, the Vice Chairman, the President and Chief Executive Officer, the Chief Operating Officer and all other officers of the Authority are, and each of them hereby is, authorized on behalf of the Authority to do any and all things and take any and all actions and execute and deliver any and all agreements, certificates and other documents to effectuate the foregoing resolution, subject to the approval of the form thereof by the Acting General Counsel.**

**j. Annual Review and Approval of Guidelines for the Investment of Funds and 2010 Annual Report on Investment of Authority Funds**

The President and Chief Executive Officer submitted the following report:

**SUMMARY**

“The Trustees are requested to review and approve the attached 2010 Annual Report on Investment of Authority Funds which includes the Guidelines for the Investment of Funds (Exhibit ‘1j-A’).

**BACKGROUND**

“Section 2925 of the Public Authorities Law requires the review and approval of an annual report on investments. Pursuant to the statute, the attached report includes Investment Guidelines that set standards for the management and control of the Authority’s investments; total investment income; a statement of fees paid for investment management services; the results of an independent audit; a detailed inventory report for each of the Authority’s nine portfolios as of December 31, 2010; and a summary of transactions with brokers, dealers and banks. The approved annual report is filed with the State Division of the Budget, with copies to the Office of the State Comptroller, the Senate Finance Committee and the Assembly Ways and Means Committee. The report is also available to the public upon written reasonable request.

**DISCUSSION**

“In 2010, the Authority’s investment portfolios, exclusive of the separately managed Other Post-Employment Benefits Trust Fund and Nuclear Decommissioning Trust Fund, averaged \$1.05 billion with a December 31, 2010 cost of \$1.226 billion and market value of \$1.249 billion, representing a positive mark-to-market of \$23.05 million. At year-end, \$1.07 billion in cash and investments was held in the Authority’s Operating Fund. The Operating Fund was created by the Authority’s General Resolution authorizing Revenue Obligations adopted on February 24, 1998. A number of internal reserves have been established within the Operating Fund, as follows (year end balances noted in parentheses):

- **Debt Service Reserve (\$80 million)** – The Debt Service Reserve is funded monthly to ensure that sufficient amounts are available to pay debt service obligations when due. The Authority’s scheduled principal and interest payments total approximately \$180 million per year, with principal payment dates set each February and November.
- **Energy Hedging/Fuel Reserve (\$71 million)** – This Reserve was established to have funds available for use as collateral that may be required to support the Authority’s authorized fuel and energy hedging transactions and to maintain funds to match a federal obligation to pay for the processing and final disposition of spent nuclear fuel burned by the Authority when it owned the Indian Point #3 and James A. FitzPatrick nuclear plants. On February 3, 2009, the Trustees approved the temporary transfer of \$215 million held in the Energy Hedging/Fuel Reserve for the spent fuel obligation to the State of New York (‘State’) to assist with the State’s budgetary deficits. The temporary asset transfer was completed on February 25, 2009 and is in accordance with the terms and conditions of a Memorandum of Understanding between the State and the Authority. The December 31, 2010 spent fuel obligation was \$216 million.
- **Capital Project Reserve (\$617 million)** – This amount is being set aside to partially fund any major new investments in energy infrastructure by the Authority. In order to minimize customer costs, maintain the Authority’s financial metrics and maintain ready access to the capital markets, it has been determined that the next major investment should be financed with a portion funded by debt and a portion funded by Authority cash or, in effect, its ‘equity.’ This Reserve has been established to provide this equity. On February 3, 2009, the Trustees approved a temporary transfer of \$103 million from the Capital Project Reserve to the State to assist with the State’s budgetary deficits and reaffirmed the transfer on July 28, 2009. The temporary asset transfer was completed in September 2009 and is in accordance with the terms and conditions of a Memorandum of Understanding between the State and the Authority.

- **Operating Reserve (\$301 million)** – The Operating Reserve includes a reserve for working capital and emergency repairs to the Authority’s projects. The Authority’s Trustees have established a minimum reserve amount of \$175 million for this purpose and funds cannot be released for ‘any lawful corporate purpose’ (pursuant to Section 503(1)(e) of the Bond Resolution) unless this minimum reserve level is satisfied. The December 31, 2010 Operating Reserve of \$301 million reflects this \$175 million minimum, plus the amount staff deems prudent to provide for uncertainties in cash flows.

“In addition to the Operating Fund, as of December 31, 2010, the Authority separately held a total of \$167 million from the proceeds of bond and note issuances in its Energy Services, Note Debt Reserve and Construction portfolios. These funds are earmarked for construction projects currently under way, such as the St. Lawrence Life Extension and Modernization Project and various Energy Services initiatives.

“In 2010 and 2009, the Authority’s portfolios earned approximately \$30 million and \$38 million in investment income, respectively. The decrease in investment earnings is primarily due to the Federal Reserve’s continued accommodative monetary policy aimed at stimulating economic growth. The policy has resulted in historically low interest rates. In 2010, the Authority’s portfolios had an average yield of 2.79%, exceeding the Authority’s targeted performance by 13 basis points (13/100 of 1%). Targeted performance for 2010 was the three-year rolling average yield of the two-year Treasury note with an average added yield of 93 basis points.

“As of December 31, 2010, the portfolio was comprised of various government-sponsored agency securities (80.7%), municipal securities (9.1%), mortgages guaranteed by the U. S. government (5.9%) and certificates of deposit and repurchase agreements (4.3%).

#### Other Post-Employment Benefits Trust

“The Authority’s Other Post-Employment Benefits Trust (‘OPEB Trust’) was established in 2007 as authorized by the Authority’s Trustees at their December 19, 2006 meeting to provide for medical, prescription drug, life and other long-term care benefits offered by the Authority for retirees and eligible beneficiaries. The OPEB Trust allows for investments in a diversified portfolio of assets, including domestic and international equity securities, fixed-income securities, public Real Estate Investment Trusts and a U. S. Treasury Money Market fund. During 2007 and 2008, the Authority deposited a total of \$225 million into the OPEB Trust to partially fund its actuarial accrued liability which, at December 31, 2010, was approximately \$419 million.

“As of December 31, 2010, the OPEB Trust’s market value was approximately \$240 million, representing a gain of 10.32% for 2010. This positive performance was the result of a continued rebound in the financial markets.

“Investment management and advisory fees associated with the OPEB Trust Fund totaled \$972,244 in 2010 and were paid from such Trust Fund. These fees and the firms paid are detailed in Section III (B) of the attached report.

#### Nuclear Decommissioning Trust

“On November 21, 2000, the Authority completed the sale of its Indian Point #3 and James A. FitzPatrick nuclear plants to two subsidiaries of Entergy Corporation pursuant to a purchase-and-sale agreement dated March 28, 2000. In accordance with the Decommissioning Agreements, the Authority retains contractual decommissioning liability until license expiration, a change in the tax status of the fund or any early dismantlement of the plants, at which time the Authority will have the option to terminate its decommissioning responsibility and transfer the plant’s fund to the Entergy subsidiary owning the plant. At that time, the Authority will be entitled to be paid an amount equal to the excess of the amount in the fund over the Inflation Adjusted Cost Amount (a fixed estimated decommissioning cost amount adjusted in accordance with the effect of increases and decreases in the U. S. Nuclear Regulatory Commission minimum cost-estimate amounts applicable to the plant), if any. The Authority’s decommissioning liability is limited to the lesser of the Inflation Adjusted Cost Amount or the amount of the plant’s fund, guaranteeing that no additional cost burdens may be placed on the Authority.

“As of December 31, 2010, the Nuclear Decommissioning Trust’s market value was approximately \$1.03 billion, representing a gain of 9.67% for 2010. As previously noted, the positive performance was the result of a continued rebound in the financial markets, as well as a partial recovery on commercial and residential mortgage-backed securities held in the Trust from severely distressed levels.

“Investment management and advisory fees associated with the Nuclear Decommissioning Trust Fund totaled \$1,369,903 in 2010 and were paid from such Trust Fund. These fees and the firms paid are detailed in Section III (C) of the attached report.

“In connection with its examination of the Authority’s financial statements, KPMG LLP (‘KPMG’) performed tests of the Authority’s compliance with certain provisions of the Investment Guidelines, the State Comptroller’s Investment Guidelines and Section 2925 of the Public Authorities Law. KPMG’s report, a copy of which is attached as Exhibit ‘1j-B,’ states that the Authority complied, in all material respects, with the requirements during the year ended December 31, 2010. Consequently, staff believes the Authority is in compliance with the Investment Guidelines, the State Comptroller’s Investment Guidelines and Section 2925 of the Public Authorities Law.

“The Investment Guidelines and procedures have not been amended since last presented to and approved by the Trustees at their meeting of March 23, 2010. They remain fundamentally sound and meet the requirements of the Authority. Furthermore, these Guidelines continue to meet the requirements of Section 2824(1)(e) of the Public Authorities Law, which requires the Authority’s Trustees to establish written policies and procedures with respect to investments.

#### RECOMMENDATION

“The Treasurer recommends that the Trustees approve the attached 2010 Annual Report on Investment of Authority Funds.

“For the reasons stated, I recommend the approval of the above-requested action by adoption of a resolution in the form of the attached draft resolution.”

The following resolution, as submitted by the President and Chief Executive Officer, was unanimously adopted.

**RESOLVED, That the 2010 Annual Report on Investment of Authority Funds be, and hereby is, approved; and be it further**

**RESOLVED, That the Chairman, the Vice Chairman, the President and Chief Executive Officer, the Chief Operating Officer and all other officers of the Authority are, and each of them hereby is, authorized on behalf of the Authority to do any and all things, take any and all actions and execute and deliver any and all agreements, certificates and other documents to effectuate the foregoing resolution, subject to the approval of the form thereof by the Acting General Counsel.**

**k. New York Power Authority's Annual Strategic Plan**

The President and Chief Executive Officer submitted the following report:

**SUMMARY**

“The Trustees are presented with the Authority’s proposed 2011 Strategic Plan, set forth in Exhibit ‘1k-A’ attached hereto, and are requested to adopt the Strategic Plan and authorize the filing of the mission statement and performance measures with the Authorities Budget Office as required by Section 2824-a of the Public Authorities Law.

**BACKGROUND**

“Chapter 506 of the Laws of 2009 added a new Section 2824-a in the Public Authorities Law requiring state and local public authorities to develop and adopt a mission statement. The law also requires public authorities to develop performance measures to assist the authority in determining how well it is carrying out its mission. Pursuant to this section, each state authority was to provide a copy of its mission statement and performance measures to the Authorities Budget Office on or before March 31, 2010 and to post and maintain its mission statement and performance report on its web site. The Authority fulfilled each of these requirements.

“For subsequent reporting years, the mission statement is to be included as part of the Annual Report required to be filed with the Authorities Budget Office pursuant to Section 2800 of the Public Authorities Law. Every public authority is also expected to annually review its mission statement and measures and publish a measurement report.

“The Authority has for many years annually reviewed and updated, as necessary, its mission statement and performance measures. The Authority’s By-Laws (Article VII, Section 2) provide that ‘the Trustees shall annually review a Strategic Plan developed by the Executive Management Committee which shall become the basis for the development of departmental plans, the annual budget and the capital expenditure plan.’

**DISCUSSION**

“In 2007, Authority staff undertook a wholesale review its annual strategic planning process wherein the content of the Strategic Plan was redesigned to make more clear the Authority’s role and intentions so that stakeholders may form a better understanding of the driving forces behind the Authority’s direction and decisions. In addition, the strategic planning process was reformed from the prior, shorter-term tactical view to a longer-term strategic view of the work plan. Additional efforts by staff in 2010 provided greater linkage between the Strategic Plan and each organizational unit and employee within the Authority through the development of business plans for each of the major functional areas within the Authority. The Authority’s Strategic Plan, which is attached as Exhibit ‘1k-A,’ is presented in the following format:

- **Mission Statement** – A mission statement is a clear definition of the charter and underlying purpose of the organization, articulating the aims, focus, and emphasis of the organization.
- **Vision Statement** – The vision statement articulates the direction(s) that the organization will pursue. It implicitly recognizes the underlying Mission, but provides a clear statement of upcoming priorities and focus for the management team.
- **Values** – Values articulate the underlying principles and aims of the business philosophy that guide the conduct, practices and decisions toward which the organization will consistently strive.
- **Strategic Goals** – Strategic goals are the specific programs that focus the organization’s resources and efforts over the horizon of the strategic plan. Strategic goals are supported by business unit initiatives that are projects with defined objectives and a clear beginning and end. Each business unit organization must balance the incremental effort defined by these initiatives with management of the ongoing business of the enterprise.

- **Balanced Scorecard** – The balanced scorecard sets the performance goals and targets and captures the performance results by which the organization measures its success in achieving its mission.

“The Mission Statement, Vision Statement and Values remain unchanged from the prior year. The supporting business plans, which are represented in the Strategic Goals and Balanced Scorecard performance measures, cover planned work and anticipated resource requirements for the period 2011 through 2015, and have been updated by each of the respective departments. The business plans have been designed to both complement and translate the 2011 Strategic Plan goals into operational plans for each of the business units. There is direct line-of-sight between the 2011 Strategic Plan goals and many of the business unit initiatives detailed in each business plan. More importantly, the business plans were designed to describe all the responsibilities and functions carried out within each business unit, including the day-to-day baseline work, specific business unit initiatives required to improve the effectiveness or efficiency of the core business, and the resources required to perform the Authority’s business activities. By taking this holistic view, it is possible to gain a broad view of the total resource requirements – people, O&M dollars, and capital dollars – necessary to complete both the baseline work, as well as work associated with one-time initiatives.

“On March 1, 2010, the Authorities Budget Office issued a Policy Guidance statement concerning the implementation of Chapter 506 of the Laws of 2009. In addition to the filing of the mission statement and performance measures as part of the Annual Report filed pursuant to Section 2800 of the Public Authorities Law, the ABO has requested that each authority provide responses to five questions related to matters of the mission and to certain policy issues regarding the role of the Board and the appointment and role of management. These matters are clearly spelled out in the Authority’s By-Laws, last approved by the Trustees at their October, 2010 meeting. Exhibit ‘1k-B’ attached hereto, lists the additional questions and responses that are to be filed with the mission statement and performance measures.

#### RECOMMENDATION

“The Senior Vice President – Corporate Planning and Finance recommends that the Trustees adopt the 2011 Strategic Plan presented herein and authorize the filing of the Mission Statement and Performance Measures document with the Authorities Budget Office as required by Section 2824-a of the Public Authorities Law.

“For the reasons stated, I recommend the approval of the above-requested action by adoption of a resolution in the form of the attached draft resolution.”

The following resolution, as submitted by the President and Chief Executive Officer, was unanimously adopted.

**RESOLVED, That the Trustees hereby acknowledge that they have read, understand and adopt the Authority’s 2011 Strategic Plan attached hereto as Exhibit “1k-A” as discussed in the foregoing report of the President and Chief Executive Officer; and be it further**

**RESOLVED, That pursuant to Section 2824-a of the Public Authorities Law, the Corporate Secretary be, and hereby is, authorized to file with the Authorities Budget Office the mission statement and performance measures contained in the Authority’s Strategic Plan and post such information on the Authority’s website; and be it further**

**RESOLVED, That pursuant to the Policy Guidance issued by the Authorities Budget Office on March 1, 2010, the Trustees hereby acknowledge that they have read, understand and adopt and the Corporate Secretary be, and hereby is, authorized to file with the Authorities Budget Office the responses to the additional questions posed by such Office attached hereto as Exhibit “1k-B”; and be it further**

March 29, 2011

**RESOLVED, That the Chairman, the Vice Chairman, the President and Chief Executive Officer, the Chief Operating Officer and all other officers of the Authority are, and each of them hereby is, authorized on behalf of the Authority to do any and all things and take any and all actions and execute and deliver any and all agreements, certificates and other documents to effectuate the foregoing resolution, subject to the approval of the form thereof by the Acting General Counsel.**

2. Discussion Agenda

a. Report of the President and Chief Executive Officer

*President Richard Kessel reported that he continues to travel around the state on behalf of the Authority. He said that he has begun a tour of the Authority's operating facilities in the state and, to date, has visited the Niagara and St. Lawrence facilities. He plans to visit the Flynn plant in Holtsville, Blenheim-Gilboa plant and the smaller facilities around the state.*

*President Kessel said that despite the challenges facing the Authority, its operations are in good condition and its facilities are expected to be operating at full capacity this summer.*

*President Kessel said that he looks forward to working with the Authority's newly appointed Trustee, John Dyson, and the other Trustees toward the goals and objectives of the Authority. He also welcomed Mr. Timothy Carey, former Trustee and President and Chief Executive Officer of the Authority to the meeting.*

*Community Outreach – Upstate/Downstate: President Kessel participated in the following events/ meetings around the state:*

- *Dedication of new Ice Rink in Niagara Falls (1/26)*
- *Lake Placid Tri-Lakes Summit; meeting with local officials (2/9 and 2/10)*
- *Meetings with Lt. Governor Duffy, Senators Fuschillo, Grisanti and Griffo (2/14)*
- *Advanced Energy Research and Technology Center Tour (2/15)*
- *Meeting with Tuscarora Nation and delivery of weatherization kits to them (2/17)*
- *Meeting with Niagara employees celebrating the Niagara Power Project's 50<sup>th</sup> Anniversary (2/17)*
- *Meeting with Town of Niagara Mayor Steve Richards; Town of Lockport Mayor Marc Smith; City of Lockport Mayor Mike Tucker (2/17)*
- *Hydro Quebec Meeting (3/2)*
- *Meeting with Elise Cusack on Erie Harbor Project; meeting with Buffalo Mayor Byron Brown (3/3)*
- *Brookhaven Lab – Speech (3/4)*
- *Hudson Transmission Partnership Meeting (3/9)*
- *CDC Keynote Address (3/14)*
- *Meeting with RVRDA, Massena (3/15)*
- *Meeting with Western New York delegation, Albany (3/21)*
- *Mineola Kiwanis – Speech (3/28)*

*In response to a question from Vice Chairman Foster, President Kessel said that contributions to organizations are in keeping with Board policy, which was enacted based on the Attorney General's Opinion regarding grants, sponsorships or donations by state authorities. He continued that the Authority gives grants and sponsorships to organizations as regards to energy-related activities. He said that a large portion of grants*

*and sponsorships are given to upstate New York as part of the relicensing of the Authority's hydro facilities agreement; a small portion is given to organizations in downstate New York and Long Island. With regards to the comment that the Authority does not service Long Island, President Kessel said that the Authority has a generating plant in Holtsville; a plant in Brentwood; underwater transmission lines; a number of energy efficiency projects and Power for Jobs customers in Long Island. In conclusion, President Kessel said that the Attorney General's letter was not based on facts, but on a media report. He said that the Authority will, however, suspend all grants and sponsorships until there is an independent review of all such activities and he looks forward to working with the Board on this review.*

*Chairman Townsend then read a portion of the Attorney General's letter which states, "It has come to our attention via published press reports that NYPA may be making financial contributions that do not directly relate to NYPA's powers, duties, or purposes" and said that this statement would suggest that the Attorney General's office did not conduct an independent investigation regarding the reports on the Authority's grants and sponsorships. Chairman Townsend added that the Board is concerned about this matter; therefore, in order to bring clarity and transparency to it, he has instructed the legal department to review the matter and report their findings to the Board so that it can be resolved.*

*In response to a question from Vice Chairman Foster, Chairman Townsend said that the legal department will provide a report on this investigation before the next Board meeting.*

b. Report of the Chief Operating Officer

*Mr. Gil Quiniones provided highlights of the report to the Trustees. In response to a question from Chairman Townsend, Mr. Quiniones said that water levels are lower than the projected long-term average, which results in lower net generation. In response to a question from Trustee Nicandri, Mr. Quiniones said that the forced outage at Niagara was not caused by Authority-owned transmission. It was caused by an issue with the New York grid's system and this limited the Authority's ability to generate power. Mr. Quiniones also said that staff is monitoring the situation in Japan as the Authority has contracts with Japanese companies. He said that if there are any impacts with regard to supplies for the Authority's Life Extension and Modernization projects, he will report it to the Board at the next meeting.*

*Chairman Townsend said that the Authority won a safety award from the American Public Power Association and congratulated Mr. Quiniones and his staff for the work they do.*

c. Report of the Chief Financial Officer

*Ms. Elizabeth McCarthy provided highlights of the financial reports to the Trustees. She said that for the reporting period the Authority's net income was \$6.4 million, which was below the amount budgeted. She indicated that this was due to low water flows and the need to purchase power to support the Authority's customer load, due to the transmission outage. She concluded that at the end of the reporting period the Authority had \$1.1 billion in cash and liquidity, which is invested in a variety of instruments.*

*In response to a question from Trustee Nicandri, Ms. McCarthy said that the transmission outage is the same as mentioned in Mr. Quiniones' report. She said that the transmission line was not owned by the Authority, however, the outage impacted the Authority's ability to transport power, therefore, the Authority had to buy power for its customers.*

**3. NYPA's Governmental Customer Production Rate and Delivery Rate Structure Redesign – Notice of Proposed Rulemaking**

SUMMARY

“The Trustees are requested to approve a Notice of Proposed Rulemaking (‘NOPR’) to redesign the currently effective production and delivery rate structures for NYPA’s New York City (‘NYC’) and Westchester County (‘Westchester’) Governmental Customers (collectively, ‘Customers’). This rate redesign would properly align costs with rates, and eliminate cross-subsidization between Customers.

“Second, the Trustees are requested to authorize and direct the Corporate Secretary to file the NOPR with the New York State Department of State for publication in the *New York State Register* in accordance with the requirements of the State Administrative Procedure Act (‘SAPA’).

“This rate redesign proposal is intended to be revenue-neutral to NYPA and does not attempt to modify the method of calculating total costs of serving this customer base. Rather, the proposed rulemaking would make corrections to how these costs are allocated among the individual Customers. With respect to delivery rates, the proposed redesign would correct an estimated annual \$9.6 million over-collection by NYPA embedded in current delivery rates.

“Extensive customer outreach was undertaken to develop the proposal, with consensus forged between NYPA and Customers regarding (i) production (*i.e.* demand and energy) rate redesign, (ii) the need for new delivery rates to be aligned with Consolidated Edison Company of New York, Inc. (‘Con Edison’) delivery service charges to NYPA, (iii) cost-of-service methodology and (iv) and the need to refund accumulated over-collections.

“NYPA staff recommends an immediate phase-in of redesigned production rates for all Customers, a four-year phase-in to the full realignment of delivery rates for the NYC Governmental Customers, and an immediate implementation of realigned delivery rates for the Westchester Governmental Customers.

“The ‘Recommended Plan’ (attached as Exhibit ‘3-A’) is a detailed explanation of the NYPA rate redesign recommendations. It is expected that the rate redesign changes, which are subject to this NOPR, will commence with the July 2011 service period or as soon thereafter as is possible based on the completion of the SAPA process.

“As a result of this rate design study, NYPA recognizes the existence of an accumulated over-collection of delivery revenues. Accordingly, NYPA staff informs the Trustees that it intends to make repayment of over-collected amounts<sup>1</sup> to individual Customers whose delivery rates from NYPA were set too high, commencing no later than the July 2011 service period. Such repayments are outside the NOPR for which approval is requested today.

BACKGROUND

“NYPA has served the Customers since their transfer from Con Edison beginning in 1976 as part of the NYPA’s purchase of the Indian Point 3 Nuclear and Charles Poletti Power (then the Astoria 6) Plants. A total of 115 governmental Customers located in New York City<sup>2</sup> and Westchester County<sup>3</sup> purchase NYPA electricity in

---

<sup>1</sup> The balance of accumulated over-collection in delivery revenues was \$39.1 million through the end of January 2011, and would be adjusted to include any changes in this accumulated amount through the refund implementation date.

<sup>2</sup> The NYC Governmental Customers consist of the City of New York (‘NYC’), the Metropolitan Transportation Authority (‘MTA’), the New York City Housing Authority, the Port Authority of New York and New Jersey, the State of New York Office of General Services and six smaller governmental entities located in the New York City area.

<sup>3</sup> The Westchester Governmental Customers consist of the County of Westchester plus 103 cities, towns, villages, school districts, fire districts and other local government agencies located in the County of Westchester.

order to serve a myriad of government facilities, including office buildings, public schools, public housing, hospitals, water and wastewater treatment plants, parks and police and fire stations.

“With respect to production rates, NYPA’s rate design for the Customers has remained unchanged for over twenty years. Cost increases/decreases were made in an across-the-board fashion to existing production rate classes, and there had been no thorough examination over this duration to check whether the allocation of costs among classes followed cost-of-service principles.

“Similarly, NYPA’s delivery rate design has also not been subject to thorough review. When NYPA began providing electric service to these Customers in the 1970s, it inherited Con Edison’s delivery service classifications. In the 1980s Con Edison redesigned its delivery rates. The impacts were not significant initially, but the two rate structures became more misaligned over time. These impacts were aggravated by other differences between Con Edison and NYPA, such as the methods the respective utilities have used for calculating estimated bills and the lack of a minimum bill provision in the NYPA billing system (but which is part of the Con Edison billing system).

“NYPA and the Customers indicated a willingness to start to address this problem in 2005, when NYPA and the NYC Governmental Customers agreed to modify the terms and conditions of their 1970s era contracts through a ‘Long Term-Agreement’ (‘LTA’) entered into between NYPA and each of the NYC Governmental Customers. When the LTA was negotiated, the parties agreed to include a provision addressing rate design. No recent studies had been done, but there was a growing sense that the parties needed guidance on whether production rates and delivery rates were in alignment.

“Accordingly, in Article VI of the LTA, the parties agreed that the Authority would complete an evaluation of the production (*i.e.* demand and energy) and delivery charges in order to produce a redesigned rate structure for the NYC Governmental Customers. As stated in the LTA, Art. VI,

. . . such studies shall be performed with input and concurrence from the NYC Governmental Customers . . . it being the goal of the Parties to . . . redesign rates so that the rates charged to the NYC Governmental Customers are aligned with costs, all on a basis that is revenue neutral to NYPA and in a manner that recognizes individual customer bill impacts and ameliorates such impacts.

“In accordance with this provision, NYPA completed a two-year study of its rate structure. To ensure that all Customers would be eligible to receive the benefits of this type of study and redesign work, NYPA extended its analysis to include the Westchester Governmental Customers. NYPA staff procured the services of the consulting firm Black & Veatch (‘B&V’) to assist them with this rate design study.

“NYPA staff has reviewed the B&V study<sup>4</sup> and endorses its conclusions. Accordingly, based on the results of the B&V study, NYPA staff recommends a redesign of the production and delivery service structure contained in NYPA’s Service Tariff No. 100 applicable to the NYC Governmental Customers and NYPA’s Service Tariff No. 200 applicable to Westchester Governmental Customers.

## DISCUSSION

### A. Production Rate Structure Redesign

“Production rate structure design at NYPA was last altered over twenty years ago when NYPA introduced in 1988 time-of-day (‘TOD’) production rates for the Customers, and later refined this design in 1989. However, since that time, production revenue requirement cost increases/decreases have been reflected in equal, across-the-board increases/decreases to existing demand and energy rates. During this period, as market prices have become more time sensitive and volatile, production rates have become increasingly disconnected from the government’s price structure. Accordingly, it became important to align the Customers’ price signals (production rates) more closely with the allocated production cost of service and market prices. Further, cost-based rates also encourage the

---

<sup>4</sup> The B&V study consists of a Base Report dated January 2010, an Updated Report dated September 2010 and an Addendum dated March 2011.

efficient use of electricity by sending market price signals to customers as to when it is most cost effective to conserve energy.

“Production rate structure analysis was based on satisfying such key objectives as avoidance of undue discrimination, customer understanding and acceptance, practical and cost-effective to implement, price signals that encourage efficient electricity usage, rate stability to avoid price changes that induce rate shock, reasonable apportionment of costs among customers and recovery of the revenue requirement.

“Based on the study results, staff recommends that both production demand and energy rates be modified to reflect the revenue increase or decrease indicated for each NYPA service class as reflected by the new production cost study. The production rate structure changes are designed to collect allocated fixed and variable costs from the final 2011 production cost-of-service studies for the Customers, both in total and by each fixed cost and variable cost element. Variable costs are collected predominantly via the kilowatt-hour (kWh) energy charges, and fixed costs are collected predominantly via the kilowatt (kW) demand charge. In cases where there are no demand charges, all costs are recovered in kWh energy charges.

“The production rate review also included a marginal cost study to assess the appropriateness of the Authority’s existing conventional and TOD energy rates. Based upon study results, staff recommends, with the exception of the Street Lighting Service Class, to introduce seasonal summer and winter production energy rates rather than just a single non-seasonal energy rate for conventional service classes. With respect to TOD service classes, NYPA staff recommends that rates be structured to have seasonal summer and winter on-peak and off-peak energy rates, rather than non-seasonal on-peak and off-peak rates. These new rates provide Customers a strong price signal to conserve energy when it is most cost effective. The Street Lighting classes, namely SC80 and SC66, are excluded from the implementation of seasonality.

“Further, staff recommends that due to the similar usage characteristics of Service Classes 64 and 69,<sup>5</sup> the new rate structure merges these two as justified by the two-year evaluation and to follow Con Edison’s current Service Class groupings.

“Last, the proposed rulemaking includes the implementation of standby and net metering tariff provision, and minimum billing production charges.<sup>6</sup> The development of standby and net metering tariff provisions reflects the need to integrate the Customers’ use of on-site generation including renewable resources such as solar and wind, and mirrors the tariff treatment of Con Edison. These changes are necessary as NYPA has been receiving increasing numbers of inquiries related to installation of cogeneration and solar projects at Customer sites, so by providing a tariff rate structure, NYPA will help facilitate the Customers’ development of such projects.

“In total, NYPA staff believes that the proposed production rate design is based on sound ratemaking principles that are widely accepted by public utility commissions throughout the United States. Using the principle of cost causation, NYPA’s production revenue requirement is allocated to each service class by identifying appropriate linkages between elements of cost and particular customer service classes. NYPA staff believes that this proposed production rate design has widespread support among the Customers.

“The proposed changes to the production rates are explained further in the Recommended Plan (Exhibit ‘3-A’).

## B. Delivery Rate Structure Redesign

“Currently, Con Edison levies 10 rates to the Authority for delivery service. In total, these delivery costs are passed on to the Customers by the Authority via an alternative rate structure that has approximately 80 rate components and contains declining block demand and energy delivery rates. Also, there is a mismatch between the

---

<sup>5</sup> Class 64 pertains to Commercial Industrial Redistribution. Service Class 69 pertains to General Large.

<sup>6</sup> The implementation schedule of these provisions might vary to ensure proper functioning within NYPA’s billing system.

current NYPA charges to Customers and the Con Edison charges to NYPA. On an annual basis, this mismatch over-collects \$9.6 million from Customers based on the latest available<sup>7</sup> data.

“As noted, this mismatch occurred due to rate design changes implemented by Con Edison in the 1980s. Over the years this mismatch grew more pronounced, leading the parties to include a provision in the LTA that NYPA would conduct a rate redesign study and make the changes necessary to ensure that rates are properly aligned with costs.

“Staff recommends implementing new, revenue-neutral to NYPA, cost-based delivery rates for all Customers. The recommended delivery rate structure is designed to match NYPA’s delivery rates to Customers to the rates Con Edison charges NYPA, including minimum delivery bill provisions. Further, staff recommends an immediate rate structure change for Westchester Governmental Customers and a phase-in plan for the NYC Governmental Customers, removal of the NYPA declining block rate structure – all necessary to eliminate the over-collection and to manage Customer impacts.

“If the delivery rate design changes were all made immediately, the Westchester Governmental Customers would experience bill savings, while certain NYC Governmental Customers would face large bill increases, which is inconsistent with the ratemaking principle of gradualism. For NYC Governmental Customers, it is estimated that at least six service classes would receive rate decreases of 20% while Service Classes 85 (MTA traction facilities) and 98 (NYC wastewater treatment plant) would receive rate increases of approximately 200% under the proposed new delivery rates. Thus, the Recommended Plan advocates a bifurcated approach whereby the Westchester Governmental Customer changes would be implemented immediately in July 2011, while the NYC Governmental Customers are phased-in to the new delivery rates over four years.

“The terms of the Westchester and NYC electricity supply agreements with NYPA support this bifurcated approach. For the Westchester Governmental Customers, the terms and conditions of their long-term contract with NYPA have been modified through a 2007 ‘Supplemental Agreement’ entered into between NYPA and each of the Westchester Governmental Customers. Each Supplemental Agreement requires the pass-through of Con Edison delivery costs to each of the Westchester Customers. On the other hand, the LTA calls for the aggregate of Con Edison delivery charges to be assessed to the NYC Governmental Customers as a whole, and, in terms of rate design, directs NYPA to consider individual customer impacts and ameliorate such impacts. Therefore, a phase-in to the correct rate design over a period of four years, which is consistent with the gradualism principle, is appropriate. In the first year of phase-in, it is recommended that the existing conventional demand and energy blocking be eliminated along with the \$9.6 million over-collection. During subsequent phase-in years, over and under collections among customer service classes would be harmonized such that by 2014, NYPA’s delivery rates to NYC Customers would be fully synchronized with Con Edison’s on a basis that is revenue neutral to NYPA.

“In total, NYPA staff believes that the proposed delivery rate design is based on sound ratemaking principles that are widely accepted by public utility commissions throughout the United States. Using the principle of cost causation, NYPA’s delivery revenue requirement (based on what Con Edison charges NYPA) is allocated to each service class by identifying appropriate linkages between elements of cost and particular customer service classes.

“While NYPA staff anticipates that the proposed phase-in schedule will not garner unanimous support from the Customers, staff is nonetheless very confident that the end-state delivery rate design proposed here does have widespread support among the Customers. Because NYPA highly values its responsibility to administer rates in a manner that recognizes individual Customer bill impacts and ameliorates such impacts, staff believes that the proposed four-year phase-in is a sensible way to correct a significant rate design problem.

“Further details of NYPA delivery rate redesign proposal are explained in the attached Recommended Plan (Exhibit ‘3-A’).

---

<sup>7</sup> The estimated over-collection in delivery revenues was developed using Con Edison delivery rates to NYPA effective April 2010 applied to historical calendar year 2009 billing determinants.

C. For Trustees Information - Refund of Over-collections

“NYPA and the Customers reached agreement for the need to refund NYPA’s accumulated over-collections of delivery charges. Such accumulations have been tabulated since 1996. The accumulated total will be refunded over twelve months commencing no later than the implementation of redesigned delivery rates to customers whose delivery charges exceeded Con Edison’s delivery charges to NYPA, on a customer-by-customer basis, based upon the percentage allocations determined by the B&V study.<sup>8</sup>

“While NYPA staff has not reached a consensus with the Customers regarding the proposed allocation methodology for the accumulated over-collections, staff believes the methodology is fair and reasonable, and expects that the Customers will agree. Should it determine to modify this refund plan, staff will inform the Trustees no later than their June 2011 meeting.

D. Customer Outreach and Implementation

“With respect to the proposed redesign for production and delivery rates, the revisions to the rate structure would go into effect in July 2011. Throughout 2010, NYPA conducted numerous joint customer meetings, joint technical conferences, individual customer and consultant meetings and teleconferences in support of conducting the study, disseminating and explaining results, and obtaining verbal and written feedback. As a result, the Recommended Plan is built on the foundation of customer feedback and, where practical and feasible, NYPA sought customer consensus on a plan that would eliminate the production and delivery rate service class imbalances and mitigate large bill impacts.

“The proposed production and delivery Customer rate structure changes will be implemented in accordance with a SAPA proceeding, as required by the LTA. Thus, in addition to the input already received from Customers in the course of the rate design study, the Customers and other interested parties will have opportunity to file comments in accordance with SAPA after the issuance of the NOPR. The B&V study, which was given to Customers, will be available to interested parties upon request. After closure of the 45-day statutory comment period concerning this proposed rulemaking, NYPA staff will take into consideration concerns that have been raised and will return to the Trustees to seek final adoption of the new rate structure, which would be incorporated into revised tariff leaves in NYPA Service Tariff Nos. 100 and 200.

FISCAL INFORMATION

“The adoption of the proposed production rate structure change is intended to be revenue neutral to the Authority.

“The adoption of the proposed delivery rate structure (including the described phase-in elements) is intended to be revenue neutral to the Authority, is consistent with accepted ratemaking principles, and makes the necessary cost-of-service based correction to the current over-collection of delivery revenues by Authority.

“The amounts to be refunded to Customers are based on the accumulated over-collections of Authority delivery revenues. Though not revenue-neutral, staff has regarded the accumulated over-collections as a NYPA obligation and such amounts have not been included in NYPA’s prior year net revenues. The refund will not impact net revenues in the year it is paid.

RECOMMENDATION

“The Director – Market Analysis and Administration recommends that the Trustees authorize the Corporate Secretary to file a Notice of Proposed Rulemaking in the *New York State Register* for the adoption of the new production and delivery rate structure for the New York City Governmental Customers and the Westchester County Governmental Customers.

---

<sup>8</sup> As of the end of January 2011, such accumulated charges totaled \$39.1 million.

“It is also recommended that the Senior Vice President – Marketing and Economic Development, or his designee, be authorized to issue written notice of the proposed action to the affected Customers under the provisions of the Authority’s tariffs.

“For the reasons stated, I recommend the approval of the above requested actions by adoption of a resolution in the form of the attached draft resolution.”

The following resolution, as submitted by the President and Chief Executive Officer, was unanimously adopted.

**RESOLVED, That the Authority completed a Production Rate study and a Delivery Rate study in accordance with the terms of the Long-Term Agreements with the New York City Governmental Customers and such Agreements provide for a public comment and approval process under the State Administrative Procedure Act to adopt appropriate tariff modifications to implement the changes identified in such studies; and be it further**

**RESOLVED, That the Authority also completed a Production Rate study and a Delivery Rate study related to the Westchester Governmental Customers; and be it further**

**RESOLVED, That the Corporate Secretary of the Authority be, and hereby is, directed to file such notices as may be required with the Secretary of State for publication in the *New York State Register* and to submit such other notice as may be required by statute or regulation concerning the proposed tariff modifications to implement the changes identified in the Production Rate and Delivery Rate studies; and be it further**

**RESOLVED, That the Senior Vice President – Marketing and Economic Development, or his designee, be, and hereby is, authorized to issue written notice of this proposed action by the Trustees to the affected Customers; and be it further**

**RESOLVED, That the Chairman, the Vice Chairman, the President and Chief Executive Officer, the Chief Operating Officer and all other officers of the Authority are, and each of them hereby is, authorized on behalf of the Authority to do any and all things and take any and all actions and execute and deliver any and all certificates, agreements and other documents to effectuate the foregoing resolution, subject to the approval of the form thereof by the Acting General Counsel.**

**4. 2010 Financial Reports Pursuant to Section 2800 of the Public Authorities Law and Regulations of the Office of the State Comptroller**

The President and Chief Executive Officer submitted the following report:

**SUMMARY**

“The Trustees are requested to approve the financial report for the year ended December 31, 2010 and authorize the Corporate Secretary to submit this report to the Governor, legislative leaders and the State Comptroller pursuant to Section 2800 of the Public Authorities Law, as amended by the Public Authorities Accountability Act of 2009 (‘PAAA’). In accordance with regulations adopted by the Office of the State Comptroller (‘OSC’), the Trustees are also requested to approve and authorize posting of a report of actual vs. budgeted results for the year 2010 on the Authority’s web site.

**BACKGROUND**

“The PAAA reflects the State’s commitment to maintaining public confidence in public authorities by ensuring that the essential governance principles of accountability, transparency and integrity are followed at all times. To facilitate these objectives, the PAAA established an independent Authorities Budget Office (‘ABO’) that monitors and evaluates the compliance of State authorities with the requirements of the Act. The PAAA became effective with the Authority’s fiscal year beginning January 1, 2006. The PAAA amended Section 2800 of the Public Authorities Law to require that financial reports submitted by a State authority under Section 2800 be certified by the chief executive officer and chief financial officer and approved by the authority’s board.

“Following rulemaking proceedings undertaken pursuant to the State Administrative Procedure Act, OSC implemented regulations on March 29, 2006 that address the preparation of annual budgets and related reporting requirements by ‘covered’ public authorities, including the Authority. These regulations establish various procedural and substantive requirements relating to the budgets and require the chief financial officer to report publicly not later than 90 days after the close of each fiscal year on actual versus budgeted results.

**DISCUSSION**

“The Trustees are requested to approve the required financial report for the year ended December 31, 2010 (Exhibit ‘4-A’) and authorize the Corporate Secretary to submit this report to the Governor, legislative leaders, the State Comptroller and the ABO pursuant to Section 2800 of the Public Authorities Law, as amended by the PAAA. This report was reviewed by the Audit Committee at its meeting of March 14, 2011. The Trustees are also requested to approve a report of actual vs. budgeted results for the year 2010 (Exhibit ‘4-B’) and authorize posting it on the Authority’s website.

**FISCAL INFORMATION**

“There is no anticipated fiscal impact.

**RECOMMENDATION**

“The Vice President and Controller recommends that the Trustees approve and authorize submittal of the attached reports (Exhibits ‘4-A’ and ‘4-B’) as discussed herein.

“For the reasons stated, I recommend the approval of the above-requested action by adoption of a resolution in the form of the attached draft resolution.”

The following resolution, as submitted by the President and Chief Executive Officer, was unanimously adopted.

**WHEREAS, pursuant to Section 2800(1) of the Public Authorities Law, the Authority is required to annually submit to the Governor, the Chairman and Ranking Minority Member of the Senate Finance Committee, the Chairman and Ranking Minority Member of the Assembly Ways and Means Committee, the State Comptroller and the Authorities Budget Office, within 90 days after the end of its fiscal year, a complete and detailed report or reports setting forth certain information regarding, among other things, certain financial information; and**

**WHEREAS, pursuant to Section 2800(3), financial information submitted under Section 2800 shall be approved by the Authority's Board of Trustees and shall be certified in writing by the Chief Executive Officer and the Chief Financial Officer of the Authority that based on the officer's knowledge the information provided therein (a) is accurate, correct and does not contain any untrue statement of material fact; (b) does not omit any material fact which, if omitted, would cause the financial statements to be misleading in light of the circumstances under which such statements are made and (c) fairly presents in all material respects the financial condition and results of operations of the Authority as of, and for, the periods presented in the financial statements; and**

**WHEREAS, the Chief Executive Officer and Chief Financial Officer have so certified as to the financial information contained within the attached reports for the fiscal year ending December 31, 2010 as evidenced by a writing dated even date hereof;**

**NOW THEREFORE BE IT RESOLVED, That pursuant to Section 2800 of the Public Authorities Law, the financial reports attached hereto are adopted and the Corporate Secretary be, and hereby is, authorized to submit to the Governor, the Chairman and Ranking Minority Member of the Senate Finance Committee, the Chairman and Ranking Minority Member of the Assembly Ways and Means Committee, the State Comptroller, and the Authorities Budget Office the attached financial report for the year ending 2010 in accordance with the foregoing report of the President and Chief Executive Officer; and be it further**

**RESOLVED, That pursuant to 2 NYCRR Part 203, the attached report of actual vs. budgeted results for the year 2010 is approved in accordance with the foregoing report of the President and Chief Executive Officer; and the Corporate Secretary is authorized to post the report on the Authority's website; and be it further**

**RESOLVED, That the Chairman, the Vice Chairman, the President and Chief Executive Officer, the Chief Operating Officer, the Executive Vice President and Chief Financial Officer and all other officers of the Authority are, and each of them hereby is, authorized on behalf of the Authority to do any and all things and take any and all actions and execute and deliver any and all agreements, certificates and other documents to effectuate the foregoing resolution, subject to the approval of the form thereof by the Acting General Counsel.**

**5. RM Flynn Power Plant 2011 Major Outage –  
Capital Expenditure Authorization Request**

The President and Chief Executive Officer submitted the following report:

SUMMARY

“The Trustees are requested to approve capital expenditures of \$7.195 million for projects associated with the 2011 RM Flynn Power Plant’s (‘Flynn’) major outage and subsequent replacement or upgrade of critical parts for the RM Flynn gas turbine.

BACKGROUND

“In accordance with the Authority’s Expenditure Authorization Procedures, Trustees’ approval is required for capital expenditures in excess of \$3 million.

“Flynn has been in service since May 1994. The plant consists of gas turbine and steam turbine. The timing of major overhauls and large projects at the plant is based on the recommended maintenance cycles of the Siemens V84.2 gas turbine. Siemens recommends that the gas turbine be completely overhauled and upgraded approximately every 33,000 operating hours, which is once every four years. When the plant is shutdown, other projects which cannot be done while the plant is in service are completed. Flynn’s major outages were completed in 1996, 1999, 2003 and 2007. The next major outage is scheduled for October and November 2011. The projects described in the discussion section below are crucial to the safe, reliable and efficient operation of the plant.

DISCUSSION

“The Siemens V84.2 gas turbine has two large mixing elbows that are in the hot gas path section which direct the combustion gases to the turbine section. The mixing elbows that will be removed in 2011 have been in service for approximately 100,000 hours and are the end of their useful life. New mixing elbows will be purchased for inventory.

“The gas turbine industry in general and Siemens specifically, have determined that the material used to make the blade wheel in stage 4 of the turbine becomes brittle over time and may fracture under certain conditions. If the disc fails to pass Non Destructive Examinations (‘NDE’) it will be declared unusable. Published lead time for this part is over one year. Flynn staff has determined that the safe and prudent action is to replace the disc. The disc in service will have approximately 150,000 operating hours at the time of the 2011 major outage.

“If compressor blades or diaphragms fail in service, it usually causes severe damage to the turbine. All of Flynn’s seventeen compressor stages are original and running well beyond the 100,000 hours, the time in which Siemens recommends replacement. Based on fleet history, Siemens has identified certain stages that are more prone to failure. Using Siemens’ recommendations, Flynn staff has selected stages 2, 4 and 7 for replacement in 2011.

“Flynn’s gas turbine generator has six lead bushings which connect the generator output to the transmission system. Some have had component failures related to vibrations. Certain failures have the potential to damage the generator. Flynn staff thinks it is prudent to replace the bushings in 2011.

“During the 2007 outage, divided seal rings were identified as worn; staff recommends that they be replaced in 2011.

“At the 2011 major outage, the turbine’s stage 3 blades and stage 2 vanes will be at the end of their useful life. New blades and vanes will be purchased for inventory.

“The Siemens V84.2 gas turbine has two distinct burner decks each of which has six burners. Each deck has four control valves for fuel gas and fuel oil. The actuators for these valves have typically required frequent maintenance and have the potential to fail in ways that damage the gas turbine. Siemens has developed actuators

that are more robust. Flynn staff has determined that upgrading these actuators will enhance the gas turbines reliability.

“Flynn’s gas turbine controls were upgraded to a TXP level in 2003. The rest of the plant controls and the steam turbine controls were upgraded to a T3000 level in 2007. For continued reliability and serviceability the gas turbine controls need to be brought up to the T3000 level. The North American Electric Reliability Corporation’s (‘NERC’) Critical Infrastructure Protection rules also require that the TXP controls be upgraded to T3000.

“Following the 2011 major outage, critical gas turbine parts will be sent out for refurbishment and upgrade. They will then be ready for the next major outage. These refurbishments are long-lead activities and need to be done promptly in order to protect the plant from an extended shutdown in the event that one of them fails in service. The parts will be sent out in early 2012 and, most likely, would be returned to inventory in 2012 or 2013. Included in this category are HR3 burners, Compressor Inner Diffuser, Turbine Blades and Vanes and the Inner Case.

“Flynn’s major outages will occur in October and November of 2011. The shipment of critical parts for refurbishment will occur in early 2012.

“Total projects costs for these capital procurements are as follow:

	<u>2011</u>	<u>2012</u>	<u>Total</u>
Engineering	\$ 100,000	\$ 35,000	\$ 135,000
Procurement	\$3,840,000	\$2,580,000	\$6,420,000
Installation	\$ 132,000		\$ 132,000
NYPA Direct	\$ 135,000	\$ 15,000	\$ 150,000
NYPA Indirect	<u>\$ 227,000</u>	<u>\$ 131,000</u>	<u>\$ 358,000</u>
Total	<u>\$4,434,000</u>	<u>\$2,761,000</u>	<u>\$7,195,000</u>

**FISCAL INFORMATION**

“Payment will be made from the Authority’s Capital Fund. The amount of \$4.43 million is an increase from the original \$3.5 million that was included in the 2011 Capital Budget Submission Plan. The change is primarily due to costs related to turbine blades, turbine vanes and mixing elbows.

**RECOMMENDATION**

“The Vice President – Project Management, the Vice President – Engineering, the Regional Manager – Southeastern New York and the Director of Operations – RM Flynn Power Plant recommend that the Trustees authorize Capital Expenditures in the amount of \$7.195 million for the completion of projects, upgrade of critical components and purchase of critical components for the 2011 RM Flynn Power Plant Major Outage.

“For the reasons stated, I recommend the approval of the above-requested action by adoption of a resolution in the form of the attached draft resolution.”

***Mr. Paul Tartaglia presented highlights of staff’s recommendation to the Trustees. In response to a question from Chairman Townsend, Mr. Tartaglia said that staff routinely analyzes the contract to determine whether or not the level of service and technical expertise pertaining to the type of machine remains competitive. In response to another question from Chairman Townsend, Mr. Tartaglia said that that Authority has a long-term agreement with Seimens, the original equipment manufacturers. In response to further questions from Chairman Townsend, Mr. Tartaglia said that staff reviews the contract periodically to ensure that the prices are competitive.***

The following resolution, as submitted by the President and Chief Executive Officer, was unanimously adopted.

**RESOLVED, That pursuant to the Authority’s Expenditure Authorization Procedures, capital expenditures in the amount of \$7.195 million are hereby authorized in accordance with and as recommended in the foregoing report of the President and Chief Executive Office, in the amount and for the purpose listed below:**

<u>Capital</u>	<u>Expenditure Approval</u> <u>Flynn</u>
Engineering, Procurement, Installation	\$6,555,000 \$ 132,000
Authority Direct & Indirect	<u>\$ 508,000</u>
	Total <u>\$7,195,000</u>

**AND BE IT FURTHER RESOLVED, That the Chairman, the Vice Chairman, the President and Chief Executive Officer, the Chief Operating Officer and all other offices of the authority are, and each of them hereby is, authorized on behalf of the Authority to do any and all things and take any and all actions and execute and deliver any and all agreements, certificates and other documents to effectuate the foregoing resolution, subject to the approval of the form thereof by the Acting General Counsel.**

**6. Niagara Power Project – Lewiston Pump Generating Plant Life Extension and Modernization Program – GSU Installation – Contract Award**

The President and Chief Executive Officer submitted the following report:

**SUMMARY**

“The Trustees are requested to approve the award of a three-year contract to Ferguson Electric Construction Co., Inc. (‘Ferguson’) of Buffalo, New York, in the amount of \$4.05 million to install four new generator step-up transformers (‘GSU’), as part of the Life Extension and Modernization (‘LEM’) program at the Lewiston Pump Generating Plant (‘LPGP’).

**BACKGROUND**

“In accordance with the Authority’s Expenditure Authorization Procedures, the award of non-personal services contracts in excess of \$3 million and contracts exceeding a one-year term requires the Trustees’ approval.

“At their June 29, 2010 meeting, the Trustees approved capital expenditures in the amount of \$131 million for the Niagara Power Project – LPGP LEM program. The total estimated cost of the LPGP LEM program is unchanged at \$460 million.

“The principal driver for life extension work at LPGP is the condition and age of generating equipment, including the original transformers, motor-generators, pump-turbines, exciters and controls, potheads and High Pressure Fluid-Filled (‘HPFF’) plants. Failure to maintain LPGP would result in significant loss of peaking and firm capacity from the Niagara Power Project, preventing the Project from being able to meet power contracts with the Authority’s customers.

“As a result of the modernization, an increase in pump efficiency will be realized; the GSUs require an increase in capacity rating to support the pumping capacity increase. To this end, at their May 26, 2010 meeting, the Trustees approved a multi-year contract, in the amount of \$6.5 million, with JSHP Transformer USA Corporation, to furnish and deliver five new GSUs, which includes one spare GSU.

**DISCUSSION**

“The scope-of-work under this contract includes the removal and disposal of the existing transformers, as well as the installation of the new GSUs procured under a separate contract (due to long lead time and coordination). The scope-of-work also includes the demolition and replacement of the deluge fire suppression system; structural repairs to the GSU containment pits and access hatches; demolition of the oil coolers and associated piping; demolition of the GSU and feeder relay protection and installation of the new relay protection cabinets procured under a separate contract. This work will be performed in four phases as follows:

- Feeder 2: October 2011 – December 2011
- Feeder 3: March 2012 – April 2012
- Feeder 1: October 2012 – November 2012
- Feeder 4: March 2013 – April 2013

“The Authority issued an advertisement to procure bids in the New York State *Contract Reporter* and bid packages were available as of December 10, 2010. The bid documents were downloaded by 87 potential bidders and 6 potential bidders participated in a site visit on December 21, 2010.

“The following three proposals were received on February 3, 2011:

<u>Bidder</u>	<u>Location</u>	<u>Lump Sum</u>
Ferguson Electric Construction Co.	Buffalo, NY	\$4,045,000.00
O’Connell Electric Co.	Victor, NY	\$4,046,597.00
Eaton Corporation	East Syracuse, NY	\$4,957,044.39

“The proposals were reviewed by an evaluation committee comprising staff from Engineering, Procurement and Project Management.

“Ferguson’s bid was the lowest in price and was also technically acceptable. Ferguson, which has extensive experience in electrical construction and projects of this magnitude and demonstrated knowledge of the scope-of-work, is capable of completing this project in a timely manner.

“The estimated cost of this work is within the authorization of this project which was approved by the Trustees at their June 29, 2010 meeting; this work is included in the 2011 approved Capital Budget. Future funding will be included in the Capital Budget request for that year.

FISCAL INFORMATION

“Payment associated with this project will be made from the Authority’s Capital Fund.

RECOMMENDATION

“The Project Manager, the Vice President – Project Management, the Vice President – Engineering, the Vice President – Procurement, the Regional Manager – Western New York and the Senior Vice President – Power Supply Support Services recommend that the Trustees approve award of a contract to Ferguson Electric Construction Co., Inc. of Buffalo, NY in the amount of \$4.05 million to install the new generator step-up transformers as part of the Life Extension and Modernization program to renovate and modernize the Lewiston Pump Generating Plant.

“For the reasons stated, I recommend the approval of the above-requested action by adoption of a resolution in the form of the attached draft resolution.”

*Mr. John Canale presented highlights of staff recommendations to the Trustees. In response to a question from Trustee Nicandri, Mr. Canale said that this contract award is for work that is a continuation of the Project’s Life Extension and Modernization program.*

The following resolution, as submitted by the President and Chief Executive Officer, was unanimously adopted.

**RESOLVED, That pursuant to the Guidelines for Procurement Contracts adopted by the Authority, approval is hereby granted to award a three-year contract to Ferguson Electric Construction Co., Inc. of Buffalo, New York, in the amount of \$4.05 million to install four new generator step-up transformers as part of the Life Extension and Modernization program to renovate and modernize the Lewiston Pump Generating Plant, as recommended in the foregoing report of the President and Chief Executive Officer;**

**Contractor**

**Contract Approval**

Ferguson Electric Construction  
Co., Inc. Buffalo, NY

**\$4.05 million**

**AND BE IT FURTHER RESOLVED, That the Chairman, the Vice Chairman, the President and Chief Executive Officer, the Chief Operating Officer and all other officers of the Authority are, and each of them hereby is, authorized on behalf of the Authority to do any and all things and take any and all actions and execute and deliver any and all agreements, certificates and other documents to effectuate the foregoing resolution, subject to the approval of the form thereof by the Acting General Counsel.**

**7. Niagara Power Project – Lewiston Pump Generating Plant Life Extension and Modernization Program – Pothead Replacement – Contract Award**

The President and Chief Executive Officer submitted the following report:

**SUMMARY**

“The Trustees are requested to approve the award of a three-year contract in the amount of \$2.96 million, to Welsbach Electric Corporation, (‘Welsbach’), of College Point, New York, an indirect wholly-owned subsidiary of EMCOR Group, Inc., to replace the existing transmission voltage terminations (‘Potheads’) for the 230 kV High Pressure Fluid-Filled (‘HPFF’) Cables, as part of the Life Extension and Modernization (‘LEM’) program to renovate and modernize the Lewiston Pump Generating Plant (‘LPGP’).

**BACKGROUND**

“In accordance with the Authority’s Expenditure Authorization Procedures, the award of non-personal services contracts exceeding a one-year term require the Trustees’ approval.

At their June 29, 2010 meeting, the Trustees approved capital expenditures in the amount of \$131 million for the Niagara Power Project’s LPGP LEM program. The total estimated cost of the LPGP LEM program is unchanged at \$460 million.

“The principal driver for life extension work at LPGP is the condition and age of generating equipment, including the original transformers, motor-generators, pump-turbines, exciters and controls, Potheads and HPFF plants. Failure to maintain LPGP would result in significant loss of peaking and firm capacity from the Niagara Power Project, preventing the Project from being able to meet power contracts with the Authority’s customers.

“At their May 26, 2010 meeting, the Trustees approved a multi-year contract in the amount of \$6.5 million with JSHP Transformer USA Corporation to furnish and deliver five new generator step-up transformers (‘GSUs’) which includes one spare GSU. In order to take advantage of the individual outages to replace the GSUs, it would be advantageous to replace the high voltage cable Potheads simultaneously. This would minimize future planned outages.

**DISCUSSION**

“The scope of work under this contract includes the disconnection, removal, disposal and replacement of the existing Potheads for the 230 kV HPFF Cables. There are three individual cables connected between each of the four GSUs and the LPGP switchyard that contains a Pothead; each cable end has a Pothead for a total of 24 Potheads. In addition, three spare Potheads will be procured. This work will be performed in four phases as follows:

- Feeder 2: October 2011 – December 2011
- Feeder 3: March 2012 – April 2012
- Feeder 1: October 2012 – November 2012
- Feeder 4: March 2013 – April 2013

“The Authority issued an advertisement to procure bids in the New York State *Contract Reporter* and bid packages were available as of December 10, 2010. The bid documents were downloaded by 82 potential bidders and six potential bidders participated in a site visit on December 21, 2010.

“The following three proposals were received on February 3, 2011:

<u>Bidder</u>	<u>Location</u>	<u>Lump Sum</u>
Welsbach Electric Corp.	College Point, NY	\$2,957,390.00
W.A. Chester, LLC	Lanham, MD	\$3,268,000.00
Hawkeye, LLC	Hauppauge, NY	\$3,507,937.64

“The proposals were reviewed by an evaluation committee comprising staff from Engineering, Procurement and Project Management.

“Welsbach’s bid was the lowest in price and was also technically acceptable. Welsbach, which has extensive experience in electrical construction and projects of this magnitude and demonstrated knowledge of the scope-of-work, is capable of completing this project in a timely manner.

“The estimated cost of this work is within the authorization of this project which was approved by the Trustees at their June 29, 2010 meeting; this work is included in the 2011 approved Capital Budget. Future funding will be included in the Capital Budget request for that year.

FISCAL INFORMATION

“Payment associated with this project will be made from the Authority’s Capital Fund.

RECOMMENDATION

“The Project Manager, the Vice President – Project Management, the Vice President – Engineering, the Vice President – Procurement, the Regional Manager – Western New York and the Senior Vice President – Power Supply Support Services recommend that the Trustees approve award of a contract to Welsbach Electric Corporation of College Point, New York, in the amount of \$2.96 million, to replace the existing transmission voltage terminations for the 230 kV High Pressure Fluid-Filled Cable, as part of the Life Extension and Modernization program to renovate and modernize the Lewiston Pump Generating Plant.

“For the reasons stated, I recommend the approval of the above-requested action by adoption of a resolution in the form of the attached draft resolution.”

The following resolution, as submitted by the President and Chief Executive Officer, was unanimously adopted.

**RESOLVED, That pursuant to the Guidelines for Procurement Contracts adopted by the Authority, approval is hereby granted to award a three-year contract to Welsbach Electric Corporation of College Point, New York, in the amount of \$2.96 million, to replace the existing transmission voltage terminations for the 230 kV High Pressure Fluid-Filled Cables, as part of the Life Extension and Modernization program to renovate and modernize the Lewiston Pump Generating Plant, as recommended in the foregoing report of the President and Chief Executive Officer;**

<u>Contractor</u>	<u>Contract Approval</u>
Welsbach Electric Corporation, College Point, NY	<u>\$2.96 million</u>

**AND BE IT FURTHER RESOLVED, That the Chairman, the Vice Chairman, the President and Chief Executive Officer, the Chief Operating Officer and all other officers of the Authority are, and each of them hereby is, authorized on behalf of the Authority to do any and all things and take any and all actions and execute and deliver any and all agreements, certificates and other documents to effectuate the foregoing resolution, subject to the approval of the form thereof by the Acting General Counsel.**

**8. NERC Reliability Standards Compliance Security Upgrades – Capital Expenditure Authorization Request**

The President and Chief Executive Officer submitted the following report:

**SUMMARY**

“The Trustees are requested to authorize a Capital Expenditure Authorization Request (‘CEAR’) in the amount of \$8.4 million for the North American Electric Reliability Corporation (‘NERC’) Reliability Standards Compliance security upgrades at various Authority facilities over the next three years.

**BACKGROUND**

“In accordance with the Authority’s Expenditure Authorization Procedures, Trustees’ approval is required for capital expenditures in excess of \$3 million.

“NERC is the Electric Reliability Organization certified by the Federal Energy Regulatory Commission (‘FERC’) to establish and enforce reliability standards to ensure the reliability of the bulk-power system in North America. NERC Reliability Standards are mandatory for users, owners and operators of the bulk-power system. The Authority is registered as a Generation Owner, Generation Operator, Transmission Owner, Purchasing and Selling Entity and Load Serving Entity with NERC and, therefore, must comply with the applicable NERC Reliability Standards.

“NERC’s Critical Infrastructure Protection (‘CIP’) reliability standards are a subset of the NERC Reliability Standards which define the requirements for protecting critical assets and critical cyber assets used in the bulk-power system and the systems that support those assets. NERC CIP consists of nine standards covering security of electronic perimeters, physical security of cyber assets, disaster recovery, personnel and training and security management.

“One of NERC’s statutory roles is to conduct periodic, independent assessments of the reliability and adequacy of the bulk-power system in North America. NERC has a rigorous program of monitoring, audits and investigations and the imposition of financial penalties and other enforcement actions for non-compliance with its Reliability Standards. Fines and civil penalties can be up to \$1 million dollars per day, per violation. NERC also issues recommendations that require specific actions be taken by registered entities.

“This CEAR is for security upgrades to implement the NERC CIP Reliability Standard requirements, as well as electronic and physical security mitigation measures at various Authority facilities over the next three years as part of Phase I.

“Other NERC mandates are being evaluated separately with O&M funding. Remediation of concerns encountered subsequent to the evaluation will require additional funding. Any future NERC mandates will also require additional funding.

**DISCUSSION**

“NERC Reliability Standards, including the NERC CIP Standards, apply to entities that are owners, operators and users of any portion of the bulk-power system that materially impact the reliability of the system. As a registered generator owner, generator operator, and transmission owner, the Authority must comply with the applicable NERC Reliability Standards.

“The Authority has performed a review of existing critical assets, critical cyber assets and Information Technology (‘IT’) infrastructure at its generation and transmission facilities to identify a number of security upgrades (both physical and cyber) that are required for the Authority to be compliant with applicable NERC CIP Standards. The review resulted in a need for the following NERC CIP related upgrades:

- Establish physical security perimeters for Control Buildings and Turbine Galleries
- Install physical security systems for exiting physical security perimeters
- Upgrade cyber network equipment and IT firewalls
- Upgrade physical security perimeter and electronic security perimeter procedures and documentation

“The identified upgrades will be required at each of the regional facilities – St. Lawrence/ FDR Power Project, Clark Energy Center, Blenheim-Gilboa Power Project, Niagara Power Project, Southeastern New York, White Plains Office – as well as remote substations. The work is anticipated to be performed over a three-year period.

“The total project cost over the three-year period is estimated at \$8.4 million, as follows:

Engineering/Design	\$1,540,000
Construction/Installation	\$5,700,000
Authority Direct Expenses	\$ 760,000
Authority Indirect Expenses	<u>\$ 400,000</u>
TOTAL	<u>\$8,400,000</u>

“For the current fiscal year, \$751,000 was budgeted. Based on updated information and the recent NERC mandates, the expenditures for 2011 are anticipated to be approximately \$2.9 million.

#### FISCAL INFORMATION

“Payment associated with this project will be made from the Authority’s Capital Fund.

#### RECOMMENDATION

“The Senior Vice President – Power Supply Support Services, the Senior Vice President – Transmission, the Vice President – Project Management and the Vice President – Procurement recommend that the Trustees authorize capital expenditures in the amount of \$8.4 million for security upgrades at various Authority facilities over the next three years.

“For the reasons stated, I recommend the approval of the above-requested action by adoption of a resolution in the form of the attached draft resolution.”

The following resolution, as submitted by the President and Chief Executive Officer, was unanimously adopted.

**RESOLVED, That expenditures are hereby approved in accordance with the Authority’s Expenditure Authorization Procedures, for capital expenditures in the amount of \$8.4 million for security upgrades at various Authority facilities over the next three years; and be it further**

**RESOLVED, That the Chairman, the Vice Chairman, the President and Chief Executive Officer, the Chief Operating Officer and all other officers of the Authority are, and each of them hereby is, authorized on behalf of the Authority to do any and all things and take any and all actions and execute and deliver any and all agreements, certificates and other documents to effectuate the foregoing resolution, subject to the approval of the form thereof by the Acting General Counsel.**

9. **Motion to Conduct an Executive Session**

*Mr. Chairman, I move that the Authority conduct an executive session pursuant to the Public Officers Law of the State of New York section §105 to discuss matters leading to the appointment, employment, promotion, demotion, discipline, suspension, dismissal or removal of a particular person or corporation.* On motion made and seconded, an Executive Session was held.

10. **Motion to Resume Meeting in Open Session**

*Mr. Chairman, I move to resume the meeting in Open Session.* On motion made and seconded, the meeting resumed in Open Session.

11. **Next Meeting**

The next regular meeting of the Trustees will be held on **Tuesday, May 24, 2011, at 11:00 a.m., at the Clarence D. Rappleyea Building, 123 Main Street, White Plains, New York**, unless otherwise designated by the Chairman with the concurrence of the Trustees.

March 29, 2011

**Closing**

On motion made and seconded, the meeting was adjourned by the Chairman at approximately 12:20 p.m.

A handwritten signature in black ink, appearing to read "Karen Delince". The signature is fluid and cursive, with a large initial "K" and "D".

Karen Delince  
Corporate Secretary

**March 29, 2011**

# **EXHIBITS**

New York Power Authority  
Power for Jobs - Extended Benefits  
Recommendation for Restitution Payments

Line	Company	City	County	IOU	KW	Restitution Period		Program Status	Payment	Service
						Time Frame	Months			
1	Diversified Manufacturing, Inc.	Lockport	Niagara	NYSEG	255	Dec 05 - Jun 09	43-months	Rebate	\$27,539	Heat Exch., Press. Vessels, Copper Plating Drums, etc.
2	Fermer, Precision	Ilion	Herkimer	NYSEG	200	Dec 05 - Jun 09	43-months	Rebate	\$15,548	Provides machining applications for metal and plastics industries
3	Mountainside Farms	Roxbury	Delaware	NYSEG	450	Jan 06 - Jun 09	42-months	Exited	\$46,426	All types of fluid milk products are bottled
4	Newcut, Inc.	Newark	Wayne	NYSEG	75	Jan 06 - Jun 09	42-months	Exited	\$7,813	Metal coating & allied services

980

\$97,326

**GRAND TOTAL**

New York Power Authority  
Power for Jobs - Extended Benefits  
Restitution Savings - No Payment Required

Line	Company	City	County	IOU	KW	Restitution Period		Program Status	Savings	Service
						Time Frame	Months			
1	Donadio Power Pallet Inc	Amsterdam	Montgomery	Grid	250	Jan 06 - Jun 09	42-months	Exited	\$83,530	Produces wood pallets & skids

Procurement (Services) Contracts – Awards  
(For Description of Contracts See "Discussion")

EXHIBIT "1e-A"  
March 29, 2011

Plant Site	Company Contract #	Start of Contract	Description of Contract	Closing Date	Award Basis <sup>1</sup> Contract Type <sup>2</sup>	Compensation Limit	Amount Expended To Date	Authorized Expenditures For Life Of Contract
------------	--------------------	-------------------	-------------------------	--------------	---	--------------------	-------------------------	--

CORPORATE SUPPORT SERVICES Q11-4927; 2 awards: 04/01/11 (on or about) Provide for architectural services for the Rappleyea Building 03/31/16 B/P

1. BAVIER DESIGN, LLC  
Stamford, CT

2. ENVIRONETICS GROUP ARCHITECTS, PC  
Englewood Cliffs, NJ  
(PO#s TBA)

CORPORATE SUPPORT SERVICES TURBOPROP EAST INC. 04/01/11 (on or about) Provide for maintenance of King Air 350 series aircraft 03/31/16 B/S \$2,544,775\*

North Adams, MA  
(Q10-4902; PO# TBA)

\*Note: represents total for up to 5-year term

ENERGY SERV. & TECHNOLOGY-ENG & DESIGN Q10-4885; 3 awards: 04/01/11 (on or about) Provide for power factor correction and power quality improvements for Energy Services Programs 03/31/16 B/C \$5,000,000\*

1. CASTLE POWER SOLUTIONS, LLC  
South Glens Falls, NY

2. EATON CORP.  
New York, NY and  
Syracuse, NY

3. GENERAL ELECTRIC INTERNATIONAL INC.  
Rotterdam, NY  
(PO#s TBA)

\*Note: represents aggregate total for up to 5-year term  
All costs will be recovered by the Authority.

1 M / WBE: New York State-certified Minority / Women-owned Business Enterprise (indicated by the † symbol after the Company Name)  
2 Award Basis: B= Competitive Bid; S= Sole Source; C= Competitive Search  
Contract Type: P= Personal Service; S= (Non-Personal) Service; C= Construction; E= Equipment; N= Non-Procurement

Procurement (Services) Contracts – Awards  
(For Description of Contracts See "Discussion")

Plant Site	Company Contract #	Start of Contract	Description of Contract	Closing Date	Award Basis <sup>1</sup> Contract Type <sup>2</sup>	Compensation Limit	Amount Expended To Date	Authorized Expenditures For Life Of Contract
ENTERPRISE SHARED SERVICES - IT	SHI INTERNATIONAL-CORP. ♦ Cold Spring, NY (Quote #4294911; PO# 4500200071)	02/23/11 (issue date) 03/30/11 (effective date)	Provide for updates and maintenance / support services for Sophos software for network security	03/29/14	B/S	*Note: represents total for up to 3-year term		\$84,300*
HUMAN RESOURCES - TALENT DEVELOPMENT	DEVELOPMENT DIMENSIONS INTERNATIONAL, INC. Bridgeville, PA (Q11-4943; PO# TBA)	04/01/11 (on or about)	Provide for executive assessment services	03/31/16	S/P	*Note: represents total for up to 5-year term		\$175,000*
MARKETING & ECONOMIC DEVELOPMENT - MARKETING ANALYSIS & ADMIN,	BLACK & VEATCH NEW YORK LLP New York, NY (Q10-4921; PO# TBA)	04/01/11 (on or about)	Provide for general electric rate consulting services	03/31/16	B/P	*Note: represents total for up to 5-year term		\$2,000,000*
POWER SUPPLY- NIAGARA	ALL STATE FIRE EQUIPMENT OF WNY Depew, NY (6000118890; PO# TBA)	04/01/11 (on or about)	Provide for inspection and testing services for fire protection systems at NIA	03/31/15	B/S	*Note: represents total for up to 4-year term		\$60,000*
POWER SUPPLY- NIAGARA	BIDCO MARINE GROUP, INC. Grand Island, NY. (6000119132; PO# TBA)	05/01/11 (on or about)	Provide for penstock inspections on RMNPP generating units	12/31/13	B/S	*Note: represents total for up to 2-year 8-month term		\$100,000*

♦ M / WBE: New York State-certified Minority / Women-owned Business Enterprise (indicated by the ♦ symbol after the Company Name)  
 1 Award Basis: B= Competitive Bid; S= Sole Source; C= Competitive Search  
 2 Contract Type: P= Personal Service; S= (Non-Personal) Service; C= Construction; E= Equipment; N= Non-Procurement

**Procurement (Services) Contracts – Awards  
(For Description of Contracts See "Discussion")**

<u>Plant Site</u>	<u>Company Contract #</u>	<u>Start of Contract</u>	<u>Description of Contract</u>	<u>Closing Date</u>	<u>Award Basis<sup>1</sup> Contract Type<sup>2</sup></u>	<u>Compensation Limit</u>	<u>Amount Expended To Date</u>	<u>Authorized Expenditures For Life Of Contract</u>
POWER SUPPLY- PROJ MGMT + NIAGARA	BRAND-ON FIRST BUFFALO MARINA, INC. Buffalo, NY (Q10-4906; PO# 4500200149)	03/01/11	Provide for marina management services to operate, maintain and manage the First Buffalo Marina	02/28/16	B/P			\$0*
POWER SUPPLY- STL	CASELLA WASTE SERVICES Potsdam, NY (6000119914; PO# TBA)	04/01/11 (on or about)	Provide for refuse removal and disposal services for STL	03/31/14	B/S			\$400,000*
POWER SUPPLY- 500MW PLANT	GENERAL ELECTRIC INTERNATIONAL INC. North Bergen, NJ (6000117383; PO# TBA)	04/01/11 (on or about)	Provide for technical assistance to support the 500 MW Plant	03/31/14	B/P			\$300,000*
POWER SUPPLY- FLYNN & SCPPs	HOERBIGER SER- VICE INC. New Castle, DE (6000118082; PO# TBA)	04/01/11 (on or about)	Provide for gas compressor maintenance services for Flynn Plant and SCPPs	03/31/14	B/S			\$600,000*
POWER SUPPLY- 500 MW PLANT	MOST HEALTHCARE SYSTEMS, INC. Voorhees, NJ (6000118309; PO# TBA)	04/01/11 (on or about)	Provide for on-site physical examinations for 500 MW Project employees	03/31/14	B/P			\$48,000*
POWER SUPPLY- ENGINEERING	TEST PRODUCTS, INC. ("TPI") Exton, PA (Q11-4937; PO# TBA)	04/01/11 (on or about)	Provide for station battery testing services	03/31/16	B/S			\$325,000*

\* Note: Revenue-Generating contract – the Authority will be paid 12.25% of the gross receipts based on revenue collected from winter storage, summer slip rental and park & launch activities

\*Note: represents total for up to 3-year term

\*Note: represents total for up to 5-year term

♦ M / WBE: New York State-certified Minority / Women-owned Business Enterprise (indicated by the ♦ symbol after the Company Name)

1 Award Basis: B= Competitive Bid; S= Sole Source; C= Competitive Search

2 Contract Type: P= Personal Service; S= (Non-Personal) Service; C= Construction; E= Equipment; N= Non-Procurement

Procurement (Services) Contracts – Awards  
(For Description of Contracts See "Discussion")

Plant Site	Company Contract #	Start of Contract	Description of Contract	Closing Date	Award Basis <sup>1</sup> Contract Type <sup>2</sup>	Compensation Limit	Amount Expended To Date	Authorized Expenditures For Life Of Contract
POWER SUPPLY- NIAGARA	THINKING OUTSIDE THE SQUARE, INC. Buffalo, NY (6000119002; PO# TBA)	04/01/11 (on or about)	Provide for maintenance/ repair of exhibits / displays at Niagara Project's Power Vista Visitors' Center	03/31/15	B/S			\$100,000*
POWER SUPPLY- TECHNICAL COMPLIANCE	Q10-4925; 4 awards: 1. ASR INTERNATIONAL CORP. ♦ Hauppauge, NY 2. BUREAU VERITAS NORTH AMERICA, INC. Downers Grove, IL	04/01/11 (on or about)	Provide for on-call temporary services of Quality Assurance engineers and metallurgists, as needed	03/31/16	B/P			\$2,000,000*

\*Note: represents total for up to 4-year term

\*Note: represents aggregate total for up to 5-year term

♦ M / WBE: New York State-certified Minority / Women-owned Business Enterprise (indicated by the ♦ symbol after the Company Name)  
 1 Award Basis: B= Competitive Bid; S= Sole Source; C= Competitive Search  
 2 Contract Type: P= Personal Service; S= (Non-Personal) Service; C= Construction; E= Equipment; N= Non-Procurement

Ext-A032011final

Procurement (Services) and Other Contracts – Extensions and/or Additional Funding  
(For Description of Contracts See "Discussion")

EXHIBIT "1e-B"  
March 29, 2011

<u>Plant Site/ Bus. Unit</u>	<u>Company Contract #</u>	<u>Start of Contract</u>	<u>Description of Contract</u>	<u>Closing Date</u>	<u>Award Basis<sup>1</sup> Contract Type<sup>2</sup></u>	<u>Compensation Limit</u>	<u>Amount Expended To Date</u>	<u>Authorized Expenditures For Life Of Contract</u>
POWER SUPPLY- ALSTOM POWER PROJECT MGMT + STL	INC. Littleton, CO 4600001236 and 4600001237	03/25/04	Provide for runner replacement and turbine overhaul – equipment and installation /services for the STL LEIM Program.	02/24/14		\$33,299,698 (combined "Target Value")	\$32,395,200 ("Released")	\$37,800,000*
POWER SUPPLY- EH&S	NORMANDEAU ASSOCIATES, INC. Bedford, NH 4500190871	06/29/10	Provide for hydro-acoustic study of juvenile blueback herring at the Crescent Project	06/28/13	B/P	\$424,291	\$256,574	\$850,000*

\* Note: represents previously approved amount of \$33.3 million + CURRENT INCREASE OF \$4.5 million

\*Note: includes originally approved amount of \$425,000 + CURRENT INCREASE OF \$425,000

Contracts in support of Headquarters Business Units and the Facilities:

1 Award Basis: B= Competitive Bid; S= Sole Source; C= Competitive Search  
2 Contract Type: P= Personal Service; S= (Non-Personal) Service; C= Construction; E= Equipment; N= Non-Procurement

**GUIDELINES**

**AND**

**PROCEDURES**

**FOR THE**

**DISPOSAL OF NEW YORK POWER AUTHORITY**

**PERSONAL PROPERTY**

INDEX

<u>Article</u>	<u>Description</u>	<u>Page</u>
I.	PURPOSE.....	1
II.	DEFINITIONS.....	1-2
III.	OBJECTIVE.....	2-3
IV.	TRANSACTIONS NOT COVERED.....	3
V.	DESIGNATION OF PROPERTY DISPOSAL COORDINATORS.....	3-4
VI.	PROCEDURES FOR DISPOSAL OF AUTHORITY PERSONAL PROPERTY.....	4-12
VII.	CENTRALIZED DISPOSAL.....	12-13
VIII.	DECENTRALIZED DISPOSAL.....	13-14
IX.	PARTIES PROHIBITED FROM BIDDING.....	14-15
X.	EVALUATION OF PROPOSALS; AWARD OF CONTRACT.....	15-17
XI.	AUTHORIZATION LEVELS AND SIGNING AUTHORITY.....	17-18
XII.	OTHER METHODS FOR DISPOSAL OF PERSONAL PROPERTY.....	19-20
XIII.	METHODS OF PAYMENT.....	20
XIV.	REPORTING REQUIREMENTS.....	21-22
	ATTACHMENTS A - C	

**GUIDELINES AND PROCEDURES**  
**FOR THE**  
**DISPOSAL OF NEW YORK POWER AUTHORITY PERSONAL PROPERTY**

I. **PURPOSE**

These Guidelines and Procedures for the Disposal of Personal Property (hereinafter "Guidelines"), which comply with Title 5-A, Article 9 of the Public Authorities Law, establish the procedures that detail the Authority's policy and instructions regarding the use, award, monitoring and reporting of the disposal of personal property. In addition, the Guidelines designate a Contracting Officer who is responsible for the Authority's compliance with, and enforcement of, the Guidelines.

II. **DEFINITIONS**

A. "Contracting Officer" shall mean the officer or employee of the Authority who shall be appointed by resolution of the Authority's Board of Trustees to be responsible for the disposition of personal property. The "Contracting Officer" is hereby designated to be the Vice President – Enterprise Shared Services, or equivalent(s), or a designee so stated in writing. The Authority's Contracting Officer shall not be responsible for compliance for dispositions of the Authority's personal property conducted by another state entity authorized to dispose of the Authority's personal property under the Public Authorities Accountability Act ("PAAA") or as otherwise authorized by law.

- B. "Dispose" or "disposal" shall mean transfer of title or any other beneficial interest in personal property in accordance with these Guidelines.
- C. "Property" shall mean personal property owned by the Authority with a value in excess of \$5,000, and any other interest in such property, to the extent that such interest may be conveyed to another person for any purpose, excluding an interest securing a loan or other financial obligation of another party. For the purposes of these Guidelines, personal property may include, but is not limited to, materials, tools, equipment, or vehicles.
- D. "Fair Market Value" shall mean the estimated dollar amount that a willing buyer would pay to a willing seller for the Property in an arms-length transaction in the appropriate marketplace and under similar circumstances. Fair Market Value may be determined by consulting industry-recognized sources, contacting original suppliers, depreciation analysis, appraisals, fair market valuations by public auction or other methods of valuation generally accepted in the industry in which such Property is utilized, as may be approved by the Contracting Officer or authorized designee.
- E. "Relative" is defined in Subsection X.G.1 of these Guidelines.

### **III. OBJECTIVE**

The objective of these Guidelines is to identify those Authority personnel responsible for authorizing the disposal of Property owned by the Authority and to ensure that the Authority receives fair and reasonable value for such Property. The transfer or sale of Property shall be accounted for in accordance with the Authority's

Corporate Accounting Policy No. CAP 4.3 dated 6/30/05, Revision 2 -- "Accounting for Materials and Supplies."

#### IV. TRANSACTIONS NOT COVERED

These Guidelines do not apply to any of the following transactions:

1. Disposal of real property interests;
2. Exchange of Property with other utilities or power plant owners, where such owners will provide an identical or in-kind replacement;
3. Transfer/re-deployment of Property from one Authority facility to another Authority facility.

#### V. DESIGNATION OF PROPERTY DISPOSAL COORDINATORS

- A. The Contracting Officer shall be responsible for the Authority's compliance with, and enforcement of, the Guidelines.
- B. The individual responsible for disposal of all Property at the Authority's facilities will be the Director – Site Purchasing & Materials Management ("DSP&MM"). For purposes of Property disposal, the DSP&MM reports directly to the Contracting Officer or authorized designee.
- C. The Purchasing and Warehouse Manager from each facility will be the local Property Disposal Coordinator for his or her facility or location ("Facility PDC"). The Facility PDC reports to the DSP&MM.
- D. The Contracting Officer or authorized designee will designate one or more individuals from the White Plains Office Procurement Division to be the

Property Disposal Coordinator(s) for the White Plains, Albany and New York corporate offices ("WPO PDC"). For purposes of Property disposal, the WPO PDC(s) will confer, interface with and report to the Contracting Officer or authorized designee.

- E. The Director of Fleet Operations ("DFO") or equivalent(s) or authorized designee is responsible for the disposal of vehicles and rolling equipment. The DFO reports directly to the Senior Vice President – Corporate Support Services or authorized designee.
- F. If appropriate, the responsible Facility PDC should confer (by oral or written communication) with the DSP&MM and the WPO PDC(s) should confer (by oral or written communication) with the Contracting Officer or authorized designee to determine if a "centralized" sale of Property, as outlined in Article VII, is appropriate. If agreed, the responsible PDC should arrange for shipment of the Property to be sold from the site to the sale location. If a centralized sale is not appropriate, the responsible PDC should proceed in accordance with the "decentralized" procedures, as outlined in Article VIII.

**VI. PROCEDURES FOR DISPOSAL OF AUTHORITY PERSONAL PROPERTY**

Except for Disposals pursuant to Article VII, Article XII and Subsection VI.A.4 of these Guidelines, whenever practicable, the responsible PDC shall solicit proposals from qualified bidders, to purchase the Property to be disposed of, and will maintain records of such solicitations. The PDC should use "Attachment A" attached hereto

or an appropriate substitute for solicitations under this Article VI.

**A. DISPOSAL METHODS FOR PERSONAL PROPERTY**

1. For the purposes of these Guidelines, Disposal methods may include, but are not limited to: sale (directly to the Buyer, through a third party, negotiation, well-advertised public auction that permits full and free competition consistent with the value and nature of the property or on any other centralized basis that achieves the same level of competition); return to the original equipment manufacturer or to the source; trade-ins or disposals as part of a competitive procurement; or disposal through the New York State Office of General Services ("OGS"). Provided, however, that no disposition of any Property, which because of its unique nature or the unique circumstances of the proposed transaction is not readily valued by reference to an active market for similar Property, shall be made unless an appraisal of the value of such Property has been made by an independent appraiser and included in the record of the transaction. The Authority's Environment, Health and Safety Division should be consulted, on a case-by-case basis, regarding disposal of items that may be considered hazardous waste.
2. Solicitation via telephone, e-mail and/or direct mailings may be used where the estimated Fair Market Value of the Property to be disposed of is greater than \$5,000 but does not exceed \$15,000. All bids must be submitted in writing on the forms or an appropriate substitute and in the

manner prescribed by this procedure and by the date and time (the "Bid Due Date") included in the solicitation.

3. All Disposals of Authority Property in excess of \$15,000 shall be made after publicly advertising for bids except as provided in Subsection 4 below, using the following process:
  - a. the appropriate advertisement for bids (Attachment "B" or an appropriate substitute) shall be made at such time prior to the Disposal, through such methods, and on such terms and conditions as shall permit full and free competition consistent with the value and nature of the Property. This may include advertisements in one or more of the following publications, depending on the nature of the Property: local newspapers in the geographic area of the facility where the sale is taking place, trade journals, regional or nationwide publications (if the market for such sale is regional or nationwide), the New York State Contract Reporter, internet services or other communication outlets as appropriate;
  - b. all bids must be submitted in writing on the forms or an appropriate substitute and in the manner prescribed by this procedure and by the Bid Due Date included in the solicitation;
  - c. all bids shall be publicly disclosed, at the time and place stated in the solicitation or by posting to the Authority's internet website; and
  - d. the award shall be made with reasonable promptness by notice to the responsible bidder whose bid, conforms to the bid solicitation and is

most advantageous to the Authority, price and other factors considered; however, any bid may be rejected when in the public interest to do so at the Authority's sole discretion.

4. Disposals of Property may be negotiated or made by public auction without regard to Subsection 3 of this Section, but subject to obtaining such competition as is feasible under the circumstances, if:
  - a. the Property involved has qualities separate from the utilitarian purpose of such Property, such as artistic quality, antiquity, historical significance, rarity or other quality of similar effect that would tend to increase its value, or if the Property is to be disposed of in such quantity that, if it were Disposed of under Subsection 3 of this Section, would adversely affect the state or local market for such Property, and the estimated Fair Market Value of such Property and other satisfactory terms of disposal may be obtained by negotiation;
  - b. bid prices after advertising therefore are not reasonable, either as to all or part of the Property, or have not been independently arrived at in open competition;
  - c. the Disposal will be to the state or any political subdivision, and the estimated Fair Market Value of the Property and other satisfactory terms of Disposal are obtained by negotiation;
  - d. under those circumstances permitted by Subsection 6 of this Section;
  - e. if the estimated or actual fair market value of the property does not exceed \$15,000; or

- f. such action is otherwise authorized by law.
5. An explanatory statement shall be prepared of the circumstances of each Disposal by negotiation of any Property which has an estimated Fair Market Value in excess of fifteen thousand dollars (\$15,000). In addition, an explanatory statement shall be prepared of the circumstances of each Disposal by negotiation of any Property disposed of by exchange, regardless of value. Each such statement shall be transmitted to the Commissioner of General Services, the State Legislature, the State Comptroller, the Director of the Division of the Budget and the Authorities Budget Office, not less than ninety days in advance of such Disposal, and a copy thereof shall be preserved in the Authority's files.
6. a. No Property owned or otherwise in the control of the Authority may be disposed or otherwise alienated for less than its Fair Market Value except if:
- (i) the transferee is a government or other public entity, and the terms and conditions of the transfer require that the ownership and use of the Property will remain with the government or any other public entity;
  - (ii) the purpose of the transfer is within the purpose, mission or governing statute of the Authority; or
  - (iii) in the event the Authority seeks to transfer Property for less than its Fair Market Value to other than a governmental entity, which Disposal would not be consistent with the

Authority's mission, purpose or governing statutes, the Authority shall provide written notification thereof to the Governor, the Speaker of the Assembly, and the Temporary President of the Senate, and such proposed transfer shall be subject to denial by the Governor, the Senate or the Assembly. Denial by the Governor shall take the form of a signed certification by the Governor. Denial by either House of the Legislature shall take the form of a resolution by such House. The Governor and each House of the Legislature shall take any such action within sixty days of receiving notification of such proposed transfer during the months of January through June, provided that if the Legislature receives notification of a proposed transfer during the months of July through December, the Legislature may take any such action within sixty days of January first of the following year. If no such resolution or certification is performed within sixty days of such notification of the proposed transfer to the Governor, Senate and Assembly, the Authority may effectuate such transfer provided, however, that with respect to a below-market transfer by the Authority that is not within the purpose, mission or governing statute of the Authority, if the governing statute provides for the approval of such transfer by the executive and legislative branches of the

political subdivision in which the Authority resides, and if the transfer is of Property obtained by the Authority from that political subdivision, then such approval shall be sufficient to permit the transfer.

b. In the event a below Fair Market Value Property transfer is proposed, the following information must be provided to the Authority's Board of Trustees and the public:

- (i) a full description of the Property;
- (ii) an appraisal of the Fair Market Value of the Property and any other information establishing the Fair Market Value sought by the Board of Trustees;
- (iii) a description of the purpose of the transfer and a reasonable statement of the kind and amount of the benefit to the public resulting from the transfer, including but not limited to the kind, number, location, wages or salaries of jobs created or preserved as required by the transfer, the benefits, if any, to the communities in which the Property is situated as are required by the transfer;
- (iv) a statement of the value to be received compared to the Fair Market Value;
- (v) the names of any private parties participating in the transfer and, if different than the statement required by subparagraph

(iv) of this Subsection, a statement of the value to the private party; and

(vi) the names of other private parties who have made an offer for such Property, the value offered and the purpose for which the Property was sought to be used.

c. Before approving the Disposal of any Property for less than Fair Market Value, the Board of Trustees shall consider the information described in paragraph b of this Subsection and make a written determination that there is no reasonable alternative to the proposed below-market transfer that would achieve the same purpose of such transfer.

7. In addition, in cases where a Disposal of Property is made without competitive bidding and where the proposed contract price for the Property disposed of is less than Fair Market Value, prior to finalizing the Disposal a detailed explanation of the justification for making the Disposal without competitive bidding shall be prepared, and a certification shall be signed by the Chief Executive Officer and Chief Financial Officer of the Authority stating that they have reviewed the terms of such Disposal and have determined that it complies with applicable law and these Guidelines.

**B. DISPOSAL OPTIONS IF NO BIDS OR NO ACCEPTABLE BIDS ARE**

**RECEIVED**

The appropriate PDC shall confer with the DSP&MM and the Contracting Officer or authorized designee to decide (i) if re-soliciting is feasible; (ii) if shipment to a third-party contractor for Disposal, would result in higher-priced proposals; (iii) if disposal by other methods would be appropriate; and/or (iv) if the Fair Market Value estimate requires review or adjustment, where:

1. the solicitation pursuant to Section VI.A does not produce any bids to purchase the Property;
2. in the opinion of the Authority, the bids are not arrived at independently;
3. all bids are not reasonable in accordance with Section X.C; or
4. all bids received are less than the Authority's Fair Market Value estimate.

**VII. CENTRALIZED DISPOSAL**

A. Subject to the approval of the Contracting Officer or authorized designee and in accordance with Article VI of these Guidelines, in either the initial document authorizing the disposal or through a subsequent communication, Property may be disposed of using any of the following methods:

1. Shipment of the material to a third-party vendor(s), selected by competitive bidding, which, pursuant to these Guidelines, will market the

material for sale or dispose of such material in accordance with environmental and any other Authority requirements.

2. Consolidation of such Property at one of the Authority's facilities or an offsite warehouse for the purpose of conducting a sale managed by Authority staff, possibly with the assistance of an outside contractor.
3. Participation in public auctions provided the advertisement for bids through such methods permits full and free competition consistent with the value and nature of the property, as may be conducted through an independent auctioneer, online auction service, or another utility.

#### **VIII. DECENTRALIZED DISPOSAL**

- A. The Regional Manager, Project Manager, or head of a Department or Division requiring disposal of Property which he or she believes to be surplus, will submit to the responsible PDC a written description of the material, with the original price (if known), and estimate of the Property's Fair Market Value (if available). If practical, a photograph of the material or equipment in question should be provided. Such submission shall be made to the responsible PDC for the location where the Property is located.
- B. If the responsible PDC, in conference with either the DSP&MM or the Contracting Officer or authorized designee, as appropriate, determines that other Authority facilities may have an interest in the Property, a notice should be sent to the other Authority facilities advising of its availability and requesting a response within a specified time frame. A record of the notice

will be maintained by the responsible PDC. In the event that the responsible PDC and either the DSP&MM or the Contracting Officer or authorized designee, as appropriate, determine there is no interest in such material at other Authority facilities, a written explanation should be prepared by the PDC to that effect and maintained in the file for that transaction.

- C. If no response to the notice is received, the responsible PDC will solicit bids for the purchase of such Property in accordance with the procedures described in Article VI.

#### **IX. PARTIES PROHIBITED FROM BIDDING**

- A. All current and former employees of the Authority and relatives of such employees or third parties acting on behalf of such employees shall not be eligible to bid for the purchase of Authority Property and are prohibited from subsequently acquiring it in any manner. Each bidder will be required, as part of his or her bid, to certify, by signing Attachment "A," that he or she is not a current or former employee of the Authority, is not related to any current or former employee of the Authority and is not acting on behalf of a current or former employee of the Authority or a relative of any such employee. No bid will be accepted unless accompanied by such certification.
- B. The term "related to" as used in paragraph A above means the relationship of spouse, child, parent, sister, brother, grandparent, grandchild, aunt, uncle, cousin, niece, nephew, stepchild, stepparent, stepsister, stepbrother, mother-in-law, father-in-law, sister-in-law, brother-in-law, daughter-in-law or son-

in-law.

**X. EVALUATION OF PROPOSALS; AWARD OF CONTRACT**

- A. Following the receipt of proposals for the Property, the responsible PDC shall evaluate the proposals submitted and determine whether the highest of such proposals is reasonable, given the estimated Fair Market Value of the Property.
- B. If the responsible PDC determines that the highest bid received is reasonable, the responsible PDC shall recommend to the Responsible Officer(s), as hereinafter defined in Article XI, that such bid be accepted, and upon the written approval of the Responsible Officer(s), the sale shall be made to the person offering such proposal. After obtaining all necessary approvals in accordance with Article XI "Authorization Levels," a Sales Agreement appended hereto ("Attachment C") must be executed by the responsible Authority staff member and by the successful bidder prior to completion of the transaction.
- C. If either (a) the responsible PDC determines that the highest bid is not reasonable or (b) the Responsible Officer(s) decline(s) to authorize the sale, the Property will, except as provided in paragraph D below, be retained for future disposal in accordance with these Guidelines. Factors to be considered in determining whether a bid is reasonable include, but are not limited to: adequacy of the estimate of the Fair Market Value, anticipated improved future market conditions, potential for other means of disposal or

redeployment, financial viability of the bidder, and condition of the Property.

- D. Notwithstanding any determination by the responsible PDC, the Responsible Officer(s), with the review and approval of the Contracting Officer, may direct the sale of the Property to the person or firm submitting the highest bid.
- E. No Authority employee who is involved in the award of Authority grants or contracts, may ask any officer, director or employee of such current or prospective contractor or grantee to reveal: (a) the political party affiliation of the individual; (b) whether the individual or entity has made campaign contributions to any political party, elected official, or candidate for elective office; or (c) whether the individual voted for or against any political party, elected official or candidate for elective office.
- F. No Authority employee may award or decline to award any grant or contract, or recommend, promise or threaten to do so because of a current or prospective grantee's or contractor's: (a) refusal to answer any inquiry prohibited by Section E above or (b) giving or withholding or neglecting to make any contribution of money, service or any other valuable thing for any political purpose.
- G. No Authority employee may take part in any contracting decision involving the payment of \$1,000 or more: (i) to a Relative; or (ii) to any entity in which a Relative owns or controls 10% or more of the stock of such entity (or 1% in the case of a corporation whose stock is regularly traded on an established securities exchange); or serves as an officer,

director or partner of that entity. If a contracting matter arises relating to this Section G, then the employee must advise his or her supervisor of the relationship, and must be recused from any and all discussions or decisions relating to the matter.

1. For purposes of this Section G, the term "Relative" shall mean any person living in the same household as the Authority employee or any person who is a direct descendant of the Authority employee's grandparents or the spouse of such descendant.

## **XI. AUTHORIZATION LEVELS AND SIGNING AUTHORITY**

A. For the purposes of these Guidelines, the Responsible Officer(s) will in each case review the appropriateness of the Fair Market Value estimate and the recommendation for contract award for disposal of the Property. Responsible Officers are designated as follows:

1. The Board of Trustees, if the Fair Market Value of the Property is greater than \$1,000,000 or if the Disposal is for less than Fair Market Value in accordance with paragraph VI.A.6; or
2. The President or the Chief Operating Officer or equivalent(s), if the Fair Market Value of the Property is up to \$1,000,000; or
3. The Vice President – Enterprise Shared Services or equivalent(s) or, for Fleet Disposals, the Senior Vice President – Corporate Support Services or equivalent(s), if the Fair Market Value of the Property is up to \$500,000; or

4. The Vice President – Procurement or equivalent(s), if the Fair Market Value of the Property is up to \$250,000; or
  5. The DSP&MM, if the Fair Market Value of the Property is up to \$50,000; or
  6. The responsible PDC, with the prior written approval of either the DSP&MM or the Contracting Officer or authorized designee, as appropriate, if the Fair Market Value of the Property is \$5,000 or less.
- B. For public auctions or similar centralized disposals, such authorization should be obtained prior to submitting Property to auction based on the estimated Fair Market Value of the Property.
1. For purposes of these Guidelines, the Director - Fleet Operations (“DFO”) or equivalent(s) and DSP&MM are authorized to sign Disposal Sales Agreements based upon the provisions of Section XI.A above whereby the DFO is authorized to sign fleet-related sales agreements and the DSP&MM may sign both fleet and non-fleet sales agreements.
- C. For decentralized disposals, such authorization should be obtained prior to signing of Sales Agreement or award of contract, in accordance with the Authorization Levels set forth in Section XI.A. Sales Agreements for individual disposal transactions through a decentralized sale should be signed in accordance with the limits set forth in the Authority’s Expenditure Authorization Procedures – Attachment C.

## **XII. OTHER METHODS FOR DISPOSAL OF PERSONAL PROPERTY**

### **A. Disposals as Part of a Competitive Procurement**

These Guidelines are not intended to restrict disposals as part of a competitive procurement, including trade-ins, where the procurement is competitively bid and awarded in accordance with the Authority's Guidelines for Procurement Contracts and Fair Market Value can be obtained for the Property. Any such proposed disposal must be included as part of the solicitation of bids for the procurement. The solicitation must also include an estimated Fair Market Value of the Property or minimum bid amount. The disposal or trade-in value must be stated in the proposals from bidders. When disposing of Property as part of a competitive procurement, the Authority may consider the cost difference between the accepted proposal and the next lowest responsive proposal as part of the consideration for the disposal of the Property.

### **B. Return to the Original Equipment Manufacturer ("OEM") or to the Source**

For Property with a Fair Market Value of \$15,000 or less, return of materials to the OEM or the source is permissible provided that the Authority receives full value for any materials equal to the price paid by the Authority or the estimated Fair Market Value of the Property. In the event a re-stocking fee is charged by the OEM or the source, the DSP&MM or the Contracting Officer or authorized designee, as appropriate, shall be consulted to determine if such a re-stocking fee is reasonable and if there are other opportunities for sale of such material. Approval of all such returns to the

OEM or the source when a re-stocking fee is charged, must be in accordance with the Authorization Levels delineated in Section XI.A.

C. **Disposal through the New York State Office of General Services (OGS)**

The Authority may utilize OGS for Disposal of Authority-owned Property including on-line disposal methods offered by OGS. In addition, in accordance with New York State law, surplus computers and related accessories, surplus office furniture, and other equipment may, with the approval of the Contracting Officer or authorized designee, be transferred to OGS for disposition, in the case of computers and accessories to school districts located near Authority offices or operating facilities, or in the case of office furniture and office equipment, to other state entities. Disposal of these items in this manner represents the best value to New York State in lieu of attempted re-sale of such materials.

**XIII. METHODS OF PAYMENT**

The proceeds from the sale of Property in the form of cash or a certified check made payable to the Authority must be forwarded to the Authority's Treasurer by the Facility PDCs and to the Authority's Controller's Office by the DSP&MM and WPO PDC(s). In certain cases involving a transfer of Property to other state agencies or authorities, the performance of documented services to the Authority equal to or greater in value to the Fair Market Value of the Property, will serve as payment for such Property. The authorization limits of Article XI shall apply to such transactions.

**XIV. REPORTING REQUIREMENTS**

- A. The Authority shall publish, not less frequently than annually, a report of all Property disposed of during the reporting period, including the full description, price (if any) received and the name of the purchaser for all such Property disposed of by the Authority during such period. Such report shall be prepared in conjunction with the report required by the Authority's "Guidelines and Procedures for the Disposal of Real Property."
- B. Such report, as approved by the Board of Trustees, shall be submitted to the State Comptroller, the Director of the Division of the Budget, the Commissioner of General Services, the State Legislature and the Authorities Budget Office.
- C. These Guidelines, as approved by the Trustees, shall be reviewed and approved annually by the Authority's Board of Trustees. On or before the thirty-first day of March in each year, the Authority shall file with the State Comptroller a copy of the Guidelines most recently reviewed and approved by the Board of Trustees, including the name of the Authority's designated Contracting Officer. At the time of filing such Guidelines with the Comptroller, the Authority shall also post such Guidelines on the Authority's internet website and maintain such Guidelines on the website.
- D. For disposal by negotiation of Property over \$15,000, Property of any value related to the disposal of Real Property by exchange, or Property where part of the consideration received is Real Property, an explanatory statement shall be prepared and submitted to the parties as set forth in Subsection VI.A.5.

- E. The Authority's Governance Committee meets at least three times per year. Staff from the Enterprise Shared Services and Corporate Support Services Business Units, or the equivalent(s), prepare and present ongoing reports regarding disposals of personal property and real property.
- F. The Authority may be called upon periodically to submit information regarding the Disposal of Personal Property to organizations implementing the PAAA or other statutes regulating the disposal of Property, such as the Authorities Budget Office through the Public Authorities Reporting Information System ("PARIS").

**BID SHEET**

The following personal property is available for sale "AS IS, WHERE IS" and the Power Authority gives no warranty whatsoever as to its condition.

LUMP SUM BID AMOUNT\* \$ \_\_\_\_\_

Subject to all terms and conditions set forth on the reverse hereof, the undersigned offers and agrees to purchase the above-described personal property at the bid amount indicated.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
Name (Printed)

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
Date

\_\_\_\_\_  
City, State, Zip Code

\_\_\_\_\_  
FAX number

\_\_\_\_\_  
Telephone number

\* All sales are subject to New York State Sales Tax and Compensating Use Tax unless the Purchaser furnishes the Authority with an exemption certificate.

**PERSONAL PROPERTY SALE**  
**SALE NO. \_\_\_\_\_**  
**NEW YORK POWER AUTHORITY**  
**(ADDRESS OF PROJECT)**  
**Telephone: ( ) \_\_\_\_\_**  
**FAX: ( ) \_\_\_\_\_**

Subject to the terms and conditions stated below, bids will be received on the personal property, either by mail, fax or hand delivery at the (Location) \_\_\_\_\_ no later than (Date) \_\_\_\_\_.

The personal property is available for inspection, by appointment, at the (Project) \_\_\_\_\_  
\_\_\_\_\_. For an appointment, please contact the Property Disposal Coordinator, (Name) \_\_\_\_\_  
\_\_\_\_\_ at (Telephone no.) \_\_\_\_\_.

Successful bidders will be required to pay by certified check, on notice from the Authority that the bid has been accepted, and remove the personal property from the Authority's premises within ten (10) calendar days after receipt of notice of award.

Envelopes containing bids submitted by mail should be marked on the outside to indicate that a bid on Sale No. \_\_\_\_\_ is enclosed.

Current and former employees of the Power Authority or relatives of such employees or third parties acting on behalf of such employees or relatives are ineligible to bid and are prohibited from subsequently acquiring such personal property in any manner.

1. **INSPECTION.** Bidders are invited, urged and cautioned to inspect the personal property being sold prior to submitting a bid. The personal property will be available for inspection at the time and place specified above. In no case will failure to inspect constitute grounds for the withdrawal of a bid after opening.
2. **CONDITION OF PROPERTY.** All personal property listed is offered for sale "AS IS, WHERE IS". The Authority does not in any way warrant the fitness of the personal property for any particular use or its merchantability and disclaims any other representations or warranties, express or implied, including, but not limited to, quality, character, performance or condition of the personal property or any of its component parts, assemblies, or accessories.
3. **CONSIDERATION OF BIDS.** Bids must be submitted in writing on the form provided by the Authority (see reverse side) and shall be submitted on all items listed. The Authority reserves the right to reject any and all bids, to waive technical defects in bids and to award sale of the items as may be in the best interest of the Authority.
4. **PAYMENT.** The Purchaser agrees to pay for the awarded personal property in accordance with the prices quoted in his/her bid. Payment of the full purchase price must be made within the time allowed for removal, and prior to the release of any personal property to the Purchaser.
5. **NEW YORK STATE SALES AND COMPENSATING USE TAX.** All sales will be subject to New York State Sales and Compensating Use Tax unless the Purchaser furnishes the Authority with an exemption certificate.

### ADVERTISEMENT FOR PROPOSALS

The following described personal property, shall be sold "AS IS, WHERE IS" by the New York Power Authority ("the Authority").

1. Sealed bids are invited for the above, which will be available for inspection by inquiry at the (Location/Building) at the (Project and Address) between the hours of \_\_\_\_\_ a.m. to \_\_\_ p.m. on (Date/s). Bids must be submitted on the Authority's bid form, which can be obtained by calling (Telephone no.). No bid will be accepted unless it is on such form. Bids shall be accepted on or before \_\_\_ p.m. on (Date).
2. Current and former employees of the Authority or relatives of such employees or third parties seeking to act on behalf of such employees or relatives shall be ineligible to bid.
3. Successful bidders, on notice from the Authority, shall be required to pay by certified check and shall promptly remove the personal property from the Authority's property.
4. The Authority reserves the right to reject any and all bids.

**PERSONAL PROPERTY  
SALES AGREEMENT**

\_\_\_\_\_, the Buyer, and the Power Authority of the State of New York ("the Authority"), agree as follows:

- 1) The personal property identified herein is sold by the Authority and purchased by Buyer "AS IS, WHERE IS" at the price(s) shown, plus any applicable sales tax.
- 2) **THE AUTHORITY DOES NOT IN ANY WAY WARRANT THE FITNESS OF THE PERSONAL PROPERTY FOR ANY PARTICULAR USE OR ITS MERCHANTABILITY AND DISCLAIMS ANY OTHER REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED INCLUDING, BUT NOT LIMITED TO, THE QUALITY, CHARACTER, PERFORMANCE, OR CONDITION OF THE PERSONAL PROPERTY OR ANY OF ITS COMPONENT PARTS, ASSEMBLIES, OR ACCESSORIES.**
- 3) The Bidder warrants that he/she/it is not a current or former Authority employee, is not related to an Authority employee and did not bid on behalf of an Authority employee. Bidder is aware that Authority employees and their family members are precluded from subsequently receiving, or acquiring, in whole or in part, by any manner including gift, sale, loan or lease, the personal property acquired by the Bidder pursuant to this sale. The term "related to" as used in this paragraph means the relationships of spouse, child, parent, sister, brother, grandparent, grandchild, aunt, uncle, cousin, niece, nephew, stepchild, stepparent, stepsister, stepbrother, mother-in-law, father-in-law, sister-in-law, brother-in-law, daughter-in-law, or son-in-law. The Authority reserves the right to invoke any available legal or equitable remedy in the event of a breach by the Bidder of his or her warranty under this paragraph, including but not limited to, rescinding the sale and recovering the property sold and all costs associated with the sale and the rescission of said sale.
- 4) The Buyer shall indemnify and hold harmless the Authority and all of its officers, agents and employees from any loss, damage, remedial or response cost, liability or expense, on account of damage or contamination to property and injuries, including death, to all persons, including Buyer's employees, or any third parties, arising or in any manner growing out of the sale of any personal property or the performance of any work under this agreement and shall defend at its own expense any suits or other proceedings brought against the Authority and its officers, agents and employees, or any of them, on account thereof, and pay all expenses and satisfy all judgments which may be incurred by or rendered against them or any of them in connection therewith.
- 5) Except for disposals by public auction, the Buyer shall remove the personal property from the Authority's premises by \_\_\_\_\_ at Buyer's expense. The Buyer shall make payment upon delivery by certified check payable to the New York Power Authority.

Description of Personal Property:

Selling Price: \_\_\_\_\_

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

Buyer (Print or Type):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Seller:

Power Authority of the State of New York  
123 Main Street  
White Plains, New York 10601

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Full Name (Printed)

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

PRIVACY LAW NOTIFICATION

SECTION 94(1)(d) OF THE NEW YORK PUBLIC OFFICERS LAW REQUIRES THIS NOTICE TO BE PROVIDED WHEN COLLECTING PERSONAL INFORMATION FROM POTENTIAL PURCHASERS OF AUTHORITY PROPERTY.

This information is requested pursuant to Article 5, Title I of the Public Authorities Law. The principal purpose for which the information is collected is to assist the Power Authority of the State of New York in the sale of Authority personal property in accordance with Section 96(1) of the Personal Privacy Protection Law, particularly subdivisions (b), (c) and (f).

Failure to provide the requested information may result in ineligibility for participation in a program, sale or benefit provided by the Authority.

This information will be maintained by Fleet Operations, at the Power Authority of the State of New York, Clark Energy Center located at 6520 Glass Factory Road, Marcy, N.Y. 13403, (315) 724-8186 or, when appropriate, by the Procurement Department at the Corporate office or at one of the Authority facilities.

**GUIDELINES**

**AND**

**PROCEDURES**

**FOR THE**

**DISPOSAL OF NEW YORK POWER AUTHORITY**

**PERSONAL PROPERTY**

INDEX

<u>Article</u>	<u>Description</u>	<u>Page</u>
I.	PURPOSE.....	1
II.	DEFINITIONS.....	1-2
III.	OBJECTIVE.....	2-3
IV.	TRANSACTIONS NOT COVERED .....	3
V.	DESIGNATION OF PROPERTY DISPOSAL COORDINATORS.....	3-4
VI.	PROCEDURES FOR DISPOSAL OF AUTHORITY PERSONAL PROPERTY.....	4-12
VII.	CENTRALIZED DISPOSAL.....	12- <u>13</u>
VIII.	DECENTRALIZED DISPOSAL.....	13- <u>14</u>
IX.	PARTIES PROHIBITED FROM BIDDING.....	14- <u>15</u>
X.	EVALUATION OF PROPOSALS; AWARD OF CONTRACT.....	<u>145-167</u>
XI.	AUTHORIZATION LEVELS AND SIGNING AUTHORITY.....	17- <u>189</u>
XII.	OTHER METHODS FOR DISPOSAL OF PERSONAL PROPERTY.....	<u>189-201</u>
XIII.	METHODS OF PAYMENT.....	<u>201</u>
XIV.	REPORTING REQUIREMENTS.....	<u>201-213</u>
	ATTACHMENTS A - C	

**GUIDELINES AND PROCEDURES**  
**FOR THE**  
**DISPOSAL OF NEW YORK POWER AUTHORITY PERSONAL PROPERTY**

I. **PURPOSE**

These Guidelines and Procedures for the Disposal of Personal Property (hereinafter "Guidelines"), which comply with Title 5-A, Article 9 of the Public Authorities Law, establish the procedures ~~which~~that detail the Authority's policy and instructions regarding the use, award, monitoring and reporting of the disposal of personal property. In addition, the Guidelines designate a Contracting Officer who is responsible for the Authority's compliance with, and enforcement of, the Guidelines.

II. **DEFINITIONS**

A. "Contracting Officer" shall mean the officer or employee of ~~a public~~the ~~a~~Authority who shall be appointed by resolution of the Authority's Board of Trustees to be responsible for the disposition of personal property. The "Contracting Officer" is hereby designated to be the ~~Senior~~ Vice President – Enterprise Shared Services, or equivalent(s), or a designee so stated in writing. The Authority's Contracting Officer shall not be responsible for compliance for dispositions of the Authority's personal property conducted by another state entity authorized to dispose of the Authority's personal property under the Public Authorities Accountability Act ("PAAA") or as otherwise authorized by law.

- B. "Dispose" or "disposal" shall mean transfer of title or any other beneficial interest in personal property in accordance with these Guidelines.
- C. "Property" shall mean personal property owned by the Authority with a value in excess of \$5,000, and any other interest in such property, to the extent that such interest may be conveyed to another person for any purpose, excluding an interest securing a loan or other financial obligation of another party. For the purposes of these Guidelines, personal property may include, but is not limited to, materials, tools, equipment, or vehicles.
- D. "Fair Market Value" shall mean the estimated dollar amount that a willing buyer would pay to a willing seller for the Property in an arms-length transaction in the appropriate marketplace and under similar circumstances. Fair Market Value may be determined by consulting industry-recognized sources, contacting original suppliers, depreciation analysis, appraisals, fair market valuations by public auction or other methods of valuation generally accepted in the industry in which such Property is utilized, as may be approved by the Contracting Officer or authorized designee.
- E. "Relative" is defined in Subsection X.G.1. of these Guidelines.

### III. OBJECTIVE

The objective of these Guidelines is to identify those Authority personnel responsible for authorizing the disposal of Property owned by the Authority and to ensure that the Authority receives fair and reasonable value for such Property. The transfer or sale of Property shall be accounted for in accordance with the Authority's

Corporate Accounting Policy No. CAP 4.3 dated 6/30/05, Revision 2 -- "Accounting for Materials and Supplies."

**IV. TRANSACTIONS NOT COVERED**

These Guidelines do not apply to any of the following transactions:

1. Disposal of real property interests;
2. Exchange of Property with other utilities or power plant owners, where such owners will provide an identical or in-kind replacement;
3. Transfer/re-deployment of Property from one Authority facility to another Authority facility.

**V. DESIGNATION OF PROPERTY DISPOSAL COORDINATORS**

- A. The Contracting Officer shall be responsible for the Authority's compliance with, and enforcement of, the Guidelines.
- B. The individual responsible for ~~disposal~~ of all Property at the Authority's facilities will be the ~~Facilities Materials Superintendent ("FMS")~~ Director – Site Purchasing & Materials Management ("DSP&MM") ~~currently located at the Clark Energy Center~~. For purposes of Property disposal, the ~~FMS~~ DSP&MM reports directly to the Contracting Officer or authorized designee.
- C. The Purchasing and Warehouse Manager from each ~~facility~~ will be the local Property Disposal Coordinator for his or her facility or location ("Facility PDC"). The Facility PDC reports to the ~~FMS~~ DSP&MM.
- D. The Contracting Officer or authorized designee will designate one or more

individuals from the White Plains Office Procurement Division to be the Property Disposal Coordinator(s) for the White Plains, Albany and New York corporate offices ("WPO PDC"). For purposes of Property disposal, the WPO PDC(s) will confer, interface with and report to the Contracting Officer or authorized designee.

E. The Director of Fleet Operations ("DFO") or equivalent(s) or authorized designee is responsible for the disposal of vehicles and rolling equipment. The DFO reports directly to the ~~Contracting Officer~~ Senior Vice President – Corporate Support Services or authorized designee.

F. If appropriate, the responsible Facility PDC should confer (by oral or written communication) with the FMSDSP&MM and the WPO PDC(s) should confer (by oral or written communication) with the Contracting Officer or authorized designee to determine if a "centralized" sale of Property, as outlined in Article VII, is appropriate. If agreed, the responsible PDC should arrange for shipment of the Property to be sold from the site to the sale location. If a centralized sale is not appropriate, the responsible PDC should proceed in accordance with the "decentralized" procedures, as outlined in Article VIII.

## VI. PROCEDURES FOR DISPOSAL OF AUTHORITY PERSONAL PROPERTY

Except for Disposals pursuant to Article VII, Article XII and Subsection VI.A.4 of these Guidelines, whenever practicable, the responsible PDC shall solicit proposals from at least 3 qualified bidders, to purchase the Property to be disposed of, and will

maintain records of such solicitations. The PDC should use "Attachment A" attached hereto or an appropriate substitute for solicitations under this Article VI.

**A. DISPOSAL METHODS FOR PERSONAL PROPERTY**

1. For the purposes of these Guidelines, Disposal methods may include, but are not limited to: sale (directly to the Buyer, through a third party, negotiation, well-advertised public auction that permits full and free competition consistent with the value and nature of the property or on any other centralized basis that achieves the same level of competition); return to the original equipment manufacturer or to the source; trade-ins or disposals as part of a competitive procurement; or disposal through the New York State Office of General Services ("OGS"). ~~Use of the internet, in conjunction with the foregoing options, may also be utilized, as applicable.~~ Provided, however, that no disposition of any Property, which because of its unique nature or the unique circumstances of the proposed transaction is not readily valued by reference to an active market for similar Property, shall be made unless an appraisal of the value of such Property has been made by an independent appraiser and included in the record of the transaction. The Authority's Environment, Health and Safety Division should be consulted, on a case-by-case basis, regarding disposal of items that may be considered hazardous waste.
2. Solicitation via telephone, e-mail and/or direct mailings may be used where the estimated Fair Market Value of the Property to be disposed of

~~February 23, 2010~~ March 29, 2011

is greater than \$5,000 but does not exceed \$15,000. All bids must be submitted in writing on the forms or an appropriate substitute and in the manner prescribed by this procedure and by the date and time (the "Bid Due Date") included in the solicitation.

3. All Disposals of Authority Property in excess of \$15,000 shall be made after publicly advertising for bids except as provided in Subsection 4 below, using the following process:
  - a. the appropriate advertisement for bids (Attachment "B" or an appropriate substitute) shall be made at such time prior to the Disposal, through such methods, and on such terms and conditions as shall permit full and free competition consistent with the value and nature of the Property. This may include advertisements in one or more of the following publications, depending on the nature of the Property: local newspapers in the geographic area of the facility where the sale is taking place, trade journals, regional or nationwide publications (if the market for such sale is regional or nationwide), the New York State Contract Reporter, internet services or other communication outlets as appropriate;
  - b. all bids must be submitted in writing on the forms or an appropriate substitute and in the manner prescribed by this procedure and by the Bid Due Date included in the solicitation;
  - c. all bids shall be publicly disclosed, at the time and place stated in the solicitation or by posting to the Authority's internet website; and

~~February 23, 2010~~ March 29, 2011

- d. the award shall be made with reasonable promptness by notice to the responsible bidder whose bid, conforms to the bid solicitation and ~~will be~~ most advantageous to the Authority, price and other factors considered; however, any bid may be rejected when in the public interest to do so at the Authority's sole discretion.
4. Disposals of Property may be negotiated or made by public auction without regard to Subsection 3 of this Section, but subject to obtaining such competition as is feasible under the circumstances, if:
    - a. the Property involved has qualities separate from the utilitarian purpose of such Property, such as artistic quality, antiquity, historical significance, rarity or other quality of similar effect that would tend to increase its value, or if the Property is to be disposed of in such quantity that, if it were Disposed of under Subsection 3 of this Section, would adversely affect the state or local market for such Property, and the estimated Fair Market Value of such Property and other satisfactory terms of disposal may be obtained by negotiation;
    - b. bid prices after advertising therefore are not reasonable, either as to all or part of the Property, or have not been independently ~~determined~~arrived at in open competition;
    - c. the Disposal will be to the state or any political subdivision, and the estimated Fair Market Value of the Property and other satisfactory terms of Disposal are obtained by negotiation;
    - d. under those circumstances permitted by Subsection 6 of this Section;

- e. if the estimated or actual fair market value of the property does not exceed \$15,000; or
  - f. such action is otherwise authorized by law.
5. An explanatory statement shall be prepared of the circumstances of each Disposal by negotiation of any Property which has an estimated Fair Market Value in excess of fifteen thousand dollars (\$15,000). In addition, an explanatory statement shall be prepared of the circumstances of each Disposal by negotiation of any Property disposed of by exchange, regardless of value. Each such statement shall be transmitted to the Commissioner of General Services, the State Legislature, the State Comptroller, ~~and the~~ Director of the Division of the Budget and the Authorities Budget Office, not less than ninety days in advance of such Disposal, and a copy thereof shall be preserved in the Authority's files.
6. a. No Property owned or otherwise in the control of the Authority may be disposed or otherwise alienated for less than its Fair Market Value except if:
- (i) the transferee is a government or other public entity, and the terms and conditions of the transfer require that the ownership and use of the Property will remain with the government or any other public entity;
  - (ii) the purpose of the transfer is within the purpose, mission or governing statute of the Authority; or

~~February 23, 2010~~ March 29, 2011

- (iii) in the event the Authority seeks to transfer Property for less than its Fair Market Value to other than a governmental entity, which Disposal would not be consistent with the Authority's mission, purpose or governing statutes, the Authority shall provide written notification thereof to the Governor, the Speaker of the Assembly, and the Temporary President of the Senate, and such proposed transfer shall be subject to denial by the Governor, the Senate or the Assembly. Denial by the Governor shall take the form of a signed certification by the Governor. Denial by either House of the Legislature shall take the form of a resolution by such House. The Governor and each House of the Legislature shall take any such action within sixty days of receiving notification of such proposed transfer during the months of January through June, provided that if the Legislature receives notification of a proposed transfer during the months of July through December, the Legislature may take any such action within sixty days of January first of the following year. If no such resolution or certification is performed within sixty days of such notification of the proposed transfer to the Governor, Senate and Assembly, the Authority may effectuate such transfer provided, however, that with respect to a below-market transfer by the Authority that is not within

~~February 23, 2010~~ March 29, 2011

the purpose, mission or governing statute of the Authority, if the governing statute provides for the approval of such transfer by the executive and legislative branches of the political subdivision in which the Authority resides, and if the transfer is of Property obtained by the Authority from that political subdivision, then such approval shall be sufficient to permit the transfer.

b. In the event a below Fair Market Value Property transfer is proposed, the following information must be provided to the Authority's Board of Trustees and the public:

- (i) a full description of the Property;
- (ii) an appraisal of the Fair Market Value of the Property and any other information establishing the Fair Market Value sought by the Board of Trustees;
- (iii) a description of the purpose of the transfer and a reasonable statement of the kind and amount of the benefit to the public resulting from the transfer, including but not limited to the kind, number, location, wages or salaries of jobs created or preserved as required by the transfer, the benefits, if any, to the communities in which the Property is situated as are required by the transfer;
- (iv) a statement of the value to be received compared to the Fair Market Value;

- (v) the names of any private parties participating in the transfer and, if different than the statement required by subparagraph (iv) of this Subsection, a statement of the value to the private party; and
- (vi) the names of other private parties who have made an offer for such Property, the value offered and the purpose for which the Property was sought to be used.

c. Before approving the Disposal of any Property for less than Fair Market Value, the Board of Trustees shall consider the information described in paragraph b of this Subsection and make a written determination that there is no reasonable alternative to the proposed below-market transfer that would achieve the same purpose of such transfer.

7. In addition, in cases where a Disposal of Property is made without competitive bidding and where the proposed contract price for the Property disposed of is less than Fair Market Value, prior to finalizing the Disposal a detailed explanation of the justification for making the Disposal without competitive bidding shall be prepared, and a certification shall be signed by the Chief Executive Officer and Chief Financial Officer of the Authority stating that they have reviewed the terms of such Disposal and have determined that it complies with applicable law and these Guidelines.

B. DISPOSAL OPTIONS IF NO BIDS OR NO ACCEPTABLE BIDS ARE

RECEIVED

~~If solicitation pursuant to Section VI.A. does not produce any proposals to purchase the Property from the Authority or if all proposals received are less than the Authority's Fair Market Value estimate,~~ The appropriate PDC shall confer with the FMSDSP&MM and the Contracting Officer or authorized designee to decide (i) if re-soliciting is feasible; (ii) if shipment to a third-party contractor for Disposal would result in higher-priced proposals; (iii) if disposal by other methods would be appropriate; and/or (iv) if the Fair Market Value estimate requires review or adjustment., where:

1. the solicitation pursuant to Section VI.A does not produce any bids to purchase the Property;
2. in the opinion of the Authority, the bids are not arrived at independently;
3. all bids are not reasonable in accordance with Section X.C; or
4. all bids received are less than the Authority's Fair Market Value estimate.

VII. CENTRALIZED DISPOSAL

- A. Subject to the approval of the Contracting Officer or authorized designee and in accordance with Article VI of these Guidelines, in either the initial document authorizing the disposal or through a subsequent communication, Property may be disposed of using any of the following methods:

February 23, 2010 ~~March 29, 2011~~

1. Shipment of the material to a third-party vendor(s), selected by competitive bidding, which, pursuant to these Guidelines, will market the material for sale or dispose of such material in accordance with environmental and any other Authority requirements.
2. Consolidation of such Property at one of the Authority's facilities or an offsite warehouse for the purpose of conducting a sale managed by Authority staff, possibly with the assistance of an outside contractor.
3. Participation in public auctions ~~such as through a private auctioneer or other utility~~ provided the advertisement for bids through such methods permits full and free competition consistent with the value and nature of the property, as may be conducted through an independent auctioneer, online auction service, or another utility.

#### VIII. DECENTRALIZED DISPOSAL

- A. The Regional Manager, Project Manager, or head of a Department or Division requiring disposal of Property which he or she believes to be surplus, will submit to the responsible PDC a written description of the material, with the original price (if known), and estimate of the Property's Fair Market Value (if available). If practical, a photograph of the material or equipment in question should be provided. Such submission shall be made to the responsible PDC ~~designated at for~~ the location ~~at which where~~ the Property is located, ~~the responsible PDC.~~
- B. If the responsible PDC, in conference with either the FMSDSP&MM or the

~~February 23, 2010~~ March 29, 2011

Contracting Officer or authorized designee, as appropriate, determines that other Authority facilities may have an interest in the Property, a notice should be sent to the other Authority facilities advising of its availability and requesting a response within a specified time frame. A record of the notice will be maintained by the responsible PDC. In the event that the responsible PDC and either the FMSDSP&MM or the Contracting Officer or authorized designee, as appropriate, determine there is no interest in such material at other Authority facilities, a written explanation should be prepared by the PDC to that effect and maintained in the file for that transaction.

- C. If no response to the notice is received, the responsible PDC will solicit bids for the purchase of such Property in accordance with the procedures described in Article VI.

#### **IX. PARTIES PROHIBITED FROM BIDDING**

- A. All current and former employees of the Authority and relatives of such employees or third parties acting on behalf of such employees shall not be eligible to bid for the purchase of Authority Property and are prohibited from subsequently acquiring it in any manner. Each bidder will be required, as part of his or her bid, to certify, by signing Attachment "A," that he or she is not a current or former employee of the Authority, is not related to any current or former employee of the Authority and is not acting on behalf of a current or former employee of the Authority or a relative of any such employee. No bid will be accepted unless accompanied by such certification.

- B. The term "related to" as used in paragraph A above means the relationship of spouse, child, parent, sister, brother, grandparent, grandchild, aunt, uncle, cousin, niece, nephew, stepchild, stepparent, stepsister, stepbrother, mother-in-law, father-in-law, sister-in-law, brother-in-law, daughter-in-law or son-in-law.

**X. EVALUATION OF PROPOSALS; AWARD OF CONTRACT**

- A. Following the receipt of proposals for the Property, the responsible PDC shall evaluate the proposals submitted and determine whether the highest of such proposals is reasonable, given the estimated Fair Market Value of the Property.
- B. If the responsible PDC determines that the highest bid received is reasonable, the responsible PDC shall recommend to the Responsible Officer(s), as hereinafter defined in Article XI, that such bid be accepted, and upon the written approval of the Responsible Officer(s), the sale shall be made to the person offering such proposal. After obtaining all necessary approvals in accordance with Article XI "Authorization Levels," a Sales Agreement appended hereto ("Attachment C") must be executed by the responsible Authority staff member and by the successful bidder prior to completion of the transaction.
- C. If either (a) the responsible PDC determines that the highest bid is not reasonable or (b) the Responsible Officer(s) decline(s) to authorize the sale, the Property will, except as provided in paragraph D below, be retained for

~~February 23, 2010~~ March 29, 2011

- future disposal in accordance with these Guidelines. Factors to be considered in determining whether a bid is reasonable include, but are not limited to: adequacy of the estimate of the Fair Market Value, anticipated improved future market conditions, potential for other means of disposal or redeployment, financial viability of the bidder, and condition of the Property.
- D. Notwithstanding any determination by the responsible PDC, the Responsible Officer(s), with the review and approval of the Contracting Officer, may direct the sale of the Property to the person or firm submitting the highest bid.
- E. No Authority employee who is involved in the award of Authority grants or contracts, may ask any officer, director or employee of such current or prospective contractor or grantee to reveal: (a) the political party affiliation of the individual; (b) whether the individual or entity has made campaign contributions to any political party, elected official, or candidate for elective office; or (c) whether the individual voted for or against any political party, elected official or candidate for elective office.
- F. No Authority employee may award or decline to award any grant or contract, or recommend, promise or threaten to do so because of a current or prospective grantee's or contractor's: (a) refusal to answer any inquiry prohibited by Section E above or (b) giving or withholding or neglecting to make any contribution of money, service or any other valuable thing for any political purpose.

- G. No Authority employee may take part in any contracting decision involving the payment of \$1,000 or more: (i) to a Relative; or (ii) to any entity in which a Relative owns or controls 10% or more of the stock of such entity (or 1% in the case of a corporation whose stock is regularly traded on an established securities exchange); or serves as an officer, director or partner of that entity. If a contracting matter arises relating to this Section G, then the employee must advise his or her supervisor of the relationship, and must be recused from any and all discussions or decisions relating to the matter.
1. For purposes of this Section G, the term "Relative" shall mean any person living in the same household as the Authority employee or any person who is a direct descendant of the Authority employee's grandparents or the spouse of such descendant.

## **XI. AUTHORIZATION LEVELS AND SIGNING AUTHORITY**

- A. For the purposes of these Guidelines, the Responsible Officer(s) will in each case review the appropriateness of the Fair Market Value estimate and the recommendation for contract award for disposal of the Property. Responsible Officers are designated as follows:
1. The Board of Trustees, if the Fair Market Value of the Property is greater than \$1,000,000 or if the Disposal is for less than Fair Market Value in accordance with paragraph VI.A.6; or
  2. The President or the Chief Operating Officer or equivalent(s), if the Fair Market Value of the Property is up to \$1,000,000; or

February 23, 2010 March 29, 2011

3. The ~~Senior~~ Vice President – Enterprise Shared Services or equivalent(s) or, for Fleet Disposals, the ~~Executive~~Senior Vice President – ~~Chief Administrative Officer~~Corporate Support Services or equivalent(s), if the Fair Market Value of the Property is up to \$500,000; or
  4. The Vice President – Procurement or equivalent(s), if the Fair Market Value of the Property is up to \$250,000; or
  5. The FMSDSP&MM, if the Fair Market Value of the Property is up to \$50,000; or
  6. The responsible PDC, with the prior written approval of either the FMSDSP&MM or the Contracting Officer or authorized designee, as appropriate, if the Fair Market Value of the Property is \$5,000 or less.
- B. For public auctions or similar centralized disposals, such authorization should be obtained prior to submitting Property to auction based on the estimated ~~f~~Fair ~~m~~Market ~~v~~Value of the Property.
1. For purposes of these Guidelines, the Director - Fleet Operations (“DFO”) or equivalent(s) and FMSDSP&MM are authorized to sign Disposal Sales Agreements based upon the provisions of Section XI.A above whereby the DFO is authorized to sign fleet-related sales agreements and the FMSDSP&MM may sign both fleet and non-fleet sales agreements.
- C. For decentralized disposals, such authorization should be obtained prior to signing of Sales Agreement or award of contract, in accordance with the Authorization Levels set forth in Section XI.A. Sales Agreements for

individual disposal transactions through a decentralized sale should be signed in accordance with the limits set forth in the Authority's Expenditure Authorization Procedures – Attachment C.

## XII. OTHER METHODS FOR DISPOSAL OF PERSONAL PROPERTY

### A. Trade-Ins Disposals as Part of a Competitive Procurement

~~These procedure Guidelines are is~~ not intended to restrict ~~the disposals as part of a competitive procurement, including trade-ins of equipment (i.e., computer or office equipment), materials, and/or vehicles for replacements from dealers furnishing replacement equipment, materials, and/or vehicles, where the procurement is competitively bid and awarded in accordance with the Authority's Guidelines for Procurement Contracts and reasonable Fair Market Value~~ can be obtained for the ~~trade-in Property~~. Any such proposed ~~disposal trade-in~~ must be included as part of the solicitation of bids for the ~~replacement equipment, materials and/or vehicles procurement. The solicitation must also include an estimated Fair Market Value of the Property or minimum bid amount, and the disposal or trade-in value must be stated in the proposals from solicited bidders. When disposing of Property as part of a competitive procurement, the Authority may consider the cost difference between the accepted proposal and the next lowest responsive proposal as part of the consideration for the disposal of the Property. Best efforts shall be utilized to secure a trade-in value that is equal to or exceeds the Fair Market Value.~~

~~February 23, 2010~~ March 29, 2011

B. **Return to the Original Equipment Manufacturer ("OEM") or to the Source**

~~For Property with a Fair Market Value of \$15,000 or less. R~~return of materials to the OEM or the source is permissible provided that the Authority receives full value for any materials equal to the price paid by the Authority or the estimated Fair Market Value of the Property. In the event a re-stocking fee is charged by the OEM or the source, the ~~FMSDSP&MM~~ or the Contracting Officer or authorized designee, as appropriate, shall be consulted to determine if such a re-stocking fee is reasonable and if there are other opportunities for sale of such material. Approval of all such returns to the OEM or the source when a re-stocking fee is charged, must be in accordance with the Authorization Levels delineated in Section XI.A.

C. **Disposal through the New York State Office of General Services (OGS)**

~~When it is determined advantageous to the Authority, t~~The Authority may utilize OGS for Disposal of Authority-owned Property including ~~but not limited to vehicles and rolling equipment, and/or may make use of~~ on-line disposal methods offered by OGS. In addition, in accordance with New York State law, surplus computers and related accessories, ~~(e.g. monitors and keyboards) and~~ surplus office furniture, and other equipment may, with the approval of the Contracting Officer or authorized designee, be transferred to OGS for disposition, in the case of computers and accessories to school districts located near Authority offices or operating facilities, or in the case of office furniture and office equipment, to other state entities. Disposal of

these items in this manner represents the best value to New York State in lieu of attempted re-sale of such materials.

### **XIII. METHODS OF PAYMENT**

The proceeds from the sale of Property in the form of cash or a certified check made payable to the Authority must be forwarded to the Authority's Treasurer by the Facility PDCs and to the Authority's Controller's Office by the FMSDSP&MM and WPO PDC(s). In certain cases involving a transfer of Property to other state agencies or authorities, the performance of documented services to the Authority equal to or greater in value to the Fair Market Value of the Property, will serve as payment for such Property. The authorization limits of Article XI shall apply to such transactions.

### **XIV. REPORTING REQUIREMENTS**

- A. The Authority shall publish, not less frequently than annually, a report of all Property disposed of during the reporting period, including the full description, price (if any) received and the name of the purchaser for all such Property disposed of by the Authority during such period. Such report shall be prepared in conjunction with the report required by the Authority's "Guidelines and Procedures for the Disposal of Real Property."
- B. Such report, as approved by the Board of Trustees, shall be submitted to the State Comptroller, the Director of the Division of the Budget, the

February 23, 2010 March 29, 2011

Commissioner of General Services, the State Legislature and the Authorities Budget Office.

- C. These Guidelines, as approved by the Trustees, shall be reviewed and approved annually by the Authority's Board of Trustees. On or before the thirty-first day of March in each year, the Authority shall file with the State Comptroller a copy of the Guidelines most recently reviewed and approved by the Board of Trustees, including the name of the Authority's designated Contracting Officer. At the time of filing such Guidelines with the Comptroller, the Authority shall also post such Guidelines on the Authority's internet website and maintain such Guidelines on the website.
- D. For disposal by negotiation of Property over \$15,000, Property of any value related to the disposal of Real Property by exchange, or Property where part of the consideration received is Real Property, or exchange (except when an identical or in-kind replacement is provided to the Authority) an explanatory statement shall be prepared and submitted to the parties ~~described more fully as set forth~~ in Subsection VI.BA.5.
- E. The Authority's Governance Committee meets at least three times per year. ~~and s~~Staff from the Enterprise Shared Services and Corporate Support Services Department Business Units, or the equivalent(s), prepare and present ongoing reports regarding disposals of personal property and real property.
- F. The Authority may be called upon periodically to submit information regarding the Disposal of Personal Property to organizations implementing the PAAA or other statutes regulating the disposal of Property, such as the

Authorities Budget Office through the Public Authorities Reporting  
Information System ("PARIS").

**BID SHEET**

The following personal property is available for sale "AS IS, WHERE IS" and the Power Authority gives no warranty whatsoever as to its condition.

LUMP SUM BID AMOUNT\* \$ \_\_\_\_\_

Subject to all terms and conditions set forth on the reverse hereof, the undersigned offers and agrees to purchase the above-described personal property at the bid amount indicated.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
Name (Printed)

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
Date

\_\_\_\_\_  
City, State, Zip Code

\_\_\_\_\_  
FAX number

\_\_\_\_\_  
Telephone number

\* All sales are subject to New York State Sales Tax and Compensating Use Tax unless the Purchaser furnishes the Authority with an exemption certificate.

~~February 23, 2010~~ March 29, 2011Attachment A  
Page 2 of 2

**PERSONAL PROPERTY SALE**  
**SALE NO. \_\_\_\_\_**  
**NEW YORK POWER AUTHORITY**  
**(ADDRESS OF PROJECT)**  
**Telephone: ( ) \_\_\_\_\_**  
**FAX: ( ) \_\_\_\_\_**

Subject to the terms and conditions stated below, bids will be received on the personal property, either by mail, fax or hand delivery at the (Location) \_\_\_\_\_ no later than (Date) \_\_\_\_\_.

The personal property is available for inspection, by appointment, at the (Project) \_\_\_\_\_  
 \_\_\_\_\_ For an appointment, please contact the Property Disposal Coordinator, (Name) \_\_\_\_\_  
 \_\_\_\_\_ at (Telephone no.) \_\_\_\_\_.

Successful bidders will be required to pay by certified check, on notice from the Authority that the bid has been accepted, and remove the personal property from the Authority's premises within ten (10) calendar days after receipt of notice of award.

Envelopes containing bids submitted by mail should be marked on the outside to indicate that a bid on Sale No. \_\_\_\_ is enclosed.

Current and former employees of the Power Authority or relatives of such employees or third parties acting on behalf of such employees or relatives are ineligible to bid and are prohibited from subsequently acquiring such personal property in any manner.

1. **INSPECTION.** Bidders are invited, urged and cautioned to inspect the personal property being sold prior to submitting a bid. The personal property will be available for inspection at the time and place specified above. In no case will failure to inspect constitute grounds for the withdrawal of a bid after opening.
2. **CONDITION OF PROPERTY.** All personal property listed is offered for sale "AS IS, WHERE IS". The Authority does not in any way warrant the fitness of the personal property for any particular use or its merchantability and disclaims any other representations or warranties, express or implied, including, but not limited to, quality, character, performance or condition of the personal property or any of its component parts, assemblies, or accessories.
3. **CONSIDERATION OF BIDS.** Bids must be submitted in writing on the form provided by the Authority (see reverse side) and shall be submitted on all items listed. The Authority reserves the right to reject any and all bids, to waive technical defects in bids and to award sale of the items as may be in the best interest of the Authority.
4. **PAYMENT.** The Purchaser agrees to pay for the awarded personal property in accordance with the prices quoted in his/her bid. Payment of the full purchase price must be made within the time allowed for removal, and prior to the release of any personal property to the Purchaser.
5. **NEW YORK STATE SALES AND COMPENSATING USE TAX.** All sales will be subject to New York State Sales and Compensating Use Tax unless the Purchaser furnishes the Authority with an exemption certificate.

### ADVERTISEMENT FOR PROPOSALS

The following described personal property, shall be sold "AS IS, WHERE IS" by the New York Power Authority ("the Authority").

1. Sealed bids are invited for the above, which will be available for inspection by inquiry at the (Location/Building) at the (Project and Address) between the hours of \_\_\_\_\_ a.m. to \_\_\_ p.m. on (Date/s). Bids must be submitted on the Authority's bid form, which can be obtained by calling (Telephone no.). No bid will be accepted unless it is on such form. Bids shall be accepted on or before \_\_\_ p.m. on (Date).
2. Current and former employees of the Authority or relatives of such employees or third parties seeking to act on behalf of such employees or relatives shall be ineligible to bid.
3. Successful bidders, on notice from the Authority, shall be required to pay by certified check and shall promptly remove the personal property from the Authority's property.
4. The Authority reserves the right to reject any and all bids.

**PERSONAL PROPERTY  
SALES AGREEMENT**

\_\_\_\_\_, the Buyer, and the Power Authority of the State of New York ("the Authority"), agree as follows:

- 1) The personal property identified herein is sold by the Authority and purchased by Buyer "AS IS, WHERE IS" at the price(s) shown, plus any applicable sales tax.
- 2) **THE AUTHORITY DOES NOT IN ANY WAY WARRANT THE FITNESS OF THE PERSONAL PROPERTY FOR ANY PARTICULAR USE OR ITS MERCHANTABILITY AND DISCLAIMS ANY OTHER REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED INCLUDING, BUT NOT LIMITED TO, THE QUALITY, CHARACTER, PERFORMANCE, OR CONDITION OF THE PERSONAL PROPERTY OR ANY OF ITS COMPONENT PARTS, ASSEMBLIES, OR ACCESSORIES.**
- 3) The Bidder warrants that he/she/it is not a current or former Authority employee, is not related to an Authority employee and did not bid on behalf of an Authority employee. Bidder is aware that Authority employees and their family members are precluded from subsequently receiving, or acquiring, in whole or in part, by any manner including gift, sale, loan or lease, the personal property acquired by the Bidder pursuant to this sale. The term "related to" as used in this paragraph means the relationships of spouse, child, parent, sister, brother, grandparent, grandchild, aunt, uncle, cousin, niece, nephew, stepchild, stepparent, stepsister, stepbrother, mother-in-law, father-in-law, sister-in-law, brother-in-law, daughter-in-law, or son-in-law. The Authority reserves the right to invoke any available legal or equitable remedy in the event of a breach by the Bidder of his or her warranty under this paragraph, including but not limited to, rescinding the sale and recovering the property sold and all costs associated with the sale and the rescission of said sale.
- 4) The Buyer shall indemnify and hold harmless the Authority and all of its officers, agents and employees from any loss, damage, remedial or response cost, liability or expense, on account of damage or contamination to property and injuries, including death, to all persons, including Buyer's employees, or any third parties, arising or in any manner growing out of the sale of any personal property or the performance of any work under this agreement and shall defend at its own expense any suits or other proceedings brought against the Authority and its officers, agents and employees, or any of them, on account thereof, and pay all expenses and satisfy all judgments which may be incurred by or rendered against them or any of them in connection therewith.
- 5) Except for disposals by public auction, the Buyer shall remove the personal property from the Authority's premises by \_\_\_\_\_ at Buyer's expense. The Buyer shall make payment upon delivery by certified check payable to the New York Power Authority.

Description of Personal Property:

Selling Price: \_\_\_\_\_

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_.

Buyer (Print or Type):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Seller:

Power Authority of the State of New York  
123 Main Street  
White Plains, New York 10601

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Full Name (Printed)

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

PRIVACY LAW NOTIFICATION

SECTION 94(1)(d) OF THE NEW YORK PUBLIC OFFICERS LAW REQUIRES THIS NOTICE TO BE PROVIDED WHEN COLLECTING PERSONAL INFORMATION FROM POTENTIAL PURCHASERS OF AUTHORITY PROPERTY.

This information is requested pursuant to Article 5, Title I of the Public Authorities Law. The principal purpose for which the information is collected is to assist the Power Authority of the State of New York in the sale of Authority personal property in accordance with Section 96(1) of the Personal Privacy Protection Law, particularly subdivisions (b), (e) and (f).

Failure to provide the requested information may result in ineligibility for participation in a program, sale or benefit provided by the Authority.

This information will be maintained by Fleet Operations, at the Power Authority of the State of New York, Clark Energy Center located at 6520 Glass Factory Road, Marcy, N.Y. 13403, (315) 724-8186 or, when appropriate, by the Procurement Department at the Corporate office or at one of the Authority facilities.

POWER AUTHORITY OF THE STATE OF NEW YORK

2010 ANNUAL REPORT OF DISPOSAL OF PERSONAL PROPERTY OVER \$5,000

DESCRIPTION	PURCHASER	PRICE RECEIVED by the Authority
SCRAP METALS AT ST. LAWRENCE /FDR PROJECT	CASELLA WASTE SERVICES	\$ 50,337.16
SCRAP METALS AT ST. LAWRENCE /FDR PROJECT	CASELLA WASTE SERVICES	\$ 14,849.50
EQUIPMENT RELATING TO CONDENSER, FEEDWATER HEATERS AND HYDROGEN COOLER AT POLETTI PROJECT	UTILITY INVESTMENT RECOVERY LLC	\$ 818,700.00 *
EQUIPMENT RELATING TO FOUR 345KV STEP-UP TRANSFORMERS & ONE 3-PHASE AUX. TRANSFORMER AT POLETTI PROJECT	TCI OF NY LLC	\$ 305,000.00
VARIOUS PUMPS AT POLETTI PROJECT	PRO PUMP SERVICES LLC	\$ 10,500.00
VARIOUS VALVES AT POLETTI PROJECT	SIEMENS ENERGY INC	\$ 50,000.00

\* Of this amount, UJR paid the Authority \$ 646,816 as of 12/31/10 and the balance is expected to be paid in the 1<sup>st</sup> Qtr 2011.

POWER AUTHORITY OF THE STATE OF NEW YORK

2010 ANNUAL REPORT OF DISPOSAL OF PERSONAL PROPERTY OVER \$5,000

DESCRIPTION	PURCHASER	PRICE RECEIVED by the Authority
-------------	-----------	------------------------------------

EQUIPMENT RELATING TO GENERATOR EXCITER AT POLETTI PROJECT	SIEMENS ENERGY INC	\$ 125,000.00
--	--------------------	---------------

SUBTOTAL: \$ 1,374,386.66

**POWER AUTHORITY OF THE STATE OF NEW YORK  
2010 ANNUAL REPORT OF DISPOSAL OF PERSONAL PROPERTY OVER \$5,000 \*  
FLEET OPERATIONS**

DESCRIPTION	PURCHASER	PRICE RECEIVED by the Authority
1987 GROVE MANLIFT MZ56	D POMINVILLE CONSTRUCTION LLC	\$5,372.50
1994 EAGER BEAVER TRAILER	CRASH SCRAP METALS INC	\$10,420.00
1995 CLARK FORKLIFT	APOLLO NORTHEAST SALES & SVCS INC	\$5,925.00
1996 DODGE D2500 PICKUP	SDE EQUIPMENT SALES	\$6,991.00
1998 CHEVY K3500 PICKUP	UPSTATE AUTO SALES INC	\$5,182.00
1998 INTR AERIAL MANLIFT	RICHARD MARKIEL	\$26,470.00
1998 MACK SNOW PLOW	VILLAGE TRUCK SALES	\$9,980.00
1998 NEW HOLLAND TRACTOR	CASSONE TRUCK SALES & LEASING INC	\$12,911.00
1999 BRUSH CHIPPER	WILLIAM BIERS INC	\$71,575.00
1999 FORD F350	UPSTATE AUTO SALES INC	\$6,055.00
1999 FORD F550	UPSTATE AUTO SALES INC	\$6,491.50
1999 HICO HT081-8	CC POWER LLC	\$25,940.00
1999 HICO HT081-8	CC POWER LLC	\$22,185.00
1999 HICO HT081-8	4496213 CANADA INC	\$20,120.00
1999 KENWORTH T80 TRACTOR	JABLONSKI EXCAVATING INC	\$10,905.00
2000 CHEVY CUBE VAN	UPSTATE AUTO SALES INC	\$6,394.50
2000 CHEVY K3500	UPSTATE AUTO SALES INC	\$5,861.00
2000 FORD EXPEDITION	RIDGE ROAD LEASING LLC	\$5,279.00
2001 CHEVY K2500	UPSTATE AUTO SALES INC	\$6,121.00
2001 CHEVY TAHOE	JACOB SKABELUND	\$5,862.50
2001 CHEVY TAHOE	LISA NAI	\$5,620.00
2001 CHEVY TAHOE	UPSTATE AUTO SALES INC	\$4,892.50

\* Includes items where the estimated Fair Market Value and/or Sale Price exceeded \$5,000

**POWER AUTHORITY OF THE STATE OF NEW YORK**  
**2010 ANNUAL REPORT OF DISPOSAL OF PERSONAL PROPERTY OVER \$5,000 \***  
**FLEET OPERATIONS**

DESCRIPTION	PURCHASER	PRICE RECEIVED by the Authority
2001 DODGE D2500	UPSTATE AUTO SALES INC	\$7,025.00
2001 DODGE D3500	UPSTATE AUTO SALES INC	\$6,557.50
2001 FORD F550	RIDGE ROAD LEASING LLC	\$15,805.00
2001 JLG 660SJC MANLIFT	STEVEN J HALL GEN'L CONTRACTOR INC	\$23,030.00
2002 CHEVY TAHOE	NANCY PECKHAM	\$8,627.00
2002 CHEVY TAHOE	UPSTATE AUTO SALES INC	\$5,620.00
2002 CHEVY TAHOE	LAFAYE MOTOR SALES LLC	\$5,570.00
2002 GMC K1500	LAMONICA MOTOR SALES	\$4,842.50
2003 CHEVY K150	JASON MACIEJKO	\$4,747.00
2003 CHEVY K2500	GYMO ARCH ENG SUR PC	\$8,772.50
2003 CHEVY TAHOE	ROBERT DAWES	\$7,463.00
2003 CHEVY TAHOE	CHRIS BUSHNELL	\$5,135.00
2003 CHEVY TAHOE	BRAVO AUTO SALES INC	\$6,250.50
2003 CHEVY TAHOE	BRAVO AUTO SALES INC	\$7,403.50
2003 CHEVY TAHOE	MCGUIRE TREE REMOVAL	\$7,657.00
2003 CHEVY TAHOE	M & J CONSTRUCTION CO	\$7,269.00
2003 GMC K1500	BRAVO AUTO SALES INC	\$6,105.00
2003 HONDA CIVIC	ROADRUNNER EXPRESS LUBE LLC	\$6,055.00
2003 HONDA CIVIC	ROADRUNNER EXPRESS LUBE LLC	\$6,055.00
2003 HONDA CIVIC	DAVID WILSON	\$6,297.50
2004 BOBCAT TOOLCAT LOADER	WE MCCARTHY INC	\$16,877.75
2004 CHEVY TAHOE	HERBERT D YANCEY	\$7,414.50

\* Includes items where the estimated Fair Market Value and/or Sale Price exceeded \$5,000

**POWER AUTHORITY OF THE STATE OF NEW YORK**  
**2010 ANNUAL REPORT OF DISPOSAL OF PERSONAL PROPERTY OVER \$5,000 \***  
**FLEET OPERATIONS**

DESCRIPTION	PURCHASER	PRICE RECEIVED by the Authority
2004 CHEVY TAHOE	BRAVO AUTO SALES INC	\$5,620.00
2004 CHEVY TAHOE	QUICK STOP EXPRESS INC	\$5,812.50
2004 CHEVY TAHOE	JAMES BARBER	\$7,122.00
2004 CHEVY TAHOE	QUICK STOP EXPRESS INC	\$5,862.50
2004 CHEVY TAHOE	W & W DIRT WORX	\$6,075.00
2004 CHEVY TAHOE	W & W DIRT WORX	\$6,105.00
2004 TOYOTA PRIUS	CARSBAZAR INC	\$5,347.50
2004 TOYOTA PRIUS	BARBARA MCCONNELL	\$5,347.50
2004 TOYOTA PRIUS	CARSBAZAR INC	\$5,570.00
2004 TOYOTA PRIUS	AMBER HORNYAK	\$5,105.00
2004 TOYOTA PRIUS	CARSBAZAR INC	\$5,347.50
2004 TOYOTA PRIUS	CARSBAZAR INC	\$5,347.50
2005 CHEVY TAHOE	QUICK STOP EXPRESS INC	\$4,814.00
2005 FORD ESCAPE	CHARLES DATTELLAS	\$5,958.00
2005 FORD ESCAPE	KELVIN WIEBE	\$6,055.00
2005 FORD ESCAPE	CHARLES DATTELLAS	\$5,900.00
2005 FORD F250	HERBERT D YANCEY	\$7,025.00
2005 FORD F250 PICKUP	THE OL' STATION LLC	\$9,015.00
2007 CAMOPLAST CAB	PRINOTH LTD	\$14,995.00
2007 CAMOPLAST CAB	PRINOTH LTD	\$14,995.00
2007 CAMOPLAST CAB	PRINOTH LTD	\$14,995.00
2007 CHEVY TAHOE	PAUL BURGESS JR	\$16,987.50

\* Includes items where the estimated Fair Market Value and/or Sale Price exceeded \$5,000

POWER AUTHORITY OF THE STATE OF NEW YORK  
2010 ANNUAL REPORT OF DISPOSAL OF PERSONAL PROPERTY OVER \$5,000 \*  
FLEET OPERATIONS

DESCRIPTION	PURCHASER	PRICE RECEIVED by the Authority
2007 FORD F350	O'CONNELL ELECTRIC INC	\$17,260.00
2008 CHEVY AVALANCHE	QUICK STOP EXPRESS INC	\$12,117.50
FLEET SUBTOTAL:		\$665,911.75
+ SUBTOTAL Page 2:		<u>\$1,374,386.66</u>
GRAND TOTAL:		<u>\$2,040,298.41</u>

\* Includes items where the estimated Fair Market Value and/or Sale Price exceeded \$5,000

**POWER AUTHORITY OF THE STATE OF NEW YORK  
2010 ANNUAL REPORT OF PROCUREMENT CONTRACTS**

**EXECUTIVE SUMMARY**

The Power Authority of the State of New York (the "Authority") is a corporate municipal instrumentality and political subdivision of the State of New York. The Authority generates, transmits and sells electric power and energy principally at wholesale. The Authority's primary customers are municipal and investor-owned utilities and rural electric cooperatives located throughout New York State, high-load-factor industries and other businesses, various public corporations located within the metropolitan area of New York City and certain out-of-state customers. The Authority does not use tax revenues or State funds or credit. It finances construction of its projects through bond and note sales to private investors and repays the debt holders with proceeds from operations.

In 2010, the Authority continued a major effort to implement Energy Services and Technology ("EST") programs that include the installation of high-efficiency lighting, motors and controls; conversion to more efficient chiller and boiler plants and clean renewable distributed generation at customer sites statewide. Other efforts include an electric transportation program to promote the use of electric-drive vehicles (cars, pick-up trucks and buses) throughout the State.

The Authority requires the services of outside firms for accounting, engineering, legal, public relations, surveying and other work of a consulting, professional or technical nature to supplement its own staff, as well as to furnish varied goods and services and perform construction work. Many of these contracts are associated with the construction, maintenance and operation of the Authority's electric generating facilities and transmission lines, as well as with support of the energy efficiency projects noted above.

**PROCUREMENT GUIDELINES (Exhibit "A-2")**

In compliance with the applicable provisions of § 2879 of the Public Authorities Law ("PAL"), as amended, the Authority has established comprehensive guidelines detailing its operative policy and instructions concerning the use, awarding, monitoring and reporting of procurement contracts. The Guidelines describe the Authority's process for soliciting proposals and awarding contracts. Topics detailed in the Guidelines include solicitation requirements, evaluation criteria, contract award process, contract provisions, change orders, Minority/Women-owned Business Enterprise ("M/WBE") requirements, employment of former officers and reporting requirements. These Guidelines, approved by the Authority's Trustees, were initially implemented on January 1, 1990, and have been reviewed and amended annually as deemed advisable and necessary since then. The previous revised Guidelines for Procurement Contracts, as presented to the Governance Committee on February 23, 2010, were reviewed and approved by the full Board of Trustees at their meeting held on the same date.

Chapters 174 and 175 of the Laws of 2010 made substantial amendments to the PAL, with several changes governing procurement contracts. In order to make the Procurement Guidelines compliant with the law, staff recommends a number of changes, the most significant of which are highlighted below:

- **DEFINITIONS** as set forth in Article 2:
  - The existing definition of “**Minority and Women-owned Business Enterprise**” (M/WBE) has been modified to reference the expanded definition found in Executive Law § 310.
  - The following new definitions have been added:
    - “**Small Business**” shall mean a business that is resident in New York State, is independently owned and operated, not dominant in its field and employs not more than 300 people.
    - “**Single Source**” shall mean a procurement in which although two or more offerers can supply the required good or services, the Authority, upon written findings setting forth the material and substantial reasons therefore, may award a contract or amendment to a contract to one offerer over the other.
    - “**Sole Source**” shall mean a procurement in which only one offerer is capable of supplying the required goods or services.
- **MINORITY / WOMEN-OWNED BUSINESS ENTERPRISE (“M/WBE”)-RELATED REQUIREMENTS** as more fully set forth in Sections 3.D and 3.J.5 and Article 10 of the Guidelines and § 2879 of the PAL:
  - A Procurement Contract may be awarded on a sole source, single source or other **non-competitive basis**: \*
    1. to a **Small Business** or to a **NYS-certified M/WBE firm for purchases of goods and/or services not exceeding \$200,000**, or
    2. where the contract is for the purchase of goods and/or technology that are **recycled or remanufactured**, in an amount not exceeding \$200,000.
  - (\* see related note on next page for additional NYPA requirements)
  - **Additional guidelines** to foster the increased use of NYS-certified M/WBEs include, but are not limited to:

- Identifying those areas or types of contracts for which M/WBEs may best bid so as to promote and assist participation by such enterprises and facilitate a fair share of the awarding of contracts to such enterprises;
  - Providing notice to professional and other organizations that serve M/WBEs providing the types of services procured by the Authority;
  - Maintaining and regularly updating lists of qualified NYS-certified M/WBEs, including professional firms that have expressed an interest in doing business with the Authority;
  - Establishing appropriate goals for participation by M/WBEs in procurement contracts awarded by the Authority and for the utilization of M/WBEs as subcontractors and suppliers by entities having procurement contracts with the Authority, and conducting procurement in a manner that will enable the Authority to achieve the maximum feasible portion of such goals.
- **NYS COMPTROLLER'S APPROVAL OF CERTAIN CONTRACTS:**
    - Pursuant to PAL § 2879-a, the Comptroller Regulations and the State Authority Contract Manual, the Authority may be required to submit certain contracts to the NYS Comptroller for approval that are awarded on a sole source, single source, or other **non-competitive basis** for the purchase of goods and/or services in an amount **equal to or greater than \$1 million**, and shall notify the successful bidder therefor. Such contracts and contract amendments shall not be valid and enforceable unless approved by the Comptroller or until 90 days have elapsed from such submission without action by the Comptroller, as further set forth in the referenced law and regulations, as set forth in 3.K.

Additionally, the more significant recommended changes not related to the PAL are highlighted below:

- **The definition of Non-Procurement contracts was expanded** to include direct placement of advertisements with electronic media, as well as written materials associated with continuing education courses, as set forth in 2.B.
- **The following new Contract Attachment was added:** "15. Appendix M (Use of Ultra Low Sulfur Diesel Fuel and Best Available Retrofit Technology ("BART") for Heavy Duty Vehicles)," as set forth in 7.B.
- \* **The award of a contract to a NYS-certified M/WBE**, where a single proposal was sought, negotiated and accepted for purchases of goods and/or services not exceeding \$200,000 in the aggregate including all amendments, **requires the written approval of the Vice President of Procurement.** Any subsequent alteration to the accepted proposal,

including, but not limited to, change orders, amendments or supplemental terms shall also necessitate the written approval of the Vice President of Procurement, as described in 3.D.

- **Every potential sole source or single source contract with a value of \$1 million or more must be approved by the President and CEO or the COO** prior to processing by the Procurement Department, as set forth in 3.N.

It may also be noted that non-substantive and stylistic changes have also been made throughout the document.

These amended Guidelines, as reviewed by the Governance Committee, will be presented to the full Board of Trustees for review and approval at the March 29, 2011 meeting. The approved Guidelines will become effective on March 31, 2011 and will be posted on the Authority's internet website. On or before the 31<sup>st</sup> day of March, such Guidelines will also be filed with the Director of the Division of the Budget, the Department of Audit and Control, the Department of Economic Development, the Senate Finance Committee, the Assembly Ways and Means Committee and the Authorities Budget Office.

#### ACCOMPLISHMENTS

Major procurement efforts in 2010 included purchase of goods, services and construction work in support of the Authority's operating projects and headquarters facilities, Life Extension and Modernization ("LEM") Programs at Blenheim-Gilboa, Niagara and St. Lawrence and the EST programs mentioned above. The Authority's Procurement Department is continuing efforts to enhance the SAP procurement and materials management system, as well as supporting the requirements of the Authority's operations and maintenance work, capital projects ES&T programs and headquarters operations.

#### Supplier Diversity Program ("SDP")

In the fourth fiscal quarter October – December 2010, NYPA awarded \$11.9 Million, or 13.6 % of our reportable expenditures, to New York State Certified Minority and Women-Owned Business Enterprises (M/WBEs). Through the fourth fiscal quarter, January – December 2010, the Authority awarded \$35.7 million or 11.7% of our reportable expenditures to NY State Certified M/WBEs. This includes both direct contracts and subcontracts, including construction-related work. NYPA's goal for 2010, as established with NYS Economic Development Corporation, is 6% of "Reportable Expenditures". Reportable expenditures exclude specialty procurements (such as transformers, circuit breakers, turbine runners and other major electrical generating equipment, and commodities such as natural gas, where no M/WBEs are available to provide such goods or services). Attachment I illustrates the Authority's Supplier Diversity program history since 1990.

The new Deputy Director for Empire State Development Corp provided NYPA with the template for the submittal of our 2011-2012 agency goal plans, which is due March 21<sup>st</sup> 2011. This template incorporates new requirements set forth in the recent M/WBE legislation and the new

Article 15-A regulations adopted on December 22, 2010. The goal plan is more extensive than past plans and will require substantially more work for its completion. A major component of this 2011-2012 goal plan is to increase the Authority's M/WBE annual goal to help meet the Governor's goal for minority and women-owned firms to account for 20 percent of the state's business. The Authority's new annual goal, as well as the other components of the goal plan, is currently being assessed.

Empire State Development Corporation amended M/WBE Guidelines and made them available in January of 2011. They were used to update NYPA's Appendices C and G, the Authority's M/WBE and EEO contract language respectively, as well as the Authority's procurement policies and procedures. The Guidelines also increased monitoring and reporting requirements to facilitate transparency in state procurement. Additional Guidelines with respect to the recent laws are expected in the coming weeks.

An inquiry was submitted to all agencies and authorities by the new Chief Diversity Office for New York State requesting specific information on the Authority's Supplier Diversity Program and practices. This information was prepared and submitted on 2/09/11.

It should also be noted that during calendar year 2010 seven (7) different NYS certified MBE financial dealers transacted over \$421 million or 27.6% in principal sales and purchases for the Authority.

The Authority continues an active outreach program with various M/WBE organizations and trade associations. A significant part of its outreach efforts include Annual Purchasing Exchanges. The Authority's 20th exchange was held at its White Plains office in June 2010. Representatives of nearly 500 M/WBEs and more than 50 New York State, federal, New York City, local and corporate entities participated in the exchange.

## ANNUAL REPORT – 2010 PROCUREMENT CONTRACTS (Exhibit “A-3”)

The Annual Report includes specific details for procurements of \$5,000 or greater awarded since January 1, 1990 that were active in 2010. There were 2,172 such contracts with an estimated value of more than \$5.3 billion, which also includes fossil fuel and corporate finance expenditures. Total procurement expenditures in 2010 exceeded \$561 million. This amount included more than \$213 million for the purchase of fossil fuels and related services. Approximately 57% of the contracts active in 2010 were closed in 2010.

As noted in Attachment II:

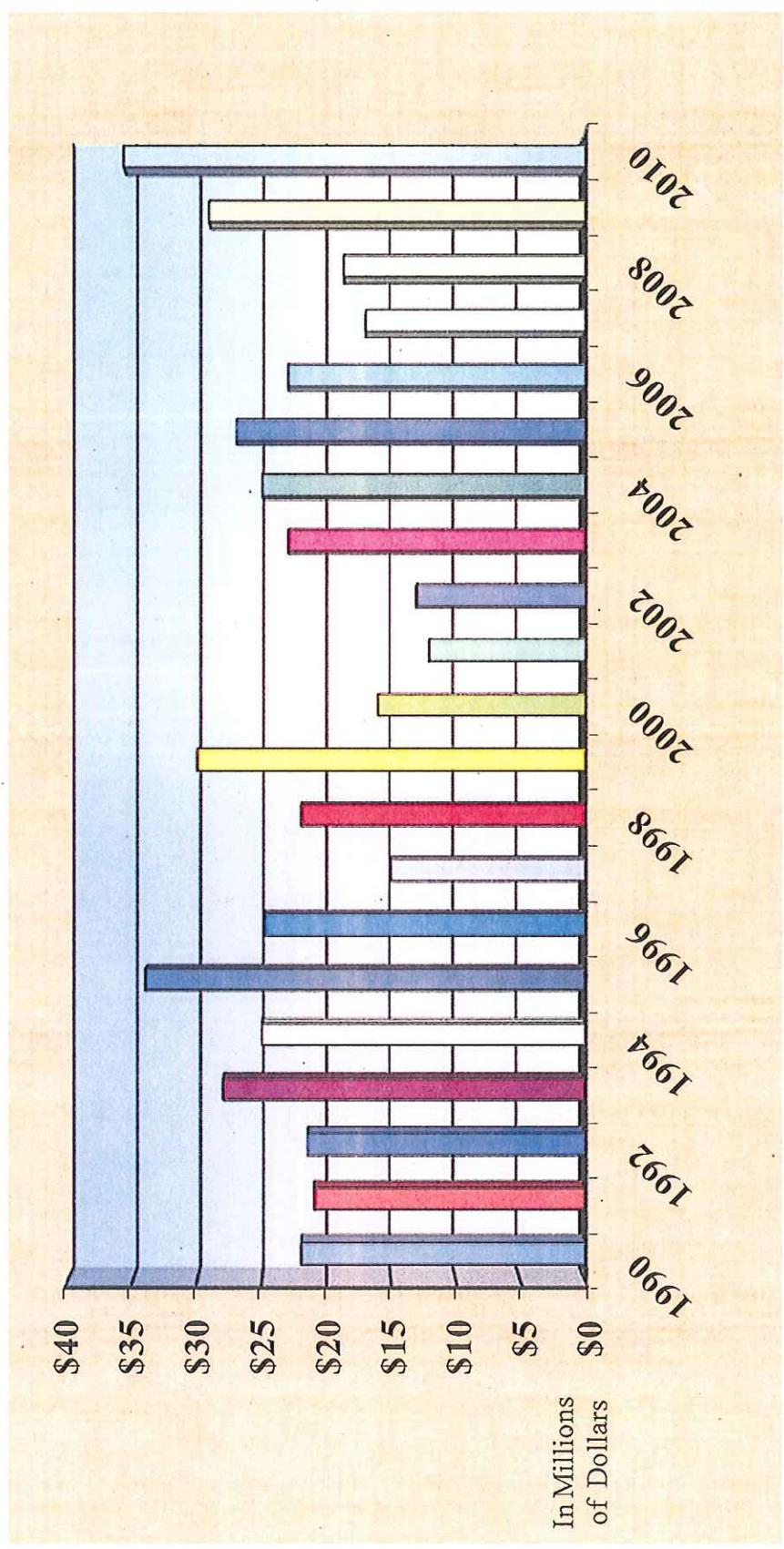
- Approximately 9% of these contracts were for construction work;
- More than 45% were for the purchase of equipment and commodities;
- More than 15% were for consulting contracts (e.g., engineering, design, specialized analysis);
- Other services, such as technician work and contracted personnel, accounted for 31%.

Attachment III indicates that, based on the total value of the contracts included in the Annual Report, approximately 97% (including fuels and corporate finance) were for contracts that were competitively bid. The major reasons for the amount of sole-source awards in 2010 included the purchase of spare parts and services from original equipment manufacturers, procurements from proprietary sources, ongoing Southeastern New York maintenance/repair contracts and procurements required on an emergency basis.

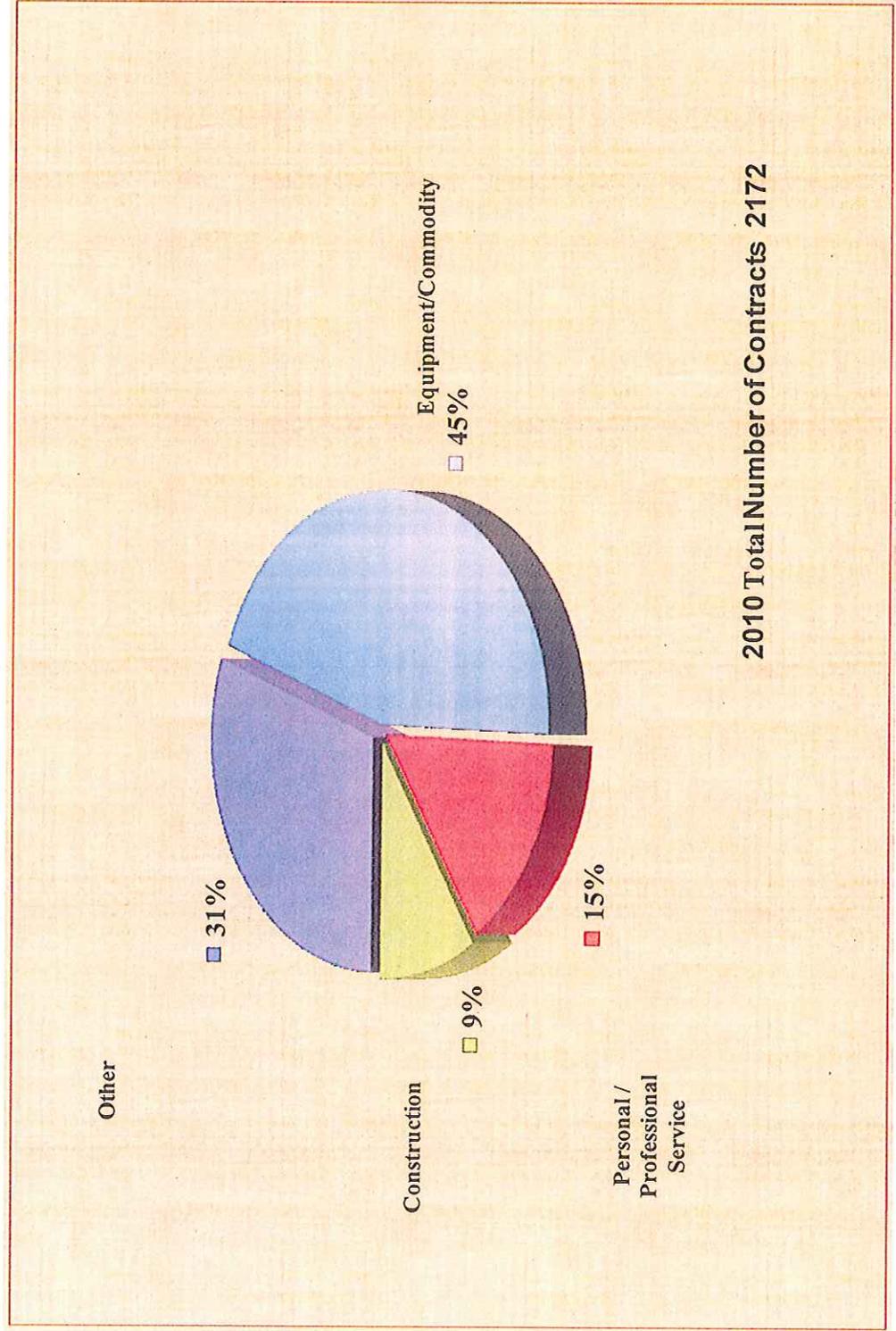
1g- A-1

Attachment I

# 2010 Supplier Diversity Procurement Dollars Spent

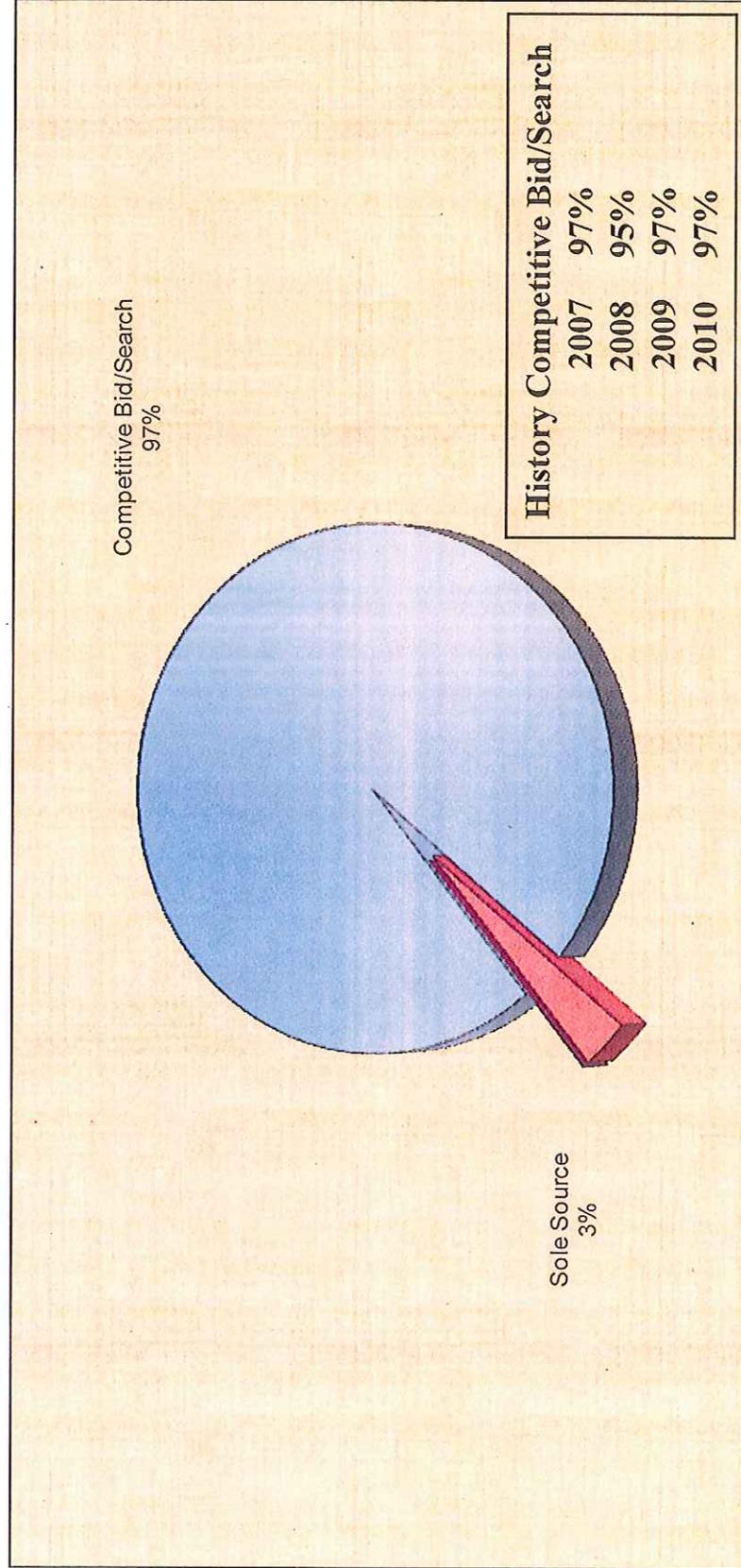


# 2010 Procurements Type of Contract



2010 Total Number of Contracts 2172

# 2010 Procurements Method of Award by Dollar Value



2010 Total Contract Award Amount \$5,306,000,000

**GUIDELINES FOR PROCUREMENT CONTRACTS**

**1. PURPOSE**

These Guidelines for Procurement Contracts ("Guidelines") set forth the policy of the Authority regarding the solicitation and awarding of procurement contracts. The provisions of Article 4-C of the Economic Development Law, §§ 2879 and 2879-a of the Public Authorities Law, Article 15-A of the Executive Law and §§ 139-j and 139-k of the State Finance Law were considered in developing these Guidelines. Departments and facilities may adopt further procedures to implement these guidelines.

**2. DEFINITIONS**

- A. "Procurement Contracts" are contracts for the acquisition of goods and/or services in the actual or estimated amount of \$5,000 or more. Such goods and/or services are those necessary to support the Authority's White Plains office, facilities, operations and maintenance ("O&M") and capital projects, including but not limited to goods such as office supplies, major electrical equipment, construction and maintenance work and services as more fully described in Section 2.C below.
- B. "Non-Procurement Contracts" include contracts for energy with or without environmental attributes included, capacity, ancillary services, transmission, distribution or related services in support of providing service to Authority customers; contracts for differences; financial hedge contracts (including but not limited to swaps, calls, puts or swap options) and credit rating services. In addition, Non-Procurement Contracts include direct placement of advertisements with radio, television, print and electronic media, periodicals, subscriptions, reference materials or professional research tools, written materials, fees or tuition associated with continuing education courses, training courses, conferences, seminars and symposiums, funding agreements, co-funding agreements, grants or memberships in various industry groups, professional societies or similar cooperative associations, or any cooperative projects and procurement activities conducted or sponsored by such organizations in which the Authority participates.
- C. "Services Contracts" are Procurement Contracts for services of a consulting, professional or technical nature provided by outside consultants/contractors (individuals, partnerships or firms who are not and do not employ officers or employees of the Authority) for a fee or other compensation. Services Contracts comprise three specific types: Personal Services, Non-Personal Services and Construction. Personal Services include, but are not limited to: accounting, architectural, engineering, financial advisory, legal, public relations, planning,

management consulting, surveying, training (when specifically developed by consultant for the Authority) and construction management. Non-Personal Services include, but are not limited to: skilled or unskilled temporary personnel, including clerical office staff, technicians or engineers working under Authority supervision; maintenance, repairs, and printing services. Construction consists of craft labor and other services utilizing laborers and/or mechanics not otherwise considered Non-Personal Services.

Note: Use of such services may be appropriate (1) when a consultant/contractor possesses special experience, background or expertise; (2) when there is insufficient Authority staff and retention of a consultant/contractor is more appropriate or economical than hiring additional permanent staff; (3) to provide independent external review or a second opinion; (4) to meet unusual schedule requirements or emergencies or (5) for a combination of these factors.

- D. "Goods" include equipment, material and supplies of any kind.
- E. "Contact" means any oral, written or electronic communication with the Authority under circumstances where a reasonable person would infer that the communication was intended to influence the procurement.
- F. "Relative" is any person living in the same household as the Authority employee or any person who is a direct descendant of the Authority employee's grandparents or the spouse of such descendant, as referred to in Subsection 9.E.1 of these Guidelines.
- G. "Minority and Women-owned Business Enterprise" ("M/WBE") is defined as any New York State-certified business enterprise at least 51% of which is owned by black persons, Hispanics, Native Americans, Asians, Pacific Islanders and/or women, and as further described in the Authority's Supplier Diversity Program Policy and Procedures and Executive Law Article 15-A, and pursuant to the definition found in Executive Law § 310.
- H. "Small Business" is a business that is resident in New York State, is independently owned and operated, not dominant in its field and employs not more than 300 people.
- I. "Single Source" means a procurement in which although two or more offerers can supply the required goods or services, the Authority, upon written findings setting forth the material and substantial reasons therefore, may award a contract or amendment to a contract to one offerer over the other.
- J. "Sole Source" means a procurement in which only one offerer is capable of supplying the required goods or services.

### 3. SOLICITATION REQUIREMENTS

- A. Preparation of the solicitation of proposals for Procurement Contracts is the joint responsibility of the White Plains Procurement Department, or the facilities' Procurement Departments, and the initiating department. Except as otherwise authorized by these Guidelines, a Request for Proposals ("RFP") or Request for Quotations ("RFQ") will be made available to a minimum of three providers and/or firms (if available) for purchases valued under \$25,000 and a minimum of five providers and/or firms (if available) for purchases valued at \$25,000 and greater, commensurate with the magnitude and nature of the goods and/or services, and the schedule for performance. Whenever possible and practicable, notification of the availability of an RFP and RFQ on the Authority's Procurement website should be sent to more than five providers.
- B. Prospective bidders on Procurement Contracts may be prequalified by invitation. In such cases, proposals are requested only from those providers and/or firms whose prequalification submittals demonstrate sufficient ability and competence to supply the particular goods and/or perform the particular services required.
- C. The Authority may withdraw any pending solicitation (including but not limited to RFPs and RFQs) at any time, for cause or no cause. Any person or entity submitting any responsive document to the Authority does so at its own cost or expense and will not be reimbursed by the Authority for the preparation of any responsive document, unless otherwise agreed to in writing and signed by an authorized Authority representative.
- D. In order to promote the use of Minority and Women-owned Business Enterprises ("M/WBEs"), the Authority will solicit offers from M/WBEs known to have experience in the type of goods and/or services to be provided, regardless of the type of contract. For the purpose of these Guidelines, the definition of a NYS-certified M/WBE is in Section 2.G.

To foster increased use of M/WBEs, a single proposal may be sought, negotiated and accepted for purchases of goods and/or services not exceeding \$200,000, in the aggregate including all amendments, from a NYS-certified M/WBE that offers a reasonable price for such goods and/or services. The award of such proposal requires the written approval of the Vice President of Procurement. Any subsequent alteration to the accepted proposal, including, but not limited to, change orders, amendments, or supplemental terms shall also necessitate the written approval of the Vice President of Procurement.

- E. It is the policy of New York State to promote the participation of and maximize the opportunities for New York State Business Enterprises and New York State residents in Procurement Contracts. The Authority will endeavor to promote such participation and to comply with the applicable statutory provisions. In furtherance of Public Authorities Law § 2879, the following definitions and actions apply:

1. “New York State Business Enterprise” is a business enterprise, including a sole proprietorship, partnership or corporation that offers for sale or lease or other form of exchange, goods sought by the Authority that are substantially manufactured, produced or assembled in New York State or services, excluding construction services, sought by the Authority that are substantially performed within New York State as further described in Public Authorities Law § 2879.
2. “New York State resident” is a person who maintains a fixed, permanent and principal home in New York State to which such person, whenever temporarily located, always intends to return as further described in Public Authorities Law § 2879.
3. “Foreign Business Enterprise” is a business enterprise, including a sole proprietorship, partnership or corporation, that offers for sale, lease or other form of exchange, goods sought by the Authority that are substantially produced outside New York State, or services other than construction services, sought by the Authority that are substantially performed outside New York State as further described in Public Authorities Law § 2879. For purposes of construction services, Foreign Business Enterprise is a business enterprise, including a sole proprietorship, partnership or corporation, which has its principal place of business outside New York State.
4. “Discriminatory Jurisdiction” is any country, nation, province, state or political subdivision thereof which employs a preference or price distorting mechanism to the detriment of, or otherwise discriminates against, a New York State Business Enterprise in the procurement of goods and/or services by the same or a non-governmental entity influenced by the same.
5. Pursuant to Public Authorities Law § 2879, the Authority shall not enter into a contract with a Foreign Business Enterprise which has its principal place of business in a Discriminatory Jurisdiction contained on the list prepared by the Commissioner of the New York State Department of Economic Development (“DED”). The provisions of this section may be waived by the Authority’s President and CEO if the CEO determines in writing that it is in the best interests of the Authority to do so, as further set forth in the above-referenced law.
6. Pursuant to Public Authorities Law § 2879, the Authority will, where feasible, make use of the stock item specifications list of New York State manufacturers, producers and/or assemblers, as made

available by the Commissioner of General Services, for any Procurement Contract for the purchase of goods.

- F. Goods and/or services may be procured pursuant to Procurement Contracts let by any department, agency, officer, political subdivision or instrumentality of the State or Federal government or any city or municipality where the White Plains Procurement Department, or facility Procurement Departments, and the initiating department determine that a reasonable potential exists for cost savings or other benefits to the Authority and have approved the specifications and proposed terms and conditions of such contract.
- G. Solicitations will include a scope of work that defines the goods required and/or the services to be performed; milestone dates; the Authority's Supplier Diversity Program requirements, if applicable; all other applicable Authority requirements and any special methods or limitations that the Authority chooses to govern the work. Telephone solicitation, usually for procurements valued at \$25,000 or less, may be used where time constraints do not permit issuance of an RFP, where issuance of an RFP is otherwise impracticable or for goods that are catalog items or do not require a detailed bill of materials or specification.
- H. For all Procurement Contracts with a value equal to or greater than \$15,000 (except for those contracts noted below), the Authority will, prior to soliciting proposals, submit the following information to the Commissioner of the DED to be included on the New York State Contract Reporter website, ([www.nyscr.com](http://www.nyscr.com)) (unless such posting would serve no useful purpose): (1) the Authority's name and address; (2) the solicitation number; (3) a brief description of the goods and/or services sought, the location where goods are to be delivered and/or services provided and the contract term; (4) the address where bids or proposals are to be submitted; (5) the due date for bids or proposals; (6) a description of any eligibility or qualification requirements or preferences; (7) a statement as to whether the contract requirements may be fulfilled by a subcontracting, joint venture or coproduction arrangement; (8) any other information deemed useful to potential contractors; (9) the name, address, and phone number of the person to be contacted for additional information and (10) a statement as to whether the goods and/or services sought have, in the immediately preceding three-year period, been supplied by a Foreign Business Enterprise. Such information will be submitted to the DED Commissioner in accordance with the schedule set forth by the DED. The due date for bids or proposals will be a minimum of 21 calendar days (including holidays) after the date of publication of such notice on the Contract Reporter website.

This section 3.H does not apply to (i) Procurement Contracts awarded on an emergency basis as described below in Section 3.L, (ii) Procurement Contracts being rebid or re-solicited for substantially the same goods and/or services, within 45 business days after the original due date, and/or (iii) Procurement Contracts awarded to not-for-profit human services providers.

Certain Procurement Contracts may require purchases: (1) on a spot market; (2) needed prior to the time limits for noticing on the Contract Reporter website or that do not lend themselves to the solicitation process. Such purchases are exempted from the noticing requirements of Article 4-C of the Economic Development Law subject to the approval of the Vice President of Procurement, and/or the head of the initiating department that does not complete its procurements through the Procurement Department. From time to time or where appropriate, generic notices may be published on the Contract Reporter website notifying potential bidders of such opportunities and soliciting qualification statements for consideration by the Authority.

- I. Proposals for certain Services Contracts may also be solicited by competitive search, as follows:

For contracts where the scope of work cannot be well defined or quantified, or where selection requires evaluation of factors such as breadth and depth of experience in a unique or highly specialized field and suitability as an Authority representative, a "competitive search" will be conducted to determine which consultants are most qualified, for reasonable compensation terms, to perform the work. Depending on market conditions, at least five potential sources should be evaluated; if there are fewer than five sources, all sources should be evaluated. The White Plains Procurement Department or the appropriate facility Procurement Department will work with the initiating department to gather information from potential sources, that will include a description of the consultant/firm's qualifications, résumés of key personnel, past experience and proposed billing rates.

- J. A Procurement Contract may be awarded on a Sole Source, Single Source, or other non-competitive basis where:

1. Compatibility of equipment, accessories or spare or replacement parts is the paramount consideration.
2. Services are required to extend or complement a prior procurement and it is impracticable or uneconomic to have a source other than the original source continue the work.
3. A sole supplier's item is needed for trial use or testing, or a proprietary item is sought for which there is only one source.
4. Other circumstances or work requirements exist that cause only one source to be available to supply the required goods and/or services.
5. The contract is awarded to a Small Business or to a NYS-certified M/WBE firm for purchases not exceeding \$200,000, pursuant to Section 3.D.
6. The contract is for the purchase of goods and/or technology that are recycled or remanufactured, in an amount not exceeding \$200,000, subject to the approvals stated in Section 3.D.

7. Purchases made on a Sole Source, Single Source, or other non-competitive basis are subject to Public Authorities Law § 2879-a, 2 NYCRR Part 206, entitled “Comptroller Approval of Contracts Made by State Authorities” (“Comptroller Regulations”) and the State Authority Contract Manual.
- K. Pursuant to Public Authorities Law § 2879-a, the Comptroller Regulations and the State Authority Contract Manual, the Authority may be required to submit certain contracts to the New York State Comptroller for approval that are awarded on a Sole Source, Single Source, or other non-competitive basis for the purchase of goods and/or services in an amount equal to or greater than \$1 million, and shall notify the successful bidder therefor. Such contracts or contract amendments shall not be valid and enforceable unless approved by the Comptroller or until 90 days have elapsed from such submission without action by the Comptroller, as further set forth in the referenced law and regulations.
- L. Subject to the Authority’s Expenditure Authorization Procedures (“EAPs”), and Public Authorities Law § 2879-a, the Comptroller Regulations and the State Authority Contract Manual, a Procurement Contract may be awarded without following the solicitation requirements that ordinarily apply (but using such competitive selection procedures as are practicable under the circumstances) where emergency conditions exist, such as:
  1. A threat to the health or safety of the public or Authority employees or workers.
  2. Proper functioning of the Authority facilities or construction or operating projects requires adherence to a schedule that does not permit time for an ordinary procurement solicitation.
- M. Whenever an initiating department determines that a Procurement Contract should be awarded on a Single Source, Sole Source, or an emergency basis, the head of the department will provide a written statement explaining the reasons therefor to the White Plains Procurement Department or the appropriate facility Procurement Department.
- N. Every potential Sole Source or Single Source contract with a value of \$1 million or more must be approved by the President and CEO or the COO prior to processing by the Procurement Department.
- O. In furtherance of Public Authorities Law § 2800, when a procurement is made on a non-competitive basis, and the price for goods or services purchased exceeds fair market value, prior to making the purchase, the Business Unit Head of the initiating department shall provide a detailed explanation of the justification for making the purchase and a certification shall be signed by the Chief Executive Officer and Chief Financial Officer of the Authority stating that they have reviewed the terms of such purchase and determined that it complies with applicable law and

procurement guidelines. The following definition shall apply: "Fair Market Value" shall mean the estimated dollar amount that a willing buyer would pay to a willing seller for property in an arms-length transaction in the appropriate marketplace and under similar circumstances. Fair market value may be determined by internal appraisals, industry-recognized sources, or other methods of valuation generally accepted in the industry in which such property is utilized, as may be approved by the Vice President of Procurement or authorized designee.

P. It is the policy of New York State to discourage improper communications intended to influence a governmental procurement. The Authority will endeavor to control such practices and will comply with the applicable statutory provisions. In furtherance of the State Finance Law §§ 139-j and 139-k, the following definitions shall apply:

1. Pursuant to Article 11-B of the State Finance Law a "Procurement Contract" is any contract or other agreement for a commodity, service, technology, public work, construction, revenue contract, the purchase, sale or lease of real property or an acquisition or granting of other interest in real property that is the subject of a governmental procurement. Grants, contracts between the Authority and non-profit organizations pursuant to Article 11-B of the State Finance Law, intergovernmental agreements, railroad and utility force accounts, utility relocation project agreements or orders and eminent domain transactions are not Procurement Contracts.
2. The "Restricted Period" is the period of time commencing with the earliest written notice, advertisement or solicitation of a request for proposal, invitation for bids, or solicitation of proposals, or any other method for soliciting a response from bidders/contractors intending to result in a procurement contract with the Authority and ending with the final contract award.
3. The Authority shall designate a person or persons who may be contacted, with respect to each Authority procurement. The bidders/contractors or persons acting on their behalf, shall only contact the Authority's designated person or persons where a reasonable person would infer that the communication was intended to influence the procurement during the Restricted Period.

#### 4. EVALUATION OF PROPOSALS

- A. Proposals will be evaluated using a fair and equitable comparison of all aspects of the proposals against the specifics of the solicitation and against each other, including an analysis of each offer that considers: the quality of the goods and/or the competence of the bidder, the technical merit of the proposal and the price for which the goods and/or services are to be supplied.

In the event the price submitted by the bidder recommended to be awarded a contract exceeds the cost estimated, where a cost estimate is provided on the solicitation at the time of bidding, the initiating department will prepare a written explanation to be reviewed by the White Plains Procurement Department and/or the appropriate facility Procurement Department and appropriate managers as stipulated in the EAPs. The following options should be considered: (1) rejecting the bids, resoliciting proposals and/or modifying the scope of work; (2) revising the cost estimate and proceeding with the contract award and (3) negotiating with the low bidder(s), as determined by the Vice President of Procurement or equivalent(s) or designee, to reduce the price quoted. Factors to be considered in reaching the proper course of action include but are not limited to: the effects of a delay on both the schedule and the cost of the specific capital construction project or outage at an operating facility, the magnitude of the contract, available bidders, the ability to attract additional competition if the solicitation is reissued, and the accuracy of the original cost estimate. The recommended course of action and the reasons therefor must be fully documented in a memorandum for consideration by the appropriate level of management prior to approval and placed in the appropriate procurement file.

- B. Factors to be considered in evaluating the goods and/or services to be supplied and/or the competence of the bidder are: previous experience (including applicable experience in New York State and evaluations from other clients for whom the bidder has provided goods and/or services); the abilities and experience of the personnel to be assigned to the Authority's work and the ability to provide any needed advanced techniques such as simulation and modeling. The approach proposed in meeting the exact requirements of the scope of work will be given consideration in evaluating the technical merit of the proposal, together with a well-organized task structure, the ability to timely supply the goods and/or perform the proposed services and the ability to meet Supplier Diversity Program goals, if any. The need to purchase the goods from and/or subcontract performance of services to others will be evaluated as to their effects on cost, as well as quality, schedule and overall performance.
- C. For Services Contracts (as defined in Section 2.C of these Guidelines), the technical merits of the proposals and the experience and capabilities of the bidders will be the primary factors in determining the individual or firm to be awarded the contract, provided that the price for performing such work is reasonable and competitive.
- D. For Procurement Contracts other than Personal Services (as defined in Section 2.C of these Guidelines), the award should generally be made to the lowest-priced firm submitting a proposal that meets the commercial and technical requirements of the bid documents.

- E. Pursuant to § 139-j of the State Finance Law, the Authority shall not award a Procurement Contract (as defined in Subsection 3.P.1 of these Guidelines) to a bidder/contractor who fails to provide timely, accurate and complete responses to inquiries about past determinations of non-responsibility (unless awarding the contract is necessary to protect public property or public health or safety and the bidder/contractor is the only source capable of supplying the required article of procurement within the necessary timeframe.)

A bidder's/contractor's knowing and willful violation of the Authority's policy providing for certain procurement disclosures shall result in a determination of non-responsibility of such bidder/contractor pursuant to State Finance Law §§ 139-j and 139-k only.

More than one determination of non-responsibility due to violations of State Finance Law § 139-j in a four-year period shall render a bidder/contractor ineligible to submit bids for four years from the second determination of non-responsibility.

- F. An award to "other than low bidder" can be made only with the approval of appropriate management as stipulated in the EAPs, and should be based on such a proposal providing a clear advantage to the Authority over the lower-priced proposal. Factors justifying an "other than low bidder" award may include, but are not limited to: improved delivery schedules that will reduce outages, longer warranty periods, improved efficiency over the usable life of the equipment, reduced maintenance costs, the bidders' financial resources or the ability to meet or exceed Supplier Diversity Program goals.
- G. The specifications set forth in any solicitation prepared under these Guidelines were based upon information available at the time of the preparation of the solicitation. Thus, the Authority may diverge from the specifications of any solicitation if, after review of the proposals responsive to such solicitation, the Authority deems it prudent in light of its experience, the circumstances of the solicitation and/or potential cost savings.

## 5. RECOMMENDATION OF AWARD

- A. A recommendation for approval of a proposed award of a Procurement Contract is usually prepared in the form of a memorandum or e-mail by the department requiring the goods and/or services. The recommendation must include an evaluation of proposals as specified in Article 4 above, as well as proposed specific compensation terms that provide a clear breakdown of cost factors and methods of calculation, including, as applicable:
  1. Lump sum and/or unit prices for equipment and construction work.
  2. Hourly or daily rates for personnel.

3. Markups for payroll taxes, fringe benefits, overhead and fees, if the proposal is based on reimbursement of actual payroll costs.
  4. Terms for reimbursement of direct out-of-pocket expenses, such as travel and living costs, telephone charges, services of others and computer services.
  5. Provisions, if any, for bonus/penalty arrangements based on target person-hours and/or target schedule.
- B. The recommendation will also review any substantive exceptions to commercial and technical requirements of a price inquiry, RFP, RFQ or bidding documents, including but not limited to payment terms, warranties and bond requirements, if any.

## 6. AWARD OF CONTRACT

- A. Services Contracts to be performed for a period of more than 12 months are approved and reviewed annually by the Trustees. Services Contracts for a period of less than 12 months are approved by authorized designees in accordance with existing EAPs. Extending a contract for services with an initial duration of less than 12 months beyond 12 months will be approved by the Trustees at the request of the initiating department and will be reviewed by the Trustees annually. Extending a contract for services that has previously been approved by the Trustees for a cumulative term of more than 12 months requires further Trustees' approval. Extending a contract previously approved by the Trustees for 12 months or less requires approval by an authorized designee in accordance with existing EAPs and concurrence by the Vice President of Procurement.
- B. For Services Contracts to be performed for a period of more than 12 months that must be awarded prior to the next quarterly Trustees' meeting, the initial contract will be issued for the entire intended term of the contract. Based on its total value, such contract must be approved by the appropriate management as set forth in the EAPs. Such contract is subject to the Trustees' approval, at the next quarterly Trustees' meeting. If such approval is not granted, the contract will be terminated immediately.
- C. A contract or contract task is deemed to be for services in excess of 12 months where the contract does not specify a definite term and the work will not be completed within 12 months, and any "continuing services" contract with no fixed term that provides for the periodic assignment of specific tasks or particular requests for services. This includes Trustee-approved contracts for architect/engineering services with the original engineers of operating facilities, as well as the original supplier of steam supply systems or boilers and turbine generating

equipment. Each task authorized under such contracts (which may be referred to as a "Change Order," "Purchase Order" or "Task Number") is considered a separate commitment and must be separately approved in accordance with the EAPs.

- D. The term of a Personal Services contract is limited to a maximum of five (5) years, including any extensions.
- E. When time constraints or emergency conditions require extending an existing contract with an initial duration of less than a year beyond a year, and the cumulative monetary change order value does not exceed the appropriate limit set forth in the EAPs, the Business Unit Head, with the prior concurrence of the Vice President of Procurement or equivalent(s) or designee, may authorize extending such contract, subject to the Trustees ratifying such action as soon as practicable.
- F. When the total estimated contract value or the value of the extension exceeds the monetary limits set forth in the EAPs, interim approval by the President and Chief Executive Officer or Chief Operating Officer or equivalent(s) or designee is required, subject to the Trustees ratifying such action as soon as practicable.
- G. When time constraints or emergency conditions require immediate commencement of services to be performed for a period of more than one year, and when the contract value exceeds the monetary approval limit for the President and Chief Executive Officer or Chief Operating Officer or equivalent(s), as set forth in the EAPs, the President and Chief Executive Officer or Chief Operating Officer or equivalent(s) or designee, with the prior concurrence of the Vice President of Procurement or equivalent(s) or designee, may authorize the commencement of such services. The initial compensation limitation may not exceed the authorization level for the President and Chief Executive Officer or equivalent(s) or Chief Operating Officer or equivalent(s) as set forth in the EAPs. Such contracts will be subject to the Trustees' approval, which will be solicited at their next scheduled Trustee meeting.
- H. The White Plains Procurement Department or the facilities' Procurement Departments prepare the contract for execution by the Authority and the successful bidder. No work by the selected contractor will commence until the contract is executed by both parties, except that mutually signed letters of award or intent may initiate work prior to formal execution. Authority signatories of such letters must be authorized to approve contract awards pursuant to the EAPs.
- I. Pursuant to Public Authorities Law § 2879, the Authority shall notify the Commissioner of Economic Development of the award of any Procurement Contract for the purchase of goods and/or services from a Foreign Business Enterprise (as defined in Subsection 3.E.3 of these Guidelines) in an amount equal to or greater than \$1 million simultaneously with notifying the successful bidder therefor. The Authority shall not enter into the Procurement Contract for said goods and/or services until at least 15 days have elapsed from the notification of

the award, except for a Procurement Contract awarded on an emergency or critical basis. The notification to the Commissioner shall include the name, address, telephone and facsimile number of the Foreign Business Enterprise, the amount of the proposed Procurement Contract and the name of the individual at the Foreign Business Enterprise or acting on behalf of same who is principally responsible for the proposed Procurement Contract.

## 7. CONTRACT PROVISIONS

- A. The following standard forms of contracts are available from the White Plains Procurement Department: purchase order format for standard procurements of goods and/or services; furnish-and-deliver format for major equipment purchases; letter agreements and agreement formats for consulting work and contract work orders (for construction work of small magnitude), construction contracts (for major construction work) and furnish, deliver and install contracts (for specialized, major procurements where single responsibility is required for procurement and installation). These contract forms are intended to govern the purchase of goods and/or performance of services.

Authority departments proposing to initiate a Procurement Contract should review these forms to suggest any modifications and additions that may be required for the particular goods and/or services. Under no circumstances should contract forms be shown to proposed bidders without the prior approval of the Procurement Department, which, along with the facilities' Procurement Departments, is solely responsible for requesting proposals.

- B. The following types of provisions setting forth contractor responsibilities are to be contained in the standard forms of Procurement Contracts, except that any provisions listed below that are inapplicable or unnecessary because of the nature or duration of the work to be performed, the location(s) where the work is to be performed or the type of compensation being paid therefor, need not be included. Other provisions may be added as necessary and appropriate.

1. Schedule of Services or Specifications
2. Time of Completion
3. Compensation or Itemized Proposals
4. Relationship of Parties
5. Delays
6. Termination
7. Changes in the Work
8. Claims and Disputes
9. Warranty
10. Insurance
11. Records, Accounts, Inspection and Audit
12. Assignment
13. Notices

14. Indemnification
15. Governing Law
16. Proprietary Nature of Work
17. Testimony
18. Entire Agreement

Contract Attachments

1. Compensation Schedule
2. Schedule of Services or Specifications
3. Appendix "A" (Miscellaneous Statutory Provisions)
4. Appendix "B" (Prompt Payment Provisions)
5. Appendix "C" (Minority and Women-owned Business Enterprise Provisions)
6. Appendix "D" (Background Security Screening for Authority Contractors)
7. Appendix "E" (Omnibus Procurement Act of 1992 Requirements)
8. Appendix "F" (Computer Aided Drawing Requirements For New York Power Authority)
9. Appendix "G" (Equal Employment Opportunity Requirements)
10. Appendix "H" (Tax Law Requirements)
11. Appendix "I" (New York Power Authority (NYPA) North American Electric Reliability Corporation Critical Infrastructure Protection (NERC CIP) Cyber Access And/Or Unescorted Physical Access Training Requirements)
12. Appendix "J" (Bidder/Contractor Compliance with State Finance Law §§ 139-j and 139-k Providing for Certain Procurement Disclosures)
13. Appendix "K" (Additional State and Federal Provisions Required for American Recovery and Reinvestment Act (Pub.L. No. 111-5 Stat. 2009) ("ARRA") Funded Projects)
14. Appendix "L" (DOE Federal Contract Provisions)
15. Appendix "M" (Use of Ultra Low Sulfur Diesel Fuel and Best Available Retrofit Technology ("BART") for Heavy Duty Vehicles)

- C. Any firm, person or entity retained by the Authority to provide conceptual studies, designs or specifications is prohibited from being awarded future phases of work, including implementation, related to the original work. If there is no qualified response to the solicitation for future phases of work, including implementation, the approval of the Vice President of Procurement or equivalent(s) or designee, applicable Business Unit Head or equivalent(s), Assistant General Counsel or equivalent(s) and President and Chief Executive Officer or designee or Chief Operating Officer or equivalent(s) is required to waive this restriction on a case-by-case basis.

**8. CHANGE ORDERS**

- A. Change Orders to existing contracts are justified in the following cases:
1. To incorporate additional work related to the original scope, to delete work or to otherwise modify the original work scope;
  2. To exercise options previously included in the original contract to perform additional work or to extend the contract term;
  3. To accommodate emergency conditions, defined in Section 3.L herein, that require the immediate performance of work by a firm already under contract;
  4. When rebidding would not be practical or in the best interests of the Authority's customers; and
  5. To meet the Authority's Supplier Diversity Program goals in accordance with Executive Law Article 15-A.
- B. All Change Orders must be approved in accordance with the Authority's EAPs, and should include specific schedules for completion of work at the earliest possible time.

**9. CONTRACTING DECISIONS INVOLVING CURRENT OR FORMER EMPLOYEES**

- A. Former Authority officers and employees are eligible to be considered for employment as contractors and/or consultants provided that they meet all criteria for contractors and/or consultants generally as specified in these Guidelines; their employment is not barred by New York Public Officers Law § 73(8); they obtain an opinion by the New York State Commission on Public Integrity that such employment is permissible; and upon approval of the President and Chief Executive Officer.
- B. Pursuant to the provisions of New York Public Officers Law § 73(8):
1. No Authority officer or employee is eligible, within a period of two years after the termination of Authority service to appear or practice before the Authority or receive compensation for any services rendered on behalf of any person, firm, corporation or association, in relation to any case, proceeding or application or other matter before the Authority.

2. No Authority officer or employee is eligible, at any time after the termination of Authority service, to appear, practice, communicate or otherwise render services before the Authority or any other state agency or receive compensation for any such services rendered on behalf of any person, firm, corporation or other entity in relation to any case, proceeding, application or transaction that such person was directly concerned with and personally participated in during his or her period of service, or which was under his or her active consideration.
- C. No Authority employee who is involved in the award of Authority grants or contracts may ask any officer, director or employee of such current or prospective contractor or grantee to reveal: (a) the political party affiliation of the individual; (b) whether the individual or entity has made campaign contributions to any political party, elected official or candidate for elective office or (c) whether the individual voted for or against any political party, elected official or candidate for elective office.
  - D. No Authority employee may award or decline to award any grant or contract, or recommend, promise or threaten to do so because of a current or prospective grantee's or contractor's: (a) refusal to answer any inquiry prohibited by Section 9.C above or (b) giving or withholding or neglecting to make any contribution of money, service or any other valuable thing for any political purpose.
  - E. No Authority employee may take part in any contracting decision involving the payment of more than \$1,000: (i) to a Relative; or (ii) to any entity in which the Authority employee or a Relative of such Authority employee owns or controls 10% or more of the stock of such entity (or 1% in the case of a corporation whose stock is regularly traded on an established securities exchange); or serves as an officer, director or partner of that entity. If a contracting matter arises relating to this Section 9.E, then the employee must advise his or her supervisor of the relationship, and must be recused from any and all discussions or decisions relating to the matter.
    1. For purposes of this Section 9.E, the term "Relative" is defined in Definitions, Section 2.F of these Guidelines.

## 10. **SUPPLIER DIVERSITY PROGRAM REQUIREMENTS**

The Authority strives to continue to foster the development of business opportunities on Authority contracts for M/WBEs. Article 15-A of the Executive Law established the NYS Office (now Division) of Minority and Women's Business Development ("DMWBD") that is responsible for developing rules and regulations for implementation of this statute, certifying M/WBEs and reviewing and monitoring goal plans, compliance reports and contract provisions to be included in all non-construction contracts for more than \$25,000 and construction contracts for more than \$100,000. The definition of an M/WBE is included in Section 2.G of these Guidelines. The Authority aims to solicit proposals from NYS-certified M/WBEs that are qualified to perform the required work. In addition, specific goals may be included in certain contracts for consulting work, construction and

procurement of goods and other services requiring the contractor/vendor to subcontract a portion of the work to NYS-certified M/WBEs as required by law. Bidders' proposals will include Preliminary Subcontracting Plans for M/WBEs, where required, and such bidders' failure to meet these requirements may be grounds for rejection of the proposal, or cancellation of the contract if a contractor did not make a good faith effort to meet its goals after contract award. Utilization Plans for Construction contracts valued at more than \$100,000 shall be posted on the Procurement website by the successful vendor within ten business days of contract signing.

Pursuant to § 2879 of the Public Authorities Law and as further set forth in the Authority's Supplier Diversity Program Manual, the following guidelines apply:

1. Identify those areas or types of contracts for which M/WBEs may best bid so as to promote and assist participation by such enterprises and facilitate a fair share of the awarding of contracts to such enterprises.
2. Provide notice, in addition to any other notice of procurement opportunities required by law, to professional and other organizations that serve M/WBEs providing the types of services procured by the Authority.
3. Maintain lists of qualified NYS-certified M/WBEs, including professional firms that have expressed an interest in doing business with the Authority and ensuring that such lists are updated regularly. The Authority shall also consult the lists of NYS-certified M/WBEs maintained by the DED pursuant to Executive Law Article 15-A.
4. Establish appropriate goals for participation by M/WBEs in procurement contracts awarded by the Authority and for the utilization of M/WBEs as subcontractors and suppliers by entities having procurement contracts with the Authority. Statewide numerical participation target goals shall be established by the Authority based on the criteria set forth in Public Authorities Law § 2879.
5. Conduct procurements in a manner that will enable the Authority to achieve the maximum feasible portion of the goals established pursuant to Subdivision 4 of this Section and that eliminates barriers to participation by M/WBEs in the Authority's procurements.
6. Designate one or more senior staff of the Authority to oversee the Authority's programs established to promote and assist participation by and utilization of NYS-certified M/WBEs.

## 11. PROCUREMENT RECORD AND REPORTING

### A. Procurement Record

The White Plains Procurement Department maintains records of Procurement Contracts, including bidders' names, the selection processes used and the status of existing contracts, including goods provided and/or services performed and fees earned, billed and paid. At the facilities, such records will be kept by the facilities' Procurement Departments.

### B. Procurement Report

After the end of each calendar year, the Vice President of Procurement or equivalent(s) will prepare and submit an annual report to the Trustees for their approval that will include:

1. A copy of the Guidelines;
2. An explanation of the Guidelines and any amendments thereto since the last annual report;
3. A list of all Procurement Contracts entered into since the last annual report, including all contracts entered into with New York State Business Enterprises and the subject matter and value thereof and all contracts entered into with Foreign Business Enterprises and the subject matter and value thereof;
4. A list of fees, commissions or other charges paid;
5. A description of work performed, the contract number, the date of the contract and its duration, the name, address and NYS-certified M/WBE designation of the awardees, the total amount of the contract, the amount spent on the contract during the reporting period and for the term of the contract to date and the status of open Procurement Contracts during the report year;
6. The type of contract (equipment, services, personal services or construction);
7. The method of awarding the contract (e.g., competitive bidding, Sole Source, Single Source or competitive search);
8. The reasons why any procurements with a value greater than \$15,000 were not noticed in the Contract Reporter;
9. The number of bids received and
10. All referrals made and all penalties imposed, if any, pursuant to § 316 of the Executive Law.

- C. Such annual report, as approved by the Trustees, shall be submitted to the New York State Division of the Budget within 90 days of the end of such calendar year, and copies thereof shall be distributed to the New York State Department of Audit and Control, the DED, the New York State Senate Finance Committee, and the

New York State Assembly Ways and Means Committee and any other entity as may be required by law. The annual procurement report is posted on the Authority's website and copies shall be made available to the public upon reasonable written request therefor.

D. State Finance Law §§ 139-j and 139-k

1. A statement describing the basis for a determination of a bidder's/contractor's non-responsibility (per State Finance Law §§ 139-j and 139-k only) and the Authority's decision not to award a bidder/contractor the Procurement Contract must be included in the procurement record.
2. The Authority shall notify the New York State Office of General Services of bidders/contractors who have been determined to be non-responsible bidders (per State Finance Law §§ 139-j and 139-k only) or debarred due to violations of § 139-j of the State Finance Law.
3. All forms entitled "Record of Contact" shall be included in the respective procurement record.
4. A statement describing the basis for a termination of a Procurement Contract for providing an intentionally false certification must be included in the procurement record.

E. The Authority may be called upon periodically to submit information regarding the procurement of goods and/or services to organizations implementing the PAAA or other statutes regulating the procurement of goods and services, such as the Authorities Budget Office through the Public Authorities Reporting Information System ("PARIS").

**12. THIRD PARTY RIGHTS: VALIDITY OF CONTRACTS**

- A. These Guidelines are intended for the guidance of officers and employees of the Authority only. Nothing contained herein is intended, nor should it be construed, to confer on any person, firm or corporation any right, remedy, claim or benefit under, or by reason of, any requirement or provision hereof.
- B. Nothing contained in these Guidelines alters or affects the validity of, modifies the terms of or impairs any contract or agreement entered into in violation of these Guidelines.

## GUIDELINES FOR PROCUREMENT CONTRACTS

### 1. PURPOSE

These Guidelines for Procurement Contracts ("Guidelines") ~~comply with set forth~~ the ~~applicable policy of the Authority regarding the solicitation and awarding of procurement contracts.~~ The provisions of Article 4-C of the Economic Development Law, ~~the Public Authorities Accountability Act, §§§ 2879 and 2879-a~~ of the Public Authorities Law, ~~Article 15-A of the Executive Law~~ and §§ 139-j and 139-k of the State Finance Law, ~~and establish the basis for the Authority to solicit and evaluate proposals from individuals and/or firms providing goods and/or services as defined were considered in Article 2 below.~~ Consistent with developing these Guidelines, ~~individual, Departments and facilities, White Plains office or departments~~ may ~~establish specific supplementary adopt further procedures to implement these guidelines based on their own needs.~~

### 2. DEFINITIONS

- A. "Procurement Contracts" are contracts for the acquisition of goods and/or services in the actual or estimated amount of \$5,000 or more. Such goods and/or services are those necessary to support the Authority's White Plains office, facilities, ~~Operations operations~~ and ~~Maintenance maintenance~~ ("O&M") and capital projects, including but not limited to: goods such as office supplies, major electrical equipment, construction and maintenance work and services as more fully described in Section 2.-C below.
- B. "Non-Procurement Contracts" include contracts for energy with or without environmental attributes included, capacity, ancillary services, transmission, distribution or related services in support of providing service to Authority customers; contracts for differences; financial hedge contracts (including but not limited to swaps, calls, puts or swap options) and credit rating services. In addition, Non-Procurement Contracts include direct placement of advertisements with radio, television, print and ~~print~~electronic media, periodicals, subscriptions, reference materials or professional research tools, written materials, fees or tuition associated with continuing education courses, training courses, conferences, seminars and symposiums, funding agreements, co-funding agreements, grants or memberships in various industry groups, professional societies or similar cooperative associations, or any cooperative projects and procurement activities conducted or sponsored by such organizations in which the Authority participates.

- C. "Services Contracts" are Procurement Contracts for services of a consulting, professional or technical nature provided by outside consultants/contractors (individuals, partnerships or firms who are not and do not employ officers or employees of the Authority) for a fee or other compensation. Services Contracts comprise three specific types: Personal Services, Non-Personal Services and Construction. Personal Services include, but are not limited to: accounting, architectural, engineering, financial advisory, legal, public relations, planning, management consulting, surveying, training (when specifically developed by consultant for the Authority) and construction management. Non-Personal Services include, but are not limited to: skilled or unskilled temporary personnel, including clerical office staff, technicians or engineers working under Authority supervision; maintenance, repairs, and printing services. Construction consists of craft labor and other services utilizing laborers and/or mechanics not otherwise considered Non-Personal Services.

Note: Use of such services may be appropriate (1) when a consultant/contractor possesses special experience, background or expertise; (2) when there is insufficient Authority staff and retention of a consultant/contractor is more appropriate or economical than hiring additional permanent staff; (3) to provide independent external review or a second opinion; (4) to meet unusual schedule requirements or emergencies or (5) for a combination of these factors.

- D. "Goods" include equipment, material and supplies of any kind.
- E. "Contact" means any oral, written or electronic communication with the Authority under circumstances where a reasonable person would infer that the communication was intended to influence the procurement.
- F. "Relative" is any person living in the same household as the Authority employee or any person who is a direct descendant of the Authority employee's grandparents or the spouse of such descendant, as referred to in Subsection 9.E.1 of these Guidelines.
- G. "Minority and Women-~~Owned~~ Business Enterprise" ("M/WBE") is defined as any New York State certified business enterprise at least 51% of which is owned by black persons, Hispanics, Native Americans, Asians, Pacific Islanders and/or women, and as further described in the Authority's Supplier Diversity Program Policy and Procedures and Executive Law Article 15-A, and pursuant to the definition found in Executive Law § 310.
- H. "Small Business" is a business that is resident in New York State, is independently owned and operated, not dominant in its field and employs not more than 300 people.

I. “Single Source” means a procurement in which although two or more offerers can supply the required goods or services, the Authority, upon written findings setting forth the material and substantial reasons therefore, may award a contract or amendment to a contract to one offerer over the other.

G.I. “Sole Source” means a procurement in which only one offerer is capable of supplying the required goods or services.

### 3. SOLICITATION REQUIREMENTS

A. Preparation of the solicitation of proposals for Procurement Contracts is the joint responsibility of the White Plains Procurement Department, or the facilities' Procurement Departments, and the initiating department. Except as otherwise authorized by these Guidelines, a Request for Proposals (“RFP”) or Request for Quotations (“RFQ”) will be made available to a minimum of three providers and/or firms (if available) for purchases valued under \$25,000 and a minimum of five providers and/or firms (if available) for purchases valued at \$25,000 and greater, commensurate with the magnitude and nature of the goods and/or services, and the schedule for performance. Whenever possible and practicable, notification of the availability of an RFP's RFP and RFQ's RFQ on ~~our web site~~ the Authority's Procurement website should be sent to more than five providers.

B. Prospective bidders on Procurement Contracts may be prequalified by invitation. In such cases, proposals are requested only from those providers and/or firms whose prequalification submittals demonstrate sufficient ability and competence to supply the particular goods and/or perform the particular services required.

C. The Authority may withdraw any pending solicitation (including but not limited to RFP's RFPs and RFQ's RFQs) at any time, for cause or no cause. Any person or entity submitting any responsive document to the Authority does so at its own cost or expense and will not be reimbursed by the Authority for the preparation of any responsive document, unless otherwise agreed to in writing and signed by an authorized Authority representative.

D. In order to promote the use of Minority and Women-owned Business Enterprises “(“M/WBE's”, WBEs”), the Authority will solicit offers from M/WBE's WBEs known to have experience in the type of goods and/or services to be provided, regardless of the type of contract. For the purpose of these Guidelines, the definition of a NYS-certified M/WBE is in Section 2.G.

To foster increased use of M/WBE's WBEs, a single proposal may be sought, negotiated and accepted for purchases of goods and/or services not exceeding \$5200,000, in the aggregate including all amendments, from a NYS-certified M/WBE that offers a reasonable price for such goods and/or services. The award of such proposal requires the written approval the Vice President of Procurement.

Any subsequent alteration to the accepted proposal, including, but not limited to, change orders, amendments, or supplemental terms shall also necessitate the written approval of the Vice President of Procurement.

E. It is the policy of New York State to promote the participation of and maximize the opportunities for New York State Business Enterprises and New York State residents in Procurement Contracts. The Authority will endeavor to promote such participation and to comply with the applicable statutory provisions. In furtherance of ~~the~~ Public Authorities Law § 2879, the following definitions ~~shall~~ and actions apply:

1. ~~-~~ “New York State Business Enterprise” is a business enterprise, including a sole proprietorship, partnership or corporation that offers for sale or lease or other form of exchange, goods sought by the Authority that are substantially manufactured, produced or assembled in New York State or services, excluding construction services, sought by the Authority that are substantially performed within New York State as further described in Public Authorities Law § 2879.

2. “New York State resident” is a person who maintains a fixed, permanent and principal home in New York State to which such person, whenever temporarily located, always intends to return as further described in Public Authorities Law § 2879.

~~3.~~

~~-~~ 3. “Foreign Business Enterprise” is a business enterprise, including a sole proprietorship, partnership or corporation, that offers for sale, lease or other form of exchange, goods sought by the Authority that are substantially produced outside New York State, or services other than construction services, sought by the Authority that are substantially performed outside New York State as further described in Public Authorities Law § 2879. For purposes of construction services, Foreign Business Enterprise is a business enterprise, including a sole proprietorship, partnership or corporation, which has its principal place of business outside New York State.

4. “Discriminatory Jurisdiction” is any country, nation, province, state or political subdivision thereof which employs a preference or price distorting mechanism to the detriment of, or otherwise discriminates against, a New York State Business Enterprise in the procurement of goods and/or services by the same or a non-governmental entity influenced by the same.

5. Pursuant to the Public Authorities Law § 2879, the Authority shall not enter into a contract with a Foreign Business Enterprise which

has its principal place of business in a Discriminatory Jurisdiction contained on the list prepared by the Commissioner of the New York State Department of Economic Development (“DED”). The provisions of this section may be waived by the Authority’s President and CEO if the CEO determines in writing that it is in the best interests of the Authority to do so, as further set forth in the above-referenced law.

F.6. Pursuant to Public Authorities Law § 2879, the Authority will, where feasible, make use of the stock item ~~specifications~~ specifications list of New York State manufacturers, producers and/or assemblers, as made available by the Commissioner of General Services, for any Procurement Contract for the purchase of goods ~~when preparing an RFP, RFQ, purchase order, price inquiry, technical specifications or similar document.~~

G.F. Goods and/or services may be procured pursuant to Procurement Contracts let by any department, agency, officer, political subdivision or instrumentality of the State or Federal government or any city or municipality where the White Plains Procurement Department, or ~~facility~~ Procurement Departments, and the initiating department determine that a reasonable potential exists for cost savings or other benefits to the Authority and have approved the specifications and proposed terms and conditions of such contract.

H.G. Solicitations will include a scope of work that defines the goods required and/or the services to be performed; milestone dates; the Authority’s Supplier Diversity Program requirements, if applicable; all other applicable Authority requirements and any special methods or limitations that the Authority chooses to govern the work. Telephone solicitation, usually for procurements valued at \$25,000 or less, may be used where time constraints do not permit issuance of an RFP, where issuance of an RFP is otherwise impracticable or for goods that are catalog items or do not require a detailed bill of materials or specification.

I.H. For all Procurement Contracts with a value equal to or greater than \$15,000 (except for those contracts noted below), the Authority will, prior to soliciting proposals, submit the following information to the Commissioner of the ~~New York State Department of Economic Development (“DED”)~~ DED to be included on the New York State Contract Reporter website, ([www.nyscr.com](http://www.nyscr.com)) (unless such posting would serve no useful purpose): (1) the Authority’s name and address; (2) the solicitation number; (3) a brief description of the goods and/or services sought, the location where goods are to be delivered and/or services provided and the contract term; (4) the address where bids or proposals are to be submitted; (5) the due date for bids or proposals; (6) a description of any eligibility or qualification requirements or preferences; (7) a statement as to whether the contract requirements may be fulfilled by a subcontracting, joint venture or coproduction arrangement; (8) any other information deemed useful to potential contractors; (9)

the name, address, and phone number of the person to be contacted for additional information and (10) a statement as to whether the goods and/or services sought have, in the immediately preceding three-year period, been supplied by a Foreign Business Enterprise. Such information will be submitted to the DED Commissioner in accordance with the schedule set forth by the DED. The due date for bids or proposals will be a minimum of 21 calendar days (including holidays) after the date of publication of such notice on the Contract Reporter website.

This ~~provision~~section 3.H does not apply to (i) Procurement Contracts awarded on an emergency basis as described below in Section 3.L, (ii) Procurement Contracts being rebid or re-solicited for substantially the same goods and/or services, within 45 business days after the original due date, and/or (iii) Procurement Contracts awarded to not-for-profit human services providers.

Certain Procurement Contracts may require purchases: (1) on ~~the~~ spot market; (2) needed prior to the time limits for noticing on the Contract Reporter website or that do not lend themselves to the solicitation process. ~~In accordance with paragraph 3(h) of §2879 of the Public Authorities Law, such purchases, including, but not limited to, oil or gas purchases on the spot market, Such purchases~~ are exempted from the noticing requirements of Article 4-C of the Economic Development Law subject to the approval of the Vice President of Procurement ~~or equivalent(s) or designee,~~ and/or the head of the initiating department that does not complete its procurements through the Procurement Department. From time to time or where appropriate, generic notices may be published on the Contract Reporter website notifying potential bidders of such opportunities and soliciting qualification statements for consideration by the Authority.

J.I. Proposals for certain Services Contracts may also be solicited by competitive search, as follows:

For contracts where the scope of work cannot be well defined or quantified, or where selection requires evaluation of factors such as breadth and depth of experience in a unique or highly specialized field and suitability as an Authority representative, a “competitive search” will be conducted to determine which consultants are most qualified, for reasonable compensation terms, to perform the work. Depending on market conditions, at least five potential sources should be evaluated; if there are fewer than five sources, all sources should be evaluated. The White Plains Procurement Department or the appropriate facility Procurement Department will work with the initiating department to gather information from potential sources, that will include a description of the consultant/firm’s qualifications, résumés of key personnel, past experience and proposed billing rates.

K.J. A Procurement Contract may be awarded on a ~~sole source~~Sole Source, Single Source, or other non-competitive basis where:

1. Compatibility of equipment, accessories or spare or replacement parts is the paramount consideration.
2. Services are required to extend or complement a prior procurement and it is impracticable or uneconomic to have a source other than the original source continue the work.
3. A sole supplier's item is needed for trial use or testing, or a proprietary item is sought for which there is only one source.
4. Other circumstances or work requirements exist that cause only one source to be available to supply the required goods and/or services.
5. The contract is awarded to a Small Business or to a NYS- certified M/WBE firm for purchases not exceeding \$5200,000, pursuant to Section 3.D.

6. The contract is for the purchase of goods and/or technology that are recycled or remanufactured, in an amount not exceeding \$200,000, subject to the approvals stated in Section 3.D.

7. Purchases made on a Sole Source, Single Source, or other non-competitive basis are subject to Public Authorities Law § 2879-a, 2 NYCRR Part 206, entitled "Comptroller Approval of Contracts Made by State Authorities" ("Comptroller Regulations") and the State Authority Contract Manual.

K. Pursuant to Public Authorities Law § 2879-a, the Comptroller Regulations and the State Authority Contract Manual, the Authority may be required to submit certain contracts to the New York State Comptroller for approval that are awarded on a Sole Source, Single Source, or other non-competitive basis for the purchase of goods and/or services in an amount equal to or greater than \$1 million, and shall notify the successful bidder therefor. Such contracts or contract amendments shall not be valid and enforceable unless approved by the Comptroller or until 90 days have elapsed from such submission without action by the Comptroller, as further set forth in the referenced law and regulations.

L. Subject to the Authority's Expenditure Authorization Procedures ("EAP's"), EAPs), and Public Authorities Law § 2879-a, the Comptroller Regulations and the State Authority Contract Manual, a Procurement Contract may be awarded without following the solicitation requirements that ordinarily apply (but using such competitive selection procedures as are practicable under the circumstances) where emergency conditions exist, such as:

1. A threat to the health or safety of the public or Authority employees or workers.
2. Proper functioning of the Authority facilities or construction or operating projects requires adherence to a schedule that does not permit time for an ordinary procurement solicitation.

M. Whenever an initiating department determines that a Procurement Contract should be awarded on ~~either a sole source~~ Single Source, Sole Source, or an emergency basis, the head of the department will provide a written statement explaining the reasons therefor to the White Plains Procurement Department or the appropriate facility Procurement Department.

N. Every potential Sole Source or Single Source contract with a value of \$1 million or more must be approved by the President and CEO or the COO prior to processing by the Procurement Department.

M. O. In furtherance of Public Authorities Law Section § 2800 when a procurement is made on a ~~sole source~~ non-competitive basis, and the price for goods or services purchased exceeds fair market value, prior to making the purchase, the Business Unit Head of the initiating department shall provide a detailed explanation of the justification for making the purchase and a certification shall be signed by the Chief Executive Officer and Chief Financial Officer of the Authority stating that they have reviewed the terms of such purchase and determined that it complies with applicable law and procurement guidelines. ~~In furtherance of Chapter 506 of the Laws of 2009 regarding the Public Authorities Law (“PAL”), the~~ The following definition shall apply: “Fair Market Value” shall mean the estimated dollar amount that a willing buyer would pay to a willing seller for property in an arms-length transaction in the appropriate marketplace and under similar circumstances. Fair market value may be determined by internal appraisals, industry-recognized sources, or other methods of valuation generally accepted in the industry in which such property is utilized, as may be approved by the Vice President of Procurement or authorized designee.

N. P. It is the policy of New York State to discourage improper communications intended to influence a governmental procurement. The Authority will endeavor to control such practices and will comply with the applicable statutory provisions. In furtherance of the State Finance Law §§ 139-j and 139-k, the following definitions shall apply:

1. Pursuant to Article 11-B of the State Finance Law a "Procurement Contract" is any contract or other agreement for a commodity, service, technology, public work, construction, revenue contract, the purchase, sale or lease of real property or an acquisition or granting of other interest in real property that is the subject of a governmental procurement. Grants, contracts between the Authority and non-profit organizations pursuant to Article 11-B of the State Finance Law, intergovernmental agreements, railroad and utility force accounts, utility relocation project agreements or orders and eminent domain transactions are not Procurement Contracts.
2. The "Restricted Period" is the period of time commencing with the earliest written notice, advertisement or solicitation of a request for proposal, invitation for bids, or solicitation of proposals, or any other method for soliciting a response from bidders/contractors intending to result in a procurement contract with the Authority and ending with the final contract award.
3. The Authority shall designate a person or persons who may be contacted, with respect to each Authority procurement. The bidders/contractors or persons acting on their behalf, shall only contact the Authority's designated person or persons where a reasonable person would infer that the communication was intended to influence the procurement during the Restricted Period.

#### 4. EVALUATION OF PROPOSALS

- A. Proposals will be evaluated using a fair and equitable comparison of all aspects of the proposals against the specifics of the solicitation and against each other, including an analysis of each offer that considers: the quality of the goods and/or the competence of the bidder, the technical merit of the proposal and the price for which the goods and/or services are to be supplied.

In the event the price submitted by the bidder recommended to be awarded a contract exceeds the cost estimated, where a cost estimate is provided, on the solicitation at the time of bidding, the initiating department will prepare a written explanation to be reviewed by the White Plains Procurement Department and/or the appropriate facility Procurement Department and appropriate managers as stipulated in the ~~EAP's~~EAPs. The following options should be considered: (1) rejecting the bids, resoliciting proposals and/or modifying the scope of work; (2) revising the cost estimate and proceeding with the contract award; and (3) negotiating with the low bidder(s), as determined by the Vice President of Procurement or equivalent(s) or designee, to reduce the price quoted. Factors to be considered in reaching the proper course of action include but are not limited: to the effects of a delay on both the schedule and the cost of the specific capital construction project or outage at an operating facility, the magnitude of the contract, available bidders, the ability to attract additional competition if the solicitation is reissued, and the accuracy of the original cost estimate. The recommended course of action and the reasons therefor must be fully documented in a memorandum for consideration by the appropriate level of management prior to approval and placed in the appropriate procurement file.

- B. -Factors to be considered in evaluating the goods and/or services to be supplied and/or the competence of the bidder are: previous experience (including applicable experience in New York State and evaluations from other clients for whom the bidder has provided goods and/or services); the abilities and experience of the personnel to be assigned to the Authority's work and the ability to provide any needed advanced techniques such as simulation and modeling. The approach proposed in meeting the exact requirements of the scope of work will be given consideration in evaluating the technical merit of the proposal, together with a well-organized task structure, the ability to timely supply the goods and/or perform the proposed services and the ability to meet Supplier Diversity Program goals, if any. The need to purchase the goods from and/or subcontract performance of services to others will be evaluated as to their effects on cost, as well as quality, schedule and overall performance.

- C. For Services Contracts, (as defined in Section 2.C of these Guidelines), the technical merits of the proposals and the experience and capabilities of the bidders will be the primary factors in determining the individual or firm to be awarded the contract, provided that the price for performing such work is reasonable and competitive.

D. For Procurement Contracts other than Personal Services (as defined in Section 2.C. of these Guidelines), the award should generally be made to the lowest-priced firm submitting a proposal that meets the commercial and technical requirements of the bid documents.

E. Pursuant to § 139-j of the State Finance Law, the Authority shall not award a Procurement Contract (as defined in Subsection 3.P N.1. of these Guidelines) to a bidder/contractor who fails to provide timely, accurate and complete responses to inquiries about past determinations of non-responsibility (unless awarding the contract is necessary to protect public property or public health or safety and the bidder/contractor is the only source capable of supplying the required article of procurement within the necessary timeframe.)

A bidder's/contractor's knowing and willful violation of the Authority's policy providing for certain procurement disclosures shall result in a determination of non-responsibility of such bidder/contractor pursuant to State Finance Law §§ 139-j and 139-k only.

More than one determination of non-responsibility due to violations of State Finance Law § 139-j in a four-year period shall render a bidder/contractor ineligible to submit bids for four years from the second determination of non-responsibility.

F. An award to "other than low bidder" can be made only with the approval of appropriate management as stipulated in the EAP's EAPs, and should be based on such a proposal providing a clear advantage to the Authority over the lower-priced proposal. Factors justifying an "other than low bidder" award may include, but are not limited to: improved delivery schedules that will reduce outages, longer warranty periods, improved efficiency over the usable life of the equipment, reduced maintenance costs, the bidders' financial resources or the ability to meet or exceed Supplier Diversity Program goals.

G. The specifications set forth in any solicitation prepared under these Guidelines were based upon information available at the time of the preparation of the solicitation. Thus, the Authority may diverge from the specifications of any solicitation if after review of the proposals responsive to such solicitation; the Authority deems it prudent in light of its experience, the circumstances of the solicitation and/or potential cost savings. ~~Such divergence from the specifications should be immaterial, for example only, as to qualifications, quantity, quality, term, services and/or price.~~

5. **RECOMMENDATION OF AWARD**

A. A recommendation for approval of a proposed award of a Procurement Contract is usually prepared in the form of a memorandum or e-mail by the department requiring the goods and/or services. The recommendation must include an evaluation of proposals as specified in Article 4 above, as well as proposed specific compensation terms that provide a clear breakdown of cost factors and methods of calculation, including, as applicable:

1. Lump sum and/or unit prices for equipment and construction work.
2. Hourly or daily rates for personnel.
3. Markups for payroll taxes, fringe benefits, overhead and fees, if the proposal is based on reimbursement of actual payroll costs.
4. Terms for reimbursement of direct out-of-pocket expenses, such as travel and living costs, telephone charges, services of others and computer services.
5. Provisions, if any, for bonus/penalty arrangements based on target person-hours and/or target schedule.

B. The recommendation will also review any substantive exceptions to commercial and technical requirements of a price inquiry, RFP, RFQ or bidding documents, including but not limited to payment terms, warranties and bond requirements, if any.

6. **AWARD OF CONTRACT**

A. Services Contracts to be performed for a period of more than 12 months are approved and reviewed annually by the Trustees. Services Contracts for a period of less than 12-months are approved by authorized designees in accordance with existing **EAP's/EAPs**. Extending a contract for services with an initial duration of less than 12 months beyond 12 months will be approved by the Trustees at the request of the initiating department and will be reviewed by the Trustees annually. Extending a contract for services that has previously been approved by the Trustees for a cumulative term of more than 12 months requires further Trustees' approval. Extending a contract previously approved by the Trustees for 12 months or less requires approval by an authorized designee in accordance with existing **EAP's/EAPs and concurrence by the Vice President of Procurement**.

B. For Services Contracts to be performed for a period of more than 12 months that must be awarded prior to the next **scheduled quarterly** Trustees' meeting, the initial contract will be issued for the entire intended term of the contract. Based

on its total value, such contract must be approved by the appropriate management as set forth in the EAP'sEAPs. Such contract is subject to the Trustees' approval, at the next quarterly Trustees' meeting. If such approval is not granted, the contract will be terminated immediately.

- C. A contract or contract task is deemed to be for services in excess of 12 months where the contract does not specify a definite term and the work will not be completed within 12 months, and any "continuing services" contract with no fixed term that provides for the periodic assignment of specific tasks or particular requests for services. This includes Trustee-approved contracts for architect/engineering services with the original engineers of operating facilities, as well as the original supplier of steam supply systems or boilers and turbine generating equipment. Each task authorized under such contracts (which may be referred to as a "Change Order," "Purchase Order" or "Task Number") is considered a separate commitment and must be separately approved in accordance with the EAP'sEAPs.
- D. The term of a Personal Services contract is limited to a maximum of five (5) years, including any extensions.
- E. When time constraints or emergency conditions require extending an existing contract with an initial duration of less than a year beyond a year, and the cumulative monetary change order value does not exceed the appropriate limit set forth in the EAP'sEAPs, the Business Unit Head, with the prior concurrence of the Vice President of Procurement or equivalent(s) or designee, may authorize extending such contract, subject to the Trustees ratifying such action as soon as practicable.
- F. When the total estimated contract value or the value of the extension exceeds the monetary limits set forth in the EAP'sEAPs, interim approval by the President and Chief Executive Officer or Chief Operating Officer or equivalent(s) or designee is required, subject to the Trustees' ratifying such action as soon as practicable.
- G. When time constraints or emergency conditions require immediate commencement of services to be performed for a period of more than one year, and when the contract value exceeds the monetary approval limit for the President and Chief Executive Officer or Chief Operating Officer or equivalent(s), as set forth in the EAP'sEAPs, the President and Chief Executive Officer or Chief Operating Officer or equivalent(s) or designee, with the prior concurrence of the Vice President of Procurement or equivalent(s) or designee, may authorize the commencement of such services. The initial compensation limitation may not exceed the authorization level for the President and Chief Executive Officer or equivalent(s) or Chief Operating Officer or equivalent(s) as set forth in the EAP'sEAPs. Such contracts will be subject to the Trustees' approval, which will be solicited at their next scheduled Trustee meeting.

- H. The White Plains Procurement Department or the facilities' Procurement Departments prepare the contract for execution by the Authority and the successful bidder. No work by the selected contractor will commence until the contract is executed by both parties, except that mutually signed letters of award or intent may initiate work prior to formal execution. Authority signatories of such letters must be authorized to approve contract awards pursuant to the ~~EAP's~~EAPs.
- I. Pursuant to Public Authorities Law § 2879, the Authority shall notify the Commissioner of Economic Development of the award of any Procurement Contract for the purchase of goods and/or services from a Foreign Business Enterprise (as defined in Subsection 3.E.3 of these Guidelines) in an amount equal to or greater than \$1 million ~~simultaneous~~simultaneously with notifying the successful bidder therefor. The Authority shall not enter into the Procurement Contract for said goods and/or services until at least 15 days have elapsed from the notification of the award, except for a Procurement Contract awarded on an emergency or critical basis. The notification to the Commissioner shall include the name, address, telephone and facsimile number of the Foreign Business Enterprise, the amount of the proposed Procurement Contract and the name of the individual at the Foreign Business Enterprise or acting on behalf of same who is principally responsible for the proposed Procurement Contract.

7. **CONTRACT PROVISIONS**

**A.** The following standard forms of contracts are available from the White Plains Procurement Department: purchase order format for standard procurements of goods and/or services; furnish-and-deliver format for major equipment purchases; letter agreements and agreement formats for consulting work and contract work orders (for construction work of small magnitude), construction contracts (for major construction work) and furnish, deliver and install contracts (for specialized, major procurements where single responsibility is required for procurement and installation). These contract forms are intended to govern the purchase of goods and/or performance of services.

**A.** Authority departments proposing to initiate a Procurement Contract should review these forms to suggest any modifications and additions that may be required for the particular goods and/or services. Under no circumstances should contract forms be shown to proposed bidders without the prior approval of the Procurement Department, which, along with the facilities' Procurement Departments, is solely responsible for requesting proposals.

**B.** The following types of provisions setting forth contractor responsibilities are to be contained in the standard forms of Procurement Contracts, except that any provisions listed below that are inapplicable or unnecessary because of the nature or duration of the work to be performed, the location(s) where the work is to be performed or the type of compensation being paid therefor; need not be included. Other provisions may be added as necessary and appropriate.

1. Schedule of Services or Specifications
2. Time of Completion
3. Compensation or Itemized Proposals
4. Relationship of Parties
5. Delays
6. Termination
7. Changes in the Work
8. Claims and Disputes
9. Warranty
10. Insurance
11. Records, Accounts, Inspection and Audit
12. Assignment
13. Notices
14. Indemnification
15. Governing Law
16. Proprietary Nature of Work
17. Testimony
18. Entire Agreement

Contract Attachments

1. Compensation Schedule
2. Schedule of Services or Specifications
3. Appendix "A" (Miscellaneous Statutory Provisions)
4. Appendix "B" (Prompt Payment Provisions)
5. Appendix "C" (Minority and Women-~~Owned~~Owned Business ~~Enterprises~~Enterprise Provisions)
6. Appendix "D" (Background Security Screening for Authority Contractors)
7. Appendix "E" (Omnibus Procurement Act of 1992 Requirements)
8. Appendix "F" (Computer Aided Drawing Requirements For New York Power Authority)
9. Appendix "G" (Equal Employment Opportunity Requirements)
10. Appendix "H" (Tax Law Requirements)
11. Appendix "I" (~~NEW YORK POWER AUTHORITY~~New York Power Authority (NYPA)~~NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION CRITICAL INFRASTRUCTURE PROTECTION~~ North American Electric Reliability Corporation Critical Infrastructure Protection (NERC CIP) Cyber ~~Security~~Access And/Or Unescorted Physical Access Training Requirements)
12. Appendix "J" (Bidder/Contractor Compliance with State Finance Law §§ 139-j and 139-k Providing for Certain Procurement Disclosures)
13. Appendix "K" (Additional State and Federal Provisions Required for American Recovery and Reinvestment Act (Pub.L. No. 111-5 Stat. 2009) ("ARRA") Funded Projects)
14. Appendix "L" (DOE) Federal Contract Provisions)

15. Appendix "M" (Use of Ultra Low Sulfur Diesel Fuel and Best Available Retrofit Technology ("BART") for Heavy Duty Vehicles)

- C. Any firm, person or entity retained by the Authority to provide conceptual studies, designs or specifications is prohibited from being awarded future phases of work, including implementation, related to the original work. If there is no qualified response to the solicitation for future phases of work, including implementation, the approval of the Vice President of Procurement or equivalent(s) or designee, applicable Business Unit Head or equivalent(s), Assistant General Counsel or equivalent(s) and President and Chief Executive Officer or designee or Chief Operating Officer or equivalent(s) is required to waive this restriction on a case-by-case basis.

**8. CHANGE ORDERS**

- A. Change Orders to existing contracts are justified in the following cases:
1. To incorporate additional work related to the original scope, to delete work or to otherwise modify the original work scope;
  2. To exercise options previously included in the original contract to perform additional work or to extend the contract term;

3. To accommodate emergency conditions, defined in Section 3.L herein, that require the immediate performance of work by a firm already under contract;
4. When rebidding would not be practical or in the best interests of the Authority's customers; and
5. To meet the Authority's Supplier Diversity Program goals in accordance with Executive Law Article 15-A.

B. All Change Orders must be approved in accordance with the Authority's ~~EAP's~~EAPs, and should include specific schedules for completion of work at the earliest possible time.

~~B.~~

9. **CONTRACTING DECISIONS INVOLVING CURRENT OR FORMER EMPLOYEES**

- A. Former Authority officers and employees are eligible to be considered for employment as contractors and/or consultants provided that they meet all criteria for contractors and/or consultants generally as specified in these Guidelines; their employment is not barred by New York Public Officers Law § 73(8)~~;5~~; they obtain an opinion by the New York State Commission on Public Integrity that such employment is permissible; and upon approval of the President and Chief Executive Officer.
- B. Pursuant to the provisions of New York Public Officers Law § 73(8):
  1. No Authority officer or employee is eligible, within a period of two years after the termination of Authority service to appear or practice before the Authority or receive compensation for any services rendered on behalf of any person, firm, corporation or association, in relation to any case, proceeding or application or other matter before the Authority.
  2. No Authority officer or employee is eligible, at any time after the termination of Authority service, to appear, practice, communicate or otherwise render services before the Authority or any other state agency or receive compensation for any such services rendered on behalf of any person, firm, corporation or other entity in relation to any case, proceeding, application or transaction that such person was directly concerned with and personally participated in during his or her period of service, or which was under his or her active consideration.

- C. —No Authority employee who is involved in the award of Authority grants or contracts may ask any officer, director or employee of such current or prospective contractor or grantee to reveal: (a) the political party affiliation of the individual; (b) whether the individual or entity has made campaign contributions to any political party, elected official or candidate for elective office or (c) whether the individual voted for or against any political party, elected official or candidate for elective office.
- D. —No Authority employee may award or decline to award any grant or contract, or recommend, promise or threaten to do so because of a current or prospective grantee's or contractor's: (a) refusal to answer any inquiry prohibited by Section 9.C above or (b) giving or withholding or neglecting to make any contribution of money, service or any other valuable thing for any political purpose.
- E. —No Authority employee may take part in any contracting decision involving the payment of more than \$1,000: (i) to a Relative; or (ii) to any entity in which the Authority employee or a Relative of such Authority employee owns or controls 10% or more of the stock of such entity (or 1% in the case of a corporation whose stock is regularly traded on an established securities exchange); or serves as an officer, director or partner of that entity. If a contracting matter arises relating to this Section 9.E, then the employee must advise his or her supervisor of the relationship, and must be recused from any and all discussions or decisions relating to the matter.
1. For purposes of this Section 9.E, the term "Relative" is defined in Definitions, Section ~~2.F~~ of these Guidelines.

## 10. SUPPLIER DIVERSITY PROGRAM REQUIREMENTS

The Authority strives to continue to foster the development of business opportunities on Authority contracts for M/~~WBE's~~ WBEs. Article 15-A of the Executive Law established the NYS Office ~~of Minority/Women-Owned-Business-and-Community-Relations (now~~ Division) of Minority and Women's Business Development that is responsible for developing rules and regulations for implementation of this statute, certifying M/~~WBE's~~ WBEs and reviewing and monitoring goal plans, compliance reports and contract provisions to be included in all non-construction contracts for more than \$25,000 and construction contracts for more than \$100,000. The definition of an M/WBE is included in Section 2.G of these Guidelines. The Authority aims to solicit proposals from NYS--certified M/~~WBE's~~ WBEs that are qualified to perform the required work. In addition, specific goals may be included in certain contracts for consulting work, construction and procurement of goods and other services requiring the contractor/vendor to subcontract a portion of the work to NYS--certified M/~~WBE's~~ WBEs as required by law. Bidders' proposals will include Preliminary Subcontracting Plans for M/~~WBE's~~ WBEs, where required, and such bidders failure to meet these requirements may be grounds for rejection of the proposal, or cancellation of the contract if a contractor did not make a good faith effort to meet its goals after contract award. Utilization Plans for Construction contracts

valued at more than \$100,000 shall be posted on the Procurement website by the successful vendor within ten business days of contract signing.

Pursuant to § 2879 of the Public Authorities Law and as further set forth in the Authority's Supplier Diversity Program Manual, the following guidelines apply:

1. Identify those areas or types of contracts for which M/WBEs may best bid so as to promote and assist participation by such enterprises and facilitate a fair share of the awarding of contracts to such enterprises.
2. Provide notice, in addition to any other notice of procurement opportunities required by law, to professional and other organizations that serve M/WBEs providing the types of services procured by the Authority.
3. Maintain lists of qualified NYS-certified M/WBEs, including professional firms that have expressed an interest in doing business with the Authority and ensuring that such lists are updated regularly. The Authority shall also consult the lists of NYS-certified M/WBEs maintained by the DED pursuant to Executive Law Article 15-A.
4. Establish appropriate goals for participation by M/WBEs in procurement contracts awarded by the Authority and for the utilization of M/WBEs as subcontractors and suppliers by entities having procurement contracts with the Authority. Statewide numerical participation target goals shall be established by the Authority based on the criteria set forth in Public Authorities Law § 2879.
5. Conduct procurements in a manner that will enable the Authority to achieve the maximum feasible portion of the goals established pursuant to Subdivision 4 of this Section and that eliminates barriers to participation by M/WBEs in the Authority's procurements.
6. Designate one or more senior staff of the Authority to oversee the Authority's programs established to promote and assist participation by and utilization of NYS-certified M/WBEs.

## **11. REPORTING AND PROCUREMENT RECORD AND REPORTING**

### **A. Procurement Record**

The White Plains Procurement Department maintains records of Procurement Contracts, including bidders' names, the selection processes used and the status of existing contracts, including goods provided and/or services performed and fees

earned, billed and paid. At the facilities, such records will be kept by the facilities' Procurement Departments.

**B. Procurement Report**

**A.** After the end of each calendar year, the Vice President, Procurement or equivalent(s) will prepare and submit an annual report to the Trustees for their approval that will include:

1. A copy of the Guidelines;
2. An explanation of the Guidelines and any amendments thereto since the last annual report;
3. A list of all Procurement Contracts entered into since the last annual report, including all contracts entered into with New York State Business Enterprises and the subject matter and value thereof and all contracts entered into with Foreign Business Enterprises and the subject matter and value thereof;
4. A list of fees, commissions or other charges paid;
5. A description of work performed, the contract number, the date of the contract and its duration, the name, address and NYS-certified M/WBE designation of the awardees, the total amount of the contract, the amount spent on the contract during the reporting period and for the term of the contract to date and the status of open Procurement Contracts during the report year;
6. The type of contract (equipment, services, personal services or construction);
7. The method of awarding the contract (e.g., competitive bidding, ~~sole source~~ Sole Source, Single Source or competitive search);
8. The reasons why any procurements with a value greater than \$15,000 were not noticed in the Contract Reporter ~~and~~;
9. The number of bids received ~~and~~
10. All referrals made and all penalties imposed, if any, pursuant to § 316 of the Executive Law.

**B.C.** Such annual report, as approved by the Trustees, shall be submitted to the New York State Division of the Budget within 90 days of the end of such calendar year, ~~with copies and~~ copies thereof shall be distributed to the New York State Department of Audit and Control, the DED, the New York State Senate Finance Committee, and the New York State Assembly Ways and Means Committee and any other entity as may be required by law. The annual procurement report is posted on the Authority's website and copies shall be made available to the public upon reasonable written request therefor.

**C.D.** State Finance Law §§ 139-j and 139-k.

1. A statement describing the basis for a determination of a bidder's/contractor's non-responsibility (per State Finance Law §§ 139-j and 139-k only) and the Authority's decision not to award a bidder/contractor the Procurement Contract must be included in the procurement ~~contract~~ record.
2. The Authority shall notify the New York State Office of General Services of bidders/contractors who have been determined to be non-responsible bidders (per State Finance Law §§ 139-j and 139-k only) or debarred due to violations of § 139-j of the State Finance Law.
3. All forms entitled "Record of Contact" shall be included in the respective procurement ~~contract~~ record.
4. A statement describing the basis for a termination of a Procurement Contract for providing an intentionally false certification must be included in the procurement contract record.

~~D.E.~~ The Authority may be called upon periodically to submit information regarding the procurement of goods and/or services to organizations implementing the PAAA or other statutes regulating the procurement of goods and services, such as the Authorities Budget Office through the Public Authorities Reporting Information System ("PARIS").

## 12. THIRD PARTY RIGHTS: VALIDITY OF CONTRACTS

A. These Guidelines are intended for the guidance of officers and employees of the Authority only. Nothing contained herein is intended, nor should it be construed, to confer on any person, firm or corporation any right, remedy, claim or benefit under, or by reason of, any requirement or provision hereof.

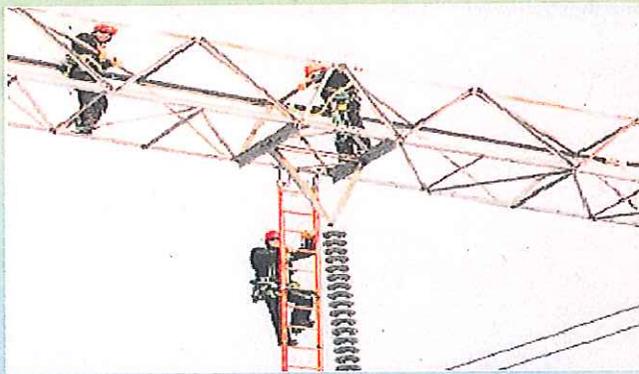
~~B.~~ Nothing contained in these Guidelines alters or affects the validity of, modifies the terms of or impairs any contract or agreement entered into in violation of these Guidelines.

B.

VOLUMINOUS DOCUMENT

(SEE CORPORATE SECRETARY'S OFFICE FOR COPY)

# THE NEW YORK POWER AUTHORITY'S ANNUAL REPORT OF PROCUREMENT CONTRACTS 2010



 **New York Power  
Authority**  
Generating more than electricity

**GUIDELINES**

**AND**

**PROCEDURES**

**FOR THE**

**DISPOSAL OF NEW YORK POWER AUTHORITY**

**REAL PROPERTY**

INDEX

<u>Article</u>	<u>Description</u>	<u>Page</u>
I.	PURPOSE.....	1
II.	DEFINITIONS.....	1-2
III.	COMPLIANCE OVERVIEW.....	2
IV.	DUTIES OF THE DIRECTOR OF REAL ESTATE.....	3
V.	PROCEDURES FOR THE DISPOSITION OF AUTHORITY REAL PROPERTY.....	3-8
VI.	AUTHORITY REAL PROPERTY REPORTS.....	8-9
VII.	APPROVAL OF GUIDELINES BY THE AUTHORITY'S BOARD.....	9

**GUIDELINES AND PROCEDURES FOR THE DISPOSAL OF  
NEW YORK POWER AUTHORITY REAL PROPERTY**

**I. PURPOSE**

The purpose of these Guidelines and Procedures for the Disposal of Real Property ("Guidelines"), which comply with Title 5-A, Article 9 of the Public Authorities Law, is to establish the procedures that detail the Authority's policy and instructions regarding the disposal of real property. In addition, the Guidelines designate a Contracting Officer who is responsible for the Authority's compliance with, and enforcement of, the Guidelines.

**II. DEFINITIONS**

- 2.1 "Contracting Officer" shall mean the officer or employee of the Authority who shall be appointed by resolution of the Authority's Trustees to be responsible for enforcement of the Guidelines for the Disposal of Real Property. The "Contracting Officer" is hereby designated to be the Vice President – Enterprise Shared Services, or equivalent(s) or designee.
- 2.2 For the purposes of these Guidelines, "Dispose" or "Disposal" shall mean transfer of title or any other beneficial interest in real property in accordance with these Guidelines. Disposal does not include a release of an easement.
- 2.3 For the purposes of these Guidelines, "Real Property" shall mean real property, including land, tenements and hereditaments owned by the Authority, and any other interest in such real property, to the extent that such interest may be conveyed to another person or entity for any purpose, excluding an interest securing a loan or other financial obligation of another party.

- 2.4 "Fair Market Value" shall mean the estimated dollar amount that a willing buyer would pay to a willing seller for the Real Property in an arms-length transaction in the appropriate marketplace and under similar circumstances.
- 2.5 The term "Relative" shall mean any person living in the same household as the Authority employee or any person who is a direct descendant of the Authority employee's grandparents or the spouse of such descendant.

### **III. COMPLIANCE OVERVIEW**

The Public Authorities Accountability Act ("PAAA") requires the Authority to establish policy guidelines to accomplish the following:

- 3.1 Maintain inventory controls and accountability systems for all Real Property under the Authority's control.
- 3.2 Periodically inventory Authority Real Property to determine which Real Property shall be Disposed of.
- 3.3 Dispose of Authority Real Property interests in accordance with the PAAA.
- 3.4 Prepare annual reports of Real Property Disposal transactions.

### **IV. DUTIES OF THE DIRECTOR OF REAL ESTATE**

- 4.1 The Director of Real Estate or equivalent(s) or designee shall maintain adequate inventory controls and accountability systems for all Real Property under the Authority's control.
- 4.2 The Director of Real Estate or equivalent(s) or designee shall annually inventory Authority Real Property to determine which Authority Real Property shall be

Disposed of and shall prepare a report identifying such Real Property for Disposal.

4.3 The Director of Real Estate or equivalent(s) or designee shall produce for publishing written reports of such Real Property as set forth in Article VI of these Guidelines.

4.4 The Director of Real Estate or equivalent(s) or designee shall arrange for the Disposal of any Real Property identified for Disposal by the Authority in accordance with these Guidelines and the Authority's Expenditure Authorization Procedures and as soon as reasonably practical under the circumstances.

V. **PROCEDURES FOR THE DISPOSITION OF AUTHORITY REAL PROPERTY**

5.1 The Authority may Dispose of Real Property for not less than the Fair Market Value of such Real Property by sale, exchange, or transfer, for cash, credit or other property, without warranty, and upon such other terms and conditions as the Contracting Officer deems proper under the provisions of the PAAA and as implemented by these Guidelines. Fair Market Value of the Authority Real Property subject to Disposal shall be established by independent appraisal as appropriate and consistent with the intent of the PAAA. Such appraisal documents shall be included in the record of the Real Property Disposal transaction.

5.2 Except as set forth in Section 5.3 of the Guidelines, any Disposal of Real Property shall only be made after publicly advertising for bids in accordance with the following:

5.2.1 the advertisement for bids shall be made at such time prior to the Disposal or contract, through such methods, and on such terms and conditions as

shall permit full and free competition consistent with the value and nature of the Real Property;

5.2.2 all bids shall be publicly disclosed at the time and place stated in the advertisement; and

5.2.3 the award shall be made with reasonable promptness by notice to the responsible bidder whose bid, conforming to the invitation for bids, will be most advantageous to the Authority, price and other factors considered; provided, that all bids may be rejected when it is in the public interest to do so.

5.3.a The Disposal of Authority Real Property may be negotiated or made by public auction without regard to Section 5.2 but subject to obtaining such competition as is feasible under the circumstances, if:

1. the Fair Market Value of the Real Property does not exceed fifteen thousand dollars (\$15,000.00); or
2. bid prices after advertising therefore are not reasonable, either as to all or some part of the Real Property, or have not been independently arrived at in open competition; or
3. the Disposal will be to the state or any political subdivision, and the estimated Fair Market Value of the Real Property and other satisfactory terms of Disposal are obtained by negotiation; or
4. under those circumstances permitted by Section 5.3; or
5. such action is otherwise authorized by law.

5.3.b.1 No Real Property owned, leased or otherwise in the control of the Authority may be sold, leased, or otherwise alienated for less than its Fair Market Value except if:

- a. the transferee is a government or other public entity, and the terms and conditions of the transfer require that the ownership and use of the Real Property will remain with the government or any other public entity;
- b. the purpose of the transfer is within the purpose, mission or governing statute of the Authority; or
- c. in the event the Authority seeks to transfer Real Property for less than its Fair Market Value to other than a governmental entity, which Disposal would not

be consistent with the Authority's mission, purpose or governing statutes, the Authority shall provide written notification thereof to the Governor, the Speaker of the Assembly, and the Temporary President of the Senate, and such proposed transfer shall be subject to denial by the Governor, the Senate, or the Assembly. Denial by the Governor shall take the form of a signed certification by the Governor. Denial by either House of the Legislature shall take the form of a resolution by such House. The Governor and each House of the Legislature shall take any such action within sixty days of receiving notification of such proposed transfer during the months of January through June, provided that if the Legislature receives notification of a proposed transfer during the months of July through December, the Legislature may take any such action within sixty days of January first of the following year. If no such resolution or certification is performed within sixty days of such notification of the proposed transfer to the Governor, Senate, and Assembly, the Authority may effectuate such transfer.

5.3.b.2. In the event a below Fair Market Value Real Property transfer is proposed, the following information must be provided to the Authority's Board of Trustees and the public:

- a. a full description of the Real Property;
- b. an appraisal of the Fair Market Value of the Real Property and any other information establishing the Fair Market Value sought by the Authority's Board of Trustees;
- c. a description of the purpose of the transfer, and a reasonable statement of the kind and amount of the benefit to the public resulting from the transfer, including but not limited to the kind, number, location, wages or salaries of jobs created or preserved as required by the transfer, the benefits, if any, to the communities in which the Real Property is situated as are required by the transfer;
- d. a statement of the value to be received compared to the Fair Market Value;
- e. the names of any private parties participating in the transfer, and if different than the statement required by subparagraph (iv) of this paragraph, a statement of the value to the private party; and
- f. the names of other private parties who have made an offer for such Real Property, the value offered, and the purpose for which the Real Property was sought to be used.

5.3.b.3. Before approving the Disposal of any Real Property for less than Fair Market Value, the Authority's Board of Trustees shall consider the information described

in Paragraph 5.3.5b and make a written determination that there is no reasonable alternative to the proposed below-market transfer that would achieve the same purpose of such transfer.

5.4 An explanatory statement detailing the Disposal by negotiation of Authority Real Property subject to the PAAA as set forth in Section 5.3 shall be made for any Disposal of:

5.4.1 Real Property with a Fair Market Value in excess of one hundred thousand dollars (\$100,000.00) except that Real Property Disposed of by lease or exchange shall only be subject to 5.4.2 of this Section 5.4;

5.4.2 Real Property Disposed of by lease if the fair annual rent over the term of the lease is in excess of fifteen thousand dollars (\$15,000.00); and

5.4.3 Any Real Property or real and related personal property Disposed of by exchange, regardless of value, or any property any part of the consideration is for Real Property:

5.5 Each explanatory statement prepared in accordance with Section 5.4 above shall be transmitted to the State Comptroller, the Director of the Division of the Budget, the Commissioner of General Services, the State Legislature and the State Authorities Budget Office not less than 90 days in advance of such Disposal, and a copy shall be kept by the Authority.

5.6 In the Authority's discretion, when it shall be deemed advantageous to the Authority and the State, the Authority may enter into an agreement with the Office of the Commissioner of General Services ("OGS") under which OGS may Dispose of the Authority's Real Property under terms and conditions agreed to by the Authority and the OGS. In Disposing of any such Real Property of the Authority, the OGS shall be bound by the relevant provisions of the PAAA.

5.7 The Guidelines shall not apply to any transfers of jurisdiction by the Authority pursuant to Public Lands Law §3(4).

- 5.8 The Director of Real Estate or equivalent(s) or designee shall provide all relevant documentation to the Environmental Division for the purposes of determining, if applicable, whether the Disposal of Real Property is in compliance with the State Environmental Quality Review Act, and for whether it adheres to the American Society of Testing and Material's guidelines for Environmental Site Assessments, if applicable.
- 5.9 No Authority employee who is involved in the award of Authority grants or contracts, may ask any purchaser(s), grantor(s), lessor(s) or officer(s), director(s) or employee(s) of such current or prospective purchaser(s), contractor(s) or grantee(s) to reveal: (a) the political party affiliation of the individual; (b) whether the individual or entity has made campaign contributions to any political party, elected official, or candidate for elective office; or (c) whether the individual voted for or against any political party, elected official or candidate for elective office.
- 5.10 No Authority employee may award or decline to award any grant or contract, or recommend, promise or threaten to do so because of a current or prospective grantee's or contractor's: (a) refusal to answer any inquiry prohibited by Section 5.9 above or (b) giving or withholding or neglecting to make any contribution of money, service or any other valuable thing for any political purpose.
- 5.11 No Authority employee may take part in any contracting decision involving the payment of more than \$1,000: (i) to a Relative; or (ii) to any entity in which a Relative owns or controls 10% or more of the stock of such entity (or 1% in the case of a corporation whose stock is regularly traded on an established securities exchange); or serves as an officer, director or partner of that entity. If such

situation arises, the employee must advise his or her supervisor of the relationship, and must be recused from any and all discussions or decisions relating to the matter.

## VI. AUTHORITY REAL PROPERTY REPORTS

6.1 The Director of Real Estate or equivalent(s) or designee shall publish the following reports in accordance with these Guidelines:

6.1.1 Pursuant to Section 2800 of the Public Authorities Law, the Director of Real Estate shall furnish a report for incorporation in the Authority's annual report which is distributed to the Governor, the Chairman and Ranking Minority Member of the Senate Finance Committee, the Chairman and Ranking Minority Member of the Assembly Ways and Means Committee, the State Comptroller and the State Authorities Budget Office. This report shall include (a) a listing of all Real Property having an estimated Fair Market Value greater than fifteen thousand dollars (\$15,000.00) that the Authority Disposed of during such reporting period and the name of the purchaser of the Real Property and the price paid by the purchaser for the Real Property, and (b) a description of the total amounts of Real Property sold without competitive bidding, including (i) the nature of the Real Property, (ii) the names of the counterparties, and (iii) where the price for the Real Property sold is less than Fair Market Value, a detailed explanation of the justification for making the sale without competitive bidding, and a certification by the Authority's Chief Executive Officer and Chief Financial Officer that they have reviewed the terms of such sale and determined that it complies with applicable law.

6.1.2 Pursuant to Public Authorities Law § 2896(3)(a), the Director of Real Estate or equivalent(s) or designee shall prepare for distribution to the State Comptroller, the Director of the Division of the Budget, the Commissioner of General Services, the State Legislature and the State Authorities Budget Office, an annual report which shall include a list and description of all Real Property including such Real Property Disposed of during the fiscal reporting period. Regarding Disposals, this annual report shall include the price received by the Authority and the name of the purchaser of the Real Property.

- 6.2 The Authority may be called upon periodically to submit information regarding the Disposal of Real Property to organizations implementing the PAAA or other statutes regulating the Disposal of Real Property.
- 6.3 The Authority's Governance Committee meets at least three times per year and staff from Enterprise Shared Services – Real Estate or the equivalent(s) may prepare and present ongoing reports regarding the Disposal of Real Property:

**VII. APPROVAL OF GUIDELINES BY THE AUTHORITY'S BOARD**

- 7.1 The Guidelines shall be annually reviewed and approved by the Authority's Trustees. On or before the thirty-first day of March in each year, the Authority shall file with the State Comptroller a copy of the most recently reviewed and approved Guidelines, including the name of the Authority's designated Contracting Officer. At the time of filing such Guidelines with the State Comptroller, the Authority shall also post such Guidelines on its internet website.

**GUIDELINES**

**AND**

**PROCEDURES**

**FOR THE**

**DISPOSAL OF NEW YORK POWER AUTHORITY**

**REAL PROPERTY**

**INDEX**

<b><u>Article</u></b>	<b><u>Description</u></b>	<b><u>Page</u></b>
I.	PURPOSE.....	1
II.	DEFINITIONS.....	1-2
III.	COMPLIANCE OVERVIEW.....	2
IV.	DUTIES OF THE DIRECTOR OF REAL ESTATE.....	3
V.	PROCEDURES FOR THE DISPOSITION OF AUTHORITY REAL PROPERTY.....	3-8
VI.	AUTHORITY REAL PROPERTY REPORTS.....	8-9
VII.	APPROVAL OF GUIDELINES BY THE AUTHORITY'S BOARD.....	9

**GUIDELINES AND PROCEDURES FOR THE DISPOSAL OF  
NEW YORK POWER AUTHORITY REAL PROPERTY**

**I. PURPOSE**

The purpose of these Guidelines and Procedures for the Disposal of Real Property ("Guidelines"), which comply with Title 5-A, Article 9 of the Public Authorities Law, is to establish the procedures ~~which~~that detail the Authority's ~~operative~~ policy and instructions regarding the disposal of real property. In addition, the Guidelines~~and~~ designate a ~~e~~Contracting ~~e~~Officer who is responsible for the Authority's compliance with, and enforcement of, ~~such~~the Guidelines.

**II. DEFINITIONS**

- 2.1 "Contracting Officer" shall mean the officer or employee of the Authority who shall be appointed by resolution of the Authority's Trustees to be responsible for enforcement of the Guidelines for the Disposal of Real Property. The "Contracting Officer" is hereby designated to be the ~~Senior~~ Vice President – Enterprise Shared Services, or equivalent(s) or designee.
- 2.2 For the purposes of these Guidelines, "Dispose" or "Disposal" shall mean transfer of title or any other beneficial interest in real property in accordance with these Guidelines. Disposal does not include a release of an easement.
- 2.3 For the purposes of these Guidelines, "Real Property" shall mean real property, including land, tenements and hereditaments owned by the Authority, and any other interest in such real property, to the extent that such interest may be conveyed to

March 29, 2011

another person or entity for any purpose, excluding an interest securing a loan or other financial obligation of another party.

2.4 "Fair Market Value" shall mean the estimated dollar amount that a willing buyer would pay to a willing seller for the Real Property in an arms-length transaction in the appropriate marketplace and under similar circumstances.

2.5 The term "Relative" shall mean any person living in the same household as the Authority employee or any person who is a direct descendant of the Authority employee's grandparents or the spouse of such descendant ~~as referred to in~~ Subsection 5.11.1.

### III. COMPLIANCE OVERVIEW

The Public Authorities Accountability Act ("PAAA") requires the Authority to establish policy guidelines to accomplish the following:

- 3.1 Maintain inventory controls and accountability systems for all Real Property under the Authority's control.
- 3.2 Periodically inventory Authority Real Property to determine which Real Property shall be Disposed of.
- 3.3 Dispose of Authority Real Property interests in accordance with the PAAA.
- 3.4 Prepare annual reports of Real Property Disposal transactions.

### IV. DUTIES OF THE DIRECTOR OF REAL ESTATE

- 4.1 The Director of Real Estate or equivalent(s) or designee shall maintain adequate inventory controls and accountability systems for all Real Property under the Authority's control.
- 4.2 The Director of Real Estate or equivalent(s) or designee shall annually inventory Authority Real Property to determine which Authority Real Property shall be Disposed of and shall prepare a report identifying such Real Property for Disposal.
- 4.3 The Director of Real Estate or equivalent(s) or designee shall produce for publishing written reports of such Real Property as set forth in Article VI of these Guidelines.
- 4.4 The Director of Real Estate or equivalent(s) or designee shall arrange for the Disposal of any Real Property identified for Disposal by the Authority in accordance with these Guidelines and the Authority's Expenditure Authorization Procedures and as soon as reasonably practical under the circumstances.

V. **PROCEDURES FOR THE DISPOSITION OF AUTHORITY REAL PROPERTY**

- 5.1 The Authority may Dispose of Real Property for not less than the Fair Market Value of such Real Property by sale, exchange, or transfer, for cash, credit or other property, without warranty, and upon such other terms and conditions as the Contracting Officer deems proper under the provisions of the PAAA and as implemented by these Guidelines. Fair Market Value of the Authority Real Property subject to Disposal shall be established by independent appraisal as

appropriate and consistent with the intent of the PAAA. Such appraisal documents shall be included in the record of the Real Property Disposal transaction.

5.2 Except as set forth in Section 5.3 of the Guidelines, any Disposal of Real Property shall only be made after publicly advertising for bids in accordance with the following:

5.2.1 the advertisement for bids shall be made at such time prior to the Disposal or contract, through such methods, and on such terms and conditions as shall permit full and free competition consistent with the value and nature of the Real Property;

5.2.2 all bids shall be publicly disclosed at the time and place stated in the advertisement; and

5.2.3 the award shall be made with reasonable promptness by notice to the responsible bidder whose bid, conforming to the invitation for bids, will be most advantageous to the Authority, price and other factors considered; provided, that all bids may be rejected when it is in the public interest to do so.

5.3.a The Disposal of Authority Real Property may be negotiated or made by public auction without regard to Section 5.2 but subject to obtaining such competition as is feasible under the circumstances, if:

1. the Fair Market Value of the Real Property does not exceed fifteen thousand dollars (\$15,000.00); or

2. bid prices after advertising therefore are not reasonable, either as to all or some part of the Real Property, or have not been independently arrived at in open competition; or

3. the Disposal will be to the state or any political subdivision, and the estimated Fair Market Value of the Real Property and other satisfactory terms of Disposal are obtained by negotiation; or

4. under those circumstances permitted by Section 5.3; or

5. such action is otherwise authorized by law.

5.3.b.1 No Real Property owned, leased or otherwise in the control of the Authority may be sold, leased, or otherwise alienated for less than its Fair Market Value except

if:

- a. the transferee is a government or other public entity, and the terms and conditions of the transfer require that the ownership and use of the Real Property will remain with the government or any other public entity;
- b. the purpose of the transfer is within the purpose, mission or governing statute of the Authority; or
- c. in the event the Authority seeks to transfer Real Property for less than its Fair Market Value to other than a governmental entity, which Disposal would not be consistent with the Authority's mission, purpose or governing statutes, the Authority shall provide written notification thereof to the Governor, the Speaker of the Assembly, and the Temporary President of the Senate, and such proposed transfer shall be subject to denial by the Governor, the Senate, or the Assembly. Denial by the Governor shall take the form of a signed certification by the Governor. Denial by either House of the Legislature shall take the form of a resolution by such House. The Governor and each House of the Legislature shall take any such action within sixty days of receiving notification of such proposed transfer during the months of January through June, provided that if the Legislature receives notification of a proposed transfer during the months of July through December, the Legislature may take any such action within sixty days of January first of the following year. If no such resolution or certification is performed within sixty days of such notification of the proposed transfer to the Governor, Senate, and Assembly, the Authority may effectuate such transfer.

5.3.b.2. In the event a below Fair Market Value Real Property transfer is proposed, the following information must be provided to the Authority's Board of Trustees and

the public:

- a. a full description of the Real Property;
- b. an appraisal of the Fair Market Value of the Real Property and any other information establishing the Fair Market Value sought by the Authority's Board of Trustees;
- c. a description of the purpose of the transfer, and a reasonable statement of the kind and amount of the benefit to the public resulting from the transfer, including but not limited to the kind, number, location, wages or salaries of jobs created or preserved as required by the transfer, the benefits, if any, to

March 29, 2011

the communities in which the Real Property is situated as are required by the transfer;

- d. a statement of the value to be received compared to the Fair Market Value;
- e. the names of any private parties participating in the transfer, and if different than the statement required by subparagraph (iv) of this paragraph, a statement of the value to the private party; and
- f. the names of other private parties who have made an offer for such Real Property, the value offered, and the purpose for which the Real Property was sought to be used.

5.3.b.3. Before approving the Disposal of any Real Property for less than Fair Market Value, the Authority's Board of Trustees shall consider the information described in Paragraph 5.3.5b and make a written determination that there is no reasonable alternative to the proposed below-market transfer that would achieve the same purpose of such transfer.

5.4 An explanatory statement detailing the Disposal by negotiation of Authority Real Property subject to the PAAA as set forth in Section 5.3 shall be made for any Disposal of:

5.4.1 Real Property with a Fair Market Value in excess of one hundred thousand dollars (\$100,000.00) except that Real Property Disposed of by lease or exchange shall only be subject to 5.4.2 of this Section 5.4;

5.4.2 Real Property Disposed of by lease if the fair annual rent over the term of the lease is in excess of fifteen thousand dollars ~~(\$15,000.00)~~; and

5.4.3 Any Real Property or real and related personal property Disposed of by exchange, regardless of value, or any property any part of the consideration is for Real Property:

5.5 Each explanatory statement prepared in accordance with Section 5.4 above shall be transmitted to the State Comptroller, the Director of the Division of the Budget, the Commissioner of General Services, the State Legislature and the State

Authorities Budget Office not less than 90 days in advance of such Disposal, and a copy shall be kept by the Authority.

- 5.6 In the Authority's discretion, when it shall be deemed advantageous to the Authority and the State, the Authority may enter into an agreement with the Office of the Commissioner of General Services ("OGS") under which OGS may Dispose of the Authority's Real Property under terms and conditions agreed to by the Authority and the OGS. In Disposing of any such Real Property of the Authority, the OGS shall be bound by the relevant provisions of the PAAA.
- 5.7 The Guidelines shall not apply to any transfers of jurisdiction by the Authority pursuant to Public Lands Law §3(4).
- 5.8 The Director of Real Estate or equivalent(s) or designee shall provide all relevant documentation to the Environmental Division for the purposes of determining, if applicable, whether the Disposal of Real Property is in compliance with the State Environmental Quality Review Act, and for whether it adheres to the American Society of Testing and Material's guidelines for Environmental Site Assessments, if applicable.
- 5.9 No Authority employee who is involved in the award of Authority grants or contracts, may ask any purchaser(s), grantor(s), lessor(s) or officer(s), director(s) or employee(s) of such current or prospective purchaser(s), contractor(s) or grantee(s) to reveal: (a) the political party affiliation of the individual; (b) whether the individual or entity has made campaign contributions to any political party, elected official, or candidate for elective office; or (c) whether the individual voted for or against any political party, elected official or candidate for elective office.

- 5.10 No Authority employee may award or decline to award any grant or contract, or recommend, promise or threaten to do so because of a current or prospective grantee's or contractor's: (a) refusal to answer any inquiry prohibited by Section 5.9 above or (b) giving or withholding or neglecting to make any contribution of money, service or any other valuable thing for any political purpose.
- 5.11 No Authority employee may take part in any contracting decision involving the payment of more than \$1,000: (i) to a Relative; or (ii) to any entity in which a Relative owns or controls 10% or more of the stock of such entity (or 1% in the case of a corporation whose stock is regularly traded on an established securities exchange); or serves as an officer, director or partner of that entity. If such situation arises, the employee must advise his or her supervisor of the relationship, and must be recused from any and all discussions or decisions relating to the matter.

~~5.11.1 For purposes of this Section 5.11, the term "Relative" is defined in Section 2.5 of these Guidelines.~~

## **VI. AUTHORITY REAL PROPERTY REPORTS**

- 6.1 The Director of Real Estate or equivalent(s) or designee shall publish the following reports in accordance with these Guidelines:

6.1.1 Pursuant to Section 2800 of the Public Authorities Law, the Director of Real Estate shall furnish a report for incorporation in the Authority's annual report which is distributed to the Governor, the Chairman and Ranking Minority Member of the Senate Finance Committee, the Chairman and Ranking Minority Member of the Assembly Ways and Means Committee, the State Comptroller and the State Authorities Budget Office. This report shall include (a) a listing of all Real Property having an estimated Fair Market Value greater than fifteen thousand dollars (\$15,000.00) that the Authority Disposed of during such reporting period and the name of the purchaser of the

Real Property and the price paid by the purchaser for the Real Property, and (b) a description of the total amounts of Real Property sold without competitive bidding, including (i) the nature of the Real Property, (ii) the names of the counterparties, and (iii) where the price for the Real Property sold is less than Fair Market Value, a detailed explanation of the justification for making the sale without competitive bidding, and a certification by the Authority's Chief Executive Officer and Chief Financial Officer that they have reviewed the terms of such sale and determined that it complies with applicable law.

- 6.1.2 Pursuant to Public Authorities Law § 2896(3)(a), the Director of Real Estate or equivalent(s) or designee shall prepare for distribution to the State Comptroller, the Director of the Division of the Budget, the Commissioner of General Services, the State Legislature and the State Authorities Budget Office, an annual report which shall include a list and description of all Real Property including such Real Property Disposed of during the fiscal reporting period. Regarding Disposals, this annual report shall include the price received by the Authority and the name of the purchaser of the Real Property.
- 6.2 The Authority may be called upon periodically to submit information regarding the Disposal of Real Property to organizations implementing the PAAA or other statutes regulating the Disposal of Real Property.
- 6.3 The Authority's Governance Committee meets at least three times per year and staff from Enterprise Shared Services – Real Estate or the equivalent(s) may prepare and present ongoing reports regarding the Disposal of Real Property.

## **VII. APPROVAL OF GUIDELINES BY THE AUTHORITY'S BOARD**

- 7.1 The Guidelines shall be annually reviewed and approved by the Authority's Trustees. On or before the thirty-first day of March in each year, the Authority shall file with the State Comptroller a copy of the most recently reviewed and approved Guidelines, including the name of the Authority's designated Contracting Officer. At the time of filing such Guidelines with the State Comptroller, the Authority shall also post such Guidelines on its internet website.

**Exhibit "1h-B"**  
**March 29, 2011**

**GUIDELINES**

**AND**

**PROCEDURES**

**FOR THE**

**ACQUISITION OF REAL PROPERTY**

**BY THE NEW YORK POWER AUTHORITY**

## INDEX

<u>Article</u>	<u>Description</u>	<u>Page</u>
I.	PURPOSE.....	1
II.	DEFINITIONS.....	1-2
III.	COMPLIANCE OVERVIEW.....	2
IV.	DUTIES OF THE DIRECTOR OF REAL ESTATE .....	2-3
V.	ETHICAL CONSIDERATIONS.....	3-4
VI.	ACQUISITION REPORTS BY AUTHORITY.....	4-5

**GUIDELINES AND PROCEDURES FOR THE ACQUISITION OF REAL PROPERTY BY  
THE NEW YORK POWER AUTHORITY**

**I. PURPOSE**

1.1 These Guidelines and Procedures for the Acquisition of Real Property (“Guidelines”), which comply with Title 2, Article 9 of the Public Authorities Law, establish the procedures that detail the Authority’s policy and instructions regarding the acquisition of real property. In addition, the Guidelines designate a contracting officer who is responsible for the Authority’s compliance with, and enforcement of, the Guidelines.

**II. DEFINITIONS**

2.1 “Contracting Officer” shall mean the officer or employee of the Authority who shall be responsible for enforcement of the Guidelines for the acquisition of real property. The “Contracting Officer” is hereby designated to be the Vice President – Enterprise Shared Services, or the equivalent(s), or designee.

2.2 “Acquisition” or “Acquire” shall mean to obtain title to or any other beneficial interest in real property in accordance with applicable statutes and these Guidelines.

2.3 “Fair Market Value” shall mean the estimated dollar amount that a willing buyer would pay to a willing seller for the Real Property in an arms-length transaction in

the appropriate marketplace and under similar circumstances.

2.4 “Real Property” shall mean real property, including land, tenements and hereditaments owned by the Authority, and any other interest in such real property, to the extent that such interest may be conveyed to another person or entity for any purpose, excluding an interest securing a loan or other financial obligation of another party.

2.5 “Relative” is any person living in the same household as the Authority employee or any person who is a direct descendant of the Authority employee’s grandparents or the spouse of such descendant, as referred to in Article 5 of these Guidelines.

### **III. COMPLIANCE OVERVIEW**

3.1 These Guidelines are being adopted consistent with the Public Authorities Accountability Act (“PAAA”).

3.2. The Authority may Acquire Real Property through purchase, eminent domain, state transfers of jurisdiction, lease and by other legal means.

3.3 The Authority’s New York statutory authority for land acquisition includes, without limitation, the Public Authorities Law, the Real Property Law, the Public Lands Law, the Eminent Domain Procedure Law and the Highway Law, as amended.

#### **IV. DUTIES OF THE DIRECTOR OF REAL ESTATE**

- 4.1 The Director of Real Estate or the equivalent(s) or designee will maintain adequate inventory controls and accountability systems for all Real Property under the Authority's control.
- 4.2 Real Property to be Acquired by the Authority will be in support of existing operating and transmission facilities or in support of new initiatives being pursued by the Authority. The Director of Real Estate or the equivalent(s) or designee will, in consultation with the other appropriate Authority staff (by oral or written communication), determine what Lands are necessary or convenient for Acquisition by the Authority.
- 4.3 The compensation for and the procedure for such Acquisition must be consistent with these Guidelines and the Authority's Real Estate Expenditure Authorization Procedures as amended.
- 4.4 The Director of Real Estate or the equivalent(s) or designee will arrange for the transfer or Acquisition of any Real Property identified for Acquisition by the Authority in accordance with these Guidelines and the Authority's Real Estate Expenditure Authorization Procedures and as soon as reasonably practical under the circumstances.
- 4.5 The Director of Real Estate or the equivalent(s) or designee will provide all relevant

documentation to the Authority's Environmental Division to determine whether the Acquisition of Real Property is in compliance with the State Environmental Quality Review Act, and whether it adheres to the American Society of Testing and Material's Guidelines for Environmental Site Assessments, if applicable.

V. **ETHICAL CONSIDERATIONS**

5.1 No Authority employee who is involved in the Acquisition of Real Property, may ask any purchaser, grantor, lessor or officers, directors or employees of such current or prospective purchaser, grantor or lessor to reveal: (a) the political party affiliation of the individual; (b) whether the individual or entity has made campaign contributions to any political party, elected official, or candidate for elective office; or (c) whether the individual voted for or against any political party, elected official or candidate for elective office.

5.2 No Authority employee may take part in any Acquisition decision involving the payment of more than \$1,000: (i) to a Relative; or (ii) to any entity in which a Relative owns or controls 10% or more of the stock of such entity (or 1% in the case of a corporation whose stock is regularly traded on an established securities exchange); or serves as an officer, director or partner of that entity. If such situation arises, the employee must advise his or her supervisor of the relationship, and must be recused from any and all discussions or decisions relating to the matter.

**VI. ACQUISITION REPORTS BY THE AUTHORITY**

6.1 The Director of Real Estate or equivalent(s) or designee shall publish the following reports in accordance with these Guidelines:

- 6.1.1 Pursuant to Section 2800 of the Public Authorities Law, the Director of Real Estate shall furnish a report for incorporation in the Authority's annual report which is distributed to the Governor, the Chairman and Ranking Minority Member of the Senate Finance Committee, the Chairman and Ranking Minority Member of the Assembly Ways and Means Committee, the State Comptroller and the State Authorities Budget Office. This report shall include (a) a listing of all Real Property having an estimated Fair Market Value greater than fifteen thousand dollars (\$15,000.00) that the Authority Acquired during such reporting period and the name of the seller of the Real Property and the price paid by the Authority for the Real Property; and (b) a description of the total amounts of Real Property purchased without competitive bidding, including (i) the nature of the Real Property, (ii) the names of the counterparties, and (iii) where the price for the Real Property purchased exceeds Fair Market Value, a detailed explanation of the justification for making the purchase without competitive bidding, and a certification by the Authority's Chief Executive Officer and Chief Financial Officer that they have reviewed the terms of such purchase and determined that it complies with applicable law.
- 6.1.2 The Authority may be called upon periodically to submit information regarding the Acquisition of Real Property to organizations implementing the PAAA or other statutes regulating the Acquisition of Real Property, such as the Authority Budget Office through the Public Authorities Reporting System ("PARIS").
- 6.1.3 The Authority's Governance Committee meets at least three times per year and staff from Enterprise Shared Services – Real Estate or the equivalent may, upon request, prepare and present ongoing reports regarding the Acquisition of Real Property.

Exhibit "1h-B-1"  
~~February 23~~ March 29, 20110

**GUIDELINES**

**AND**

**PROCEDURES**

**FOR THE**

**ACQUISITION OF REAL PROPERTY**

**BY THE NEW YORK POWER AUTHORITY**

## INDEX

<u>Article</u>	<u>Description</u>	<u>Page</u>
I.	PURPOSE.....	1
II.	DEFINITIONS.....	1-2
III.	COMPLIANCE OVERVIEW.....	2
IV.	DUTIES OF THE DIRECTOR OF REAL ESTATE .....	2-3
V.	ETHICAL CONSIDERATIONS.....	3-4
VI.	ACQUISITION REPORTS BY AUTHORITY.....	4-5

**GUIDELINES AND PROCEDURES FOR THE ACQUISITION OF REAL PROPERTY BY  
THE NEW YORK POWER AUTHORITY**

**I. PURPOSE**

1.1 These Guidelines and Procedures for the Acquisition of Real Property (“Guidelines”), which comply with Title 2, Article 9 of the Public Authorities Law, establish the procedures ~~that~~~~which~~ detail the Authority’s policy and instructions regarding the acquisition of real property. In addition, the Guidelines ~~and~~ designate a contracting officer who is responsible for the Authority’s compliance with, and enforcement of, ~~thesuch~~ Guidelines.

**II. DEFINITIONS**

2.1 “Contracting Officer” shall mean the officer or employee of the Authority who shall be responsible for enforcement of the Guidelines for the acquisition of real property. The “Contracting Officer” is hereby designated to be the ~~Senior~~-Vice President – Enterprise Shared Services, or the equivalent(s), or designee.

2.2 “Acquisition” or “Acquire” shall mean to obtain title to or any other beneficial interest in real property in accordance with applicable statutes and these Guidelines.

2.3 “Fair Market Value” shall mean the estimated dollar amount that a willing buyer would pay to a willing seller for the Real Property in an arms-length transaction in

the appropriate marketplace and under similar circumstances.

2.4 “Real Property” shall mean real property, including land, tenements and hereditaments owned by the Authority, and any other interest in such real property, to the extent that such interest may be conveyed to another person or entity for any purpose, excluding an interest securing a loan or other financial obligation of another party.

2.5 “Relative” is any person living in the same household as the Authority employee or any person who is a direct descendant of the Authority employee’s grandparents or the spouse of such descendant, as referred to in Article 5 of these Guidelines.

### **III. COMPLIANCE OVERVIEW**

3.1 These Guidelines are being adopted consistent with the Public Authorities Accountability Act (“PAAA”).

3.2. The Authority may Acquire Real Property through purchase, eminent domain, state transfers of jurisdiction, lease and by other legal means.

3.3 The Authority’s New York statutory authority for land acquisition includes, without limitation, the Public Authorities Law, the Real Property Law, the Public Lands Law, the Eminent Domain Procedure Law and the Highway Law, as amended.

**IV. DUTIES OF THE DIRECTOR OF REAL ESTATE**

- 4.1 The Director of Real Estate or the equivalent(s) or designee will maintain adequate inventory controls and accountability systems for all Real Property under the Authority's control.
- 4.2 Real Property to be Acquired by the Authority will be in support of existing operating and transmission facilities or in support of new initiatives being pursued by the Authority. The Director of Real Estate or the equivalent(s) or designee will, in consultation with the other appropriate Authority staff (by oral or written communication), determine what Lands are necessary or convenient for Acquisition by the Authority.
- 4.3 The compensation for and the procedure for such Acquisition must be consistent with these Guidelines and the Authority's Real Estate Expenditure Authorization Procedures as amended.
- 4.4 The Director of Real Estate or the equivalent(s) or designee will arrange for the transfer or Acquisition of any Real Property identified for Acquisition by the Authority in accordance with these Guidelines and the Authority's Real Estate Expenditure Authorization Procedures and as soon as reasonably practical under the circumstances.
- 4.5 The Director of Real Estate or the equivalent(s) or designee will provide all relevant

documentation to the Authority's Environmental Division to determine whether the Acquisition of Real Property is in compliance with the State Environmental Quality Review Act, and whether it adheres to the American Society of Testing and Material's Guidelines for Environmental Site Assessments, if applicable.

V. **ETHICAL CONSIDERATIONS**

- 5.1 No Authority employee who is involved in the Acquisition of Real Property, may ask any purchaser, grantor, lessor or officers, directors or employees of such current or prospective purchaser, grantor or lessor to reveal: (a) the political party affiliation of the individual; (b) whether the individual or entity has made campaign contributions to any political party, elected official, or candidate for elective office; or (c) whether the individual voted for or against any political party, elected official or candidate for elective office.
- 5.2 No Authority employee may take part in any Acquisition decision involving the payment of more than \$1,000: (i) to a Relative; or (ii) to any entity in which a Relative owns or controls 10% or more of the stock of such entity (or 1% in the case of a corporation whose stock is regularly traded on an established securities exchange); or serves as an officer, director or partner of that entity. If such situation arises, the employee must advise his or her supervisor of the relationship, and must be recused from any and all discussions or decisions relating to the matter.

~~5.2.1 For purposes of this Section 5.2, the term "Relative" is defined in Section 2.5 of these Guidelines.~~

## VI. ACQUISITION REPORTS BY THE AUTHORITY

6.1 The Director of Real Estate or equivalent(s) or designee shall publish the following reports in accordance with these Guidelines:

6.1.1 Pursuant to Section 2800 of the Public Authorities Law, the Director of Real Estate shall furnish a report for incorporation in the Authority's annual report which is distributed to the Governor, the Chairman and Ranking Minority Member of the Senate Finance Committee, the Chairman and Ranking Minority Member of the Assembly Ways and Means Committee, the State Comptroller and the State Authorities Budget Office. This report shall include (a) a listing of all Real Property having an estimated Fair Market Value greater than fifteen thousand dollars (\$15,000.00) that the Authority Acquired during such reporting period and the name of the seller of the Real Property and the price paid by the Authority for the Real Property, and (b) a description of the total amounts of Real Property purchased without competitive bidding, including (i) the nature of the Real Property, (ii) the names of the counterparties, and (iii) where the price for the Real Property purchased exceeds Fair Market Value, a detailed explanation of the justification for making the purchase without competitive bidding, and a certification by the Authority's Chief Executive Officer and Chief Financial Officer that they have reviewed the terms of such purchase and determined that it complies with applicable law.

6.1.2 The Authority may be called upon periodically to submit information regarding the Acquisition of Real Property to organizations implementing the PAAA or other statutes regulating the Acquisition of Real Property, such as the Authority Budget Office through the Public Authorities Reporting System ("PARIS").

6.1.3 The Authority's Governance Committee meets at least three times per year and staff from Enterprise Shared Services – Real Estate or the equivalent may, upon request, prepare and present ongoing reports regarding the Acquisition of Real Property.

Exhibit "1h-C"

POWER AUTHORITY OF THE STATE OF NEW YORK  
2010 ANNUAL REPORT OF ACQUISITIONS OF REAL PROPERTY OVER \$15,000 IN VALUE

1

<u>Seller's Name</u>	<u>Price Paid by the Authority</u>	<u>Acres</u>	<u>Transfer Date</u>
GANCO, INC. THE PEOPLE OF THE STATE OF NEW YORK	\$4,400,000.00 \$385,547.00	16.00 14.4	10/15/2010 7/29/2009

POWER AUTHORITY OF THE STATE OF NEW YORK  
2010 ANNUAL REPORT OF DISPOSAL (CONVEYANCE) OF REAL PROPERTY OVER \$15,000 IN VALUE

Exhibit "1h-C-1"

<u>Purchaser's Name</u>	<u>Price Realized by the Authority</u>	<u>Surplus Parcel Acres</u>	<u>Transfer Date</u>
-------------------------	--	-----------------------------	----------------------

Fee interest conveyed unless otherwise noted.

NEW YORK POWER AUTHORITY

EP: 1.2

REVISION: 10

EMPLOYEE POLICY

DATE: 1/13/2011

PLEASE REFER TO THE PORTION OF THE EMPLOYEE POLICIES ENTITLED DISCLAIMERS WHERE YOU WILL FIND A STATEMENT WHICH PERTAINS TO ALL EMPLOYEE POLICIES, INCLUDING THIS ONE.

## RECRUITMENT AND JOB POSTING

- 1.1 The New York Power Authority considers all internal and external applicants for employment, in accordance with all applicable Federal, State and local laws governing non-discrimination in employment in every location in which it maintains offices or facilities. The Authority also provides reasonable accommodation to individuals with a disability in accordance with applicable law.
- 1.2 Offers of employment are contingent upon successful completion of pre-employment requirements, which include a comprehensive background investigation for all potential new hires and possible other candidate screening (i.e., aptitude test, drug screening, etc.) as the Authority deems appropriate.
- 1.3 Within three business days of employment, new employees must prove identity and eligibility to work in the United States by providing original documents established as criteria by the Immigration and Reform Control Act to their HR representative. If an employee is unable to present the required documents within the 3 business days, they may not work or continue rendering services to the Authority.

### Job Postings

- 2.1 The goal of the job posting policy is to ensure that employees are made aware of and have the opportunity to apply for open Full-time, Part-time and Provisional salaried positions either before or concurrent with the Authority's consideration of external candidates for employment. However, there may be conditions that would result in a decision to bypass the posting process, for example, if an internal candidate or temporary employee from the hiring department or Business Unit has been identified.
- 2.2 The job posting program makes information available to Authority employees, regarding Full-time, Part-time and Provisional salaried openings throughout the organization, including the requirements for each job.
- 2.3 To be eligible to apply for a posted position an applicant must:
  - a) Meet the minimum position requirements stated in the posting;
  - b) Be capable of performing the essential functions of the job, with or without reasonable accommodation;
  - c) Have a job performance that is acceptable within the guidelines of the Authority's prevailing performance management system;

d) Have been in their current position for at least 12 months.

- 2.3 Salaried vacancies below the senior management level are generally posted on the *Powernet* and the Authority's website ([www.nypa.gov](http://www.nypa.gov)). Exceptions may be made at the discretion of the Human Resources Department Head, or if an internal candidate or temporary employee from the hiring department or Business Unit has been identified.
- 2.4 Salaried positions covered under this policy, which are not expected to be filled within the work group, department or Business Unit, will be posted on the *Powernet* and the Authority's website for at least ten working days, however, external recruitment efforts may commence simultaneous with the posting.

#### Internal Job Application Process

- 3.1 During the posting period, interested employees can apply via the *Powernet*.
- 3.2 If an employee interviews for a position at another NYPA location, he/she may be eligible for reimbursement for travel related expenses. If offered, and the employee accepts the position, he/she may be eligible for reimbursement of certain relocation costs. Employees should discuss these issues and options with their HR representative during the interview process.
- 3.3 Employees are required to notify their supervisor when they are selected for an interview. However, employees are not required to disclose that they are applying for a position if they are not selected for an interview. Employees being considered for a position should expect hiring managers to request and review performance information and evaluations while making a hiring decision and consult with an internal applicant's current supervisor.
- 3.4 Applying for an internal position does not guarantee an interview. Hiring managers will strive to interview those with the experience and qualifications that most closely match the requirements of the position. Internal candidates who are not selected will be notified.
- 3.5 Position transfer dates are determined in consultation with current supervisors. The business unit heads along with the managers of both the vacating and receiving departments must agree on a transfer date to ensure that such transfer occurs within four weeks after an offer has been accepted. The status of current work assignments and available back-up will be taken into consideration when determining the transfer date.
- 3.6 All changes in pay will be consistent with the guidelines established by the Compensation Program. The salary offered for the new position will be determined primarily based on the employee's qualifications for the new position and internal equity within the department or work group. Employees may choose to accept or decline offers without repercussions in their current position.

- 3.7 Special conditions may arise when an exception to this policy is appropriate. Under such circumstances, authorization must be obtained from the Human Resources Department Head.

#### Employment of Employee Relatives

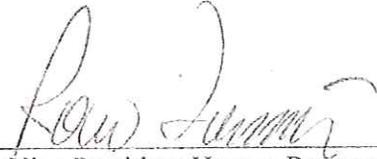
- 4.1 Employees may not take part in any hiring or employment decision relating to their relatives. The term "employee relative" shall mean any person living in the same household as the employee, officer or trustee and any person who is a direct descendant of that individual's grandparents or the spouse of such descendant. If a hiring or employment matter arises relating to an employee's relative, then the employee must advise his or her supervisor of the relationship, and must be recused from any and all discussions or decisions relating to the matter.
- 4.2 The Authority will not consider employment applications, promotions or transfers for individuals whose employment, promotion or transfer would result in a supervisory relationship between them and a relative (as defined in 4.1), or one where a conflict of interest may exist or later arise. Although there may be exceptions to these guidelines, the Authority will discourage these working relationships between relatives. Any exceptions to this section require the authorization of the Human Resources Department Head, or their designee, on a case-by-case basis and will include a review of various considerations, including, but not limited to the Authority's business needs, succession planning initiatives, and the nature of the relationship between the affected Authority employee and the applicant for employment, promotion or transfer.

#### Prohibition Against Consideration of Politics in Employment

- 5.1 The Authority expressly prohibits employees involved in recruiting, interviewing or hiring or making promotional, disciplinary or other employment decisions relating to NYPA employees, from asking any such applicant or employee to reveal: (a) the political party affiliation of the applicant; (b) whether the applicant has made campaign contributions to any political party, elected official, or candidate for elective office; or (c) whether the candidate voted for any elected official or candidate for elective office.
- 5.2 The provisions of paragraph 5.1 shall not apply to circumstances where such inquiry is necessary for the proper application of State law or approved state authority or New York State public authority rules, policies or practices (e.g., inquiring about party affiliation where State law limits the number of members of a State board who can be from the same party).

Penalties

- 6.1 Any employee who knowingly violates the provisions of sections 4.1 or 5.1 of this Policy may be subject to appropriate disciplinary action up to and including termination.



Vice President Human Resources

NEW YORK POWER AUTHORITY	EP:	2.1
	REVISION:	15
EMPLOYEE POLICY	DATE:	8/18/2010

PLEASE REFER TO THE PORTION OF THE HUMAN RESOURCES POLICIES ENTITLED DISCLAIMERS WHERE YOU WILL FIND A STATEMENT WHICH PERTAINS TO ALL EMPLOYEE POLICIES, INCLUDING THIS ONE.

### SALARY ADMINISTRATION POLICY

- 1.1 This policy governs the administration of salary for all full-time, part-time and provisional exempt and non-exempt Authority employees, as defined in the Salaried Employees' Eligibility for Benefits policy. (EP: 3.1)
- 1.2 This policy describes the New York Power Authority's competitive pay program and provides guidelines in which to recognize and reward different degrees of performance through salary changes within budget limits.
- 1.3 Any salary action varying from the guidelines of this policy is considered an exception and requires documentation, justification and approval.
- 1.4 All types of salary actions described in the policy (including effective date of the salary action) and all exceptions to this policy require the approval of the Business Unit Head, the Vice President Human Resources and the President and Chief Executive Officer or his/her designee.
- 1.5 Under the Fair Labor Standards Act, the Authority pays exempt employees on a salary basis and does not intend to make any deductions from these salaries which are prohibited. Any employee who believes an improper deduction may have occurred should raise the issue and bring supporting documentation, if any, to the attention of the Payroll department as soon as practicable after the deduction occurs. Payroll will then work with the Human Resources Compensation group and should it be determined that an improper deduction in fact occurred, the employee will be reimbursed for that amount. Complaints may also be communicated via the Employee Concerns Line [1-877-TEL-NYPA]

#### Annual Salary Adjustment

- 2.1 Annual Salary Adjustments are intended to provide recognition and reward for performance within the parameters of the Authority's annual salary budget. However, neither an annual salary budget nor an annual Performance Plus assessment is a guarantee that a salary adjustment will occur.
- 2.2 An employee's Performance Plus rating summarizing his/her annual performance will be taken into consideration for Annual Salary Adjustment purposes and ensures that an employee is considered for a salary adjustment.

### 2.3 Eligibility:

- a) Only employees who receive a Performance Plus rating of Partially Achieved Expectations or better (see Performance Plus Instructions on the Powernet for ratings definitions), are eligible for an Annual Salary Adjustment.
- b) No Annual Salary Adjustment will be given to employees who earn a Performance Plus rating of Did Not Meet Expectations.
- c) New employees hired between September 1 and December 31 of the prior calendar year will not be eligible to be considered for an Annual Salary Adjustment until on or about September 1 in the year following their hire date.

### 2.4 Timing:

- a) Annual performance assessments will normally be completed during November. This is referred to as the Annual Performance Plus Assessment Period. Annual Salary Adjustments are generally effective on or about January 1. In the case of employees on leaves of absence, the effective date of increases may be adjusted (See Section 10).
- b) The Annual Salary Adjustment is calculated on the employee's base salary as of December 31 of the prior calendar year.

### 2.5 General Guidelines:

- a) Base salaries of employees who earn a Performance Plus rating of Achieved Expectations or Partially Achieved Expectations can reach the maximum of the grade range for their job grade but cannot exceed it. Should an employee's base salary reach the maximum of the range or beyond, recommendations for an exception must have appropriate approvals as specified in section 1.3.
- b) If an employee is still under the minimum of the grade range after receiving an Annual Salary Adjustment, the manager should contact the Human Resources Compensation group for guidance in moving the employee to the minimum of the grade range. This applies only to employees who earn a Performance Plus rating of Achieved Expectations or better.

### Promotional Increases

- 3.1 A promotion is defined as the assignment of an employee to a position of one or more grades higher than the employee's current position and may be accompanied by an increase in salary.
- 3.2 All requests for promotions require documentation and justification.

3.3 *Types of Promotions:*

- a) Competency Based: Competencies are essential knowledge, skills, and abilities required by the Authority and which equip an individual to perform a certain level of work. Competency-based promotions are permitted for employees in limited and specific job families for which specific competency definitions have been developed and achieved.
- b) Re-evaluated position: when there is a reorganization or a position has expanded responsibilities and increased level of competency resulting in a market analysis supporting a higher grade range.
- c) Organizational Promotion: acknowledges that an employee has been assigned a different job with expanded responsibilities at a grade range higher than the employee's current position.

3.4 A promotion may include an increase in salary that places the employee's salary in the grade range of the new position. The new salary, however, is limited to a compa-ratio of 112%. For an Executive/Management Band position the new salary is limited to the midpoint (100% compa-ratio).

3.5 The salary for an open position shall be no greater than 95% of the previous incumbent's salary.

Market / Equity Adjustments

- 4.1 Once reviewed and recommended by the Human Resources Compensation group, an adjustment to base salary may be permitted to achieve internal and/or market equity.
- 4.2 Only employees who earn a Performance Plus rating of Achieved Expectations or better are eligible for a market adjustment.

Timing of Salary Actions

- 5.1 The Human Resources Compensation group will accept requests to review competency based promotion, market or equity adjustments, and grade re-evaluations during the 8-month period of February 1 through September 30, *only*.
- 5.2 Organizational promotion requests will be acted upon at any time during the year.
- 5.3 At least six months must elapse between any salary actions, inclusive of date of hire.

### First Line Supervisor Differential

- 6.1 To prevent inequities between bargaining unit employees or equivalent positions, and their supervisors, First Line Supervisors (FLS) shall generally be paid a minimum five percent (5%) above the annualized base rate of pay of the highest paid supervised bargaining unit employee (or equivalent positions). This differential applies only to those FLS who achieve an annual Performance Plus rating of Achieved Expectations or better, for their prior year's performance.

*Note: Base Rate* of pay is defined as the negotiated hourly rate for the job, excluding any other payments granted to an employee such as premiums and overtime.

### Sign-On & Retention

- 7.1 Special incentives for the purpose of attracting or retaining staff may be recommended as an exception with appropriate approvals as specified in 1.3.

### Re-evaluation of Job Content

- 8.1 A change in grade may occur as the result of the reorganization of the work unit or re-evaluation of the position. If a position is re-evaluated upward as the result of a significant change in job content, consideration may be given to granting a promotional increase as previously defined and outlined in Section 3.3b.
- 8.2 Employees whose positions are re-evaluated and downgraded and whose salaries are above the maximum of the new grade range will have their salaries reduced to 4.0% above the maximum of the new grade range.

### Demotions

- 9.1 A demotion may occur as the result of inadequate employee performance, which leads to the employee being assigned to a new position that is one or more grades below the current grade.
- 9.2 Employees demoted as a result of inadequate performance and whose salaries are above the maximum of the new grade range will have their salaries reduced to no more than the maximum of the new grade range.

### Approved Leaves of Absence

- 10.1 Performance Assessments – Annual performance assessments should be based on performance in the previous calendar year, regardless of the length of time the employee was on approved leave.

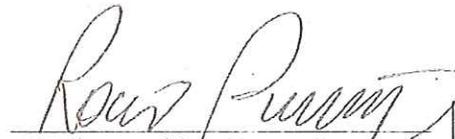
NEW YORK POWER AUTHORITY	EP:	2.1
	REVISION:	15
EMPLOYEE POLICY	DATE:	8/18/2010

10.2 *Annual Salary Increase, if*

- a) leave is less than 3 months – If the annual salary adjustment falls during an approved leave of less than three months, the annual salary adjustment for employees on such **paid leave** will be effective as of the common annual salary adjustment date. If on approved **leave with no pay** as the common annual salary adjustment date, the annual salary adjustment will become effective on the day the employee returns to work or returns to paid status. The amount of the increase will not be affected by the leave.
- b) leave is 3 months or longer - If the annual salary adjustment falls during an approved leave of three months or more, the annual salary adjustment will be effective on the date the employee returns to work, unless proscribed by any other policy, state or federal law. The amount of the increase will not be affected by the leave.

Lateral Transfer

- 11.1 A lateral transfer occurs when an employee moves from one job to another which has the same grade range.
- 11.2 Generally, additional compensation will not be granted in the case of lateral transfers.
- 11.3 Moves that are temporary or part of a development plan or program, or job changes that are part of a specific work project may be considered for additional compensation.

  
Vice President Human Resources  
8/18/10

NEW YORK POWER AUTHORITY

EP: 2.4

REVISION: 8

EMPLOYEE POLICY

DATE: 3/23/2011

PLEASE REFER TO THE PORTION OF THE EMPLOYEE POLICIES ENTITLED DISCLAIMERS WHERE YOU WILL FIND A STATEMENT, WHICH PERTAINS TO ALL EMPLOYEE POLICIES, INCLUDING THIS ONE.

### SALARIED NON-EXEMPT AND FACILITY-BASED EXEMPT OVERTIME

- 1.1 This policy provides for the payment of overtime to eligible Authority employees (see *Eligible Employees* below). It permits the Authority to:
- a) comply with the Fair Labor Standards Act;
  - b) provide additional compensation to certain exempt positions for ensuring the safe and efficient generation and transmission of electricity during specified overtime events;
  - c) provide some relief for pay compression between bargaining unit employees and first line supervisors; and
  - d) manage overtime costs.
- 1.2 Eligible overtime is scheduled, authorized and approved time worked in excess of the normal workweek, under predetermined conditions related to specific Authority or facility requirements, priorities, special projects, or to maintain safe operating conditions.
- 1.3 Responsibilities:
- a) A Business Unit Head, Regional or General Manager, or their designee will establish the event (Section 1.2) for which overtime will be paid, and will be accountable for the direction, authorization and administration of overtime as covered by this policy.
  - b) The Controller or designee will provide periodic reports of overtime paid including year-to-date totals. The Business Unit Head, Regional or General Manager, or their designee will reconcile these reports against authorizations required by this policy and promptly notify the Controller or designee in writing of any discrepancies that require correction.
  - c) The Business Unit Head is responsible for the prudent use of overtime within the parameters established by the approved O&M Budget.

#### 1.4 Eligible Employees:

- a) All salaried non-exempt employees are eligible for non-exempt overtime as required by the wage and hour laws of the Fair Labor Standards Act, as enforced by the U.S. Department of Labor.
- b) Facility-based salaried exempt employees are those employees whose work location of record in SAP is not White Plains, Albany or New York City. Headquarters salaried exempt employees are those whose work location of record in SAP is White Plains, Albany or New York City.
- c) First Line Supervisors – salaried exempt employees at the facilities whose job is to supervise union employees.
- d) Salaried exempt employees at the facilities who are in grades E, 1, 2, 3, 4 and 5 and grades A, B, C, D and X may be eligible for exempt overtime compensation. Salaried exempt individual contributor employees working in the Trading room on a 24/7 shift and salaried exempt individual contributor Fuel Buyer positions supporting the Traders may be eligible for exempt overtime compensation despite location or grade.
- e) Headquarters salaried exempt employees, physically working at a facility as part of a specified temporary work project, and who are in grades E, 1, 2, 3, 4 and 5 may be eligible for exempt overtime compensation.
- f) Salaried exempt employees in grade 6 and in the Executive Management structure (EB, SMB, MB, SPB; SPL) are not eligible for overtime compensation under any circumstances other than the Buyers noted in 1.4d.

#### Non-Exempt Overtime

- 2.1 A non-exempt employee is one whose job duties do not meet the established tests for exemption under certain wage and hour laws of the Fair Labor Standards Act, as enforced by the U.S. Department of Labor.
- 2.2 On those occasions when it is necessary for non-exempt employees to work in excess of their basic workweek [see Attendance and Flexible Hours policy (EP: 4.6)], all additional time worked must be directed and authorized in advance in accordance with Sections 1.2 and 1.3(a).
- 2.3 Notwithstanding the requirements of Section 2.2 above, under the Fair Labor Standards Act, all non-exempt employees who work in excess of their basic workweek must record and be paid for all time worked.

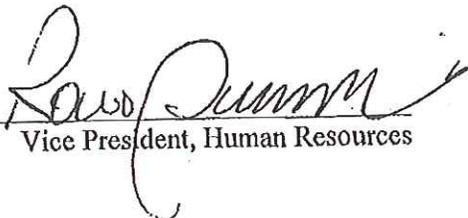
- 2.4 The rate of pay for non-exempt employees is as follows:
- a) Straight time for up to 40 hours in a workweek.
  - b) 1½ times the straight time equivalent hourly rate of the annualized salary for those hours worked beyond 40 hours in a workweek.
  - c) Payment for time worked on a scheduled holiday will be paid at 1½ times the equivalent hourly rate.
- 2.5 Generally, time spent traveling on company business will not be counted as hours worked for overtime computation purposes.
- 2.6 For non-exempt employees, work time spent as a required or assigned participant in any training program, lecture, meeting or workshop, will be paid at the applicable rate of pay (Section 2.4) for that time period.

Exempt Overtime

- 3.1 An exempt employee is one whose job duties meet the established tests for exemption under certain wage and hour laws of the Fair Labor Standards Act, as enforced by the U.S. Department of Labor.
- 3.2 Time worked in excess of the normal workweek at an employee's discretion will not be compensated. For eligible salaried exempt employees, all paid overtime must be approved in advance in accordance with Sections 1.2 and 1.3(a).
- 3.3 For salaried exempt employees in, or temporarily acting in, First Line Supervisor positions, approved overtime will be paid at 1½ times the hourly equivalent of the exempt employee's salary for hours of *actual supervision* of NYPA bargaining unit employees. Other overtime hours, if approved, will be paid at a straight time rate.
- 3.4 Eligible non-supervisory employees may be paid for all hours worked, in accordance with Section 1.2. Approved overtime will be paid at the straight time hourly equivalent of the exempt employee's salary.
- 3.5 Exempt employees who are preapproved to work during a scheduled holiday will be paid at 1½ times the hourly rate for First Line Supervisors, and 1 times the hourly rate for non-supervisory employees for actual hours worked in addition to their normal straight time pay for the holiday.
- 3.6 Eligible employees temporarily assigned to work at a facility will assume the basic workweek of the facility and their rate of pay for overtime purposes will be determined on that basis.

Approval and Time Records

- 4.1 For eligible salaried exempt employees, an Overtime Approval form must be completed stating the employee's name, period of time for which the overtime has been requested and approved, a brief description of the task, and the employee's basic workweek hours (40). These must be reviewed and approved (signed) by a Business Unit Head and/or Regional or General Manager, or designee, as appropriate. These records are retained by the applicable department or facility.
- 4.2 When a salaried exempt employee is temporarily assigned to an operating facility the time record should be approved by either the Business Unit Head or Regional or General Manager, or designee, as appropriate.
- 4.3 Payment for authorized overtime under the guidelines of this policy where practicable will be charged to the operating budget where the work is performed. The approved time report must clearly indicate the appropriate facility program code number to charge.
- 4.4 Payment to a salaried exempt employee for overtime that has not been specifically directed or authorized by those delegated the responsibility by this policy, will not be permitted under any circumstances. Issues with unauthorized non-exempt overtime will be addressed through the performance management process. [See Section 2 regarding treatment of non-exempt employees.]
- 4.5 This policy supersedes all prior policies and procedures regarding overtime for exempt and non-exempt personnel.

  
Vice President, Human Resources

NEW YORK POWER AUTHORITY	EP:	2.6
EMPLOYEE POLICY	REVISION:	5
	DATE:	1/2/08

PLEASE REFER TO THE PORTION OF THE HUMAN RESOURCES POLICIES ENTITLED DISCLAIMERS WHERE YOU WILL FIND A STATEMENT, WHICH PERTAINS TO ALL EMPLOYEE POLICIES, INCLUDING THIS ONE.

### VARIABLE PAY PLAN

- 1.1 The VARIABLE PAY PLAN is a discretionary performance-based plan linked to the Authority's accomplishments at various levels. Each year, the Trustees of the New York Power Authority [the "Authority"], or their designees, may approve VARIABLE PAY as part of the overall salaried compensation program.
- 1.2 This policy governs the administration of VARIABLE PAY for all full-time, part-time and provisional exempt and non-exempt salaried Authority employees, as defined in the Employee Eligibility for Benefits policy (EP: 3.1).
- 1.3 This policy enables the New York Power Authority:
  - a) To compensate employees based on the performance results of the Authority, each business unit or department, and the individual employee, in a given calendar year;
  - b) To reinforce the focus on performance by enabling employees to benefit in proportion to the results they produce.

#### General Guidelines

- 2.1 Upon Trustee approval, availability of VARIABLE PAY in any given year is based on minimum Authority goals (one or more "go/no go criteria").
- 2.2 The maximum amount (% of salary) of VARIABLE PAY is determined prior to the start of the year.
- 2.3 Strategic Authority goals and performance measures for each business unit and department form the basis for determining the amount of VARIABLE PAY employees in each group can earn. These measures are established by the beginning of the applicable calendar year.
- 2.4 In addition, PERFORMANCE PLUS ratings further determine eligibility for, and the specific amount of, VARIABLE PAY individual employees may receive.
- 2.5 VARIABLE PAY is awarded as a lump sum payment, generally in the first quarter of the calendar year following the year for which performance is measured.

### Variable Pay Calculation

3.1 Authority and business unit and department performance results are combined at year-end to develop the VARIABLE PAY percentage. The combination of results is as follows:

Power Operations – Headquarters

- 50% from NYPA overall measures
- 50% from business unit

Power Operations – Facilities

- 50% from NYPA overall measures
- 50% from facility-specific measures

Transmission

- 40% from NYPA overall measures
- 60% from business unit

Other Business Groups, Units & Departments

- 75% from NYPA overall measures
- 25% from business unit / department

3.2 The VARIABLE PAY percentage is applied to base salary only, earned as of December 31st of the applicable calendar year. For non-exempt salaried employees, it is applied to base salary plus any approved overtime payments earned as of December 31.

### Individual Eligibility

4.1 Generally, VARIABLE PAY will be awarded to all eligible employees [see section 1.2] employed by the Authority on the last regular working day of the prior calendar year, at the employees' normal work location. Employees hired after September 30<sup>th</sup> or with less than 3 months of continuous service with the Authority are not eligible to participate in the VARIABLE PAY PLAN.

4.2 An employee must earn a PERFORMANCE PLUS rating of '1', '2', '3' or '4' to receive VARIABLE PAY. [For ratings definitions, go to "Human Resources - Human Capital & Development" on the NYPA Powernet].

4.3 A PERFORMANCE PLUS rating of '4' will earn 1/3 of the applicable business unit or department VARIABLE PAY amount.

4.4 No VARIABLE PAY is earned by an employee receiving a PERFORMANCE PLUS rating of '5'.

4.5 The percentage of VARIABLE PAY each employee earns is based generally upon the performance results of the Authority, the business group, unit or department to which the individual is assigned, and the individual's PERFORMANCE PLUS rating.

- 4.6 VARIABLE PAY, for an employee who is assigned to a different business unit or department for 3 or more months during the calendar year, will be calculated by pro-rating proportionally the VARIABLE PAY percentage from each group.

Union Participation

- 5.1 Participation in the VARIABLE PAY PLAN by Authority bargaining unit employees is subject to the terms of the applicable collective bargaining agreement between the New York Power Authority and any recognized labor organization.

Leaves of Absence

- 6.1 For employees on an approved leave in excess of three months during the calendar year, VARIABLE PAY will be prorated by the length of the leave that exceeds three months.

Exceptions

- 7.1 Exceptions to the policy require the specific approval of the Human Resources Department Head, or designee, for positions up to, but not including Executive/Management Band positions. The approval of the President & Chief Executive Officer, or designee, is required for exceptions involving Vice Presidents and Executive/Management Band positions.



Executive Vice President  
Corporate Services & Administration

NEW YORK POWER AUTHORITY	EP:	3.1
	REVISION:	6
EMPLOYEE POLICY	DATE:	7/15/09

PLEASE REFER TO THE PORTION OF THE HUMAN RESOURCES POLICIES ENTITLED DISCLAIMERS WHERE YOU WILL FIND A STATEMENT, WHICH PERTAINS TO ALL EMPLOYEE POLICIES, INCLUDING THIS ONE.

## SALARIED EMPLOYEE CATEGORIES AND ELIGIBILITY FOR BENEFITS

- 1.1 This policy defines the various categories of salaried Authority employees, and the benefits available to each category. The category of an employee will determine the applicable benefits.

### Definitions

- 2.1 A salaried Authority employee, whose status is full-time or part-time, transitional, provisional, temporary, or intern, is classified as either an exempt or non-exempt salaried employee depending on the job he/she performs or the position he/she fills. A cooperative employee is classified as non-exempt.
- a) Full-time Authority Employee – An employee who works at least 37½ or 40 hours per week (as determined by Business Unit or Department), if assigned to the Albany or White Plains Office, or 40 hours per week, if assigned to an operating facility.
  - b) Transitional Employee – A full-time Authority employee with a written development plan designed to prepare that employee to fill an anticipated vacancy in another Authority position within a designated time-frame.
  - c) Part-time Authority Employee – An employee who has worked full-time for a minimum of one year, and whose status has changed from full-time to part-time without a break in service (employment with the Authority has not been terminated); and who works a minimum of 20 hours per week but less than 37½ or 40 hours (whatever is applicable) if assigned to the Albany or White Plains Office, or at least 20 but less than 40 hours if assigned to an operating facility.
  - d) Provisional Employee – Employed on a full-time basis or works a minimum of 30 hours per week for a specific project or assignment for a period that is expected to last at least one year but not more than three years, and who is paid directly by the Authority.
  - e) Temporary Employees – Employed for a period of not more than one year (from date of hire) **unless approval to extend employment for an additional period is received from headquarters Human Resources Department Head and the Budget Department.**
    - 1) Full-time Temporary Employee – employed on a full-time basis for a specific position or assignment, and who is paid directly by the Authority.

- 2) Part-time Temporary Employee – employed on a part-time basis for a specific position or assignment, and who is paid directly by the Authority.
- 3) Temporary Intern – employed on a full-time or part-time basis for a specific position or assignment, not to exceed six months in a given calendar year, and who is paid by the Authority.
- 4) Cooperative – (“Co-op”) – employed on a full-time basis while enrolled full-time at an accredited college or university in a work/study or cooperative education curriculum and who receives credits towards his/her course of study. Cooperative employees may be paid or unpaid by the Authority.
- 5) Developmental Intern – employed on a full-time or part-time basis while enrolled in an accredited college or university in a curriculum related to the temporary assignment at the Authority. Additional guidelines apply to Developmental Interns under the Human Resources Developmental Intern Program.

#### Benefits

- 3.1 Full-time Authority Employees or Transitional Employees (as defined in 2.1 a and b) are eligible to receive the Authority benefits as listed in the FlexAbility Guidebook and Benefits Handbook.
- 3.2 Part-time Authority Employees (as defined in 2.1 c) are eligible to receive Authority benefits with the following qualifications:
  - a) Retirement System - New York State and Local Retirement System service credit for part-time Authority employees is pro-rated based on the number of hours worked per week.
  - b) Educational Assistance Program - The Educational Assistance Program benefit is pro-rated based on the number of hours worked per week.
  - c) Vacation and Sick Leave - Vacation and sick leave credits are based on the number of hours worked per week.
  - d) Holidays - Part-time Authority employees who work less than a full day (as applicable to their respective job location) are eligible for compensation for holidays based on the number of hours worked per day. However, if an employee works less than a full week, and a holiday falls on a day an employee is not scheduled to work, he/she will not be paid for that holiday.
  - e) Flex Credits – Flex Credits are based on a reduced flat amount.
  - f) Insurance - Life insurance and long-term disability are adjusted based on the employee's pro-rated pay.

3.3 Provisional Employees (as defined in 2.1 d) are eligible for some Authority benefits, as follows:

- a) Flex Credits based on a reduced flat amount
- b) Mandatory participation in the New York State and Local Retirement System
- c) Vacation time will be credited as stated in the Vacation Policy (EP 3.2) (pro-rated for employees that work less-than full-time)
- d) sick leave will be accrued as stated in the Sick Leave Policy (EP 3.9) (pro-rated for employees that work less than full-time)

A provisional employee does not receive the following Authority benefits:

- a) Life Insurance
- b) Long-Term Disability
- c) Educational Assistance
- d) Payment for holidays that fall on a day the employee is not scheduled to work (refer to 3.2 d for more details about holiday pay)

3.4 Temporary Employees (this includes Full-time and Part-time Temporary Employees, Co-ops and all Interns) are not eligible to receive Authority benefits with the following exceptions:

- a) Participation in the New York State and Local Retirement System is optional for a temporary part-time employee or for a full-time temporary employee whose period of employment is less than one year. Membership in the New York State and Local Retirement System is mandatory for a full-time temporary employee whose employment exceeds one year (prior approval must be obtained from headquarters HR and the Budget Department).
- b) Temporary Employees are not paid for holidays unless they work on a holiday.
- c) Any requests to hire a NYPA retiree (including NYPA retirees who have suspended their pensions) into temporary or provisional positions must be approved by the President & Chief Executive Officer. The request for approval must contain documentation of the need to continue services for that individual.
- d) New York Power Authority retired employees who return to Authority employment and have suspended their New York State Retirement System pension because they have exceeded the annual earnings limitation as specified under Section 212 of the New York Retirement and Social Security Law shall retain their Authority-provided retiree benefits for a period of up to six months.

NEW YORK POWER AUTHORITY

EP: 3.1

REVISION: 6

EMPLOYEE POLICY

DATE: 7/15/09

- 3.5 For more detailed information about the applicable employee benefits as listed above, please refer to the FlexAbility Guidebook and Benefits Handbook.



Vice President Human Resources

<b>New York Power Authority</b>	<b>CAP: 1.5</b>
<b>Corporate Accounting</b>	<b>Date: 2/25/10</b>
<b>Subject: Reimbursement of Employee Meal Costs</b>	<b>Revision: 12</b>

**1.0 Objectives**

1.1 This policy provides for the reimbursement of reasonable and prudent meal expenses employees incur in the performance of their job duties. Each employee is responsible for ensuring that submitted expenses are accurate and in compliance with the provisions of the policy. The approving supervisor is responsible for ensuring cost effectiveness and reasonableness of expenses incurred as well as compliance with policy.

1.2 This policy is established to ensure:

- a. that employees are reimbursed for the necessary and reasonable cost of meals incurred while performing their duties
- b. meal reimbursement guidelines are clearly communicated to staff and consistently applied, and
- c. meal expenses are reimbursed within Authority policy limits

1.3 The policy applies to reimbursement of all meals except for those covered by union agreements.

**2.0 General**

2.1 Meals eligible for reimbursement are incurred by an employee:

- a. while traveling overnight on Authority business.
- b. while taking a day trip on Authority business.
- c. in connection with working overtime.
- d. as a "working meal" during a business meeting.

Specific guidelines governing reimbursement are provided in the following sections of this policy.

2.2 Requests for reimbursement are required to include identification of the meal (breakfast, lunch or dinner) with an explanation of its business purpose. Receipts are required for individual meals with a cost in excess of \$10. All reimbursement requests require the approval of the employee's supervisor / manager or business unit head before processing for payment.

2.3 Employees who hold the company-sponsored American Express card should use the card to pay for business meals. If an employee does not have a corporate card, the use of a personal card is encouraged. (Authority policy requires the use of the corporate American Express card to pay for all business transportation\*, lodging, and car rentals in order to ensure proper receipt documentation and eligibility for special negotiated fares) (Refer to CAP 1.7 American Express Corporate Card Program for further details).

\* Except for air/rail travel which should be charged to the Authority's direct billed Citicard.

<b>New York Power Authority</b>	<b>CAP: 1.5</b>
<b>Corporate Accounting</b>	<b>Date: 2/25/10</b>
<b>Subject: Reimbursement of Employee Meal Costs</b>	<b>Revision: 12</b>

Employees may use the company procurement credit card / check (procard) with direct billing to the Authority to pay for meals incurred for internal training courses and working meetings including board and management committee meetings. The procurement card should not be used for any other meal expenses. Refer to Corporate Accounting Policy CAP 4.1 Petty Cash for further details.

### **3.0 Policy Details**

#### **3.1 Overnight Travel**

Employees traveling on business that requires an overnight stay will be reimbursed for **actual** and reasonable meal costs up to the following maximum daily amounts:

- \$55 travel to upstate facilities (BG, CEC, Niagara, St. Law-FDR, Albany)
- \$70 travel to downstate facilities (White Plains, New York swing office, Poletti and Flynn)
- \$70 other travel

When on overnight travel status, employees will be reimbursed for breakfast when travel begins before 7:00 AM, for lunch when travel begins before noon, and for dinner when returning home after 7:00 PM.

Employees who spend more than the maximum daily amount should reduce their reimbursement requests for the applicable days to the appropriate amounts (i.e. \$55 or \$70 depending on the destination). The Authority reimburses employees for the cost of breakfast, lunch, and dinner within these meal guidelines. The cost of food and beverages between breakfast, lunch, and dinner is not reimbursable.

#### **3.2 Day Trips**

Employees taking day trips to conduct Authority business will be reimbursed for meals based on travel times. Reimbursements will be provided (1) for breakfast, if the employee leaves home at least one hour before their normal departure time, and (2) for lunch, if the employee is on travel status during their normal lunch hour, and (3) for dinner, if the employee returns home at least two hours after their normal returning time. The Authority reimburses employees for the cost of breakfast, lunch, and dinner within these meal guidelines. The cost of food and beverages between breakfast, lunch, and dinner is not reimbursable.

<b>New York Power Authority</b>	<b>CAP: 1.5</b>
<b>Corporate Accounting</b>	<b>Date: 2/25/10</b>
<b>Subject: Reimbursement of Employee Meal Costs</b>	<b>Revision: 12</b>

**3.3 Overtime Meals**

Employees are eligible for reimbursement of actual expenses for dinner when they work two hours of overtime during a weekday. On Saturdays, Sundays or holidays, employees are entitled to reimbursement of actual expenses for

- a lunch if they work 4 hours or more.
- b Dinner if they work 7 hours or more.

Reimbursements cannot exceed the actual cost of the meal. There is no "reimbursement allowance" if a meal is not purchased.

**3.4 Limits**

Reimbursements for business meals incurred on day trips and for overtime meals will be based on actual and reasonable meal costs up to the following maximum amounts:

- Breakfast \$10 (day trips only)
- Lunch \$20
- Dinner \$40

**3.5 Authority- Provided Meals**

Whenever the Authority pays directly for a meal, the employee is not entitled to a meal payment. This provision also pertains to arrangements made by certain operating plants, with local restaurants, that provide a meal to an employee through the issuance of a "meal ticket". The cost of a meal obtained by a meal ticket should be within reasonable limits as determined by the Site Regional Manager. Meal tickets can only be used by the employee to whom it was issued and only on the day overtime is worked.

**3.6 Business Meals**

Business meals will be reimbursed when the meal is provided as a "working meal" during a meeting (on or off the premises) for the convenience of the Authority and for the efficient conduct of business. . All reimbursement requests require the approval of the employee's supervisor/manager or business unit head before processing for payment.

**3.6.1 Meals with business guests**

Employees will be reimbursed for the actual and reasonable cost of meals, up to \$70 per person, with business guests (i.e. non-Authority employees) on or off the Authority's premises when the meal is approved by a vice president or equivalent or higher position. The nature of business discussed, as well as the name, title, and affiliation of each business guest, must be documented on the employee's expense statement.

New York Power Authority	CAP: 1.5
Corporate Accounting	Date 2/25/10
Subject: Reimbursement of Employee Meal Costs	Revision: 12

If the business meal is with an outside vendor and/or 3<sup>rd</sup> party contractor, the outside vendor and/or 3<sup>rd</sup> party contractor should **not** be permitted to pay the bill.

**3.6.2 Authority Employees Only**

In situations where it is necessary for the efficient conduct of business, employees will be reimbursed for the cost of an on-premises meal (breakfast or lunch only) with other Authority employees up to \$30 per person, in connection with a working meeting or conference. Reimbursement of off-premises meals where only Authority employees are present will be permitted only when deemed appropriate for business purposes and authorized in writing by a vice president or equivalent or higher position. The cost of such meals should not exceed \$70 per person.

**3.7 Extended Assignments**

Employees who work on an extended assignment (i.e. assignments for more than three months but less than one year) at a location other than their assigned work location may elect to receive: (1) reimbursement of actual and reasonable meal and lodging expenses or (2) a daily per diem, based on IRS guidelines, covering meals, lodging and incidental expenses (e.g., laundry, tips, etc.) Per diem arrangements must be approved by the appropriate business unit head and the Vice President and Controller. Amounts will be set by the Director of Accounting (or his designee) based on Federal guidelines.

**3.8 Non-Reimbursable Meal Expenses**

**3.8.1 Excessive Meal Expenses**

While the Authority expects its employees to have good meals at reasonably priced restaurants when traveling, and to conduct business in comfort, it also expects its employees to exercise good judgment. Accordingly, charges exceeding limits established by this policy will be considered personal expenses and will not be reimbursed.

**3.8.2 Personal Meals**

Meals in connection with retirement, farewells, birthdays, holidays and similar events are considered personal and will not be reimbursed.

<b>New York Power Authority</b>	<b>CAP: 1.5</b>
<b>Corporate Accounting</b>	<b>Date: 2/25/10</b>
<b>Subject: Reimbursement of Employee Meal Costs</b>	<b>Revision: 12</b>

**4.0 Taxability**

Meal reimbursements that are not associated with overnight travel are generally considered taxable income under IRS regulations, and are therefore subject to withholding of social security and income taxes unless such payments are classified as de minimus by the Vice President – Controller’s office. Taxable meal reimbursements include those associated with day trips and overtime. Reimbursements for working meals during meetings (Section 3.6) are not subject to taxes.

**5.0 Responsibilities**

**5.1 Employee**

Employees have primary responsibility for ensuring that meal expenses are necessary and reasonable, fully - documented as to business purpose, supported by receipts, properly submitted on the appropriate form, accurately coded in the proper account, and otherwise in compliance with the provisions of this policy. Employees should also exercise sound business judgment and common sense whenever they incur expenses to be paid by the Authority.

**5.2 Approving Supervisors and Managers**

Approving supervisors and managers are responsible for ensuring that their employees understand the content and intent of this policy before expenses are incurred and that the provisions of this policy are met. Supervisors must ensure that Authority funds are spent wisely and carefully, that their employees have submitted appropriate, reasonable and prudent expenses and that all expenses, except as noted otherwise, are submitted on expense reports. In addition they are responsible for ensuring that their employees seek cost-effective solutions to situations/needs, carefully reviewing their employees' expense reports and confirming that coding for expenses to be reimbursed is accurate.

**5.3 Facility Managers of Finance & Administration  
Headquarters Accounts Payable Manager**

The Facility Managers of Finance & Administration, at the operating plants, and the Accounts Payable Manager, at the Headquarters Office, are responsible for implementing and administering this policy at their respective locations. This responsibility includes ensuring their staff properly reviews, processes, and retains all reimbursement requests received.

<b>New York Power Authority</b>	<b>CAP: 1.5</b>
<b>Corporate Accounting</b>	<b>Date: 2/25/10</b>
<b>Subject: Reimbursement of Employee Meal Costs</b>	<b>Revision: 12</b>

**5.4 Headquarters Accounts Payable Manager and Headquarters Payroll Manager**

The Headquarters Accounts Payable Manager and Headquarters Payroll Manager are jointly responsible for ensuring that meal reimbursements are properly included in the employee's paycheck (i.e. by separate check or direct deposit), taxable reimbursements are reported on the employees W-2 Wage and Tax Statement and social security and income taxes are withheld.

**5.5 Director of Accounting**

The Director of Accounting or his authorized designee is responsible for overall implementation, administration, and maintenance of this policy on a company-wide basis.

**5.6 Vice President - Controller**

The Vice President - Controller must approve any deviations from this policy.

**6.0 References**

**6.1.1** Agreement between the Power Authority of the State of New York and Local Unions 2032 and 2104 of the International Brotherhood of Electrical Workers IBEW, AFL-CIO, 2006-2011, as amended or superseded from time to time.

**6.1.2** Agreement between the Power Authority of the State of New York and Local Union 1-2 of the Utility Workers Union of America (UWUA), AFL-CIO, 2004 - 2009, as amended or superseded from time to time.

**6.2** CAP 1.7 American Express Corporate Card Program.

**6.3** CAP 7.4 Processing Overtime Meal Payments

**6.4** CAP 4.1 Petty Cash

**6.5** Credit Card Procurement System Policy & Procedures (Rev. 11/08)

**6.6** Travel Hand Book, NYPA Powernet website, Travel Desk section.

---

Vice President-Controller

2010.07. doc

NEW YORK POWER AUTHORITY	EP:	4.6
	REVISION:	6
EMPLOYEE POLICY	DATE:	12/1/09

PLEASE REFER TO THE PORTION OF THE EMPLOYEE POLICIES ENTITLED DISCLAIMERS WHERE YOU WILL FIND A STATEMENT, WHICH PERTAINS TO ALL EMPLOYEE POLICIES, INCLUDING THIS ONE.

## ATTENDANCE AND FLEXIBLE HOURS

- 1.1 To ensure an efficient and productive work environment, this policy establishes basic hours of daily work, basic workweek, flexible hours, punctuality guidelines, and guidelines for reporting to work in the event of inclement weather, transportation or other emergency situations for salaried employees. The workhours, workweek and lunch schedules may vary at different NYPA work locations.
- 1.2 NYPA expects all employees, regardless of location, to assume responsibility for their attendance and promptness, and to begin work no later than their designated start time. Employees should anticipate that NYPA work locations will be open every workday.

### Basic Workhours and Workweek

- 2.1 If an employee works in the White Plains or Albany Office:
- a) The basic daily hours of work may vary based on department needs. This is defined as "flexible hours." The typical workday may begin anytime between 7:00 am and 9:30 am.
  - b) The basic workweek shall consist of five workdays (in a seven-day period) of seven and a half hours each, exclusive of mealtime.
  - c) A lunch period is normally provided between the hours of 12:00 pm and 2:00 pm unless adjusted by an employee's supervisor. Phone and staff coverage must be provided during lunch hours.
- 2.2 If an employee works at a location where NYPA generation or transmission facilities are operated or maintained and the normal workweek is 40 hours, the following shall apply:
- a) For salaried employees the basic daily hours of work shall be determined by the Regional Manager or the person otherwise responsible for the work location. The typical workday may begin anytime between 7:00 am and 9:00 am.
  - b) The basic workweek shall consist of five workdays, (in a seven-day period) of eight hours each, exclusive of mealtime, and shall be determined by the Regional Manager or the person otherwise responsible for the work location.

NEW YORK POWER AUTHORITY	EP:	4.6
	REVISION:	6
EMPLOYEE POLICY	DATE:	12/1/09

- c) Salaried employees' mealtime shall be determined by the Regional Manager or the person otherwise responsible for the work location.

2.3 The payroll period for a basic workweek at some locations may be Thursday through the following Wednesday, or Sunday through the following Saturday.

Punctuality Guidelines

3.1 Employees are expected to report for and remain at work during the basic daily hours as established by the applicable employing department or location, except for meal periods.

3.2 The basic daily workhours and basic workweek will vary at the Albany and White Plains Offices and at the facilities; however, the punctuality guidelines require that all employees report to work in a timely manner. Once hours have been established, employees will be expected to work the designated hours and days.

3.3 Employees who leave NYPA's employment, must physically be at work on their last day in order for it to be considered their last day of work.

3.4 Adherence to the flexible hours schedule will be enforced by the manager or supervisor. An employee may not switch his/her flexible hours schedule without approval by his/her manager or supervisor.

3.5 When an employee is late, he/she should meet with his/her supervisor to discuss the reason for the tardiness. Lateness is not charged against sick or vacation leave unless a half day or more is taken.

3.6 If the tardiness is not excusable, the employee's supervisor should document the occurrence. Specific guidelines for dealing with performance problems are established in EP 4.2, Performance Improvement. Excessive absenteeism, tardiness or requests to leave early which are documented may result in disciplinary action in accordance with EP 4.2.

Flex Time Schedules

4.1 In an effort to offer employees work-life balance solutions and minimize workplace commutes, flex time schedules to allow one day or a half day off within a two week pay period, will be permitted as follows:

- a) Employees wishing to participate in the program must submit a matrix indicating his/her flex time period to his/her manager for approval, reference and planning. Once the flex schedule is approved, every attempt must be made to adhere to that schedule (any deviations must be pre-approved by the employee's supervisor).

- b) Flex time schedules are not guaranteed and may be altered as necessary to accommodate the business needs of each Business Group/Unit and/or department.
- c) Employees cannot be required to work a flex time schedule.
- d) Non-exempt employee work schedules cannot exceed 40 hours in any given week as a result of an employee's working an approved flex time schedule.
- e) All employees working a flex time schedule must take at least a half hour lunch period.
- f) Total hours worked within a given pay period must be no less than 75 hours or 80 hours (whichever is applicable) and must correspond to a two week pay period (Monday – Friday).
- g) Holidays (including floating holidays) sick and vacation time must be recorded as your base hours (i.e.: 7.5 hours at WPO and Albany). In the event of a holiday or if an employee takes a sick day or vacation day and he/she was scheduled to work 8.5 hours, he/she will only get credit for 7.5 hours and will need to make up the extra hour another day during that pay period.
- h) Employees who take more than 2 days off (sick, vacation or holiday) in a two week pay period are not eligible to work a flex time schedule in that pay period.
- i) An employee's participation in this program may be discontinued at any time at the discretion of the employee's supervisor, manager or Business Unit head.

Office Closing Due to Inclement Weather or Emergencies

- 5.1 Unless notified otherwise, employees should anticipate that NYPA offices will be open. Only under extreme weather conditions or other emergency situations would the Albany Office and/or White Plains Office be closed. Office closings will be announced via the NYPA voice mail message system.
- 5.2 During the workday, if conditions warrant the closing of either the White Plains or Albany Office, the Human Resources Department Head, after consultation with the SVP Enterprise Shared Services and the President and Chief Executive Officer, will contact the Business Group Heads to advise them of the decision to close. Business Group Heads should then notify their respective staffs. During non-work hours, employees may call the NYPA voice mail system for office closing announcements.
- 5.3 If an employee expects to be late due to inclement weather, difficult transportation conditions or any other reason, he/she should notify his/her supervisor of the expected arrival time as soon as possible.

- 5.4 If an employee decides not to come to work, his/her immediate supervisor should be notified as soon as possible. In that instance, the absence must be charged to an employee's accumulated vacation time (accumulated sick time cannot be charged).

Records of Attendance

- 6.1 Records of attendance shall be maintained for all employees at all NYPA locations through completion of a time report, which is maintained using the NYPA's time and attendance tracking system (CATS). Supervisors or their designees must approve all CATS entries before the time entries are transmitted to Payroll. Part-time NYPA employees must submit their time report on a weekly basis.
- 6.2 Falsification of any supervisory-approved records of attendance will result in disciplinary action up to and including termination.



Vice President Human Resources

NEW YORK POWER AUTHORITY	EP:	3.2
EMPLOYEE POLICY	REVISION:	10
	DATE:	5/13/09

PLEASE REFER TO THE PORTION OF THE EMPLOYEE POLICIES ENTITLED DISCLAIMERS WHERE YOU WILL FIND A STATEMENT WHICH PERTAINS TO ALL EMPLOYEE POLICIES, INCLUDING THIS ONE.

## VACATION

- 1.1 Because NYPA recognizes the importance of vacation time in providing the opportunity for rest, recreation, and personal activities, the Authority grants annual paid vacations to its full-time, part-time, and provisional salaried employees (see EP 3.1, Salaried Employee Categories and Eligibility for Benefits Policy, for employee category definitions).

### Eligibility for Vacation

- 2.1 Full-time salaried employees are credited with vacation days as follows:
- a) Employees are credited with 20 vacation days on January 1 of each year.
  - b) In an employee's first year of Authority employment, vacation days are credited on a pro-rated basis (rounded up to the nearest half day), based on the employee's date of employment (1/12<sup>th</sup> of 20 vacation days, or 1 2/3 days for each month of service). For example, if employment began in April, the employee receives 15 vacation days for the year. If employment began in December, the employee receives two vacation days.
  - c) Employees who have 11 or more years of eligible NYPA service will be credited with an additional ½ vacation day on January 1 immediately after they attain 11 years of eligible service. (See EP 1.9, Transfer or Re-Employment in Public Service, for transferred time eligibility criteria.) For each succeeding year of service, another ½ day will be credited on the following January 1<sup>st</sup> of each year until a maximum of 25 days per year is credited upon the January 1<sup>st</sup> after reaching 20 years of service.
  - d) Employees who are on a medical leave and receiving full pay will receive full vacation credits on January 1. Employees on sick leave at half-pay or a leave of absence without pay or long term disability on January 1, will not receive vacation days until they return to work, at which point the days will be credited on a pro-rated basis for the full months worked during the year. Employees who go out on a medical leave or a leave of absence without pay after receiving their vacation days on January 1, and remain employees, will keep the vacation days that were granted on January 1.
- 3.2 Vacation days for part-time salaried Authority employees are credited on a pro-rated basis based on the assigned number of hours worked per week. If part-time employees become full-time during the year, their vacation days for the year will be adjusted on a pro-rated basis.

- 3.3 Provisional salaried employees, employed on January 1, are credited with 10 vacation days per year for their first two full years of employment, and 15 vacation days in their third year. In the first calendar year of provisional employment, vacation will be pro-rated for each month of service.

#### Vacation Usage

- 4.1 New employees may use vacation time immediately with the approval of their supervisor (see Section 6.1 d).\*
- 4.2 Employees may use vacation days in full or half-day increments. However, supervisors may allow employees to offset partial vacation days with flexible scheduling, allowing them to make up time by working extra hours on other days. Supervisors may also grant very limited time off without using vacation time if the absence is so brief that it does not affect getting assigned work completed.
- 4.3 Excessive requests for time off, or taking vacation time without prior approval, should be handled by supervisors as performance problems in accordance with EP 4.2, Performance Improvement Policy.
- 4.4 Once employees have submitted their resignation, vacation usage is subject to their supervisor's approval. However, employees must physically be at work on their last day of employment.

\*(Some Business Units, Sites or Departments may require the vacation request in writing.)

#### Vacation Carryover

- 5.1 Regardless of how many vacation days employees are credited with at the beginning of the year, no more than 40 vacation days may be carried over from year to year. For example, on December 31 an employee has the maximum vacation accumulation (40 days) and is credited with an additional 20 days on January 1, the employee's total balance would be 60 days on January 1. If by December 31 of that year the employee still has more than 40 days of accumulated vacation time, the vacation balance will be reduced to 40 days. However, due to extenuating circumstances, individual exceptions to this limitation on carryover of vacation days may be approved by the respective Business Group and Business Unit/Department Heads with concurrence from the Human Resources Department Head or their designee. Any such request must be forwarded to the Human Resources Department Head no later than January 10<sup>th</sup> of the year in which the vacation accumulation exceeds the 40-day maximum.

Pay in Lieu of Vacation

- 6.1 Payment in lieu of accumulated vacation, not exceeding a maximum of 40 days, may be made for employees who have completed at least six months of service under the following conditions:
- a) When employees resign, provided they give the Authority at least two weeks' written notice.
  - b) When employees' services are terminated by the Authority:
  - c) When employees retire, payment for unused vacation at retirement may be included in the employee's New York State Retirement System benefit calculation, depending on the employee's tier and certain conditions. Please contact a Human Resources representative or the New York State Retirement System for specific details.
  - d) When employees resign, are terminated or retire, they will receive payment for the current year's accumulated vacation on a pro-rated basis (1/12<sup>th</sup> of yearly vacation days for each month of service). This will be added to any days that were carried over from the prior year, up to a maximum vacation payment of 40 days. If employees have already used more than the equivalent of 1/12<sup>th</sup> of their yearly vacation days for each month of service, payments for those days must be repaid to the Authority (to the extent possible, payment will be withheld from the employee's final paycheck).
  - e) When employees resign or are terminated prior to six months of service, they are not eligible for payment of vacation days, and payment for any vacation time taken within the first six months of employment must be repaid to the Authority (to the extent possible, payment will be withheld from the employee's final paycheck).
  - f) In the event of death, payment for unused vacation will be made to the beneficiary as named in the employee's group life insurance policy.

Vacation Buy-Back Program

- 7.1 Salaried employees who have accumulated five weeks of vacation time may "buy-back" one week (5 days) of vacation time, once per year.
- 7.2 Each year, when the vacation buy-back period is announced by Human Resources, request forms must be sent to Payroll within the specified deadlines date. Requests received after the announced deadline date will not be honored or processed.

NEW YORK POWER AUTHORITY

EMPLOYEE POLICY

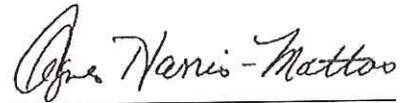
EP: 3.2

REVISION: 10

DATE: 5/13/09

- 7.3 The vacation "buy-back" check will be issued separately from the regular bi-weekly paychecks. In addition to taxes, Employees' Savings Plan (401(k) plan) and Deferred Compensation Plan (457 plan) deductions, if applicable, will be withheld from the check. Employees' Savings Plan or Retirement System loan repayments will not be deducted from the check.

The vacation "buy-back" payment does not constitute salary as defined by the Retirement and Social Security Law. Therefore, Tier 3 or Tier 4 contributions, if applicable, will not be deducted from the vacation buy-back check, nor will the buy-back be reported to the Retirement System as wages. Therefore, the value of the "buy-back" will not be included in the calculation of an employee's Final Average Salary.



Vice President Human Resources



NEW YORK POWER AUTHORITY	EP:	3.3
	REVISION:	12
EMPLOYEE POLICY	DATE:	5/19/10

PLEASE REFER TO THE PORTION OF THE EMPLOYEE POLICIES ENTITLED DISCLAIMERS WHERE YOU WILL FIND A STATEMENT, WHICH PERTAINS TO ALL EMPLOYEE POLICIES, INCLUDING THIS ONE.

**FAMILY & MEDICAL LEAVE ACT (FMLA)**

1.1 This policy applies to all employees at all NYPA sites and offices and provides guidelines for qualifying leaves under the Family and Medical Leave Act ("FMLA"). The Notice to Employees of Rights under the FMLA (WHD Publication 1420) ("Notice") is found in Attachment 1 and fully incorporated into this policy. The policies and guidelines stated in this FMLA policy shall be subject to such other terms and conditions as are provided in the FMLA and its regulations.

ELIGIBILITY FOR FAMILY MEDICAL LEAVE ACT ("FMLA")

2.1 To be eligible for FMLA leave, an employee must have been employed with the Authority for at least 12 months and have worked at least 1,250 hours during the previous 12 months.

2.2 Type of Leaves Covered Under the FMLA:

- 1) Employee Medical Leave ("EML") (see Section 4) - for an employee's "serious health condition" (see attached Notice) that makes the employee unable to perform the functions of his or her position, including "serious health conditions" also eligible for workers' compensation;
- 2) Family Medical Leave ("FML") (see Section 4) - for the care of an employee's spouse, child, or parent (not parent-in-law) who has a "serious health condition";
- 3) Newborn Leave ("NL") (see Section 5) - for the care of a healthy newborn child;
- 4) Adoption Leave ("AL") (see Section 5) - for the care of a newly adopted or newly placed foster care child;
- 5) Military Family Leave ("MFL") (see Section 6) - for spouse, child, parent or next of kin of a covered servicemember to care for that servicemember; and
- 6) Qualifying Exigency Military Family Leave ("QEL") (see Section 7) - to take care of certain qualifying exigencies arising when a spouse, parent, or child has been called to, or is on, active duty in the National Guard or Reserves.

2.3 Eligible employees may receive up to a total of 12 weeks of FMLA leave on a rolling 12 month period starting with the first day that an employee commences any approved FMLA leave. However, Military Family Leave qualifies eligible employees to receive up to a combined total (with any other FMLA leave) of 26 weeks in a single rolling 12 month period.

NEW YORK POWER AUTHORITY	EP:	3.3
	REVISION:	12
EMPLOYEE POLICY	DATE:	5/19/10

NOTIFICATION/CERTIFICATION

- 3.1 When the need for FMLA leave is foreseeable, an employee should notify his/her supervisor and Human Resources at least 30 days in advance of the start date of the intended leave, or as soon as it is foreseeable. When the approximate timing of the need for leave is not foreseeable, an employee must provide notice to his/her supervisor and Human Resources as soon as practicable under the facts and circumstances of the particular case. Absent unusual circumstances, an employee will be expected to comply with his/her site/department's normal procedures for requesting leave and calling in absences. Failure to follow such procedures may result in a delay or denial of FMLA protection.
  
- 3.2 FMLA leaves can only be approved by the Vice President Human Resources, or designee(s), at the headquarters office, or the Facility Manager of Human Resources, or designee(s), at the sites. In situations when there is no Facility Manager of Human Resources at a site, FMLA leaves will be approved by the Vice President Human Resources, or designee(s). Once approved, FMLA leave is applied retroactively to the first day of absence.
  
- 3.3 The applicable fully completed Certification of Health Care Provider form or Certification of Serious Injury or Illness of Covered Servicemember ("Certifications"), signed by a health care provider, is required for all types of FMLA leave other than Qualifying Exigency Military Family Leave, which has its own separate form and requirements. Copies of the Certifications are attached in Attachments 2-5.
  
- 3.4 It is the employee's responsibility to see that the applicable Certification is completed, and returned to the Authority as soon as possible after the leave is requested, but no later than 15 calendar days from the date that the employee receives the Certification form from Human Resources.
  
- 3.5 If the Certification is incomplete or insufficient, the Authority will notify the employee and provide him/her up to seven calendar days to remedy any deficiencies. After this opportunity to remedy deficiencies has passed, a health care provider, human resources professional, leave administrator, or management official may contact the health care provider for purposes of limited clarification or authentication of the Certification. Under no circumstances may the employee's direct supervisor contact the employee's health care provider. In addition, in those situations where NYPA seeks to speak to the health care provider directly to obtain or discuss medical information related to the Certification, the employee may need to provide his/her doctor a HIPAA authorization allowing NYPA to do so.
  
- 3.6 The employee's request for FMLA leave may be denied in the event that an employee fails to: a) provide a Certification, b) timely remedy deficiencies in a Certification, or c) to provide a HIPAA authorization when requested as necessary for his/her health care provider to provide medical information directly to the Authority.

NEW YORK POWER AUTHORITY	EP:	3.3
EMPLOYEE POLICY	REVISION:	12
	DATE:	5/19/10

- 3.7 Employees attempting to obtain, or obtaining, FMLA leave by fraudulent means, shall be denied the restoration of their job or any other job at the Authority and utilization of paid time for time out of work.
- 3.8 Recertification of the need for FMLA leave may be required at various intervals, but generally not more than every 30 days, unless the Certification indicates that the minimum duration of the condition is more than 30 days, there is a change in circumstances or return to work date, an extension of leave is requested, or other circumstances cast doubt on the continuing validity of the leave.

EMPLOYEE MEDICAL LEAVE (“EML”) AND FAMILY MEDICAL LEAVE (“FML”)

- 4.1 When an employee has been absent from work for three (3) consecutive or closely occurring intermittent business days due to a “serious health condition,” or when it appears that an employee will not be returning to work for a lengthy or undetermined amount of time due to a “serious health condition,” he/she may be eligible for an Employee Medical Leave (“EML”) under the FMLA.
- 4.2 If more than three (3) business days (consecutive or intermittent) are needed to care for the “serious health condition” of a spouse, child, or parent (not parent-in-law), an employee may be eligible for Family Medical Leave (“FML”) under the FMLA.
- 4.3 When the absences exceed this three day period for a “serious health condition,” the employee should provide notification to Human Resources, at which point the FMLA process will be initiated for eligible employees.
- 4.4 EML and FML may be taken on a consecutive, intermittent or reduced work schedule basis as provided by the health care provider on the Certification.
- 4.5 FMLA leave on an intermittent basis is leave which is taken in separate blocks of full or half day increments, on a non-regular basis, because of a single qualifying reason. FMLA leave on a reduced schedule is leave which reduces the number of working hours in a basic work week or workday for a period of time. If an employee needs leave intermittently or on a reduced leave schedule for planned medical treatment, then the employee must make a reasonable effort to schedule the treatment so as not to disrupt unduly the Authority’s operations.
- 4.6 Employees who qualify for EML and FML must first utilize all accrued sick time. Employees may then request and utilize any approved accrued vacation or accrued floating holidays (see Sections 10.6 and 10.8 below). Vacation time may only be used prior to sick time for salaried employees EML’s for service credit purposes related to sick leave at half-pay (see Sick Leave Policy EP: 3.9). In all cases, qualifying time absent, whether paid or not, will be applied toward the maximum 12-week FMLA time period. Use of vacation time does not alter the status of the leave as FMLA leave, nor does it extend any Authority provided job security periods. (For EMLs related to Workers Compensation also see Sections 9.1-9.3).

- 4.7 Once accrued sick time is exhausted (and where vacation or floating holiday time is not being used, or has been exhausted), eligible salaried (non-bargaining unit) employees on EML will be placed on sick leave at half-pay (see Sick Leave Policy EP: 3.9), or on no-pay status if not eligible. In certain circumstances, salaried employees may also be eligible to receive donated vacation leave (see Attachments 6 and 7). Sick leave at half-pay is not available for any other type of FMLA Leave. If an employee on FMLA has no sick or vacation credits, or elects not to apply vacation credits, non-worked hours will be unpaid.
- 4.8 After three consecutive months of EML, and after all accrued sick leave and sick leave at half pay has been exhausted, a salaried employee may be eligible for benefit payments under the Long-Term Disability ("LTD") benefits. (See Sick Leave Policy EP: 3.9). Employees covered under a Collective Bargaining Agreement ("CBA") may be entitled to short and/or long term disability benefits. Such employees should contact their Human Resources Facility Manager and refer to their applicable Collective Bargaining Agreement and Benefit book for information on their benefits.
- 4.9 Employees returning to work from an EML must provide Human Resources with written medical documentation verifying their ability to return to work and fitness for duty. This should be provided at the earliest practicable time before returning to work. An employee will not be allowed back to work without sufficient written medical documentation.

#### NEWBORN ("NL")/ADOPTION ("AL") LEAVE

- 5.1 An employee may take a Newborn Leave ("NL") to care for a healthy newborn under the FMLA.
- 5.2 An employee may take an Adoption Leave ("AL") in connection with travel for and placement of a child for adoption or foster care within one year of initial placement in the home, or adoption, whichever comes first. Documentation from an agency or attorney verifying such placement of a child must be submitted to Human Resources within 15 business days or as soon as practicable.
- 5.3 Newborn and Adoption Leave may only be taken as consecutive leave and will be without pay unless the employee chooses, and receives approval, to use accrued vacation time. In all cases, time absent, whether paid or not, will be applied toward the maximum yearly 12-week FMLA period.
- 5.4 If both parents of a healthy newborn or a newly placed foster or adopted child work for the Authority, only one parent is entitled to these types of FMLA leave for each qualifying occurrence. However, both parents will be allowed leave for travel necessary for placement of a child for adoption or foster care.

- 5.5 In all cases, time absent, whether paid or not, will be applied toward the applicable 12-week FMLA time period.

#### MILITARY FAMILY LEAVE ("MFL")

- 6.1 Military Family Leave ("MFL") provides eligible employees unpaid leave to care for a covered family member who has incurred a serious injury or illness in the line of duty as a covered service member while on covered active duty in the Armed Forces.
- 6.2 A covered family member is a spouse, son, daughter, parent or next of kin. A covered service member is a person either in the military or a veteran for up to five years after he or she leaves military service, even if the injury did not manifest itself until the service member became a veteran.
- 6.3 An employee who is a covered family member may take up to 26 weeks of leave during a single 12-month period to care for the covered service member. This 26-week period is the maximum amount of leave that may be taken in combination with any other FMLA-qualifying leaves in a single 12-month period beginning with the employee's first day out.
- 6.4 Such leaves may be on a consecutive basis, intermittent or a reduced schedule basis, as detailed by the health care provider on the Certification.
- 6.5 Employees must utilize accrued sick time first until sick leave accruals are exhausted. Employees may then request and utilize any accrued floating holidays (salaried only), vacation or other accrued paid time off (see Section 10.6 below) or be placed on no-pay status.
- 6.6 In all cases, time absent, whether paid or not, will be applied toward the applicable 26-week FMLA time period.

#### QUALIFYING EXIGENCY MILITARY FAMILY LEAVE ("QEL")

- 7.1 An employee who is a spouse, son, daughter, or parent of a covered service member called to, or on, covered active duty in regular or reserve components of the Armed forces during a deployment of the service member to a foreign country may take up to 12 workweeks of leave during any 12 month period for a "qualifying exigency."
- 7.2 Reasonable documentation of family relationship may be required.
- 7.3 A "qualifying exigency" is limited to the following: a) short notice deployment; b) attending certain military events and related activities; c) arranging for alternative childcare and school activities; d) addressing financial and legal arrangements; e), counseling ; f) rest and recuperation; g)attending post-deployment activities; and h) additional activities that arise out of active duty, provided that the employer and employee agree, including agreement on time and duration of the leave.

- 7.4 Leaves for Qualifying Exigencies shall be unpaid, unless the employee requests and is given permission to use accrued vacation time, floating holidays (salaried only) or other accrued time off (excluding sick time).
- 7.5 In all cases, time absent, whether paid or not, will be applied toward the applicable 12-week FMLA time period.

JOB SECURITY FOR SALARIED EMPLOYEES WHILE ON FMLA OR EXTENDED  
MEDICAL LEAVE

- 8.1 When a salaried employee is absent from work on any qualified consecutive FMLA leave, other than Military Family Leave, their position will only be held open for a period of three months beginning on the first day of absence for the first FMLA leave within a 12-month period, even if the employee has accumulated sick and/or vacation leave that extends beyond that three month period.
- 8.2 If a department intends to fill a salaried position held by someone on FMLA leave (other than qualifying Military Family Leave) at any time after the expiration of the three month job security period, the employee's supervisor must notify site/headquarters Human Resources and the employee of this intent.
- 8.3 For all FMLA leaves other than Military Family Leave, any extended leave beyond the three months FMLA and job security period up to, but not exceeding, six months must be approved by the employee's Business Unit head or Regional Manager in conjunction with Human Resources prior to informing the employee of the approval of the extension. By approving the extension, the Authority will attempt to maintain the availability of a position, but not necessarily the same position, for the agreed upon leave period. In these circumstances, there is no guarantee that the employee's current position will remain open. The Authority will attempt to place the employee in a similar (or lesser) position for which they are qualified at the time of return. A position will not be created. At the conclusion of six months, the employee will be advised that his/her continued employment has been terminated.
- 8.4 When an employee is absent from work on a qualifying Military Family Leave, their position will be held open for a period of up to six months beginning on the first day of absence for the first FMLA leave within a 12-month period, even if the employee has accumulated sick and/or vacation leave that extends beyond that six month period. At the conclusion of six months, the employee will be advised that his/her employment has been terminated.
- 8.5 Extensions of leave beyond the six month period will be considered on an individual basis. Such a request must be made in writing and can only be approved by the Human Resources Department Head. Such requests should be made as soon as practicable before the end of the six-month period and must include information from the health care provider about the employee's current medical status, expected return to work dates as well as any return to work conditions or limitations. Any remaining accrued sick leave

NEW YORK POWER AUTHORITY	EP:	3.3
	REVISION:	12
EMPLOYEE POLICY	DATE:	5/19/10

will also be taken into consideration in reviewing the request for an extension of the leave. For extensions of Military Family Leave beyond the six month period, the military member's current medical status and the employee's expected return to work date must be provided.

WORKERS' COMPENSATION

- 9.1 If an employee is out on a Workers' Compensation leave for a health condition which also qualifies as an FMLA leave, it will be treated concurrently as an FMLA leave.
- 9.2 In such cases, employees have the option of applying unused accrued sick and/or vacation time to their first three months of absence from work. The employee must complete a "Use of Vacation/Sick Accruals" form (provided by their Human Resources representative) to make their election, which is irrevocable. If the employee chooses to apply sick/vacation time towards a Workers' Compensation/FMLA leave and the Workers' Compensation claim is found to be compensable, sick/vacation time will be credited back to the employee on a prorated basis in a proportionate manner based on the amount of the award and the amount of sick/vacation time used or other Collective Bargaining Agreement contractual language.
- 9.3 Bargaining Unit employees are directed to their Human Resources Facilities Manager and the applicable Collective Bargaining Agreement or Benefit book.

PAYROLL STATUS WHILE ON FMLA LEAVE

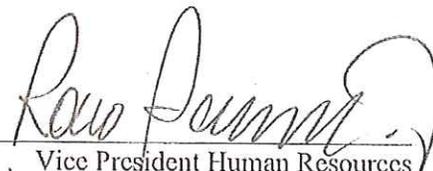
- 10.1 Depending on the particular type of leave and an employee's individual circumstances (including whether they are salaried or members of a bargaining unit), an employee may be eligible for income while on a FMLA leave through sick leave, sick leave at half-pay for salaried employees, vacation leave, short term disability for bargaining unit employees, and/or long term disability, or all or part of a FMLA leave may be unpaid.
- 10.2 Applicable benefits and associated payroll deductions (taxes, flexible benefit credits and deductions, NYS Retirement System contributions, PowerFlex, Employees' Savings Plan, loans, Liberty Mutual insurance, other insurance, etc.) will continue while an employee is out on any qualified FMLA leave and is still receiving compensation regardless of whether it is full- or half-pay (using sick or vacation accruals) or sick leave at half-pay, if applicable.
- 10.3 Deductions are prioritized by the Payroll Department. Any questions concerning the priority of deductions should be addressed to the Payroll Department and/or the applicable Human Resources representative.
- 10.4 For salaried employees, if an employee works on a part-time schedule prior to going out on FMLA leave, and is receiving compensation while on that leave, they will be paid based on the days they work on their part-time schedule.

- 10.5 For bargaining unit employees, holidays will be fully paid if during the calendar week in which such holiday occurs the employee has been on paid status at least two full days and all absences from work on the employee's remaining regularly scheduled work days during that week are approved in writing by the supervisor in accordance with the applicable Collective Bargaining Agreement. Employees on unpaid status prior to the calendar week of the holiday will not be paid for the holiday.
- 10.6 An employee on an FMLA leave who wants to use their accrued vacation time to cover any part of that leave must make a request to their local Human Resources Department. Without notification, accrued vacation time will not be automatically applied.
- 10.7 Holidays will be fully paid only if an employee is on a full-pay status (using sick or vacation leave or floating holiday) on the business day prior to the holiday. Holidays will be paid at half-pay if the employee is on sick leave at half-pay on the business day prior to the holiday. Employees on unpaid status on the day prior to a holiday will not be paid for the holiday.
- 10.8 Floating holidays, if accrued but not used before FMLA leave commences, must be used before any unpaid leave begins. If an employee on half or full pay status will be on leave at the end of the calendar year, and has not yet used their floating holidays, they will automatically be applied toward the leave prior to year's end.
- 10.9 Deductions and Credits:
- 1) FlexAbility Deductions
    - a) Where applicable, FlexAbility credits for Salaried employees, or payments for Waiving Coverage for IBEW employees and/or any other applicable benefit costs, will continue to be paid/deducted while an employee is out on FMLA leave and is still receiving pay from NYPA.
    - b) Once on a no pay status, in order for the benefit costs to remain a pre-tax deduction, where applicable, Human Resources and Payroll must receive enough advance notice (30 days) before a leave begins, to be able to arrange for the pre-tax deductions to be taken from the paycheck.
    - c) Otherwise, an employee must pay their applicable contributions to the Authority monthly during their leave on an after-tax basis. (Bargaining unit employees contact your HR Department for appropriate no pay status form)
    - d) The Authority's obligation to maintain the above coverages ceases if the contribution is more than 30 days late. The Authority must give 15 days' notice to the employee prior to the termination of benefits.
  - 2) If a portion of a salaried employee's FMLA leave will be unpaid, flex credits will be used to determine the premium they must pay to the Authority. The cost will

be based on the flex credits they were entitled to while being paid, minus the cost of deductions.

Bargaining Unit employees' payments will be based on their benefit elections and applicable contractual contribution.

- 3) All other deductions (i.e., PowerFlex accounts) will be doubled per pay-period when an employee returns to work until they are back on the appropriate annual deduction schedule or have made up the appropriate percentage amount.
- 4) Benefits Coverage Period:
  - a) Salaried employee's benefits will continue for 6 months (from first day of absence) as long as an employee pays the required employee contributions while they are out on leave.
  - b) A salaried employee's benefits will cease once the employee has been absent for six months from their first day of absence, even if their leave is approved to be extended beyond six months under the provisions of Section 8.5. If a salaried employee has 10 or more years of service with the Authority and is collecting long-term disability payments (see the Employee Benefits Handbook for Salaried Employees for LTD eligibility criteria), their health care coverage will be continued at a cost to them. The cost will be based on flex credits, minus the cost of the medical plan.
  - c) Bargaining unit employees should contact their Human Resources Facility Manager and refer to their applicable Collective Bargaining Agreement and Benefit book.

  
Vice President Human Resources

### DONATION OF VACATION LEAVE

This attachment allows eligible salaried employees who are on medical leave to receive vacation leave that has been donated by other salaried employees.

#### Eligibility

An employee *absent for his/her own personal illness or injury* who has been out for at least 20 *consecutive business* days due to a *serious health* condition and who has exhausted ALL accumulated sick and vacation leave credits will be eligible to receive donated vacation leave. The 20-day waiting period has been established in order to limit eligibility to long-term serious *health* conditions rather than short-term sick leave.

An employee receiving any form of pay (i.e., workers' compensation, sick leave at half-pay, long-term disability) is not eligible to receive donated vacation leave.

#### Who May Donate

An employee who has accumulated vacation leave credits and who is on the active payroll may donate vacation leave.

#### Donated Vacation Information

An employee may donate vacation leave in increments of 1 day.

A donating employee must be left with a remaining vacation leave balance of 5 days, in the event he/she needs the time for unforeseen reasons.

If an employee returns to work and all of the donated vacation leave is not fully utilized by the recipient, *up to 10 days of donated vacation may be kept by the employee. The remainder will be credited back proportionately to the donating employees based on the number of days donated by each employee compared to the total days donated.*

#### Procedures

When an eligible employee exhausts his or her accumulated sick and vacation leave credits, Payroll will notify the employee and his or her business group, unit/department head. The business group, unit/department head may, at his or her discretion, ask employees if they wish to donate vacation leave days. When determining whether an employee is eligible to receive donated vacation leave, the business group, unit/department head should consider factors such as the employee's attendance record. The business group, unit/department head, or his/her designee, should try to determine how much time is needed until the employee is eligible for long-term disability benefits.

When a department cannot provide an employee with a sufficient number of days at full pay until the employee is eligible for long-term disability benefits, the business group, unit/department head may request the Vice President of Ethics & Employee Resources at headquarters, or the Facility Manager of Human Resources at the sites, to solicit other departments to participate.

Donated vacation leave cannot exceed three months from commencement of the leave (the time at which the employee is eligible for long-term disability benefits).

An employee who wishes to donate vacation leave must complete a Vacation Donation Form (see Attachment 7) and submit the form to the employee's business group, unit/department head or designee, who in turn should forward the form to Payroll.

Payroll will credit the donated vacation leave days to the recipient employee's vacation leave balance (not calculated by rate of pay). Donated vacation leave will be paid to the employee at his or her regular rate of pay. Applicable payroll taxes and deductions will be withheld from such payments.

When an employee donates vacation leave, his or her vacation leave balance will be reduced by the number of days donated (not calculated by rate of pay).

VACATION DONATION FORM FOR SALARIED EMPLOYEES

TO: WPO Payroll

\_\_\_\_\_  
Donor's Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Department

\_\_\_\_\_  
Location

\_\_\_\_\_  
Extension

\_\_\_\_\_  
Number of Vacation  
Days to be Donated

\_\_\_\_\_  
Donated To

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

Cc: Recipient

NEW YORK POWER AUTHORITY	EP:	3.9
EMPLOYEE POLICY	REVISION:	1
	DATE:	2/20/09

PLEASE REFER TO THE PORTION OF THE EMPLOYEE POLICIES ENTITLED DISCLAIMERS WHERE YOU WILL FIND A STATEMENT, WHICH PERTAINS TO ALL EMPLOYEE POLICIES, INCLUDING THIS ONE.

### SICK LEAVE

1.1 This policy provides guidelines for the accrual and use of sick leave credits, sick leave at half-pay and long-term disability for salaried employees.

#### Sick Leave Accrual

2.1 Full-time salaried employees accrue sick time as follows:

- a) 3.46 hours per pay period if on a 37.5 hour work week
- b) 3.69 hours per pay period if on a 40 hour work week

2.2 Part-time salaried Authority employees (working 20 or more hours per week, but less than full-time weekly work hours) and provisional employees that work less than full-time (working at least 30 hours or more per week) accrue sick leave on a prorated basis based on the number of hours the employee is scheduled to work.

2.3 There is no maximum on the amount of sick leave credits that may be carried over from one year to another.

2.4 Sick time only accrues when an employee is on full-pay status. Accruals resume when the employee returns to full pay status.

2.5 In the event of an active employee's death, payment for accrued and unused sick leave, up to a maximum of 100 days, will be paid to the beneficiary designated by the employee for their NYPA life insurance. If no beneficiary is designated, or the designated beneficiary pre-deceases the employee, payment will be made as allowed by law.

2.6 Sick leave may be paid out to employees who retire with the New York State Retirement System directly upon separation of service from the Authority (see the Employee Benefits Handbook).

#### Sick Leave Usage

3.1 Sick time shall only be used for an employee's illnesses or injuries, or that of family members as specified in Section 3.4 below, and not substituted for any other type of absences.

3.2 Employees who are absent from work due to their own illness or injury (or that of eligible family members under Section 3.4), must notify their supervisor of such absence as soon as practicable, and keep the supervisor informed as to their expected date of return. Accrued sick leave may only be used in full or half-day increments.

- 3.3 Full or half-day absences (including reasonable travel and actual visit time) for trips to a health care provider will require use of sick leave credits, and prior approval of an employee's supervisor when foreseeable. However, supervisors may, with advanced approval, allow employees to take less than half-days off with flexible scheduling allowing employees to make up time by working extra hours on other days during the same pay period. Supervisors may also grant employees time off without using accrued sick leave if the absence is so brief that it does not affect the employee's work or performance.
- 3.4 Employees may use up to 10 sick days per calendar year to care for the medical needs of their sick children, spouse, parent (not parent-in-law), or domestic partner who has satisfied NYPA's Domestic Partner Benefits eligibility (even if not subscribed to NYPA Domestic Partner medical benefits). These days may also be used for caring for a wife or domestic partner recovering from routine childbirth.
- 3.5 An employee may not use more than three (3) consecutive or closely occurring intermittent business days due to their own "serious health condition," or that of their relatives listed in Section 3.4, without applying for and having the leave designated under the Family Medical Leave Act ("FMLA") leave (See EP: 3.3). When the absences exceed this three day period for a "serious health condition," the employee should provide notification to Human Resources, at which point the FMLA process will be initiated for eligible employees.
- 3.6 The Authority may require written medical documentation of an illness or injury, and/or that the employee be examined by a physician designated by the Authority before approving the use of any sick leave and/or prior to the employee's return to work. In addition, supervisors may request a doctor's note to confirm/verify a medical appointment on a given day and time.
- 3.7 Supervisors are responsible for monitoring sick leave usage for appropriateness, accuracy, and adherence to Employee Policies, and for remaining informed of employees' available sick and vacation balances when approving time off. Excessive and/or questionable patterns of absenteeism, frequency of requests for full or partial sick days, or low or zero balances should signal the need for further review or action which may take several courses [i.e.: need for Family Medical Leave Act ("FMLA"), performance issue, etc.] to prevent abuse of this benefit.
- 3.8 An employee's use of accrued sick leave is approved by his/her supervisor when the supervisor approves the employee's timesheet or electronic time record. If there are false time sheets or electronic time records of an employee's time and attendance, the employee (and depending on the circumstances, the supervisor who is responsible for approving such time) will be held accountable.

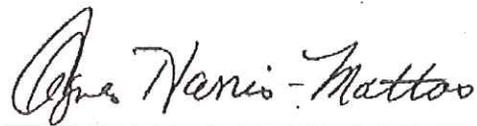
Sick Leave at Half-Pay

- 4.1 Employees who have completed one or more years of Authority service, are eligible for sick leave at half-pay during an approved Employee Medical Leave (“EML”) under the FMLA when they do not have, or have exhausted, sufficient accumulated sick leave credits to cover their FMLA leave. For part-time or provisional employees that are less than full-time and on EML, sick leave at half-pay will be paid on a prorated basis based on their weekly work schedule.
- 4.2 The cumulative total of all sick leave at half-pay shall not exceed two pay periods (four weeks) for each completed year of service. However, vacation leave may be used to complete a full year of service for sick leave at half-pay purposes if it used before sick leave is exhausted. This use of vacation time does not extend any job security or FMLA time periods.
- 4.3 Sick leave at half-pay will be paid retroactively from the first day an eligible employee is without sick leave credits through either the end of their EML or earlier through the exhaustion of the half-pay benefit, or due to the circumstances described in Section 4.6 below.
- 4.4 Upon request, and with the approval of the local Human Resources Benefits Group, sick leave at half pay may be allowed to minimally exceed the 12 workweek FMLA entitlement period in those limited unique situations where there is a small gap of time between the end of the maximum sick leave at half pay benefit and the beginning of the LTD eligibility period.
- 4.5 Sick leave at half pay will be replenished a) if an employee has returned to work from an EML for at least 30 calendar days and then needs to go out again for that same illness or injury, or b) without regard to timing, if an employee has returned to work from an EML and then needs to go out again for a different illness or injury. However, in no event will the replenishment of sick leave at half-pay extend any job security or FMLA time periods.
- 4.6 If an employee who has already been on an approved FMLA leave other than an EML, returns to work and then goes back out for their own illness or injury on an approved EML within the same FMLA yearly period, the employee will only be eligible to receive sick leave at half-pay for the remaining FMLA time period (even if the employee’s own medical needs extend beyond the total 12-week FMLA entitlement). See EP: 3.3.
- 4.7 All payroll deductions will continue to be made regardless of whether an employee on sick leave is being paid on a full or half-pay status. Any questions concerning the priority of deductions should be addressed to the Payroll Unit and/or the applicable Human Resources representative.

- 4.8 Employees receiving sick leave at half pay or on no pay status are not eligible to receive Holidays, Floating Holidays, sick accruals or annual vacation accruals until they return to work on either full or part-time status. Those on sick leave at half pay will receive half pay benefit for all days which occur during their sick leave at half pay.

Long Term Disability

- 5.1 Employees may be eligible for benefit payments under the Long-Term Disability Plan they selected at open enrollment, once they have been on leave for three consecutive months of absence for their own illness or injury, and after they have exhausted all of their accrued sick time. Provisional employees are not eligible for long-term disability. Information on long-term disability is provided in the Long-Term Disability booklet available from Human Resources and the Employee Benefits Handbook for Salaried Employees on the NYPA Intranet.



Vice President Human Resources

NEW YORK POWER AUTHORITY	EP:	3.8
EMPLOYEE POLICY	REVISION:	5
	DATE:	01/01/2010

PLEASE REFER TO THE PORTION OF THE HUMAN RESOURCES POLICIES ENTITLED DISCLAIMERS WHERE YOU WILL FIND A STATEMENT WHICH PERTAINS TO ALL EMPLOYEE POLICIES, INCLUDING THIS ONE.

### RELOCATION BENEFITS FOR NEW AND TRANSFERRED EMPLOYEES

- 1.1 This policy applies to those employees who have been offered relocation benefits by the Director of Compensation and Benefits or his/her designee or the Facility Manager of Human Resources (for site employees). Relocation benefits may be provided to eligible employees based on the Recruiting Location Guidelines (Attachment 1) utilized by Human Resources. Relocation benefits may be offered to an employee who: (1) meets the IRS distance test described below and other criteria as specified in IRS Publication 521- Moving Expenses, (2) meets all other criteria within EP 3.8, and (3) is either:
- (a) a full-time, salaried employee or union employee (other than a temporary or provisional employee) who meets all other criteria and is transferring to an exempt salaried position at the request of the Authority (no minimum grade required), or who applies for a posted exempt salaried position and is hired from one Authority facility to another, for a period that is expected to last one year or longer;
  - (b) newly hired from outside the Authority as an exempt, full-time, salaried employee (other than a temporary or provisional employee) at any Authority location for a period that is expected to last one year or longer;
  - (c) a provisional employee who is offered full-time exempt salaried employment with the Authority, with benefits subject to certain limitations (see 6.1).

Please contact the Corporate Controller's group regarding assignments of less than one year. The Corporate Controller's group provides the most up-to-date information regarding per diem rates and associated issues.

- 1.2 This policy shall be applicable only if relocation benefits are extended by the Director of Compensation and Benefits or his/her designee or the Facility Manager of Human Resources at the facilities to the transferred employee at the time the transfer is formally approved or authorized by the Human Resources Department, or to the new employee at the time an official offer of employment is extended by an Employment Administrator in the White Plains Office or the Facility Manager of Human Resources at the facilities.
- 1.3 The Director of Compensation and Benefits or his/her designee shall have sole discretion in determining whether an employee or new hire otherwise meeting the requirements specified herein may be offered relocation benefits.
- 1.4 If relocation benefits are offered to a newly hired employee, the policy shall be distributed and explained to the employee at the time the offer of employment is officially extended by an Employment Administrator or the Facility Manager of Human Resources at the facilities.

NEW YORK POWER AUTHORITY  EMPLOYEE POLICY	EP: REVISION: DATE:	3.8 5 01/01/2010
---	---------------------------	------------------------

- 1.5 If relocation benefits are offered to a transferring employee, the policy shall be distributed to and fully explained to the employee by the respective Site Human Resources Representative or the Director of Compensation and Benefits or his/her designee in the White Plains Office. This should be done for employees who are contemplating a transfer from one site to another **before** the offer is accepted. A transferred employee has the option of choosing either the Relocation Benefits as outlined in this policy or a \$12,000.00 stipend, grossed up for tax purposes. If Relocation Benefits are being offered, the staffing authorization for a transferee or a new hire must include this information. **If a transferred employee chooses the Relocation Benefits outlined in this policy and owns a house, appraisals must be conducted prior to the transfer being accepted.** The average of two appraisals will be used to determine the fair market value of the property. In the event that the two appraisals vary by more than 10%, a third appraisal may be conducted at the request of the transferring employee and the three appraisals will then be used to determine the average anticipated sale price of the property. These appraisals will be coordinated by the Director of Compensation and Benefits or his/her designee.
- 1.6 A new employee has the option of choosing either the Relocation Benefits outlined in this policy or a \$12,000.00 stipend. If the new hire chooses the stipend option, the above mentioned gross-up is **not** applicable, and the lump-sum will be taxed.

#### IRS Distance Test

- 2.1 According to the IRS Distance Test, the new main job location must be at least 50 miles further from the employee's former home than his/her prior job location. For example, if the prior work or job assignment was three miles from the employee's former home, the new work or job assignment must be at least 53 miles from the former home. If the IRS should change this distance test, the one in effect at the time of relocation shall apply.
- a) In determining whether or not a relocation candidate meets the IRS distance requirement, the Rand McNally Standard Highway Mileage Guide, and/or the American Automobile Association, and/or reputable online mapping resources will be consulted.
  - b) The distance between two points is the shortest of the more commonly traveled routes between those points. The distance test does not apply to the location of the new home.
  - c) In determining whether a provisional employee who is offered employment on a full-time basis meets the distance requirement for the purposes of this policy, NYPA will treat prior job location for purposes of the distance test as the job prior to the NYPA provisional assignment.
- 2.2 In determining if an employee is in compliance with the distance test NYPA does not determine and is not responsible for tax implications. The relocating employee is advised to consult with his/her own tax advisor.

NEW YORK POWER AUTHORITY	EP:	3.8
EMPLOYEE POLICY	REVISION:	5
	DATE:	01/01/2010

Financial Controls & Tax Implications

3.1 This policy must be applied with attention to the most cost-effective and economic means. Therefore, only those expenses incurred in accordance with the Authority's guidelines and procedures which are in the opinion of the Corporate Human Resources Department to be reasonable and cost effective, will be reimbursed under this policy.

Note:

- a) The Authority does not reimburse any New York State sales tax. To avoid being charged New York State sales tax the relocating employee should submit a State of New York Exemption Certificate to the vendor. Exemption Certificates are available from the WPO Benefits Department, Facility Manager of Human Resources, or the Corporate Travel Department. (It is the responsibility of the relocating employee to obtain and utilize the Exemption Certificate).
- b) The employee is eligible for up to two days off with pay to conduct the move of his/her household goods. Paid time off must receive prior approval of the employee's immediate supervisor.
- c) Reimbursement for covered expenses is limited to the first six months of employment or transfer from one Authority facility to another.

3.2 Expenses reimbursed under this policy are includible in an employee's gross income. An employee may be able to offset some or all of the expenses reimbursed under this policy by itemizing his/her moving expense deductions. **The employee is advised to consult his/her own tax advisor.**

3.3 If the employee is responsible for any tax liability associated with the relocation, the tax liability is outlined in IRS Publication 521 - Moving Expenses, which is provided to the eligible employee along with the Policy. The Authority will withhold taxes on all amounts reimbursed under this policy in accordance with the Internal Revenue Code and IRS regulations and Authority Accounting Procedure AP 85-01, Employee Relocation Expense Reimbursements.

3.4 If any reimbursements for transferred employees under this policy are considered taxable income, such reimbursements shall be subject to an appropriate gross-up to provide compensation for the employees' additional local, state and federal tax obligations.

3.5 The newly hired employee shall be solely responsible for all taxes payable on the amounts received pursuant to this policy and the Authority shall not provide additional compensation for any such tax liability in the form of a gross up, indemnity, or otherwise. **The employee is advised to consult his/her own tax advisor.**

NEW YORK POWER AUTHORITY	EP:	3.8
EMPLOYEE POLICY	REVISION:	5
	DATE:	01/01/2010

#### Exceptions

- 4.1 The Authority recognizes that extenuating circumstances may necessitate a deviation from this policy. A deviation will be deemed an exception to the policy. For an exception to be considered, detailed written justification as to the need, as well as an indication of which comparably valued reimbursable expense(s) the employee is willing to surrender to offset the cost of the exception, is required. If the employee is not willing to surrender a reimbursable expense(s) of comparable value, the exception will be denied.
- 4.2 The justification/expense-offset indication must be sent to the Director of Compensation and Benefits or his/her designee in the White Plains Office for review; it will then be determined whether the request for exception is approved or denied. **Exceptions above and beyond the provided benefits under policy 3.8 will be charged to the department to which the employee is being hired/transferred.**
- 4.3 Any exception to this policy, other than outlined in sections 4.1 and 4.2, will require detailed written justification as to the business need. The justification must be sent to the Director of Compensation and Benefits in the White Plains Office for review and recommendation to the Human Resources Department Head or his/her designee who determines whether the request for exception is approved or denied.

**The following items as described below may be reimbursed under this policy:**

#### House Hunting

- 5.1 Reimbursable house hunting trips must not exceed three trips or a maximum of six days of house hunting (three trips maximum, i.e., three two-day trips or two three-day trips).
- 5.2 Transferred employees must conduct house-hunting trips within the first three months of the employees' transfer date to the new position. The transferred employee will be granted up to three days off with pay for house hunting to locate a new residence. Scheduling of these paid days off is subject to prior approval of the employee's supervisor.
- 5.3 New employees must conduct house-hunting trips within the first three months of employment with the Authority. House hunting trips must be conducted on the new employee's own time.
- 5.4 Air or train travel reimbursement for house hunting must be approved by the Director of Compensation and Benefits or his/her designee at headquarters or the Facility Manager of Human Resources with concurrence from the Director of Compensation and Benefits prior to incurring the expense.
- 5.5 **To obtain the best possible lodging and transportation rates for house hunting trips, the employee must make all travel arrangements through the Authority's Travel Department. If the Travel Department is not used, the employee will not be reimbursed.**

NEW YORK POWER AUTHORITY	EP:	3.8
EMPLOYEE POLICY	REVISION:	5
	DATE:	01/01/2010

- 5.6 Arrangements with the Travel Department for lodging and transportation during the house hunting trips are the responsibility of the employee unless other arrangements are made with the Benefits Representative in the White Plains Office or the Facility Manager of Human Resources. During house hunting, occupation of more than one hotel room must be approved by the Benefits Representative prior to incurring expenses.
- 5.7 An employee will be reimbursed through the use of a Relocation Expense Statement with itemized receipts for the following reasonable travel and living expenses which may be incurred by the employee and spouse during the search for a new residence near the facility:
- a) Travel by personal car at the Authority established rate per mile which includes the mileage traveled to and from the area of the new work site, or in connection with authorized air or train travel to and from the airport/station; **use of a rental vehicle for house hunting will be applied towards the employee's miscellaneous expense allowance.**
  - b) Fees for tolls and parking expenses incurred in connection with house hunting and travel by personal car, or in connection with authorized air or train travel to and from the airport/station;
  - c) Travel by air or train with prior approval provided that reservations are made through the Authority's Travel Department to obtain the best possible fare.
  - d) Reasonable meal expenses for breakfast, lunch and dinner, for the employee and his/her spouse may be reimbursed (providing house hunting does not take place during the interim living period); and must not exceed the daily maximum allowance as specified in the Corporate Accounting Policy (1.5).
  - e) Reasonable lodging expenses. The Authority issued AMEX charge card should be used for this expense. If the employee does not have an Authority issued AMEX charge card, a personal credit card may be used.

Interim Living Expenses

- 6.1 Reimbursement for interim living expenses will be provided for the employee who has been transferred or begun new employment and must live in temporary lodging at the new location. Interim living expenses should begin as close to the employees start date as possible. **Provisional employees who are hired on a full-time basis are not entitled to interim living expenses as detailed in 6.1 – 6.7.**

NEW YORK POWER AUTHORITY  EMPLOYEE POLICY	EP: REVISION: DATE:	3.8 5 01/01/2010
---	---------------------------	------------------------

- 6.2 Interim living expenses will be reimbursed to the employee for a maximum of three months, which should be taken during the first six months of employment or transfer from one Authority facility to another. Any day in which the employee submits living expenses during their move to the new residence or when moving their household goods, will be included in the three month maximum if the move is conducted within the Interim Living period. Any expenses incurred for moving to the new residence and/or movement of household goods beyond the six-month maximum time period will not be reimbursed.
- 6.3 A lump sum gross amount of \$3,250 per month downstate (WPO and POL) and \$2,500 per month upstate (B-G, CEC, NIA, and STL) will be provided for employee's interim living expenses. An employee will be reimbursed this lump sum amount by submitting a Relocation Expense Statement at the end of each month. No receipts are required; however, in the Explanation section on the Relocation Expense Statement the period of time for which reimbursement is being requested must be indicated. Expenses for a partial month will be pro-rated. Interim living expenses will not be paid for time beyond the earlier date of delivery of household goods or occupying the new home. Under no circumstances will interim living expenses exceed three months.
- 6.4 It is the responsibility of the employee to make any interim living and transportation arrangements.
- 6.5 Travel, tolls, and parking expenses incurred during the commute to and from work during the interim living period are at the employee's own expense.
- 6.6 The following will be covered by the appropriate monthly lump sum:
- a) Charge for a hotel or rental fees;
  - b) Charge for laundry;
  - c) Charges for local and long distance telephone calls;
  - d) Expenses for meals.
- 6.7 The employee may be reimbursed for trips home every other weekend or holidays when the family still resides at the former residence. If the employee elects to make a trip home by personal car, mileage will be reimbursed in accordance with the Authority's Travel Policy, CP: 2.1. If the employee elects to travel home by air or train, the fare, which must be arranged by the Authority's Travel Department, and parking and tolls connected with the travel will be reimbursed. Reimbursement will not be made beyond the three-month interim living period.

NEW YORK POWER AUTHORITY  EMPLOYEE POLICY	EP: REVISION: DATE:	3.8 5 01/01/2010
---	---------------------------	------------------------

Moving to New Residence

7.1 The employee will be reimbursed when itemized receipts are furnished through the use of a Relocation Expense Statement for the following covered expenses for the employee and his/her family which may be incurred during the actual move from the time the old residence is vacated until the arrival at the new residence. Actual dates of vacating the old residence and arrival at the new residence, should be clearly indicated on the Relocation Expense Statement:

- a) The reasonable charge for meals. There is a daily maximum allowance specified in the Corporate Accounting Policy (1.5). Meals submitted under the relocation policy as a qualified expense, or if a lump-sum or stipend is provided to the employee, may not be reimbursed as a business expense under any other Authority policy.
- b) The reasonable charge for a hotel room. Hotel rates **must** be discussed with the Benefits Representative in the White Plains Office or the Facility Manager of Human Resources for approval prior to incurring expenses. While moving to the new location, occupancy of more than one room per family **must** be approved by the Benefits Representative in the White Plains Office prior to incurring expenses;
- c) Travel for up to two personal vehicles at the Authority established rate per mile while traveling from the old residence to the new residence. In no instance will mileage for travel of more than two personal vehicles be paid by the Authority; The Authority does not reimburse for transport of vehicles by commercial van line.
- d) Tolls for a maximum of two personal vehicles;
- e) Any day used for moving to the new residence will be included in the three months allocated for interim living.

Movement of Household Goods

- 8.1 The employee may elect to have his or her household goods moved from the old residence to the new residence either by a commercial van line or through a self-move using a rental vehicle.
- 8.2 If a commercial van line is used, the employee must use the services of one of the current moving companies with whom the Authority has contracted. A moving company will be assigned on a rotational basis.
- 8.3 Shipment of household goods by a commercial van line will be limited to the move from the location of the former primary residence to the location of the new primary residence.

NEW YORK POWER AUTHORITY  EMPLOYEE POLICY	EP: REVISION: DATE:	3.8 5 01/01/2010
---	---------------------------	------------------------

8.4 The following items will be covered expenses which may be incurred in a commercial van line move:

1. linehaul charges;
2. insurance charges - declared value;
3. cost of containers;
4. charges for packing and basic unpacking;
5. shipment of appliances and servicing; (third party fees - services provided by an individual or company other than the assigned moving company will not be reimbursed).

8.5 The following items are **not** covered in a commercial van line move:

1. extra pick-up/delivery;
2. automobiles, boats, or any other recreational or lawn vehicles
3. frozen food, and/or perishable goods;
4. swing sets, pool tables, lumber/building materials, or any other cumbersome items;
5. storage and associated costs;
6. crates and/or crating charges.

Movement of any other unusual, cumbersome or dangerous items will be subject to prior approval by the Benefits Representative in the White Plains Office with concurrence from the Director of Compensation and Benefits.

8.6 The employee who elects a self-move may be reimbursed for the following items through use of a Relocation Expense Statement when itemized receipts are furnished:

1. rental of the vehicle;
2. cost of containers and equipment for packing;
3. insurance coverage;
4. rental of a tow bar for a personal vehicle;
5. gas used during rental of a vehicle;
6. servicing of appliances.

8.7 In no event will an employee be reimbursed for any labor involved during the course of a self-move, (i.e., to help load the vehicle).

#### Miscellaneous Relocation Expenses

9.1 Employees will be reimbursed through the use of a Relocation Expense Statement with itemized receipts for miscellaneous expenses which may be incurred by the employee when relocating to the new location that are not otherwise listed as covered expenses in this policy, not to exceed \$1,500 for new hires or \$1,800 for transferees.

NEW YORK POWER AUTHORITY	EP:	3.8
EMPLOYEE POLICY	REVISION:	5
	DATE:	01/01/2010

- 9.2 Proof of payment will be required in order to be reimbursed for these expenses (i.e., cancelled check and invoice).
- 9.3 Items that would be reimbursed may include, but are not limited to:
- a) Expenses incurred for disconnecting and reconnecting of appliances, if done by a third party and separate from commercial van line charges;
  - b) Installation charge for telephone service at new residence;
  - c) Rental car expenses during house hunting, including gasoline for the rental car only in cases where the employee travels by air or train to the new location, or a personal vehicle is unavailable;
  - d) Child care expenses necessary to permit employee and spouse to search for a new residence. Childcare will be covered up to \$7.00 per hour or \$350.00 per week for in-home care for all of the employee's children. Childcare arrangements such as day care centers, family day care and live in arrangements must be discussed with the Benefits Representative in the White Plains Office or the Facility Manager of Human Resources;
  - e) Installation charge for television/internet/cable connection which was installed in the employee's previous residence. Proof of telephone/cable/internet connection in employee's previous residence and new residence in the form of recent invoices must be provided;
  - f) Fees for kennel or shipment of pets; and
- 9.4 See Attachment 2 for additional reimbursable expenses for transferred employees.

Reimbursement to the Authority

All benefits provided under this Policy are contingent upon the employee's continued employment with the Authority for a continuous period of at least one year from the employee's start date at the new Authority location. If the employee separates from service voluntarily prior to completion of such one-year period, he/she shall reimburse the Authority for a portion of all benefits (including any gross-up if applicable) paid under this policy in the following manner: (1) 75% of the total benefits (including any gross-up if applicable) provided if separation occurs within six months of the employee's start date at the new Authority location; (2) 50% of the total benefits (including any gross-up if applicable) provided if separation occurs on or after six months but prior to the completion of the one-year period.

- 10.1 In determining the portion of benefits which must be reimbursed by the employee under this policy, the one-year period shall be calculated from the first day of work at the new location.

NEW YORK POWER AUTHORITY	EP:	3.8
EMPLOYEE POLICY	REVISION:	5
	DATE:	01/01/2010

- 10.2 In the event that a reimbursement is due and owing to the Authority under this policy, the Authority shall deduct such amount from monies which would otherwise be payable by the Authority to the employee until the required reimbursement is satisfied. This shall be accomplished via payroll deduction from monies which would otherwise be due the employee in the following order: first, payments allocable to unused vacation time; second, payment for services rendered. If such deductions are insufficient to satisfy the reimbursement due hereunder, the employee shall provide the Authority with a certified check for the balance prior to his/her last day of employment.
- 10.3 Prior to the receipt of any relocation monies available under this policy, an employee shall indicate his/her affirmative consent to the reimbursement procedures specified in this policy by signing the Relocation Reimbursement Option Certification (Attachment 3).



Vice President Human Resources

NEW YORK POWER AUTHORITY  EMPLOYEE POLICY	EP: REVISION: DATE:	3.8 5 01/01/2010
---	---------------------------	------------------------

ATTACHMENT 1

RECRUITING LOCATION GUIDELINES FOR RELOCATION

The recruiting process limits the location of the search for different positions which therefore limits the availability of relocation benefits. All non-exempt positions and any position that falls outside of the following recruitment guidelines are ineligible for relocation benefits.

Eligible Positions for Relocation Benefits:

East of the Mississippi:

Exempt positions (non-engineering): grades 4-6, grades C-D, and leadership bands

Engineering and positions related to the generation and transmission of power: grades 2-6, grades C-D, and leadership bands

Nationwide:

Exempt (non-engineering) positions: leadership bands only

Engineering and positions related to the generation and transmission of power: grade D and leadership bands

ADDITIONAL REIMBURSABLE EXPENSES  
FOR EMPLOYEES **TRANSFERRED**  
FROM ONE AUTHORITY LOCATION TO ANOTHER

1.0 Sale of Residence at Former Location

- a) The transferred employee will be reimbursed through the use of a Relocation Expense Statement, with itemized receipts and a copy of the signed Settlement Statement (HUD Form), for the following expenses which may be incurred during the sale of his/her residence at the former location:

- 1) Real estate broker's commission not to exceed six percent of the gross selling price;
  - 2) Personal attorney's fees not to exceed one percent of the selling price.
- 

Additionally the transferred employee will receive up to a maximum of 5% of the gross selling price to cover the following expenses:

- 3) FHA, VA, and GI mortgage fees which are paid on the old residence. Reimbursement up to a maximum of three points;
- 4) Appraisal fee on former residence when appraiser is certified, whether or not transfer is accepted by employee;
- 5) Property survey fee, if this is a seller's expense in an amount as dictated by locale;
- 6) Lender's legal fees for preparing and recording legal documents and searching the title, if this is a seller's expense in an amount as dictated by the locale;
- 7) Unavoidable prepayment penalty fees on mortgage;
- 8) State transfer tax;
- 9) Records mortgage satisfaction and mortgage pick-up fees paid to the title company; and
- 10) Radon testing and resultant modifications required to sell old residence, not to exceed \$500.00 when proper documentation has been provided indicating that property is located in radon area.

2.0 Renting at Former Location

- a) A penalty for cancellation of the lease not to exceed security deposit and two-months' rent less any amount earned by subleasing will be reimbursed when itemized receipts are furnished, accompanied by a complete Relocation Expense Statement;
- b) Forfeiture of security deposit as the result of damages to the residence is not covered.

### 3.0 Purchase of Residence at New Location

3.1 If the transferred employee was renting at former location, he/she will not be reimbursed for expenses which may be incurred if he/she chooses to purchase a residence at new location.

3.2 The transferred employee will be reimbursed through the use of a Relocation Expense Statement with itemized receipts and a copy of the signed Settlement Statement for the following expenses which may be incurred when purchasing a residence at the new location;

- a) Personal attorney's fees not to exceed one percent of the purchase price;
- b) Closing costs not to exceed five percent of the purchase price which have been incurred for:
  1. lender's legal fees for preparing and recording legal documents and searching the title, if this is a purchaser's expense in an amount as dictated by the locale;
  2. loan origination fees - one point maximum;
  3. pre-purchase appraisal fees;
  4. inspection fees (radon, pest and flood only - not structural);
  5. lender's mortgage title insurance premium; (if not broken out by lender's/owner's premium, no amount will be reimbursed);
  6. credit report;
  7. application fee;
  8. property survey fee, if this is a purchaser's expense in an amount as dictated by locale;
  9. real estate taxes (escrow for those taxes are not reimbursed) state tax stamps only;
  10. lump sum mortgage insurance premium - private mortgage insurance premium (PMI) will not be reimbursed; and
  11. points - not to exceed three (this includes one point for origination fees).

### 4.0 Renting at New Location

The transferred employee will be reimbursed through the use of a Relocation Expense Statement with itemized receipts for real estate broker's fees in connection with the rental of an apartment or house, not to exceed ten percent of the first year's rent.

**Relocation Reimbursement Option Certification**

I, \_\_\_\_\_, hereby choose to receive:

Relocation Expense (as outlined in Relocation Policy EP 3.8)

or

A \$12,000.00 stipend in lieu of the relocation benefits available under the New York Power Authority's ("Authority") Relocation Policy, EP 3.8. In doing this I relinquish all relocation benefits that I would otherwise be eligible for as a newly hired or transferred employee.

Taxable lump-sum

Net stipend (for Transferred employees only)

I also agree that I will provide reimbursement to the Authority according to the schedule listed below if I voluntarily separate employment prior to completion of one year of service at the Authority.

1. I will reimburse the Authority 75% of the total benefit received, provided separation occurs within six months of my start/transfer date to the new Authority location.
2. I will reimburse the Authority 50% of the total benefit received, provided separation occurs on or after six months, but prior to the completion of one year beginning from my start/transfer date to the new Authority location.

In the event that my employment should terminate involuntarily, I understand that the above mentioned reimbursement will not be required.

I further authorize the Authority to deduct any such reimbursement due and owing to the Authority from such amounts as may otherwise be payable to me until full reimbursement is made to the Authority. Specifically, I hereby authorize payroll deduction first from any and all monies attributable to unused vacation time and second, if required, from compensation for services rendered.

If the above amounts provide insufficient to cover the entire reimbursement due and owing to the Authority, I hereby agree to provide the Authority with a certified check or money order for the balance prior to my last day of employment.

I acknowledge that this certification is not an employment contract and will not be construed or interpreted by me as containing any guarantee of continued employment. I recognize that my employment with the Authority shall be at-will and that the Authority may terminate my employment at any time and for any reason. I may also terminate my employment at any time and for any reason.

\_\_\_\_\_  
Signature Date Sworn to before me on the \_\_\_\_ day of \_\_\_\_\_

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Received by HR (Initial and Date)

**SUBJECT: TRAVEL**

**1.0 SCOPE**

This policy establishes guidelines for business travel arrangements and travel expense reimbursements.

**2.0 IMPLEMENTATION**

This policy shall be adhered to by the staff of all Authority Business Units and Departments. 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**

- 3.1.1 Employees must use Power Business Travel, (the Corporate Travel Desk or CTD), for air, hotel and car rental arrangements in order to be reimbursed for business travel expenses.
- 3.1.2 The CTD will make the most cost effective arrangements that meet the traveler's needs. Exceptions or changes to CTD recommended arrangements must be approved by the traveler's Business Unit/Department Head.
- 3.1.3 Travel associated invoices must be submitted with expense statements for reimbursement, except in emergency travel situations.
- 3.1.4 In the event that emergency travel arrangements are made by the traveler, written explanation of the circumstances, along with approval by the Business Unit or Department Head, must be provided with the expense statement in lieu of an invoice from the CTD to ensure reimbursement.
- 3.1.5 Every effort will be made to meet employee travel needs while taking advantage of NYS contracted or "economy/advance purchase" airfares, "government" or "corporate/seminar" lodging rates and "negotiated" or "discount" rates for vehicle rental.

- 3.1.6 Tax exempt forms should always be used to prevent state and local taxes from being added to hotel or car rental bills whenever employees are traveling in New York State, since New York taxes will not be reimbursed on employee expense statements.
- 3.1.7 Power Business Travel will make the most cost effective arrangements for out-of-office meetings, seminars and training sessions, and must be used to book the rooms and facilities required for these types of events.
- 3.1.8 Power Business Travel will optimize cost savings and minimize trip times by scheduling/assigning the company plane and arranging charter flights as appropriate. (See sections 3.8 and 3.9)
- 3.1.9 Whenever possible, employees should use fleet vehicles, which will be maintained at all sites, to secure ground transportation for business purposes; however, employees are expected to use alternate means, including personal vehicles, if fleet vehicles are not available.
- 3.1.10 Expenses incurred for meals while traveling will be reimbursed according to the Corporate Accounting Policy (CAP) 1.5, Reimbursement of Employee Meal Costs.
- 3.1.11 Any exceptions to this policy must be approved by the Director of Corporate Support Services. In the case of exceptions for Business Unit Heads, Trustees or the President, approval of the Executive Vice President Corporate Services and Administration, will be required.

## **3.2 Responsibilities**

- 3.2.1 The Business Unit or Department Head who is empowered to approve the Employee Expense Statement ensures that staff complies with the provisions of this policy.
- 3.2.2 Travel coordinators at Power Business Travel and the sites inform the traveler and document on the itinerary/invoice all the exceptions to this policy requested by the traveler.
- 3.2.3 Employees are responsible for compliance with this Corporate Policy and also for verification that all travel arrangements are correct.

- 3.2.4 The Director of Corporate Support Services implements this policy and determines appropriate revisions.

### **3.3 Travel Arrangements**

- 3.3.1 Employees must book all business travel through the CTD. An Authority Travel Coordinator will book the most cost effective and time efficient travel for the employee's trip.
- 3.3.2 If an employee requests a different itinerary than provided by the CTD, then the CTD will issue a copy of the employee's proposed itinerary, with the CTD-suggested itinerary, indicating the fares and difference in prices. The employee's proposed itinerary will be stamped "Exception Itinerary Authorization", and, in order to take preference over the CTD-suggested itinerary, must be approved by the employee's Business Unit/Department Head or their designee and be returned to the CTD before tickets can be issued. Any such action will include specific reasons why the approval has been granted.
- 3.3.3 Employees should make travel requests as far in advance as possible, so that the Travel Coordinator may obtain the lowest airfares and hotel rates. The travel request should include preferred time and departure airport, location and dates of meetings/accommodations, etc.
- 3.3.4 Every effort will be made to secure alternatives that meet both the employee's preferences and this policy. The Travel Coordinator will notify the employee if preferred routings, departure times, or hotel accommodations are not available or if preferred airlines or airports or hotel accommodations are not the most reasonable and lowest-cost alternatives. New York State Office of General Services (OGS) negotiated fares will always take precedence over whatever airline or routing that the passenger prefers.
- 3.3.5 The Authority allows employees to participate in and keep the benefits of "frequent flyer" and other mileage/usage related programs. However, required business travel will not be arranged to meet any particular program requirements, unless program pricing is equal to or less than competing alternatives.
- 3.3.6 If the employee is traveling on Power Authority business outside the U.S., the employee may need a valid passport. If the employee needs to acquire or renew his U.S. Passport to conduct Authority

business, then the Authority will reimburse the employee for that expense.

- 3.3.7 Anyone attending an out-of-State seminar or conference must submit a copy of the agenda with his/her travel request.
- 3.3.8 After attending a conference, an employee shall submit a post-conference report to his/her supervisor on what seminars or classes were attended and how it benefited him/her as well as NYPA.

### **3.4 Reimbursement**

- 3.4.1 Business air or train travel will be charged by the CTD to a centralized Citibank VISA account that will be reconciled by Accounting. Air and/or train travel for NYPA business will not be expensed by the individual traveler.
- 3.4.2 Travel expenses, other than air or train tickets, are reimbursed through the Employee Expense Statement (hard copy or electronic, whichever applies). The employee submitting an expense statement is responsible for its accuracy and completeness. Additionally, the signature or electronic approval of the employee's supervisor, manager, director (or higher) indicates that the expense statement is complete, meets documentation and receipt requirements, includes only reasonable business expenses and is in compliance with this policy.
- 3.4.3 Travel invoices issued by the CTD in response to an employee's requested trip arrangements must be attached to an employee's expense statement to ensure reimbursement of approved business expenses.
- 3.4.4 Employees will not be reimbursed for any travel expenses not in compliance with this policy.

### **3.5 Air Transportation**

- 3.5.1 The Travel Coordinator will seek to provide economical airfares which could include a one-stop flight or a connecting flight with a layover of two hours or less. Employees should be ready to accept alternative reservations established within a two hour "window" of their requested departure times in order to achieve fare savings.



- 3.5.2 All business travel of less than 2500 one-way air miles will be booked in "coach". If a business traveler has one way flight time exceeding 7 hours to their destination, the traveler can depart a day earlier so that he/she can be rested for the next day's activity. If a business traveler has one way flights that exceed 2500 air miles, business class may be booked instead of coach upon the approval of the Executive Vice President Corporate Services and Administration.
- 3.5.3 If a New York State Office of General Services (OGS) negotiated fare is available for a traveler's proposed trip, then that fare will be used as long as it fits the requirements of provision 3.5.1. If an "incentive" or "special" fare is also available for the same city-pair, then that roundtrip fare may be used if the savings is more than \$200 over the OGS roundtrip fare.
- 3.5.4 "Special fares" frequently provide substantial fare savings, but may carry up to a 100% charge for changes or cancellations. These fares can be very economical, but they have scheduling drawbacks, and should be used with caution. If these fares are booked and a change or cancellation is required due to legitimate business circumstances, the Authority will absorb the expense and charge the employee's cost center.
- 3.5.5 Employees may use a transportation differential of up to \$200.00 to choose between trips originating from the New York City airports, i.e., LaGuardia, JFK and Newark, and from Westchester County Airport or Newburgh/Stewart Airport. For example, if a trip originating from Newburgh/Stewart costs over \$200.00 more than the same trip from Newark, then the employee's trip will be booked from Newark unless an exception itinerary for Newburgh/Stewart is approved by the individual who signs off on the employee's expense statement or the employee agrees to pay the amount in excess of \$200.00
- 3.5.6 Ground transportation to/from airports should be as reasonable as possible, given employee's individual travel situations. The CTD will assist employees in choosing among the airport transit options most suitable for them. Car service is expensive and should be viewed as a last resort to get to the airport. The use of the employee's personal car will be reimbursable in accordance with the Authority's "Business Mileage Rate for Transportation" which conforms to the IRS guidelines.



### **3.6 Hotel Reservations**

- 3.6.1 The Travel Coordinator at the CTD will always attempt to secure the lowest available rates for hotel accommodations, whether at "government", "corporate/seminar", "negotiated discount" or other special rates. The federal reimbursement rate for that location, as referenced in the U.S. General Services Administration's Domestic Per Diem Rates, will be used as a guideline.
- 3.6.2 It is the policy of the CTD to book overnight stays in hotels that provide a "government rate", unless no such suitable accommodation is available. The Travel Coordinator will indicate a choice of median-rated hotel accommodations within reasonable proximity to the employee's meeting/business location, in order to provide the most economical rates available for the employee. For conferences, reservations will be made in the hotel where the conference is being held, provided that those accommodations are in accordance with this policy. If an employee prefers to stay at a hotel with no government rate, when, in fact, a government rate is available at a nearby hotel, the reimbursement will cover only the amount of the declined government rate.
- 3.6.3 Unless otherwise requested, hotel accommodations for late arrivals will be automatically guaranteed to the employee's credit card.
- 3.6.4 When canceling a hotel reservation, the Travel Coordinator will give the employee a cancellation code which should be retained in the employee's files. If cancellations are called in directly to the hotel, then the caller should notify the CTD of the cancellation number, the name of the individual who accepted the cancellation, and the date and time of the cancellation. Please note that this information is necessary if the hotel mistakenly charges the employee a "no-show" expense (usually the cost of one night's lodging).

### **3.7 Car Rentals**

- 3.7.1 The Travel Coordinator will secure car reservations using the Authority's contract vendors.
- 3.7.2 The Travel Coordinators will always request the lowest (most fuel-efficient) car class size suitable for the business purposes. When fewer than three employees are traveling together, an intermediate-sized car or smaller will be booked unless there are compelling business related reasons that call for a larger vehicle.

- 3.7.3 The car rental contract provides Loss Damage Waiver (LDW) coverage for Authority drivers in the continental U.S. at no charge. This coverage should be indicated, but not charged, on the rental agreement. Outside the U.S., employees should accept and pay for LDW coverage, for which the Authority will reimburse them.
- 3.7.4 Liability Insurance Supplement (LIS) and Personal Accident Insurance (PAI)/Personal Effects Coverage (PEC) will be offered by most car rental agencies. PAI allows renters to elect accidental death and blanket medical coverage for themselves and their passengers, while PEC provides insurance for loss of or damage to a customer's personal effects during the rental period. **Since the Authority is self-insured, all additional insurance should be DECLINED for business travel. These extra insurances, e.g., LIS, PAI, PEC and LDW (within the U.S.) will NOT be reimbursed by the Authority.**
- 3.7.5 The completed car rental agreement with the receipt for payment must be attached to the employee's expense statement submitted for reimbursement.
- 3.7.6 All rental vehicle accidents must be immediately reported to the Authority's Insurance Department using appropriate forms, with a copy to the CTD.
- 3.7.7 Employees should attempt to minimize rental costs. Cars picked up at one location should be returned to the same location whenever possible to avoid incurring mileage and drop-off charges. To avoid contract vendor fill-up charges, employees should return cars with a full tank of gas.
- 3.7.8 Transportation to/from airports to the office/hotel by van or bus service is encouraged. Many hotels/conferences offer a complimentary transport service. The CTD can often provide advance information on such services, and assist in arranging for their use.

### 3.8 Corporate Airplane

- 3.8.1 The Travel Services Administrator (or designee) will reserve the corporate airplane on a first-come, first-serve basis for personnel on Authority related business.



3.8.2 Each flight on the corporate airplane which is booked for staff must include a group of three or more travelers. Such flights should be the cost-effective choice when compared to commercial flights plus hotel lodging and car rentals, where applicable. If it is not cost-effective to book the corporate airplane, the CTD's airplane scheduler will recommend other travel alternatives.

3.8.3 A request by the Chairman or President for use of the corporate airplane has priority over other passenger trips.

3.8.4 A three-month version of the plane schedule, updated after each change or addition, is available on the Authority's intranet for viewing by those with password access. Access is limited to those interfacing with the airplane schedulers. Those viewers act as liaisons to those in their department/division/site who want to use the corporate airplane.

To gain access to the intranet-version of the plane schedule, a written request should be made to the Travel Services Administrator. The basis for the request should be indicated, e.g. that he/she is replacing someone who has access or showing that the group he/she represents is a frequent user of the corporate airplane. In turn, the CTD's airplane scheduler will forward the approved request to the Authority's Information Technology staff who maintains the access to the intranet's plane schedule.

3.8.5 Consultants or contractors, performing Authority related work, may utilize the corporate airplane provided that this trip results in no additional cost to the Authority. Non-NYPA travelers will be required to sign a written waiver of any claim or liability against NYPA arising out of such use.

Federal, State or Local Government officials may, under special circumstances, utilize the corporate airplane for government purposes.

3.8.6 The cost of the corporate airplane is not charged back to the employees' budgets but is budgeted as a corporate resource for all business units of the Authority.

3.8.7 If the corporate airplane is unexpectedly unable to fly a scheduled trip, then other means of travel will be arranged for those booked. If the other means of travel, due to special conditions, is a charter plane, then the cost of the charter will in most cases be charged back to the appropriate departmental budget(s).



### **3.9 Charters**

- 3.9.1 The CTD is responsible for arranging aircraft charters. If the Authority's corporate airplane is unable to do a trip for the business group and commercial flights are not available or cost justified, then charter prices may be sought from those vendors with contracts with the Authority to provide charter aircraft. The aircraft most closely meeting the needs of the business group and with the most cost effective pricing will be booked to satisfy extreme travel circumstances.
- 3.9.2 The request for a charter aircraft must be approved by the Executive Vice President Corporate Services and Administration before committing to the charter provider.
- 3.9.3 To finalize the transaction, the business group must provide the appropriate Authority responsibility code and the cost element to the CTD, so that the cost can be charged back to the departmental budget.
- 3.9.4 The charter trip will be scheduled as an additional trip on the corporate plane schedule, viewable on the Authority's intranet, so that the Authority's pilots and other users are aware of it. In this way, available seats might be filled with other travelers.
- 3.9.5 If there is a concern over the possibility of an emergency need for the corporate airplane, the charter plane may be kept reserved until 24 hours before the trip and then released. If the corporate airplane becomes available by the close of business on the day before the scheduled trip, it should be the preferred aircraft, replacing the charter.
- 3.9.6 Charters usually have cancellation penalty clauses that are substantial. Any arrangements must include the business group representative's agreement to pay the cancellation fees which may be imposed.

### **3.10 Meetings/Seminars/Training Sessions**

- 3.10.1 NYPA events such as meetings, seminars, and training sessions that are held out of the office must be booked through the Travel Coordinators who will make every effort to meet reasonable requirements for those occasions. Employees should send written requirements to the CTD. To ensure contact for changes, additions,

or emergencies, the location and phone number of a designated group representative should be provided. Plans for group business luncheons or dinners for 50 people or less, may be made by the appointed person from within the Business Unit or department sponsoring the event. The cost of all such luncheons or dinners must be kept within the limits of the reimbursement policy covering Off Premises Meals.

3.10.2 When the cost and details of the conference room(s), refreshments, and other amenities from the hotel, restaurant or conference center have been agreed upon, the designated business group representative should sign the contract from the vendor. After the event, the requestor is responsible for reviewing, entering budget codes and sending the subsequent bill for services in a timely manner to Accounts Payable for issuance of the payment.

3.10.3 Outside meeting arrangements generally include cancellation clauses. Please note that any arrangement must include the requesting business group representative's agreement to pay any cancellation fees involved.

3.10.4 Individual departments and/or Business Units (BU) are expected to use good business sense when making such arrangements. In the circumstance where Travel Desk personnel were not consulted, then the person signing off on the expenses will be held accountable.

### 3.11 Cancellation/Revisions

3.11.1 The Travel Coordinator should be immediately advised of any cancellations – air, hotel, car, etc. Failure to do so could result in penalties on airfares and no-show charges for hotels and cars. Please note that any Authority incurred avoidable charges will be billed to the business group's appropriate responsibility code/cost element if not properly cancelled.

3.11.2. Subject to emergency situations, any revisions to an employee's itinerary must be made by the CTD. Charges for emergency measures must be supported by appropriate documentation from vendors or other authorities.

## 4.0 REFERENCES

- 4.1 CP 1-1 – Corporate Policy Program Administration
- 4.2 CAP 1.5 – Reimbursement of Employee Meal Costs
- 4.3 Corporate Flight Operations Manual



**5.0 ATTACHMENTS**

- 5.1 Power Business Travel Invoice
- 5.2 NYS Sales Tax Exemption Certificate
- 5.3 NYS Hotel Tax Exemption Certificate

A handwritten signature in black ink, appearing to read "Christopher J. Carey".

**President and Chief Executive Officer**



**NYPAPower Business**  
**TRAVEL**

SALES PERSON: 95  
CUSTOMER NBR: 0000171000

ITINERARY/INVOICE NO. 0008112  
HMTZOZ

DATE: 29 OCT 04  
PAGE: 01

TO: NY POWER AUTHORITY  
123 MAIN ST 6280  
WHITE PLAINS NY 10601  
ATTN

FOR:

REF:

02 NOV 04 - TUESDAY

AIR US AIRWAYS FLT:4079 COACH CLASS  
OPERATED BY US AIRWAYS EXPRESS-PIEDMONT AIRLINES  
LV NEW YORK LGA 600P EQP: DASH 8 TPROP  
DEPART: USAIRWAYS LA GUARDIA TERM 01HR 49MIN  
AR BUFFALO 749P NON-STOP  
REF: CFTYNF

CAR SEAT- 7D US-1439360 INTER CAR AUTO A/C  
BUFFALO BUDGET RENT A CAR

PICK UP-1949			
RETURN-03NOV/1915			
RATE PLAN 1 DAYS 0 HRS	USD	MI/KM	EX MI/KM
DAILY RATE	42.50	UNL	
XTRA DAY-	42.50	UNL	
XTRA HOUR-	14.10	UNL	
MANDATORY CHARGES	5.53		
APPROX RENTAL COST	48.03	UNL	
CONFIRMATION NUMBER	06103994US1		RATE-GUARANTEED
CD-X907000	IO-HA601D		

HOTEL BUFFALO OUT-03NOV  
HOLIDAY INN 1 NIGHT  
HOLIDAY INN NIAGARA FALLS 1 ROOM  
231 THIRD ST RATE-09.00USD PER NIGHT  
NIAGARA FALLS NY 14303 CANCEL BY 06P DAY OF ARRIVAL  
PHONE 716-202-2211  
FAX 716-202-2748  
GUARANTEED LATE ARRIVAL  
CONFIRMATION 65551308

03 NOV 04 - WEDNESDAY

AIR US AIRWAYS FLT:13990 COACH CLASS  
OPERATED BY US AIRWAYS EXPRESS-PIEDMONT AIRLINES  
LV BUFFALO 715P EQP: DASH 8 TPROP  
AR NEW YORK LGA 900P 01HR 45MIN  
ARRIVE: USAIRWAYS LA GUARDIA TERM NON-STOP  
SEAT- 6C US-1439360 REF: CFTYNF

CONTINUED ON PAGE 2

ITINERARY



Attachment 5.1 Continued

**NYPA Power Business**

**TRAVEL**



SALES PERSON: 95  
CUSTOMER NBR: 0000171800

ITINERARY/INVOICE NO. 0008112  
HMTZOZ

DATE: 29 OCT 04  
PAGE: 02

TO: NY POWER AUTHORITY  
123 MAIN ST 628D  
WHITE PLAINS NY 10601  
ATTN :

FOR: REF: 12165

AIR TICKET US1100908793  
ELEC TKT

BILLED TO VISA

331.20\*

SUB TOTAL  
NET CC BILLING

331.20

331.20\*

TOTAL AMOUNT DUE

0.00

\*\*\*TO CHANGE OR CANCEL RESERVATIONS\*\*\*  
PLEASE CALL POWER BUSINESS TRAVEL AT 914-287-3191  
DURING 8A-5P MON-FRI EXCEPT HOLIDAYS  
IF ITS AN EMERGENCY HIT ZERO POUND  
FOR AFTER HOURS \*EMERGENCY ONLY\* CALL 800-390-6474  
PLEASE BE SURE TO BRING POSITIVE PHOTO IDENTIFICATION  
IF YOU DO \*\*NOT\*\* USE ANY PART OF YOUR ETKT YOU MUST  
NOTIFY THE TRAVEL DESK TO PROCESS A REFUND  
FOR THE UNUSED PORTIONS OF YOUR TICKET  
YOUR RECORD LOCATOR FOR THIS RESERVATION IS \*CFTYNP\*

118



For use only by Representatives or Employees of Departments or Agencies of the State of New York

TO: **NEW YORK STATE SALES TAX BUREAU**

**#131850882**  
**EXEMPTION CERTIFICATE**  
TAXES IMPOSED PURSUANT TO  
ARTICLES 28 AND 29 OF THE TAX LAW

NAME OF PERSON OR FIRM FURNISHING SERVICES \_\_\_\_\_ DATE \_\_\_\_\_ 20\_\_\_\_

ADDRESS \_\_\_\_\_

This is to certify that I, the undersigned, am a representative or employee of the New York State Department or Agency indicated below; that the charges for the transaction on the date set forth below have been or will be paid for by such department or agency; and that such charges are incurred in the performance of my official duties as such representative or employee.

NATURE OF TRANSACTIONS \_\_\_\_\_

DATES OF TRANSACTIONS \_\_\_\_\_

\_\_\_\_\_  
SIGNATURE OF REPRESENTATIVE OR EMPLOYEE

NEW YORK STATE DEPT. OR AGENCY NEW YORK POWER AUTHORITY

\_\_\_\_\_  
TITLE

NOTE: A separate exemption certificate is required for each transaction and from each person claiming exemption

TAX EXEMPT ID# 131850882



New York State Department of Taxation and Finance

**Exemption Certificate**

Tax on occupancy of hotel rooms

**ST-129**  
(10/00)

**This form may only be used by government employees of the United States, New York State, or political subdivisions of New York State.**

Name of hotel, motel, lodging house, etc.		Dates of occupancy From: / / To: / /	
Number and street	City, village, or post office	State	ZIP code Country
<p><i>This is to certify that I, the undersigned, am a representative of the department, agency, or instrumentality of New York State, the United States government, or the political subdivision of New York State indicated below; that the charges for the occupancy at the above establishment on the dates listed have been or will be paid for by that governmental entity; and that these charges are incurred in the performance of my official duties as a representative or employee of that governmental entity.</i></p>			
Governmental entity (federal, state, or local)		Agency, department, or division	
New York Power Authority			
Employee name (print or type)	Employee title	Employee signature	Date / /

**Instructions for the government representative or employee**

If you are on official New York State or federal government business and staying in a hotel or motel:

1. Complete all information requested in the box above.
2. Sign and date this exemption certificate in the box above.
3. Show the operator of the hotel or motel your appropriate and satisfactory identification.
4. Give this completed Form ST-129 to the operator of the establishment.

You may pay your hotel bill with cash, with a personal check or personal credit card, with a government voucher, or with a government credit card.

**Please note:**

- If, while on official business, you stay at more than one location, you must complete an exemption certificate for each establishment.
- If you are in a group traveling on official business and staying in this particular hotel, each person must complete a separate exemption certificate and give it to the hotel operator.

**Caution:** Willfully issuing a false or fraudulent certificate with the intent to evade tax is a misdemeanor under section 1817(m) of the Tax Law and section 210.45 of the Penal Law, punishable by a fine of up to \$10,000.

**Instructions for the operator of the hotel or motel**

Keep this completed Form ST-129, *Exemption Certificate*, as evidence of exempt occupancy by New York State and federal government employees who are on official business and staying at your establishment. You must keep this exemption certificate for at least three years after the later of: 1) the due date of the last sales tax return to which this exemption certificate applies; or 2) the date when you filed the return.

This exemption certificate is valid if the government employee is paying with:

- Cash.
- A personal check or personal credit card.
- A government voucher.
- A government credit card.

**Do not accept this certificate unless the representative or employee presenting it shows appropriate and satisfactory identification.**

**2010 Annual Report on  
Investment of Authority Funds**

**Table of Contents**

Section I	Guidelines for the Investment of Funds
Section II	Explanation of the Investment Guidelines
Section III	A. Investment Income Record B. Fees Paid for Other Post-Employment Benefits Trust Fund C. Fees Paid for Nuclear Decommissioning Trust Fund D. Results of the Annual Independent Audit
Section IV	Inventory of Investments Held on December 31, 2010
Section V	Summary of Dealers and Banks from Which Securities Were Purchased and Sold

## Section I

### **New York Power Authority Guidelines for the Investment of Funds**

#### **I. General**

These Guidelines for the Investment of Funds (the 'Guidelines') are intended to effectuate the applicable provisions of the General Resolution Authorizing Revenue Obligations, adopted February 24, 1998 (the 'Resolution'), the lien and pledge of which covers all accounts and funds of the Authority and that governs the Authority's existing policies and procedures concerning the investment of funds as contained in these Guidelines. In a conflict between the Guidelines and the Resolution, the latter shall prevail. In addition, these Guidelines are intended to effectuate the provisions of Section 2925 of the New York State Public Authorities Law.

#### **II. Responsibility for Investments**

The Treasurer and Deputy Treasurer have the responsibility for the investment of Authority funds under the general supervision of the Executive Vice President and Chief Financial Officer. The Treasurer shall ensure that an operating manual is maintained that provides a detailed description of procedures for maintaining records of investment transactions and related information.

#### **III. Investment Goals**

The Treasurer and Deputy Treasurer are responsible for maximizing the yield on investments consistent with requirements for safety, liquidity and minimization of risk. Monies will not be invested for terms in excess of the projected use of funds.

#### **IV. Authorized Investments**

- A. Monies in funds established pursuant to the Resolution shall be invested in Authorized Investments or Authorized Certificates of Deposit, defined as follows:

'Authorized Investments' shall mean:

1. Direct obligations of or obligations guaranteed by the United States of America or the State of New York;
2. Bonds, debentures, notes or other obligations issued or guaranteed by any of the following: Federal National Mortgage Association (including Participation Certificates), Government National Mortgage Association,

Federal Financing Bank, Federal Home Loan Mortgage Corporation and Federal Home Loan Banks, Federal Housing Administration, Federal Farm Credit Banks Funding Corporation, Federal Farm Credit Banks, Federal Intermediate Credit Banks, Federal Banks for Cooperatives, Federal Land Banks or any other agency controlled or supervised by and acting as an instrumentality of the United States government;

3. Obligations of any state of the United States of America or any political subdivision thereof or any agency, instrumentality or local government unit of any such state or political subdivision that shall be rated at the time of the investment in any of the three highest long-term Rating Categories, as such term is defined in the Resolution, or the highest short-term Rating Category by a Rating Agency, as such term is defined in the Resolution.
4. Public Housing Bonds issued by Public Housing Authorities and fully secured as to the payment of both principal and interest by a pledge of annual contributions under an Annual Contributions Contract with the United States of America; or Project Notes issued by Local Public Agencies, in each case, fully secured as to the payment of both principal and interest by a requisition or payment agreement with the United States of America; provided that such Bonds or Notes are guaranteed by the United States of America.

'Authorized Certificate of Deposit' shall mean a certificate of deposit authorized by the Resolution as an 'Authorized Investment.'

B. The Authority, as an issuer of tax-exempt obligations, must not engage in any arbitrage practice prohibited by the arbitrage regulations promulgated under the Internal Revenue Code. In no event shall Authority funds be invested in a manner that would violate the provisions of such arbitrage regulations.

## V. Provisions Relating to Qualifications of Dealers and Banks

- A.1. The purchase and/or sale of Authorized Investments shall be transacted only through banks, trust companies or national banking associations (herein collectively termed 'Banks') that are members of the Federal Reserve System and government security dealers (herein termed 'Dealers'), which are Banks and Dealers reporting to, trading with and recognized as primary dealers by the Federal Reserve Bank of New York. A list of authorized Banks and Dealers shall be maintained. Banks and Dealers shall have demonstrated an ability to:
  - a) offer superior rates or prices on the types and amounts of securities required;
  - b) provide a high degree of attention to the Authority's investment objectives; and
  - c) execute trades in a timely and accurate manner.

- A.2. Authorized Investments may also be purchased or sold through minority- and women-owned firms authorized to transact business in the U.S. government and municipal securities markets. Such qualified firms shall demonstrate the qualities detailed in clauses (a), (b) and (c) of Section V.A.1.
- A.3.A. Municipal securities qualifying as Authorized Investments may also be purchased or sold through any municipal bond dealer registered in the State of New York that demonstrates the qualities detailed in clauses (a), (b) and (c) of Section V.A.1.
- B. Authorized Certificates of Deposit and time deposits ('Time Deposits') shall be purchased directly from Banks that:
- (1) are members of the Federal Reserve System transacting business in the State of New York;
  - (2) have capital and surplus aggregating at least \$50 million; and
  - (3) demonstrate all the qualities detailed in clauses (a), (b) and (c) of Section V.A.1.
- C. Authorized Investments purchased by the Authority or collateral securing its investments shall be deposited only with custodians designated by the Authority. Such custodians shall be Banks that are members of the Federal Reserve System transacting business in the State of New York.
- D. The Authority shall file with each qualified dealer a letter agreement that designates the (1) type of authorized investments, (2) Authority employees who are authorized to transact business and (3) delivery instructions for the safekeeping of investments.
- E. The Authority shall enter into a written contract with any (1) Dealer from which Authorized Investments are purchased subject to a repurchase agreement and (2) Bank from which Authorized Certificates of Deposit are purchased.

## VI. General Policies Governing Investment Transactions

- A. Competitive quotations or negotiated prices shall be obtained except in the purchase of government securities at their initial auction or upon initial offering. A minimum of three quotes shall be obtained and documented from Dealers and/or Banks, except as indicated above, and the most favorable quote accepted. The Treasurer or Deputy Treasurer may waive this requirement on a single-transaction basis only if warranted by market conditions and documented in writing.
- B. Authorized Investments purchased shall be either delivered to the Authority's designated custodian or, in the case of securities held in a book-entry account maintained at the Federal Reserve Bank of New York or the Depository Trust Company, recorded in the Authority's name or in the name of a nominee agent or

custodian designated by the Authority on the books of the Federal Reserve Bank of New York or the Depository Trust Company. Payment shall be made to the Dealer or Bank only upon receipt by the Authority's custodian of (1) the securities or (2) in the case of securities held in a book-entry account, written advice or wire confirmation from the Federal Reserve Bank of New York or the Depository Trust Company that the necessary book entry has been made.

- C. Each purchase or sale of Authorized Investments or Authorized Certificates of Deposit shall be authorized by the Treasurer or Deputy Treasurer. Investment orders may be placed by Authority employees as designated by the Treasurer. The custodian shall have standing instructions to send a transaction advice to the Authority's Controller for purposes of comparison with internal records. The Controller shall advise the Treasurer of any variances, and the Treasurer shall ensure appropriate corrections are provided.

## VII. Policies Concerning Certain Types of Investment Diversification Standards Required

### A. Authorized Certificates of Deposit and Time Deposits

1. Authorized Certificates of Deposit and Time Deposits shall be purchased directly from a Bank in the primary market.
2. Authorized Certificates of Deposit and Time Deposits shall be continuously secured/collateralized by Authorized Investments defined in subsection (1) or (2) of Section IV.A., having a market value (exclusive of accrued interest) at all times at least equal to the principal amount of such Certificates of Deposit or Time Deposits. Such Authorized Investments shall be segregated in a separate custodian account on behalf of the Authority. Collateral pledged for Certificates of Deposit or Time Deposits held as investments shall be market valued (marked to market) not less than once per week.
3. Investments in Authorized Certificates of Deposit or Time Deposits shall not exceed 25% of the Authority's invested funds. The par value of Authorized Certificates of Deposit purchased from any one Bank shall not exceed \$25 million.

### B. Repurchase Agreements

The Authority may from time to time elect to enter into arrangements for the purchase and resale of Authorized Investments (known as 'Repurchase Agreements'). This type of investment transaction shall be used only when there is no other viable, short-term investment alternative.

1. A Repurchase Agreement shall be transacted only with a Dealer or Bank qualified to sell Authorized Investments to the Authority that is recognized by the Federal Reserve Bank as a primary dealer.
2. Authorized Investments purchased subject to a Repurchase Agreement shall be marked to market daily to ensure their value equals or exceeds the purchase price.
3. A Repurchase Agreement shall be limited to a maximum fixed term of five business days. Payment for the purchased securities shall be made against delivery to the Authority's designated custodian (which shall not be a party to the transaction as seller or seller's agent) or, in the case of securities held in a book-entry account maintained at the Federal Reserve Bank of New York or the Depository Trust Company, written advice that the securities are recorded in the Authority's name or in the name of a nominee, agent or custodian designated by the Authority on the books of the Federal Reserve Bank or the Depository Trust Company.
4. No more than \$50 million of Authorized Investments shall be purchased under a Repurchase Agreement with any one Dealer or Bank. This requirement may be waived by the Senior Vice President – Corporate Planning and Finance on a single- transaction basis only if warranted by special circumstances and documented in writing.
5. The aggregate amount invested in Repurchase Agreements may not exceed the greater of 5% of the investment portfolio or \$100 million. The Executive Vice President and Chief Financial Officer may waive this requirement on a single-transaction basis only if warranted by cash-flow requirements and documented in writing.
6. The Authority may not enter into arrangements (known as Reverse Repurchase Agreements) for the purpose of borrowing monies by pledging Authorized Investments owned by the Authority.

### **VIII. Review**

These Guidelines and any proposed amendments shall be submitted for Trustee review and approval at least once a year.

In addition to the Authority's periodic review, the Authority's independent auditors, in connection with their examination of the Authority, shall perform an annual audit of the investment portfolio, review investment procedures and prepare a report, the results of which will be made available to the Trustees.

## **IX. Reports**

- A. The Treasurer shall submit an investment report to the Trustees, at least quarterly. Such report shall contain a (1) detailed description of each investment; (2) summary of the dealers and banks from which such securities were purchased and (3) a list of fees, commissions or other charges, if any, paid to advisors or other entities rendering investment services.
- B. The Treasurer shall submit an annual report for approval by the Trustees. In addition to the information provided quarterly, the Annual Report shall include (i) a copy of the Guidelines; (ii) an explanation of the Guidelines and any amendments thereto since the last annual report; (iii) the results of an annual independent audit of investment inventory and procedures and (iv) a record of income earned on invested funds. The approved report shall be submitted to the State Division of the Budget with copies distributed to the Office of the State Comptroller, the Senate Finance Committee and the Assembly Ways and Means Committee. Copies shall be made available to the public upon written reasonable request.
- C. Any waivers that occurred during the prior month shall be reported to the Executive Vice President and Chief Financial Officer.

## **X. Miscellaneous**

- A. These Guidelines are intended for guidance of officers and employees of the Authority only, and nothing contained herein is intended or shall be construed to confer upon any person, firm or corporation any right, remedy, claim or benefit under, or by reason of, any requirement or provision thereof.
- B. Nothing contained in these Guidelines shall be deemed to alter, affect the validity of, modify the terms of or impair any contract, agreement or investment of funds made or entered into in violation of, or without compliance with, the provisions of these Guidelines.
- C. No provisions in these Guidelines shall be the basis of any claim against any Trustee, officer or employee of the Authority in his or her individual or official capacity or against the Authority itself.

## **Section II**

### **EXPLANATION OF INVESTMENT GUIDELINES**

#### **Section II Responsibility for Investments**

Establishes responsibility for the Investment of Authority Funds and limits the number of individuals authorized to place investment orders.

#### **Section III Investment Goal**

Establishes the policy that earning a reasonable return on investments must be consistent with standards set for minimization of risk and availability of funds when needed.

#### **Section IV Authorized Investments**

Details the types of investments the Authority can undertake as prescribed in Section 101 of the Resolution.

This section also requires that investments made in each of the Funds established under the Resolution be invested for a term commensurate with cash-flow expectations and that such investments not violate the arbitrage regulations of the Internal Revenue Code.

#### **Section V Provisions Relating to Qualifications of Dealers and Banks**

Establishes criteria for the selection of banks and dealers from which the Authority may buy or sell investments. Business is transacted with firms that have demonstrated financial strength and a high degree of reliability with respect to servicing the Authority's needs. This section also directs that custody of Authority investments be maintained by banks that are members of the Federal Reserve System transacting business in the State of New York.

This section also addresses the subject of contracts with banks and dealers for the purchase or sale of Authorized Investments. The Authority has written Letters of Agreement with authorized dealers that specify the types of securities in which the Authority may invest and identify those Authority individuals authorized to give instructions related to the purchase and sale of securities. In addition, the Authority shall have a written form of agreement for use in repurchase transactions with any authorized dealer with which the Authority may transact this type of investment.

## **Section VI General Policies Governing Investment Transactions**

Requires that the Authority solicit no less than three bids for the purchase or sale of securities in order to ensure the most favorable rate except when securities are purchased at their initial auction, upon new issue or through negotiated prices.

Requires that the Authority or its custodian, prior to payment, take possession of such securities, or in the case of book-entry securities, obtain written advice or wire confirmation that transfer or ownership has been recorded.

Establishes authorized employees to approve the purchase or sale of securities.

Establishes control procedures whereby the Controller shall compare the custodian's confirmation to Authority records.

## **Section VII Policy Concerning Certain Types of Investment Diversification Standards Required**

Establishes a policy concerning the purchase of Authorized Certificates of Deposit and Time Deposits intended to minimize the risk associated with such transactions. Authorized Certificates of Deposit or Time Deposits may be purchased directly from a bank that is a member of the Federal Reserve System transacting business in the State of New York. Such deposits shall be continuously secured by Authorized Investments as outlined in subsection (1) or (2) of Section IV.A. This collateral shall be regularly priced to current market to assure the Authority's security interest is continuously protected. Aggregate holdings of Authorized Certificates of Deposit shall not exceed 25% of the Authority's total investment. Authorized Certificates of Deposit purchased from any one bank shall not exceed \$25 million.

Establishes a policy intended to minimize the risk associated with arrangements for the purchase and resale of Authorized Investments known as Repurchase Agreements ('Repos'). Repos purchased from any one qualified dealer or bank shall not exceed \$50 million and shall be limited to a maximum fixed term of five business days. Aggregate investments in Repos shall not exceed the greater of 5% of the Authority's total investments or \$100 million. All securities purchased under the terms of a Repo shall be held in safekeeping by a designated custodian for the Authority. Such securities shall be priced to market on a daily basis to assure the Authority's security interest. Reverse Repurchase Agreements are not authorized transactions.

## **Section VIII Review**

Establishes policy requiring review of the Guidelines at least once a year. Requires an annual audit by the Authority's independent auditors of the Authority's investment portfolio and compliance with the guidelines established by the Authority and the State Comptroller.

## **Section IX Reports**

Establishes policy requiring submission of reports to the Authority's Trustees concerning the management and performance of the Authority's portfolio.

This Section also requires that an annual report be submitted for approval by the Authority's Trustees. Copies of the approved report shall be sent to the State Division of the Budget, Office of the State Comptroller, Senate Finance Committee and Assembly Way and Means Committee.

### Section III

**A. Investment Income Record**

During 2010, the Authority's investment portfolio averaged approximately \$1.05 billion and earned approximately \$30 million.

The earnings, by fund, were as follows (dollars in millions):

Operating Fund	\$25
Capital (Construction Funds)	4
Other (Energy Services/Note Debt Reserve)	<u>1</u>
<b>Total</b>	<b><u>\$ 30</u></b>

The 2010 investment income is \$8 million less than in 2009. The decrease in investment earnings is primarily due to the Federal Reserve's continued accommodative monetary policy aimed at stimulating economic growth. The policy has resulted in historically low interest rates.

**B. Fees Paid for Other Post-Employment Benefits Trust Fund Investment/Advisory Services**

\$142,600	Baring Asset Management
\$ 89,358	BlackRock Investment Management, LLC
\$100,023	Bradford & Marzec, LLC
\$104,170	Brandywine Global Investment Management, LLC
\$ 96,646	C.S. McKee, L.P.
\$ 9,115	Evergreen Investment Management Company, LLC
\$ 95,049	Fiduciary Management, Inc.
\$122,849	Global Currents Investment Management, LLC
\$105,906	PFM Asset Management, LLC (Advisory Services)
\$ 9,029	State Street Global Advisors
<u>\$ 97,499</u>	Urdang Securities Management, Inc.
\$972,244	Total

Fees were paid from the OPEB Trust Fund.

**C. Fees Paid for Nuclear Decommissioning Trust Fund Investment/Advisory Services**

\$ 482,817	BlackRock Financial Management, Inc.
\$ 667,316	JPMorgan Investment Management, Inc.
\$ 55,000	PFM Asset Management, LLC (Advisory Services)
\$ 55,263	Evergreen Investment Management Company, LLC
<u>\$ 136,507</u>	Mellon Capital Management
\$1,396,903	Total

Fees were paid from the Nuclear Decommissioning Trust Fund.

**D. Results of the Annual Independent Audit**

In connection with its examination of the Authority's financial statements, KPMG LLP, performed tests of the Authority's compliance with certain provisions of the Investment Guidelines, the State Comptroller's Investment Guidelines and Section 2925 of the Public Authorities Law. KPMG's report, a copy of which is attached as Exhibit '1j-B,' states that the Authority complied, in all material respects, with the requirements during the year ended December 31, 2010. Consequently, staff believes the Authority is in compliance with the Investment Guidelines, the State Comptroller's Investment Guidelines and Section 2925 of the Public Authorities Law.

NEW YORK POWER AUTHORITY  
INVENTORY REPORT BY PORTFOLIO AND SECURITY TYPE  
HOLDINGS AS OF: 12/31/10

<u>PORTFOLIO / SECURITY</u>	<u>SECURITY DESCRIPTION</u>	<u>PAR AMOUNT</u>	<u>MATURITY DATE</u>	<u>COUPON RATE</u>	<u>YIELD TO MATURITY</u>	<u>PRINCIPAL COST</u>	<u>INTEREST PURCHASED</u>	<u>TOTAL COST</u>
<b>PORTFOLIO: ENERGY SERVICES</b>								
<b>FEDERAL HOME LOAN</b>								
313384BL2	DISCOUNT NOTE	4,000,000.00	2/4/2011		0.162	3,998,382.22	0.00	3,998,382.22
313384DK2	DISCOUNT NOTE	8,000,000.00	3/23/2011		0.139	7,997,286.11	0.00	7,997,286.11
Subtotal:	FEDERAL HOME LOAN	12,000,000.00			0.147	11,995,668.33	0.00	11,995,668.33
Subtotal:	PORTFOLIO: ENERGY SERVICES	12,000,000.00			0.147	11,995,668.33	0.00	11,995,668.33
<b>PORTFOLIO: ENERGY SERVICES CUSTOMER REPAYMENTS</b>								
<b>FEDERAL HOME LOAN</b>								
313384DK2	DISCOUNT NOTE	5,033,000.00	3/23/2011		0.150	5,031,144.06	0.00	5,031,144.06
Subtotal:	FEDERAL HOME LOAN	5,033,000.00			0.150	5,031,144.06	0.00	5,031,144.06
Subtotal:	PORTFOLIO: ENERGY SERVICES CUSTOMER REPAYMENTS	5,033,000.00			0.150	5,031,144.06	0.00	5,031,144.06
<b>PORTFOLIO: NIAGARA TAX EXEMPT</b>								
<b>Municipal</b>								
60636WGB5	MO ST HWY & TRANS	5,900,000.00	5/1/2015	0.290	0.290	5,900,000.00	0.00	5,900,000.00
5446522Q2	LA WASTEWTTR REV	15,000,000.00	6/1/2028	0.280	0.201	15,000,000.00	197.26	15,000,197.26
20774HB29	CT ST HLTH & EDL	3,100,000.00	7/1/2029	0.250	0.250	3,100,000.00	0.00	3,100,000.00
442435XQ1	HOUSTON TX UTIL SYS REV	4,000,000.00	5/15/2034	0.350	0.350	4,000,000.00	0.00	4,000,000.00
651785AR8	NWPRT BEACH CA REV	4,225,000.00	12/1/2040	0.300	0.300	4,225,000.00	403.46	4,225,403.46
Subtotal:	Municipal	32,225,000.00			0.253	32,225,000.00	600.72	32,225,600.72
Subtotal:	PORTFOLIO: NIAGARA TAX EXEMPT	32,225,000.00			0.253	32,225,000.00	600.72	32,225,600.72
<b>PORTFOLIO: NIAGARA TAXABLE</b>								
FANNIE MAE								

NEW YORK POWER AUTHORITY  
 INVENTORY REPORT BY PORTFOLIO AND SECURITY TYPE  
 HOLDINGS AS OF: 12/31/10

Exhibit "1j-A - Section IV"  
 March 29, 2011

PORTFOLIO / SECURITY	SECURITY DESCRIPTION	PAR AMOUNT	MATURITY DATE	COUPON RATE	YIELD TO MATURITY	PRINCIPAL COST	INTEREST PURCHASED	TOTAL COST
313588EP6	DISCOUNT NOTE	4,000,000.00	4/20/2011	0.550	0.198	3,996,208.33	0.00	3,996,208.33
31398AGJ6	FANNIE MAE CALLABLE 6/27/11	3,800,000.00	12/27/2012	0.550	0.823	3,779,100.00	0.00	3,779,100.00
Subtotal:	FANNIE MAE	7,800,000.00			0.503	7,775,308.33		7,775,308.33
Municipal								
64985YGL8	NYS ENVIRON FACSCORP	2,500,000.00	12/15/2011	3.640	3.640	2,500,000.00	0.00	2,500,000.00
64971MM82	NYCGEN	4,000,000.00	2/1/2012	1.130	1.301	3,987,560.00	0.00	3,987,560.00
Subtotal:	Municipal	6,500,000.00			2.200	6,487,560.00	0.00	6,487,560.00
Subtotal:	PORTFOLIO: NIAGARA TAXABLE	14,300,000.00			1.274	14,262,868.33	0.00	14,262,868.33
PORTFOLIO: NOTE DEBT RESERVE								
Municipal								
20281PBK7	PA Common Wealth	6,130,000.00	6/1/2013	4.410	4.192	6,191,054.80	0.00	6,191,054.80
Subtotal:	Municipal	6,130,000.00			4.192	6,191,054.80	0.00	6,191,054.80
FEDERAL HOME LOAN								
3133HXW7	FEDERAL HOME LOAN	4,695,000.00	11/27/2013	4.875	4.050	4,894,584.10	0.00	4,894,584.10
Subtotal:	FEDERAL HOME LOAN	4,695,000.00			4.050	4,894,584.10	0.00	4,894,584.10
FANNIE MAE								
3136FHCF0	FANNIE MAE CALLABLE 2/24/11	5,030,000.00	2/24/2012	2.250	2.273	5,026,730.50	0.00	5,026,730.50
Subtotal:	FANNIE MAE	5,030,000.00			2.273	5,026,730.50	0.00	5,026,730.50
FEDERAL FARM CREDIT								
31331JQY2	FEDERAL FARM CREDIT CALLABLE 6/14/11	3,893,000.00	6/14/2012	1.110	1.007	3,893,772.00	0.00	3,893,772.00
Subtotal:	FEDERAL FARM CREDIT	3,893,000.00			1.007	3,893,772.00	0.00	3,893,772.00

NEW YORK POWER AUTHORITY  
INVENTORY REPORT BY PORTFOLIO AND SECURITY TYPE  
HOLDINGS AS OF: 12/31/10

PORTFOLIO / SECURITY	SECURITY DESCRIPTION	PAR AMOUNT	MATURITY DATE	COUPON RATE	YIELD TO MATURITY	PRINCIPAL COST	INTEREST PURCHASED	TOTAL COST
Subtotal: PORTFOLIO: NOTE DEBT RESERVE								
PORTFOLIO: OPERATING SPENT FUEL								
FREDDIE MAC (Mortgage)								
		19,741,000.00			3.042	19,996,141.40	0.00	19,996,141.40
31393VUG4	FHR 2639 JE	10,000,000.00	1/15/2032	5.000	5.128	9,890,751.30	0.00	9,890,751.30
31394TNO4	FHR 2762 LG	22,094,762.00	9/15/2032	5.000	5.239	21,521,679.11	0.00	21,521,679.11
31393C4K6	FHR 2003-66 KA	3,602,266.39	1/25/2033	3.500	3.501	3,620,277.72	0.00	3,620,277.72
31396E3Q7	FHR 3044 AJ	1,421,133.85	10/15/2035	5.500	5.601	1,413,473.04	0.00	1,413,473.04
Subtotal:	FREDDIE MAC (Mortgage)	37,118,162.24			5.054	36,446,181.17	0.00	36,446,181.17
FEDERAL FARM CREDIT								
31331YSW1	FEDERAL FARM CREDIT CALLABLE 02/11/11	10,000,000.00	2/11/2015	4.200	4.212	9,992,500.00	0.00	9,992,500.00
31331XJ39	FEDERAL FARM CREDIT	17,000,000.00	9/13/2016	5.125	4.308	17,987,510.00	0.00	17,987,510.00
31331YSH4	FEDERAL FARM CREDIT	22,625,000.00	1/5/2017	4.250	4.198	22,712,490.00	0.00	22,712,490.00
31331YE97	FEDERAL FARM CREDIT	5,000,000.00	4/17/2017	4.250	4.671	4,848,150.00	0.00	4,848,150.00
Subtotal:	FEDERAL FARM CREDIT	54,625,000.00			4.278	55,540,650.00	0.00	55,540,650.00
GINNIE MAE (Mortgage)								
36202CNG4	GINNIE MAE POOL #G22191	282.21	3/20/2011	6.000	6.891	267.83	0.00	267.83
36202CN25	GINNIE MAE POOL #G22209	600.29	4/20/2011	6.000	6.962	567.15	0.00	567.15
36202CPF4	GINNIE MAE POOL #G22222	14,087.88	4/20/2011	5.500	6.700	13,101.73	0.00	13,101.73
36202CPG2	GINNIE MAE POOL #G22223	2,453.02	5/20/2011	6.000	6.908	2,324.66	0.00	2,324.66
36225BM21	GINNIE MAE POOL #781277	600,752.07	12/15/2028	7.000	6.757	618,586.90	0.00	618,586.90
36375KQW7	GINNIE MAE POOL 2007-35	15,000,000.00	8/20/2036	6.000	6.083	14,953,125.00	0.00	14,953,125.00
36208GX78	GINNIE MAE POOL #GN450802	17,680,428.74	9/15/2040	6.630	6.562	17,971,415.53	0.00	17,971,415.53
Subtotal:	GINNIE MAE (Mortgage)	33,298,604.21			6.350	33,559,388.80	0.00	33,559,388.80
Municipal								
649902NL3	NYS DORM PIT	5,000,000.00	12/15/2011	3.838	3.839	5,000,000.00	0.00	5,000,000.00
977100AT3	WISCONSIN STATE	4,130,000.00	5/1/2014	4.319	4.457	4,099,768.40	0.00	4,099,768.40
163103RJ5	CHELAN CNTY WASH PUB DIST	2,500,000.00	7/1/2014	4.980	4.415	2,577,050.00	0.00	2,577,050.00
6055803G2	MISSISSIPPI BOND	3,465,000.00	10/1/2014	5.250	4.510	3,598,402.50	0.00	3,598,402.50

NEW YORK POWER AUTHORITY  
 INVENTORY REPORT BY PORTFOLIO AND SECURITY TYPE  
 HOLDINGS AS OF: 12/31/10

Exhibit "j-A - Section IV"  
 March 29, 2011

PORTFOLIO / SECURITY	SECURITY DESCRIPTION	PAR AMOUNT	MATURITY DATE	COUPON RATE	YIELD TO MATURITY	PRINCIPAL COST	INTEREST PURCHASED	TOTAL COST
649902NP4	NYS DORM PIT	3,000,000.00	12/15/2014	4.811	4.812	3,000,000.00	0.00	3,000,000.00
73358TR78	PORT AUTH NY AND NJ	5,000,000.00	9/15/2015	4.500	4.716	4,932,750.00	0.00	4,932,750.00
6055803H0	MISSISSIPPI BOND	4,535,000.00	10/1/2015	5.250	4.660	4,693,180.80	0.00	4,693,180.80
20772GE20	CT ST GEN OBLIG	10,000,000.00	3/15/2016	4.550	4.550	10,000,000.00	0.00	10,000,000.00
73358TR86	PORT AUTH NY / NJ	2,900,000.00	9/15/2016	4.750	5.140	2,824,165.00	0.00	2,824,165.00
387892UX8	GRANT CITY WASH PUB UTIL	3,905,000.00	1/1/2017	5.150	4.736	3,969,432.50	0.00	3,969,432.50
Subtotal:	Municipal	44,435,000.00			4.553	44,694,749.20	0.00	44,694,749.20
Project Loan (Mortgage)								
15996VD6	PROJ LN-REILLY #46	15,562.21	7/1/2012	6.860	6.947	15,503.85	0.00	15,503.85
15895MV9	PROJ LN-USGI 2028	203,135.74	5/1/2015	6.930	6.594	209,483.73	0.00	209,483.73
31342*E99	PL HS 10806 MORISANIA	1,702,984.55	4/1/2020	8.950	9.074	1,702,984.55	0.00	1,702,984.55
30299WML7	PL CAMERON 1F	925,644.43	11/1/2021	7.350	9.074	791,571.55	0.00	791,571.55
Subtotal:	Project Loan (Mortgage)	2,847,326.93			8.885	2,719,543.68	0.00	2,719,543.68
Subtotal:	PORTFOLIO: OPERATING SPENT FUEL	172,324,093.38			4.993	172,960,512.85	0.00	172,960,512.85
PORTFOLIO: OPERATING LINKED DEPOSIT PROGRAM								
Certificates of Deposit								
	M & T TRUST CO.	55,000.00	1/11/2011	0.212	0.215	55,000.00	0.00	55,000.00
	M & T TRUST CO.	260,000.00	1/11/2011			260,000.00	0.00	260,000.00
	M & T TRUST CO.	85,000.00	1/11/2011	0.300	0.304	85,000.00	0.00	85,000.00
	M & T TRUST CO.	28,000.00	1/21/2011	2.876	2.916	28,000.00	0.00	28,000.00
	M & T TRUST CO.	25,000.00	2/4/2011	3.150	3.194	25,000.00	0.00	25,000.00
	M & T TRUST CO.	14,000.00	2/4/2011	3.070	3.113	14,000.00	0.00	14,000.00
	M & T TRUST CO.	174,704.00	2/8/2011	0.230	0.233	174,704.00	0.00	174,704.00
	M & T TRUST CO.	211,250.00	2/8/2011	0.098	0.099	211,250.00	0.00	211,250.00
	HSBC Bank	130,000.00	2/11/2011			130,000.00	0.00	130,000.00
	M & T TRUST CO.	117,000.00	2/25/2011			117,000.00	0.00	117,000.00
	STEUBEN TRUST COMPANY	119,375.00	3/11/2011			119,375.00	0.00	119,375.00
	HSBC	13,000.00	4/1/2011			13,000.00	0.00	13,000.00
	M & T TRUST CO.	58,000.00	4/1/2011	0.300	0.304	58,000.00	0.00	58,000.00
	HSBC	62,000.00	4/8/2011			62,000.00	0.00	62,000.00
	HSBC	327,830.00	5/10/2011			327,830.00	0.00	327,830.00
	M & T TRUST CO.	10,000.00	5/13/2011	3.180	3.224	10,000.00	0.00	10,000.00
	M & T TRUST CO.	57,000.00	6/15/2011	0.737	0.747	57,000.00	0.00	57,000.00

NEW YORK POWER AUTHORITY  
INVENTORY REPORT BY PORTFOLIO AND SECURITY TYPE  
HOLDINGS AS OF: 12/31/10

PORTFOLIO / SECURITY	SECURITY DESCRIPTION	PAR AMOUNT	MATURITY DATE	COUPON RATE	YIELD TO MATURITY	PRINCIPAL COST	INTEREST PURCHASED	TOTAL COST
	M & T TRUST CO.	18,000.00	6/17/2011	1.600	1.622	18,000.00	0.00	18,000.00
	HSBC	52,000.00	7/7/2011	0.550	0.558	52,000.00	0.00	52,000.00
	HSBC	33,000.00	7/7/2011	0.930	0.943	33,000.00	0.00	33,000.00
	M & T TRUST CO.	234,000.00	7/8/2011	2.360	2.393	234,000.00	0.00	234,000.00
	FIRST NIAGARA BANK	103,539.00	7/9/2011	0.300	0.304	103,539.00	0.00	103,539.00
	GLENS FALLS NTL BK	38,169.00	7/15/2011	0.680	0.689	38,169.00	0.00	38,169.00
	FIRST NIAGARA BANK	53,695.00	7/19/2011	0.710	0.720	53,695.00	0.00	53,695.00
	FIVE STAR BANK	37,437.00	8/5/2011	2.940	2.981	37,437.00	0.00	37,437.00
	M & T TRUST CO.	44,000.00	8/26/2011			44,000.00	0.00	44,000.00
	M & T TRUST CO.	80,000.00	9/8/2011			80,000.00	0.00	80,000.00
	M & T TRUST CO.	57,000.00	9/8/2011			57,000.00	0.00	57,000.00
	M & T TRUST CO.	20,000.00	9/23/2011	3.080	3.123	20,000.00	0.00	20,000.00
	M & T TRUST CO.	70,476.00	10/14/2011	0.030	0.030	70,476.00	0.00	70,476.00
	FIRST NIAGARA BANK	15,842.00	10/14/2011	1.650	1.673	15,842.00	0.00	15,842.00
	ALLIANCE BANK	42,000.00	10/20/2011	0.750	0.760	42,000.00	0.00	42,000.00
	M & T TRUST CO.	41,000.00	10/20/2011	1.555	1.577	41,000.00	0.00	41,000.00
	M & T TRUST CO.	20,000.00	10/21/2011	2.690	2.727	20,000.00	0.00	20,000.00
	M & T TRUST CO.	70,000.00	11/3/2011	0.311	0.315	70,000.00	0.00	70,000.00
	LYONS NATIONAL BANK	74,000.00	11/23/2011			74,000.00	0.00	74,000.00
	M & T TRUST CO.	40,933.00	11/30/2011			40,933.00	0.00	40,933.00
	GENESEE REGIONAL BANK	47,432.00	12/7/2011			47,432.00	0.00	47,432.00
	M & T TRUST CO.	29,000.00	12/13/2011			29,000.00	0.00	29,000.00
Subtotal:	Certificates of Deposit	2,968,682.00			0.514	2,968,682.00	0.00	2,968,682.00
Subtotal:	PORTFOLIO: OPERATING LINKED DEPOSIT PROGRAM	2,968,682.00			0.514	2,968,682.00	0.00	2,968,682.00
PORTFOLIO: OPERATING FUND								
FEDERAL FARM CREDIT								
31331X5W8	FEDERAL FARM CREDIT	10,000,000.00	10/3/2011	4.700	4.008	10,243,900.00	0.00	10,243,900.00
31331Y3P3	FEDERAL FARM CREDIT	20,000,000.00	10/3/2011	3.500	3.511	19,993,540.00	0.00	19,993,540.00
31331YU40	FEDERAL FARM CREDIT	5,000,000.00	6/4/2012	3.875	4.224	4,936,850.00	0.00	4,936,850.00
31331JY56	FEDERAL FARM CREDIT	20,000,000.00	11/2/2012	0.400	0.488	19,965,400.00	1,555.56	19,966,955.56
31331YGE4	FEDERAL FARM CREDIT	38,950,000.00	12/4/2012	4.250	4.197	39,042,311.50	0.00	39,042,311.50
31331JZY2	FEDERAL FARM CREDIT CONT CALLABLE	25,000,000.00	2/26/2013	0.850	0.877	24,983,750.00	14,166.67	24,997,916.67
31331GTJ8	FEDERAL FARM CREDIT	15,000,000.00	4/17/2014	2.625	3.002	14,744,700.00	0.00	14,744,700.00
31331J2S1	FEDERAL FARM CREDIT	10,000,000.00	11/16/2015	1.500	2.260	9,650,800.00	18,750.00	9,669,550.00
Subtotal:	FEDERAL FARM CREDIT	143,950,000.00			2.738	143,561,251.50	34,472.23	143,595,723.73

NEW YORK POWER AUTHORITY  
INVENTORY REPORT BY PORTFOLIO AND SECURITY TYPE  
HOLDINGS AS OF: 12/31/10

Exhibit "j"-A - Section IV"  
March 29, 2011

<u>PORTFOLIO / SECURITY</u>	<u>SECURITY DESCRIPTION</u>	<u>PAR AMOUNT</u>	<u>MATURITY DATE</u>	<u>COUPON RATE</u>	<u>YIELD TO MATURITY</u>	<u>PRINCIPAL COST</u>	<u>INTEREST PURCHASED</u>	<u>TOTAL COST</u>
FEDERAL HOME LOAN								
3133XPBC7	FEDERAL HOME LOAN	5,000,000.00	3/11/2011	2.625	3.087	4,933,250.00	0.00	4,933,250.00
3133XR4U1	FEDERAL HOME LOAN	10,000,000.00	6/10/2011	3.125	3.513	9,888,400.00	0.00	9,888,400.00
3133XRC65	FEDERAL HOME LOAN	6,600,000.00	6/10/2011	3.375	3.739	6,533,472.00	0.00	6,533,472.00
3133XWVCQ0	FEDERAL HOME LOAN	20,000,000.00	6/17/2011	0.670	0.565	20,023,600.00	0.00	20,023,600.00
3133XTXH4	FEDERAL HOME LOAN	10,000,000.00	7/27/2011	1.625	0.845	10,124,900.00	0.00	10,124,900.00
3133MKGH4	FEDERAL HOME LOAN	10,000,000.00	11/15/2011	5.625	3.451	10,707,700.00	0.00	10,707,700.00
3133XWVW47	FEDERAL HOME LOAN	12,000,000.00	3/9/2012	1.125	1.050	12,016,440.00	0.00	12,016,440.00
3133XTLY0	FEDERAL HOME LOAN	21,800,000.00	5/4/2012	1.800	1.806	21,796,076.00	0.00	21,796,076.00
3133XBT39	FEDERAL HOME LOAN	9,950,000.00	6/8/2012	4.375	4.245	9,996,558.00	0.00	9,996,558.00
3133XYWB7	FEDERAL HOME LOAN	20,000,000.00	8/22/2012	0.875	0.425	20,164,400.00	28,680.56	20,193,080.56
3133XVEM9	FEDERAL HOME LOAN	20,000,000.00	11/21/2012	1.625	0.741	20,385,000.00	0.00	20,385,000.00
3133XQ2D3	FEDERAL HOME LOAN	10,000,000.00	3/8/2013	3.875	3.555	10,145,400.00	0.00	10,145,400.00
3133XYHD0	FEDERAL HOME LOAN	20,000,000.00	6/14/2013	1.625	0.949	20,380,000.00	0.00	20,380,000.00
313370BS6	FEDERAL HOME LOAN CALLABLE 1/26/11	7,000,000.00	7/26/2013	1.250	1.158	7,017,850.00	15,555.56	7,033,405.56
313370GY8	FEDERAL HOME LOAN CALLABLE 8/19/11	16,375,000.00	8/19/2013	1.250	0.967	16,502,725.00	39,800.35	16,542,525.35
3133XUPZ0	FEDERAL HOME LOAN	20,000,000.00	9/13/2013	2.625	2.180	20,327,400.00	0.00	20,327,400.00
3133XS3V8	FEDERAL HOME LOAN	30,000,000.00	9/27/2013	4.110	2.635	31,829,700.00	0.00	31,829,700.00
3133XSAE8	FEDERAL HOME LOAN	8,000,000.00	10/18/2013	3.625	2.720	8,288,880.00	0.00	8,288,880.00
3133XY6S9	FEDERAL HOME LOAN	6,130,000.00	10/29/2013	2.000	2.080	6,113,510.30	0.00	6,113,510.30
313371WB8	FEDERAL HOME LOAN	10,000,000.00	7/24/2014	1.150	1.346	9,930,800.00	0.00	9,930,800.00
313371SG2	FEDERAL HOME LOAN CALLABLE 10/24/12	20,000,000.00	10/24/2014	1.090	1.123	19,975,000.00	4,472.22	19,979,472.22
313371AF3	FEDERAL HOME LOAN	25,000,000.00	11/5/2014	1.290	1.291	24,998,750.00	0.00	24,998,750.00
3133XYBP9	FEDERAL HOME LOAN STEP CALLABLE 11/5/11	10,000,000.00	11/5/2014	2.000	2.000	10,000,000.00	0.00	10,000,000.00
3133XWAW9	FEDERAL HOME LOAN STEP CALLABLE 2/10/11	10,000,000.00	11/10/2014	2.000	2.000	9,992,500.00	0.00	9,992,500.00
3133XWAW9	FEDERAL HOME LOAN STEP CALLABLE 2/10/11	15,000,000.00	11/10/2014	1.250	3.210	14,977,500.00	0.00	14,977,500.00
Subtotal:	FEDERAL HOME LOAN	352,855,000.00			1.811	357,049,811.30	88,508.69	357,138,319.99
FANNIE MAE								
31359MHK2	FANNIE MAE	19,267,000.00	3/15/2011	5.500	3.322	20,215,707.08	0.00	20,215,707.08
31359MZ30	FANNIE MAE	4,400,000.00	10/15/2011	5.000	3.713	4,573,404.00	0.00	4,573,404.00
3136FJ3M1	FANNIE MAE STEP CALLABLE 2/11/11	20,000,000.00	2/11/2013	1.000	1.000	19,984,000.00	0.00	19,984,000.00
31398AJ94	FANNIE MAE	15,000,000.00	5/7/2013	1.750	1.816	14,970,300.00	0.00	14,970,300.00
31398AX31	FANNIE MAE	10,000,000.00	8/20/2013	1.250	1.117	10,040,000.00	0.00	10,040,000.00
31398A6K3	FANNIE MAE CALLABLE 11/29/11	10,000,000.00	11/29/2013	0.800	1.095	9,913,500.00	666.67	9,914,166.67
31398A6L1	FANNIE MAE CALLABLE 11/29/11	5,000,000.00	11/29/2013	1.000	1.156	4,977,200.00	1,388.89	4,978,588.89
31398AV66	FANNIE MAE CALLABLE 1/21/11	20,000,000.00	1/21/2014	1.875	1.845	20,017,980.00	162,500.00	20,180,480.00
31398AXJ6	FANNIE MAE	15,000,000.00	5/15/2014	2.500	2.882	14,736,750.00	0.00	14,736,750.00

NEW YORK POWER AUTHORITY  
INVENTORY REPORT BY PORTFOLIO AND SECURITY TYPE  
HOLDINGS AS OF: 12/31/10

PORTFOLIO / SECURITY	SECURITY DESCRIPTION	PAR AMOUNT	MATURITY DATE	COUPON RATE	YIELD TO MATURITY	PRINCIPAL COST	INTEREST PURCHASED	TOTAL COST
31398AAY2	FANNIE MAE	20,000,000.00	9/16/2014	3.000	2.548	20,372,800.00	0.00	20,372,800.00
3136FW6Z2	FANNIE MAE STEP CALLABLE 5/13/13	20,000,000.00	5/13/2015	1.375	1.377	20,000,000.00	0.00	20,000,000.00
31398A4M1	FANNIE MAE	45,000,000.00	10/26/2015	1.625	2.170	43,884,850.00	101,111.11	43,985,961.11
Subtotal:	FANNIE MAE	203,667,000.00			2.022	203,686,491.08	265,666.67	203,952,157.75
FREDDIE MAC								
313396BQ5	DISCOUNT NOTE	100,000.00	2/8/2011		0.142	99,963.06	0.00	99,963.06
3137EACF4	FREDDIE MAC	30,000,000.00	12/15/2011	1.125	1.202	29,951,400.00	0.00	29,951,400.00
3137EABY4	FREDDIE MAC	10,000,000.00	3/23/2012	2.125	1.109	10,228,400.00	0.00	10,228,400.00
3137EACK3	FREDDIE MAC	20,000,000.00	7/27/2012	1.125	0.598	20,195,200.00	66,875.00	20,262,075.00
3128X73U6	FREDDIE MAC	10,000,000.00	9/30/2012	3.875	2.017	10,610,300.00	0.00	10,610,300.00
3128X93T5	FREDDIE MAC CALLABLE 4/15/11	20,910,000.00	1/15/2013	1.750	1.421	21,081,357.45	0.00	21,081,357.45
3128X9C73	FREDDIE MAC	20,000,000.00	2/19/2014	2.175	1.139	20,702,200.00	14,500.00	20,716,700.00
Subtotal:	FREDDIE MAC	111,010,000.00			1.187	112,868,820.51	81,375.00	112,950,195.51
Municipal								
649870JM5	NYS FIN AGY	1,000,000.00	9/15/2011	4.390	4.392	1,000,000.00	0.00	1,000,000.00
958697HL1	WEST MINN MUN PWR AGY	1,000,000.00	1/1/2012	1.860	1.859	1,000,000.00	0.00	1,000,000.00
649870HU9	NYS FIN AGY	3,400,000.00	9/15/2012	5.015	4.250	3,503,224.00	0.00	3,503,224.00
649870JN3	NYS FIN AGY	1,000,000.00	9/15/2012	4.590	4.592	1,000,000.00	0.00	1,000,000.00
63968AQE8	NEBRASKA PUB PWR	3,135,000.00	1/1/2013	4.135	4.135	3,135,000.00	0.00	3,135,000.00
958697HM9	WEST MINN MUN PWR AGY	3,000,000.00	1/1/2013	2.190	2.189	3,000,000.00	0.00	3,000,000.00
649902Z22	NYS DORM PIT	3,000,000.00	3/15/2013	1.534	1.534	3,000,000.00	0.00	3,000,000.00
649870JP8	NYS FIN AGY	1,000,000.00	9/15/2013	4.810	4.812	1,000,000.00	0.00	1,000,000.00
649870JQ6	NYS FIN AGY	2,000,000.00	9/15/2014	4.970	4.971	2,000,000.00	0.00	2,000,000.00
Subtotal:	Municipal	18,535,000.00			3.463	18,638,224.00	0.00	18,638,224.00
Repurchase Agreement								
Subtotal:	REPO O/N	50,000,000.00	1/3/2011	0.220	0.223	50,000,000.00	0.00	50,000,000.00
Subtotal:	Repurchase Agreement	50,000,000.00			0.223	50,000,000.00	0.00	50,000,000.00
Subtotal: PORTFOLIO: OPERATING FUND		880,017,000.00			1.878	885,804,598.39	470,022.59	886,274,620.98
PORTFOLIO: ST LAWRENCE SPEC								

NEW YORK POWER AUTHORITY  
INVENTORY REPORT BY PORTFOLIO AND SECURITY TYPE  
HOLDINGS AS OF: 12/31/10

Exhibit "1j-A - Section IV"  
March 29, 2011

PORTFOLIO / SECURITY	SECURITY DESCRIPTION	PAR AMOUNT	MATURITY DATE	COUPON RATE	YIELD TO MATURITY	PRINCIPAL COST	INTEREST PURCHASED	TOTAL COST
FANNIE MAE								
31358EH4	DISCOUNT NOTE	3,800,000.00	4/14/2011		0.458	3,783,042.50	0.00	3,783,042.50
Subtotal:	FANNIE MAE	3,800,000.00			0.458	3,783,042.50	0.00	3,783,042.50
Subtotal:	PORTFOLIO: ST. LAWRENCE SPEC	3,800,000.00			0.458	3,783,042.50	0.00	3,783,042.50
	PORTFOLIO: ST. LAWRENCE CONSTRUCTION							
	FEDERAL FARM CREDIT							
31331XWU2	FEDERAL FARM CREDIT	6,000,000.00	4/25/2011	4.800	4.013	6,147,180.00	0.00	6,147,180.00
31331X5W8	FEDERAL FARM CREDIT	9,000,000.00	10/3/2011	4.700	4.002	9,219,420.00	0.00	9,219,420.00
31331G6D6	FEDERAL FARM CREDIT	4,000,000.00	12/9/2011	0.875	0.902	3,997,880.00	0.00	3,997,880.00
31331X3S9	FEDERAL FARM CREDIT	20,000,000.00	10/17/2012	4.500	3.986	20,448,000.00	0.00	20,448,000.00
31331X3G5	FEDERAL FARM CREDIT	5,500,000.00	9/13/2013	4.950	4.654	5,581,950.00	0.00	5,581,950.00
31331YHL7	FEDERAL FARM CREDIT	6,500,000.00	12/16/2013	4.150	4.138	6,504,095.00	0.00	6,504,095.00
Subtotal:	FEDERAL FARM CREDIT	51,000,000.00			3.841	51,898,525.00	0.00	51,898,525.00
	FEDERAL HOME LOAN							
3133XML66	FEDERAL HOME LOAN	5,500,000.00	10/10/2012	4.625	4.502	5,529,201.98	0.00	5,529,201.98
Subtotal:	FEDERAL HOME LOAN	5,500,000.00			4.502	5,529,201.98	0.00	5,529,201.98
	FANNIE MAE							
3136FMLX0	FANNIE MAE STEP CALLABLE 4/26/11	4,700,000.00	4/26/2013	3.000	2.639	4,705,781.00	0.00	4,705,781.00
31398A4S8	FANNIE MAE CALLABLE 4/22/11	6,000,000.00	10/22/2013	1.050	1.229	5,970,000.00	9,275.00	5,979,275.00
Subtotal:	FANNIE MAE	10,700,000.00			1.848	10,675,781.00	9,275.00	10,685,056.00
	FREDDIE MAC							
3137EAAR0	FHLMC	5,500,000.00	3/5/2012	4.750	4.413	5,571,667.42	0.00	5,571,667.42
Subtotal:	FREDDIE MAC	5,500,000.00			4.413	5,571,667.42	0.00	5,571,667.42

NEW YORK POWER AUTHORITY  
INVENTORY REPORT BY PORTFOLIO AND SECURITY TYPE  
HOLDINGS AS OF: 12/31/10

<u>PORTFOLIO / SECURITY</u>	<u>SECURITY DESCRIPTION</u>	<u>PAR AMOUNT</u>	<u>MATURITY DATE</u>	<u>COUPON RATE</u>	<u>YIELD TO MATURITY</u>	<u>PRINCIPAL COST</u>	<u>INTEREST PURCHASED</u>	<u>TOTAL COST</u>
Municipal								
650035JF6	NYSDev CONTINUOUS CALLABLE	3,450,000.00	12/15/2013	4.358	4.359	3,450,000.00	0.00	3,450,000.00
Subtotal:	Municipal	3,450,000.00			4.359	3,450,000.00	0.00	3,450,000.00
Subtotal:	PORTFOLIO: ST. LAWRENCE CONSTRUCTION	76,150,000.00			3.674	77,125,175.40	9,275.00	77,134,450.40
GRAND TOTAL		1,218,558,775.38			2.367	1,226,152,833.26	479,898.31	1,226,632,731.57

POWER AUTHORITY OF THE STATE OF NEW YORK  
Summary of Bids/Offers Solicited for the Purchase and Sale of Securities  
For the Year Ended December 31, 2010

Exhibit "1j-A - Section V"  
March 29, 2011

<u>Dealers</u>	<u>Bids/Offers Accepted</u>	<u>Bids/Offers Solicited</u>	<u>Total Cost Purchases/Sales</u>	<u>CDs and Repurchase Agreements</u>	<u>Total Transactions</u>
Bank of America Securities	33	66	\$ 279,907,926	0	\$ 279,907,926
Barclays Capital Inc.	31	156	396,869,383	91,000,000	487,869,383
Blaylock Robert Van LLC	3	8	20,998,187	0	20,998,187
Cantor Fitzgerald	1	12	-	25,000,000	25,000,000
CastleOak Securities L.P.	4	10	80,465,125	0	80,465,125
Citigroup Global Markets	27	57	151,995,354	0	151,995,354
Goldman, Sachs & Co.	1	1	4,000,000	0	4,000,000
J.P. Morgan Securities Inc.	1	1	1,925,000	0	1,925,000
Key Bank	40	40	0	2,991,230	2,991,230
Loop Capital Markets LLC	3	5	35,962,500	0	35,962,500
M.R. Beal & Co.	1	1	3,000,000	0	3,000,000
Magna Securities Corp	2	2	29,973,000	0	29,973,000
Mizuho Securities USA Inc.	135	179	269,790,614	4,351,500,000	4,621,290,614
Muriel Siebert & Co.	13	17	177,124,823	0	177,124,823
Sandgrain Securities Inc.	6	11	73,897,625	0	73,897,625
<b>Grand Total</b>	<b>301</b>	<b>566</b>	<b>\$ 1,525,909,537</b>	<b>\$ 4,470,491,230</b>	<b>\$ 5,996,400,767</b>



KPMG LLP  
515 Broadway  
Albany, NY 12207-2974

## Independent Accountants' Report on Investment Compliance

Board of Trustees  
Power Authority of the State of New York:

We have examined the Power Authority of the State of New York's (Authority) compliance with Part 201.3 of Title Two of the New York Code of Rules and Regulations during the year ended December 31, 2010. Management is responsible for the Authority's compliance with those requirements. Our responsibility is to express an opinion on the Authority's compliance based on our examination.

Our examination was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants and the standards applicable to attestation engagements contained in *Government Auditing Standards* issued by the Comptroller General of the United States and, accordingly, included examining, on a test basis, evidence supporting the Authority's compliance with those requirements and performing such other procedures as we considered necessary in the circumstances. We believe that our examination provides a reasonable basis for our opinion. Our examination does not provide a legal determination on the Authority's compliance with specified requirements.

In our opinion, the Authority complied, in all material respects, with the aforementioned requirements during the year ended December 31, 2010.

In accordance with *Government Auditing Standards*, we are required to report findings of deficiencies in internal control, violations of provisions of contracts or grant agreements, and abuse that are material to the Authority's compliance with Part 201.3 of Title Two of the New York Code of Rules and Regulations and any fraud and illegal acts that are more than inconsequential that come to our attention during our examination. We are also required to obtain the views of management on those matters. We performed our examination to express an opinion on whether the Authority complied with the aforementioned requirements and not for the purpose of expressing an opinion on the internal control over compliance with those requirements or other matters; accordingly, we express no such opinion. The results of our tests disclosed no matters that are required to be reported under *Government Auditing Standards*.

This report is intended solely for the information and use of management of the Authority, members of the Authority's Board of Trustees, the Authority Budget Office, and the New York State Office of the State Comptroller and is not intended to be and should not be used by anyone other than those specified parties.

**KPMG LLP**

March 29, 2011

**Levenson, Gary**

---

**From:** Levenson, Gary  
**Sent:** Thursday, May 19, 2011 1:32 PM  
**To:** 'Jeff Wood'; Kraske, Paul S  
**Cc:** david.matuszewski@hklaw.com; Lawrence.Wolk@hklaw.com; Cavanaugh, J. Michael  
**Subject:** RE: Subordinated Mortgage

Jeff:

Here is what we were thinking as to resolving the Second Lien recording tax issue.

NYPA would agree to a \$1 M cap on a temporary basis for the Second Lien mortgage, provided however, that at the earlier of 90 days or 5 business days after a determination is made on the request for the tax exemption, HTP must increase the cap to \$100 Million.

This would solve a temporary problem, and give HTP time to secure the additional financing should it be necessary.

In addition, our thoughts would be that we would effectuate this by an FTCPA amendment (new sec. 5.1.4) and include that in Amendment No. 3.

Let me know your thoughts on this.

Thanks,

Gary D. Levenson  
Principal Attorney  
New York Power Authority  
914-390-8030

---

**From:** Jeff Wood [mailto:jwood@powerbridge.us]  
**Sent:** Thursday, May 19, 2011 10:10 AM  
**To:** Levenson, Gary  
**Subject:** Subordinated Mortgage

Gary,

I was wondering if NYPA is in agreement with the approach on the amount to be included in the Subordinated Mortgage. On the call yesterday with the title company, Milbank, the real estate lawyers and Larry from H&K, I think everyone felt this was a very reasonable approach to address both NYPA's and HTP's concerns.

Please let me know if we need to have call.

Thanks



---

*Generating More Than Electricity*

## 2011 Mission Statement and Strategic Plan

MISSION	Page 1
VISION	Page 1
VALUES	Page 2
STRATEGIC GOALS	Page 3
BALANCED SCORECARD	Page 5

# MISSION

*The mission statement is a clear definition of the charter and underlying purpose of the organization, articulating the aims, focus, and emphasis of the organization.*

*Our Mission is to ...*

**Provide clean, low-cost, and reliable energy consistent with our commitment to the environment and safety, while promoting economic development and job development, energy efficiency, renewables and innovation, for the benefit of our customers and all New Yorkers.**

# VISION

*The vision statement articulates the direction(s) that the organization will pursue. It implicitly recognizes the underlying Mission, but provides a clear statement of upcoming priorities and focus for the management team.*

We will own assets and implement programs in accordance with our enabling statute where public involvement provides positive value to New York State, and we will help shape and support the State's energy policy in the public interest.

# VALUES

*Values articulate the underlying principles and aims of our business philosophy that guide our conduct, practices, and decisions and that we will consistently strive to achieve throughout the organization.*

**Integrity** – We will operate at the highest level of honesty, ethical conduct, and public trust in all of our activities.

**Safety** – We will always strive to encourage and support an accident-free workplace for our employees.

**Employee Development** – We value our employees and will invest in their development.

**Job Development** – We will utilize our power resources to support the creation and retention of New York State jobs

**Sustainability** – We will manage all aspects of our business through the lens of sustainability, which holistically integrates business objectives with environmental and social concerns (i.e., the “triple bottom line” approach).

**Clean Energy** – We are committed to the efficient use of energy and promoting clean power supply technologies.

**Stakeholder Management** – We will aggressively build awareness of NYPA’s Mission and purpose by cultivating positive relationships with our Stakeholders – customers, public officials, regulatory agencies, community representatives, and other opinion leaders – to ensure they support us and share in our commitment.

**Financial Strength** – We will maintain NYPA’s financial strength so as to have the financial resources needed to fulfill our Mission.

# CORPORATE STRATEGIC GOALS

*Strategic Goals are the specific programs that focus our resources and efforts over the horizon of the strategic plan. Strategic Goals are supported by Business Unit Initiatives which are projects with defined objectives and a clear beginning and end. Each business unit organization must balance the incremental effort defined by these initiatives with management of the ongoing business of the enterprise.*

- 1. Power Supply Optimization:** Identify and implement opportunities to increase the performance of NYPA's generation and transmission infrastructure. Develop the necessary capabilities to perform integrated resource planning & analysis and supply portfolio management and optimization. Plan, acquire, and develop cost effective and environmentally responsible power supply to meet our customer requirements.
- 2. Financial Strength:** Ensure that NYPA has the financial resources to achieve its mission. Assure adequate rate levels to support NYPA's current investments and develop programs to maintain the ability to finance future initiatives. Enhance the efficiency of the business planning process through the integration of the strategic, budgeting and financial planning programs. Implement commodity and credit risk management processes and monitor marketplace and legislative developments that may affect NYPA's financial standing.
- 3. Enterprise Risk and Compliance:** Promote achievement of the Authority's multi-faceted mission by facilitating disciplined identification, assessment, prioritization, and mitigation of ongoing and emergent risks throughout the enterprise; and risk-informed decision-making and resource allocation through a regular, consolidated view of the potential impacts of uncertainty on strategic drivers. Develop and implement business continuity plans/processes and comprehensive emergency management plans for all essential NYPA functions. Institute a process to monitor and report applicable legal and regulatory compliance risks and issues.
- 4. Economic Development:** Allocate use of NYPA's economic development power programs to maximize creation and retention of New York State jobs. Reform NYPA's statewide economic development power programs to have a greater impact on job attraction, creation and retention; and on long-term capital investment. Optimize existing programs and catalyze the process for the creation of new statewide economic development programs.

5. **Energy Efficiency:** Enhance energy efficiency programs to support the State's current plan to achieve a 15% reduction in energy demand by 2015. Provide a leadership role in delivering energy efficiency programs, promoting energy conservation, and stimulating new energy technologies and renewables throughout New York State. Demonstrate the commercial viability of available technologies to encourage public and private investment. Work to expand energy-service technologies and act as a source of financing for energy efficiency initiatives benefiting all the people of New York State.
6. **Renewables:** Develop generation and transmission projects to support the State's current plan to achieve a 30% renewable portfolio standard by 2015. Encourage use of renewable technologies to help decrease demand for fossil generation. Facilitate commercial demonstration of emerging energy technologies, to reduce environmental impact.
7. **Workforce Renewal:** Develop programs to address changing/aging workforce trends. Enhance the skills and strengthen the knowledge and diversity of our workforce. Provide appropriate total compensation practices that are competitive and support NYPA's Mission. Develop and implement a workforce plan that optimizes our existing structure and provides for future needs and succession plans.
8. **Safety Leadership:** Continue to pursue a "zero" accident rate and maintain an industry leadership position. Establish additional safety training activities and processes that further ingrain safe work practices into the behavior of all NYPA employees.
9. **Sustainability:** Develop programs to instill a culture of sustainability across the enterprise. Ensure that we will make choices utilizing sustainability principles in our operations – focusing on a "triple bottom line" approach that holistically integrates business objectives with environmental and social concerns. Monitor and report on progress in meeting the sustainability goals we have set for ourselves.

# BALANCED SCORECARD

## 2010 Balanced Scorecard

The 2010 Balanced Scorecard displays the performance targets and results achieved in 2010.

Strategic Goals	Objectives	Performance Measures	2010 Target	2010 Results
1. Power Supply Optimization	<i>Identify and implement opportunities to increase the performance of New York State generation and transmission infrastructure</i>	Generation Market Readiness (%)	99.4%	99.8%
		Transmission Reliability (%)	96.0%	95.8%
2. Financial Strength	<i>Control costs to ensure NYPA's ability to finance future initiatives</i>	O&M Budget (Millions)	\$312M	\$310M
3. Enterprise Risk and Compliance	<i>Improve risk management and compliance profile</i>	Enterprise Risk	100%	100%
	<i>Create minimal impact from energy operations and facilities</i>	Environmental Incidents (#)	27	27
4. Economic Development	<i>Allocate use of NYPA economic development power programs to maximize creation and retention of New York State jobs</i>	Jobs Created/ Retained	2,000	2,490
5. Energy Efficiency	<i>Enhance energy efficiency programs to support the Governor's plan to achieve a 15% reduction in energy demand by 2015</i>	Energy Efficiency (MWHs)	75,000 MWHs	89,859 MWHs
6. Renewables	<i>Develop generation and transmission projects to support the Governor's plan to achieve a 30% renewable portfolio standard by 2015</i>	Renewable Energy (MWHs)	207,000 MWHs	217,200 MWHs
7. Workforce Renewal	<i>Develop programs to address changing/aging workforce trends</i>	Succession Planning Information Tool Rollout	100%	100%
8. Safety Leadership	<i>Continue to pursue a "zero" accident rate and maintain an industry safety leadership position</i>	Recordable Incidence Rate (OSHA Rate)	1.00	1.39
9. Sustainability	<i>Develop and implement programs to instill a culture of sustainability across the enterprise</i>	Sustainability Profile	35	40

# 2011 Balanced Scorecard

The 2011 Balanced Scorecard sets the performance goals and targets that we will strive for during 2011.

Strategic Goals	Objectives	Performance Measures	2011 Target
1. Power Supply Optimization	<i>Identify and implement opportunities to increase the performance of New York State generation and transmission infrastructure</i>	Generation Market-Readiness	99.4%
		Transmission Reliability	97.73%
		Installed MWs to Meet Customer Needs	521 MW
2. Financial Strength	<i>Control costs to ensure NYPA's ability to finance future initiatives</i>	O&M Budget	\$312M
3. Enterprise Risk and Compliance	<i>Promote achievement of the mission by effective risk identification and management and through risk-informed decision making.</i>	Enterprise Risk	100%
		Compliance Reporting	100%
	<i>Improve compliance profile</i>	Compliance Training	100%
	<i>Create minimal impact from energy operations and facilities</i>	Environmental Incidents	27
4. Economic Development	<i>Allocate use of NYPA economic development power programs to maximize creation and retention of New York State jobs</i>	Jobs Created/ Retained	2,000
5. Energy Efficiency	<i>Enhance energy efficiency programs to support the Governor's plan to achieve a 15% reduction in energy demand by 2015</i>	Energy Efficiency	75,000 MWHs
6. Renewables	<i>Develop generation and transmission projects to support the Governor's plan to achieve a 30% renewable portfolio standard by 2015</i>	Renewable Energy	200,000 MWHs
7. Workforce Renewal	<i>Develop programs to address changing/aging workforce trends</i>	Succession Preparedness	100%
8. Safety Leadership	<i>Continue to pursue a "zero" accident rate and maintain an industry safety leadership position</i>	Recordable Incidence Rate (OSHA Rate)	1.00
9. Sustainability	<i>Develop and implement programs to instill a culture of sustainability across the enterprise</i>	Sustainability Profile	16

---

## Authorities Budget Office Policy Guidance



---

### Authority Mission Statement and Performance Measurements

**Name of Public Authority:**

*Power Authority of the State of New York (also known as the "New York Power Authority" and "NYPA")*

**Public Authority's Mission Statement:**

*Please see the attached document entitled "2011 Mission Statement and Strategic Plan" (the "Mission Statement")*

**Date Adopted:**

March 29, 2011

**List of Performance Goals (If additional space is needed, please attach):**

*Please see the attached Mission Statement.*

**Additional questions:**

1. Have the board members acknowledged that they have read and understood the mission of the public authority?

*The members of NYPA's Board of Trustees have acknowledged in a Resolution adopted March 29, 2011 that they have read and understand the Mission Statement.*

2. Who has the power to appoint the management of the public authority?

*NYPA is governed by a Board of Trustees consisting of seven members. The Trustees are appointed by the Governor by and with the advice and consent of the New York State Senate.*

*In accordance with NYPA's By-Laws, last approved by the Trustees at their October 26, 2010 meeting, the President and Chief Executive Officer, the Chief Operating Officer, the Executive Vice President and General Counsel, Executive Vice President and Chief Engineer – Power Supply, the Executive Vice President – Chief Administrative Office and Chief of Staff, the Executive Vice President – Chief Financial Officer, the Executive Vice President – Energy Marketing and Business Development and the Corporate Secretary are elected by the Trustees.*

*The Vice President – Internal Audits is appointed by and serves at the pleasure of the Audit Committee.*

*All other officers of the Authority are appointed by and serve at the pleasure of the President and Chief Executive Officer.*

3. If the Board appoints management, do you have a policy you follow when appointing the management of the public authority?

*The Board's Governance Committee reviews and approves the hiring of the following officers: President and Chief Executive Officer, Chief Operating Officer, Executive Vice President and General Counsel, Executive Vice President and Chief Financial Officer and Corporate Secretary.*

4. Briefly describe the role of the Board and the role of management in the implementation of the mission.

*Article II, Section 2 of the NYPA's By-Laws provide that the powers and duties of the Trustees shall be governed by the Power Authority Act and other applicable provisions of the Public Authorities Law. To implement these powers and duties, the Trustees shall, among other things, oversee the Authority's chief executive and other management in the effective and ethical management of the Authority; understand, review and monitor financial, management and operational decisions of the Authority and review and approve annually the policies and procedures governing: (i) the salary, (ii) compensation, (iii) benefits and (iv) time and attendance of the chief executive and management.*

*The powers and duties of NYPA's management are provided in Article IV, Section 6 of its By-Laws with the President and Chief Executive Officer responsible for developing and implementing the strategic vision and mission of the Authority and for the supervision of all of the Authority's operations. He or she shall have primary responsibility for the Authority's legal and financial matters and the activities of all other Authority business units, except those assigned to the Chief Operating Officer who shall report to the Chief Executive Officer on such matters.*

*The Chief Operating Officer shall manage and monitor the day-to-day operations of the Authority. The Executive Vice President and Chief Engineer – Power Supply shall be responsible for the safe, reliable and cost-effective operation and maintenance of all Authority generating and transmission facilities. The Executive Vice President and General Counsel, who shall report to both the Trustees and the President and Chief Executive Officer, shall be the chief legal officer of the Authority. The Executive Vice President and Chief Financial Officer shall give advice to the President and Chief Executive Officer regarding financial and investment policies of the Authority, supervise the Authority's investment program, recommend and implement financial policies of the Authority, and participate in the preparation of the financial reports of the Authority required by applicable law. The Corporate Secretary shall report to the Chairman and Board of Trustees and to the Executive Vice President and General Counsel and attend all meetings of the Trustees and record all votes and shall keep a record of the proceedings of the Trustees in a Minute Book to be kept for that purpose. The Corporate Secretary shall be custodian of the records of the actions of the Trustees and shall keep in safe custody the seal of the Authority and shall have the authority to affix such seal to all documents and papers authorized to be executed by the Trustees or officers of the Authority requiring such seal to be affixed.*

5. Has the Board acknowledged that they have read and understood the responses to each of these questions?

*The members of NYPA's Board of Trustees have acknowledged in a Resolution adopted March 29, 2011 that they have read and understand the responses to these questions.*

March 29, 2011 – NYPA Trustees' Meeting

# Trustees' Meeting

March 29, 2011



March 29, 2011 – NYPA Trustees' Meeting

## **2a. Monthly Report**

**Richard M. Kessel**  
President & Chief Executive  
Officer

## Key Issues

- HTP
- 100 Solar Initiative
- GLOW
- Hydro-Quebec

## Key Activities

### *Community Outreach – Upstate/Downstate*

#### *January*

- 26 - Buffalo/Niagara Falls Ice Rink Zamboni Event

#### *February*

- 9 & 10 – Lake Placid Tri-Lakes summit – meeting with local officials: Clyde Rabideau (Mayor Village of Saranac Lake), Michael Desmarais (Mayor Village of Tupper Lake), John Bouck (Superintendent Tupper Lake Electric), Peter Kroha (Superintendent Lake Placid Electric), Dave Jones (Trustee Village of Lake Placid)
- 14 – Meetings w/Lt. Governor Duffy, Senators Fuschillo, Grisanti, and Griffo
- 15 – Advanced Energy Research and Technology Center Tour



# Key Activities

## *Upstate/Downstate – continued*

### *February-continued*

- 17 – Buffalo/Niagara – meeting with Tuscarora's for delivery of weatherization kits, Niagara employees celebrating the Niagara Power Project's 50<sup>th</sup> Anniversary, meetings with Town of Niagara Mayor Steve Richards, Town of Lockport Mayor Marc Smith, City of Lockport Mayor Mike Tucker

### *March*

- 2 – Hydro Quebec Meeting
- 3 – Buffalo meeting w/Elise Cusack on Erie Harbor project, tour of Niagara Plant, meeting Buffalo Mayor Byron Brown
- 4 – Brookhaven Lab speech

## Key Activities

### *Upstate/Downstate – continued*

#### *March-continued*

- 9 – Hudson Transmission Partnership meeting, Employee Appreciation Event
- 14 – CDC Keynote Address
- 15 – Massena meeting with RVRDA members , Nature Center representatives
- 21 – Albany – meeting w/Western New York delegation
- 22 – Buffalo
- 28 – Mineola Kiwanis speech

123 Main Street  
White Plains, NY 10601-3170  
914.681.6621  
914.681-6804 (Fax)  
Gil.Quiniones@nypa.gov



Gil C. Quiniones  
Chief Operating Officer

TO: NYPA BOARD OF TRUSTEES  
FROM: GIL C. QUINIONES, CHIEF OPERATING OFFICER  
DATE: MARCH 29, 2011  
SUBJECT: MONTHLY REPORT FOR THE BOARD OF TRUSTEES

\*\*\*\*\*

This report covers the performance of the Operations group in January and February. Transmission reliability was a particularly high point for Operations, with no forced outage hours or significant unplanned events in the first two months of the year.

Power Supply

*Plant Performance*

Systemwide net generation<sup>1</sup> in January was 2,022,387 megawatt-hours<sup>2</sup> (MWh), compared to projected net generation of 2,117,653 MWh, and 1,769,030 MWh in February compared to projected net generation of 1,915,026 MWh. Year-to-date net generation is 3,791,417 MWh compared to target net generation target of 4,032,679 MWh.

The fleet availability factor<sup>3</sup> was 97.8 percent in January and 98.8 percent in February. Generation market readiness factor<sup>4</sup> was 99.7 percent in January and 99.8 percent in February, compared with monthly targets of 99.4 percent. Year-to-date generation market readiness factor is 99.75 percent.

There were three significant unplanned generation events<sup>5</sup> in January. All three were at the 500-MW Combined Cycle Plant in Queens. Unit 7A had a 2.5 hour outage resulting in lost revenue of \$65,000. Unit 7B had two separate events: one lasted 7.5 hours and resulted in lost revenue of \$851,000, and another lasted 13 hours and resulted in lost revenue of \$160,000.

There were no significant unplanned generation events in February.

There was \$1.2 million in lost opportunity cost from unscheduled outages in January, compared with generation revenue of \$162.5 million. There was \$0.02 million in lost opportunity cost from unscheduled outages in February, compared with generation revenue of \$133.9 million. Year-to-date lost opportunity cost is \$1.22 million, about 0.4 percent of year-to-date generation revenue of \$296.4 million.

River flows at the Niagara project were below forecast in January and February, and they are forecast to be well below normal in 2011, due to continued low precipitation in the Great Lakes Basin. At the St. Lawrence-FDR project, flows were slightly above forecast in January and February. Flows are expected to be slightly above average at the start of 2011 but then below normal through the next two years.

#### *Transmission Performance*

Transmission reliability<sup>6</sup> in January was 98.99 percent, which was above the target of 97.99 percent. Transmission reliability in February was also 98.99 percent, which was above the target of 98.21 percent. Year-to-date transmission reliability is 98.99 percent, above the target of 98.10 percent.

There were no significant unplanned transmission events<sup>7</sup> in January or February.

#### *Life Extension and Modernization Program*

Work on Unit 24 at the St. Lawrence-FDR project, the 14<sup>th</sup> of the 16 units, continues as part of the project's Life Extension and Modernization<sup>8</sup> (LEM) program. The upgrade is expected to be completed in May 2011; however, staff is currently evaluating the potential impact of unanticipated paint abatement, installation of additional steel supports, repair of cracks found on the generator rotor, and repair of the newly found cracks on the stationary ring of the draft tube. A revised return-to-service date may be developed. The 2013 scheduled completion date for the LEM project remains unchanged.

#### *Environmental*

There were two reportable events in January. At the St. Lawrence-FDR Project, an inadvertent release of an estimated 10 – 15 gallons of transformer oil occurred while workers performed maintenance activities. The spill was reported to the NYS Department of Environmental Conservation. The other event occurred at the Harlem River Gas Turbine facility in the Bronx. Approximately 100 gallons of mineral oil was released as the result of a failed transformer that caught fire. The spill was contained and clean-up operations undertaken.

There were three reportable events in February. At the Blenheim-Gilboa Pumped Storage Power Project, 10 – 15 gallons of oil were released through a leak in a hydraulic oil line. The oil release was contained and collected, and the leaking line was repaired. At the Niagara Power Project and St. Lawrence-FDR Project, there were two separate violations of State Pollution Discharge Elimination System<sup>9</sup> permits, both for exceeding the total suspended solids

limits. The cause of these violations is most likely the sand and salt applications used to control snow and ice during the winter months.

Year-to-date number of recordable environmental incidents is five; the 2011 target is 25.

#### *Transmission Initiative*

NYPA continues to work with National Grid, Con Edison, and the Long Island Power Authority (LIPA) regarding a proposed transmission line that would deliver power from Canada and upstate renewable energy projects to New York City.

Since June 2010, PA Consulting has conducted a series of economic analyses for the project, including a comparison of the load-weighted zonal electricity prices, production costs, generators' costs, and emissions under the Base Case and the Transmission Initiative Case. In addition, PA Consulting analyzed several scenarios: one that included the transmission line between New York City and New Jersey proposed by Hudson Transmission Partners, one that assumes high natural gas prices and one that assumes low prices, and one with 400 MW of offshore wind. The results of these analyses indicate that there is a net benefit in statewide production costs and a reduction in emissions with the construction of the Transmission Initiative.

NYPA staff received comments on the economic studies from Con Edison in mid-January. National Grid, NYPA and PA Consulting have been working with Con Edison staff to address concerns about assumptions in the analyses, including the amount of in-City non-economic dispatch used for reliability, transmission line utilization, and transmission interface limit assumptions. PA Consulting has completed extensive additional analyses to address Con Edison's issues and this information is being summarized and will be sent to Con Edison by the end of March. The executive meeting to further discuss the Transmission Initiative has been temporarily postponed until these issues on the economic analyses have been addressed.

#### *Technical Compliance – NERC Reliability Standards*

As reported in the March 2010 COO Report, NYPA self-reported potential non-compliance and submitted mitigation plans to the Northeast Power Coordinating Council (NPCC)<sup>10</sup> for two North American Electric Reliability Corporation<sup>11</sup> (NERC) standards that apply to facility ratings methodology and data for NYPA's generation and transmission assets and one standard that applies to NYPA's Critical Infrastructure Protection (CIP)<sup>12</sup> program. In January, NYPA concluded its discussions with NPCC and signed a settlement agreement on these self reports. The penalties carried an aggregate \$5,000 penalty for six violations.

In February, NYPA initiated settlement discussions with NPCC associated with a self reported potential CIP violation. These settlement discussions are on-going. NYPA identified and processed three additional potential compliance violations associated with Protection and Control Reliability Standards. NYPA submitted these reports to NPCC in February to initiate the formal assessment process to determine compliance.

In January, NYPA submitted information in response to the NERC Alert Recommendation to the Industry urging entities to verify that the methodology used to determine facility ratings for solely and jointly owned transmission lines is based on actual field conditions (in particular, transmission line clearances). In compliance with the Alert, NYPA is planning an assessment of transmission line clearances. The assessment will be completed by the end of 2011.

Following Federal Energy Regulatory Commission<sup>13</sup> (FERC) Order No. 743 on the Revision to Electric Reliability Organization Definition of the Bulk Electric System (BES), NERC established a Standards Drafting Team to develop the definition. A member of NYPA's Transmission staff was nominated and confirmed to the team, and Technical Compliance will support the effort. In February, Technical Compliance staff attended a meeting between the New York Independent System Operator<sup>14</sup> (NYISO) and the New York Transmission Owners to discuss the impacts of the FERC rule. NYPA will use the results of a study done by Navigant Consulting for NYPA in 2010 to develop a strategy for engaging the NYISO and Transmission Owners in discussions about potential compliance responsibilities under a new BES definition.

In February, NYPA continued a project to prepare for its NPCC audit scheduled in June 2011. As reported in the September 2010 COO Report, this project was initiated last July in order to enhance NYPA's NERC Reliability Standards compliance posture. NYPA continues to focus on completing identified action items and assessing evidence to demonstrate compliance with the applicable NERC CIP and non-CIP Standards. As a result of this project, over 100 NERC-related policies and procedures have been written or updated, and approved. NYPA Internal Audits has completed an audit of the non-CIP Standards, and issued a final report in January with one recommendation that will be implemented in 2011. Completion of existing action items and evidence assessment for non-CIP standards are on-schedule to be completed prior to the scheduled audit. Also, the CIP Audit preparation team has conducted an assessment of the compliance evidence available for one CIP Standard, prepared several CIP action items, and developed a work plan to complete the highest priority items prior to the audit.

## Energy Resource Management

### *NYISO Markets*

In January, Energy Resource Management (ERM) bid more than 2.0 million MWh of NYPA's generation into the NYISO markets, netting \$40.8 million in power supplier payments to the Authority. In February, ERM bid more than 1.7 million MWh for a net \$26.6 million in power supplier payments. Year-to-date net power supplier payments are \$67.4 million.

### *Fuel Planning & Operations*

In January, NYPA's Fuels Group transacted \$31.0 million in natural gas and oil purchases, compared with \$41.0 million in January 2010. In February, NYPA's Fuels Group transacted \$21.0 million in natural gas and oil purchases, compared with \$18.0 million in February 2010. Year-to-date natural gas and oil purchases are \$52.0 million, compared with

\$59.0 million at this point in 2010. The total year-to-date \$7.0 million reduction is mainly attributed to cessation of operations at the Poletti Power Project (-\$13.0 million, the last day of operations was January 31, 2010), which was offset by increased generation at the 500-MW Combined Cycle Plant (+\$4.0 million) and the Small Clean Power Plants (+\$3.0 million).

Office of the Chief Operating Officer

*Sustainability Action Plan*

After a very successful first year implementing all 41 action items of NYPA's Sustainability Action Plan, execution of the plan's commitments continue in 2011. Already this year, the White Plains Office 5th floor renovation earned a Silver rating from the US Green Building Council's Leadership in Energy and Environmental Design (LEED)<sup>15</sup> for Commercial Interiors. NYPA is continuing noise and air quality assessments at the generating facilities and energy and non-process water audits at other sites, along with LEED feasibility analyses at the three Visitor Centers. NYPA is also extending a Climate Change Adaptation plan that began through participation in the New York City Climate Change Adaptation Task Force to cover generation and transmission infrastructure in Power Supply's Central New York region.

## GLOSSARY

---

<sup>1</sup> **Net Generation** – The energy generated in a given time period by a power plant or group of plants, less the amount used at the plants themselves (station service) or for pumping in a pumped storage facility. Preliminary data in the COO report is provided by Accounting and subject to revision.

<sup>2</sup> **Megawatt-hour (MWh)** – The amount of electricity needed to light ten thousand 100-watt light bulbs for one hour. A megawatt is equal to 1,000 kilowatts and can power about 800 homes, based on national averages.

<sup>3</sup> **Availability Factor** – The Available Hours of a generating unit over the Period Hours (hours in a reporting period when the unit was in an active state). Available Hours are the sum of Service Hours (hours of generation), Reserve Shutdown Hours (hours a unit was not running but was available) and Pump Hours (hours a pumped storage unit was pumping water instead of generating power).

<sup>4</sup> **Generation Market Readiness Factor** – The availability of generating facilities for bidding into the New York Independent System Operator (NYISO) market. It factors in available hours and forced outage hours that drive the results.

<sup>5</sup> **Significant Unplanned Generation Events** – Forced or emergency outages of individual generator units of duration greater than 72 hours, or with a total repair cost of greater than \$75,000, or resulting in greater than \$50,000 of lost revenues.

<sup>6</sup> **Transmission Reliability** – A measurement of the impact of forced and scheduled outages on the statewide system's ability to transmit power.

<sup>7</sup> **Significant Unplanned Transmission Events** – Forced or emergency outages of individual transmission lines that directly affect the reliability of the state's transmission network, or affect the availability of any component of the state's transmission network for greater than eight hours, or have a repair cost greater than \$75,000.

<sup>8</sup> **Life Extension and Modernization Program** — A major undertaking in which all the turbines at the St. Lawrence-Franklin D. Roosevelt project are being replaced and the generators and other components significantly refurbished. The program is intended to ensure that the project operates at maximum efficiency far into the future.

<sup>9</sup> **State Pollution Discharge Elimination System (SPDES) Permit** – A permit required by the New York State Department of Environmental Conservation to regulate the point source discharge of pollutants contained in process water and storm water to surface water and ground water in New York State.

<sup>10</sup> **Northeast Power Coordinating Council (NPCC)** – The Northeast Power Coordinating Council, Inc. (NPCC) is the cross-border regional entity and criteria services corporation for Northeastern North America. NPCC's mission is to promote and enhance the reliable and

---

efficient operation of the international, interconnected bulk power system in Northeastern North America pursuant to an agreement with the Electric Reliability Organization (ERO) which designates NPCC as a regional entity and delegates authority from the U.S. Federal Energy Regulatory Commission (FERC), and by Memoranda of Understanding with applicable Canadian Provincial regulatory and/or governmental authorities. The ERO to which NPCC reports is the North American Electric Reliability Corporation (NERC).

<sup>11</sup> **North American Electric Reliability Corporation (NERC)** – The organization that develops and enforces mandatory reliability standards for the bulk power system in the United States, issues long-term and seasonal reliability forecasts and monitors the power system. (NERC standards are also mandatory and enforceable in parts of Canada.)

<sup>12</sup> **Critical Infrastructure Protection (CIP)** – The Critical Infrastructure Protection (CIP) program coordinates all of the North American Electricity Reliability Corporation's (NERC) efforts to improve physical and cyber security for the bulk power system of North America, as it relates to reliability. These efforts include standards development, compliance enforcement, assessments of risk and preparedness, disseminating critical information via alerts to industry, and raising awareness of key issues.

<sup>13</sup> **Federal Energy Regulatory Commission (FERC)** – An independent agency that regulates the interstate transmission of electricity, natural gas, and oil. FERC also reviews proposals to build liquefied natural gas (LNG) terminals and interstate natural gas pipelines as well as licensing hydropower projects.

<sup>14</sup> **New York Independent System Operator** – A not-for-profit organization that operates New York State's transmission system, administers the state's wholesale electricity markets and engages in planning to ensure the future reliability of the statewide power system.

<sup>15</sup> **Leadership in Energy and Environmental Design (LEED)** – A green building certification program administered by the U.S. Green Building Council, an organization that promotes practices in building construction and redesign that contribute to human health, a clean environment and the efficient use of energy and water. LEED is a nationally-recognized system for rating buildings in the areas of energy efficiency, sustainable site development, water savings, materials and resources selection and indoor environmental quality.

**New York Power Authority**

**Report of the Chief Financial Officer**

**For the Two Months Ended February 28, 2011**



## **Report of the Chief Financial Officer For the Two Months Ended February 28, 2011 Executive Summary**

### **Results of Operations**

Net income for the two months ended February 28, 2011 was \$6.4 million, which was \$14.9 million below budget including lower net margins on sales (\$11.5 million) and lower non-operating income (\$2.1 million). Through February, lower net margins at Niagara (\$17.2) primarily due to lower generation volumes (13%) were partially offset by higher net margins at St. Lawrence (\$4.2 million) resulting from higher generation and higher prices on market-based sales. Net generation was lower than budgeted at Niagara due to low water flows and the need to manage ice conditions at the facility. In addition, higher than anticipated purchased power costs were incurred to support customer loads at Niagara due to an extended transmission line outage. Non-operating income reflected a mark-to-market loss on the Authority's investment portfolio resulting from an increase in market interest rates partially offset by lower interest costs.

### **Year-end Projection**

Year-end net income is currently projected to be \$125 million, \$55 million below budget. The two primary drivers of the year-end variance to the budget continue to be lower than forecasted hydro flows and market prices for capacity, partially mitigated by increased energy prices and lower than forecasted interest expense.

The current annual hydro generation forecast of 18.2 TWh is 0.9 TWh below the budget, resulting in a \$33 million negative impact on 2011 net income. The lower hydro generation is attributable to precipitation levels over the Great Lakes being 25% below average over the last four months. This forecast may change upward as March precipitation is considered. Lower capacity prices reduce forecasted annual net income by \$26 million, with the most significant decreases attributed to Niagara, Blenheim Gilboa, and the Small Clean Power Plants. The reduction in expected annual interest expense of \$4.6 million is largely due to the delayed issuance of new debt.

### **Cash & Liquidity**

The Authority ended the month of February with total operating funds of \$1,089 million as compared to \$1,069 million at the end of 2010. The increase of \$20 million was primarily attributable to net cash generated by operations and the Value Sharing payment received from Entergy in January partially offset by a voluntary contribution to New York State and scheduled



debt service payments. Looking forward, we are anticipating the operating fund balance to increase to \$1,182 million at the end of the year.

### **Energy Risk**

At February 28, 2011, the fair market value of outstanding energy derivatives was an unrealized loss of \$255 million for contracts extending through 2017. Year to date, energy derivative settlements resulted in a realized net loss of \$2 million. The amount of these losses is subject to virtually full cost recovery, whereby the resulting hedge settlements are recovered through customer rates.

**Net Income**  
**Two Months ended February 28, 2011**  
(\$ in millions)

	Actual	Budget	Variance
Niagara	\$4.0	\$21.2	(\$17.2)
St. Lawrence	5.2	1.2	4.0
Blenheim-Gilboa	(2.1)	(1.5)	(0.6)
SENY	10.0	6.7	3.3
SCPP	(1.8)	(1.5)	(0.3)
Market Supply Power	(7.0)	(6.8)	(0.2)
Flynn	2.5	1.4	1.1
Transmission	8.5	9.1	(0.6)
Non-facility*	(12.9)	(8.5)	(4.4)
<b>Total</b>	<b>\$6.4</b>	<b>\$21.3</b>	<b>(\$14.9)</b>

**Major Factors**

**Better  
(Worse)**

**Niagara**

(\$17.2)

Lower net margins on sales due to lower generation volumes (13%) resulting from lower hydro flows and ice management conditions. This resulted in lower market-based revenues and higher purchased power costs to support customer loads. Purchased power costs were also higher due to an extended outage at an upstate transmission line.

**St. Lawrence**

4.0

Higher net margins (\$4.2) resulting from 6% higher generation and higher prices on market sales (\$45/mwh vs \$40/mwh).

**Other facilities**

2.7

Primarily SENY due to timing differences in recovery of fixed costs.

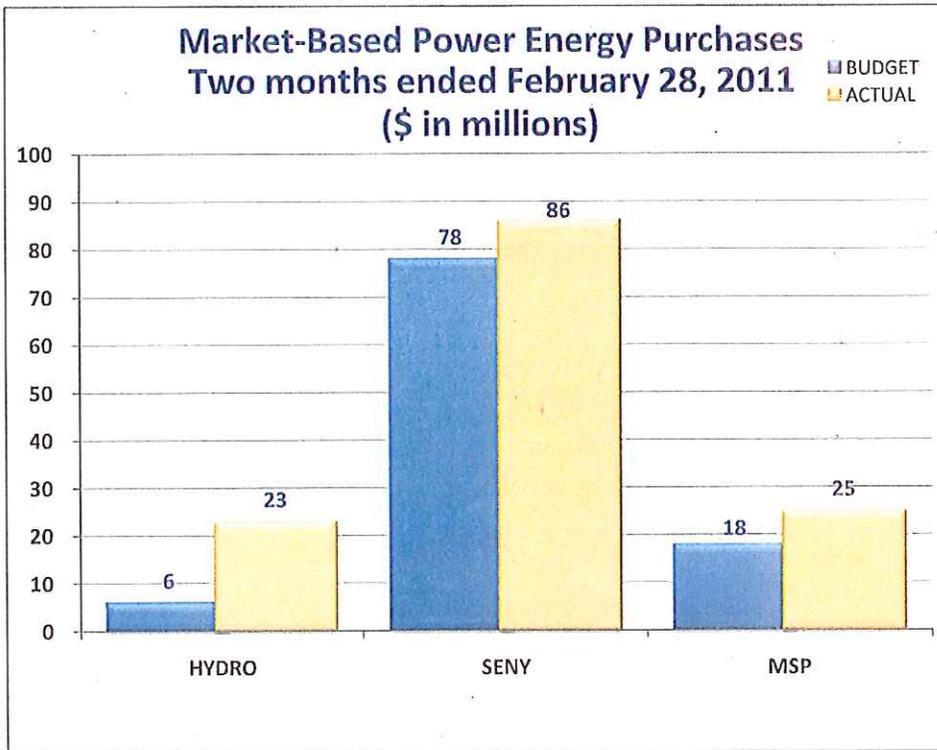
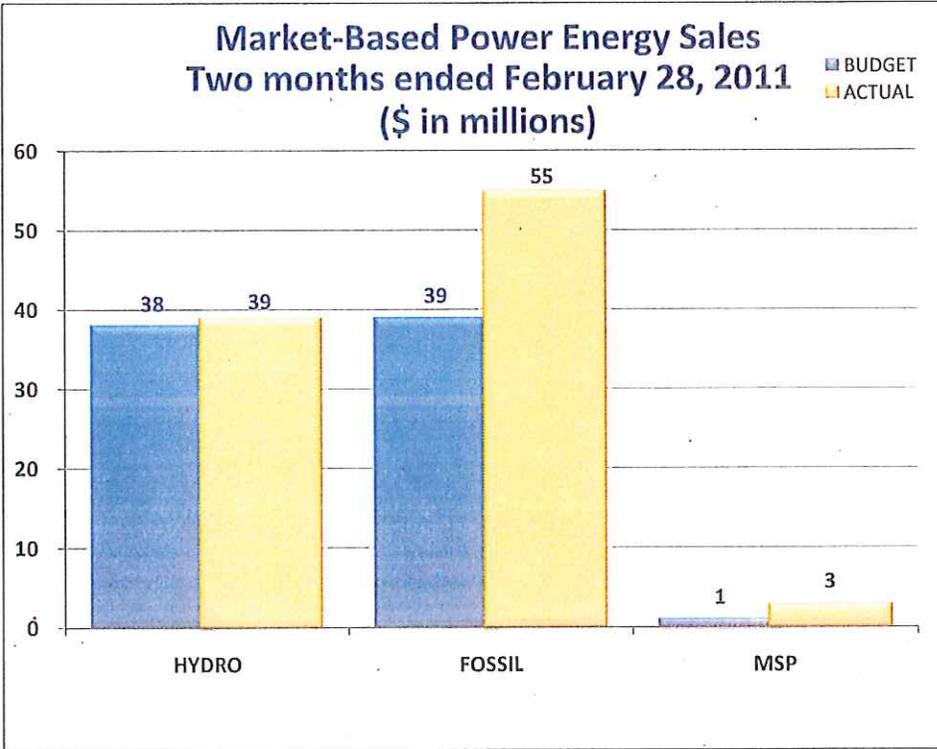
**Non-facility (including investment income)**

(4.4)

Primarily mark-to-market loss on the Authority's investment portfolio due to an increase in market interest rates during the month.

**Total**

**(\$14.9)**



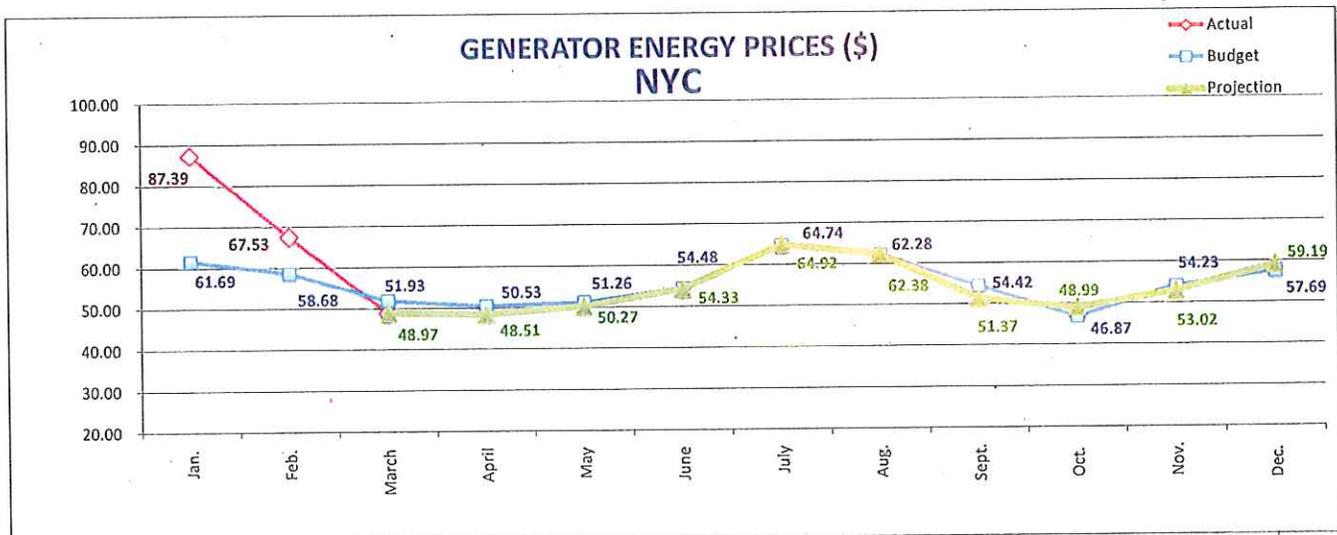
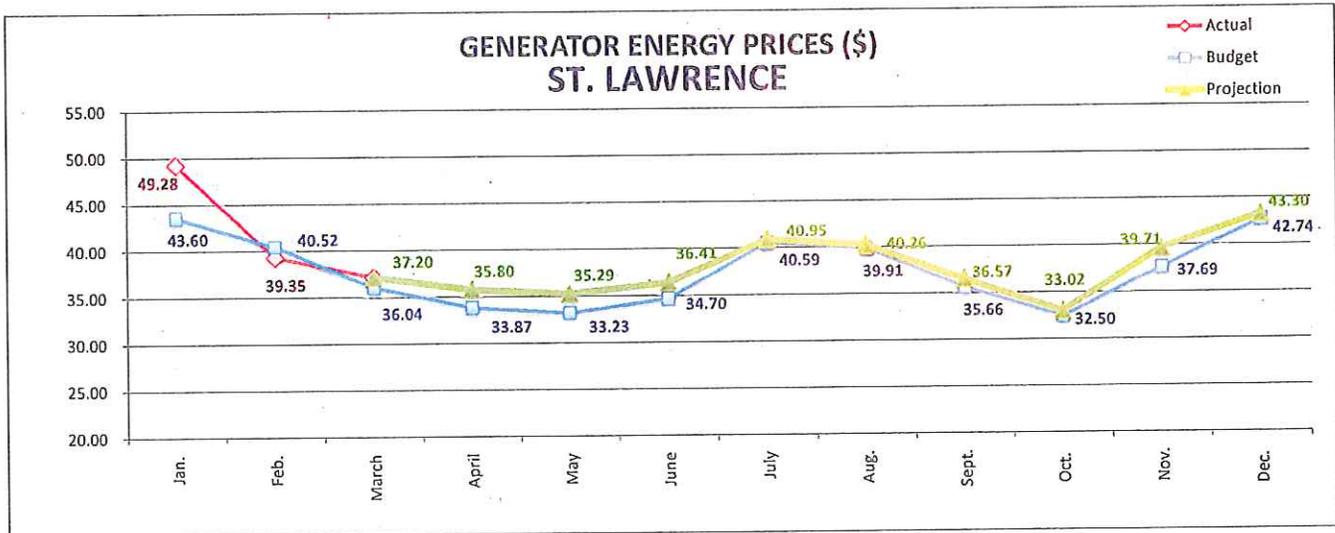
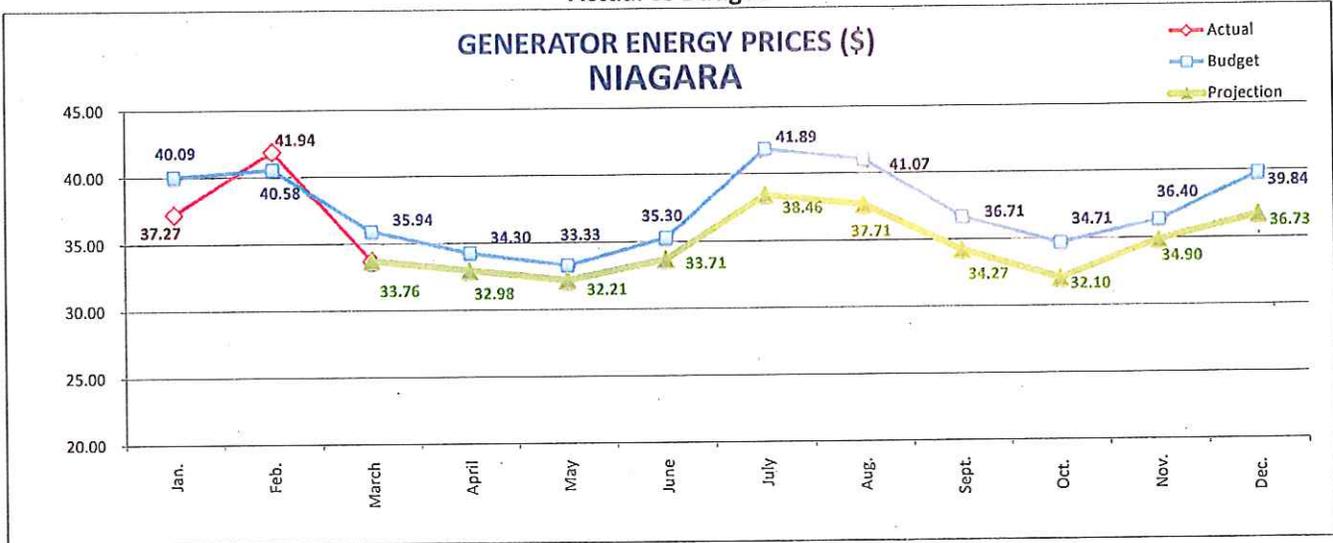
REVENUES		
SALES (MWH)		
	BUDGET	ACTUAL
Hydro*	788,296	789,790
Fossil	585,954	671,670
MSP	35,969	74,592
<b>TOTAL</b>	<b>1,410,219</b>	<b>1,536,052</b>
PRICES (\$/MWH)		
Hydro*	\$47.65	\$49.76
Fossil	\$67.21	\$82.21
MSP	\$38.14	\$46.72
<b>AVERAGE</b>	<b>\$55.53</b>	<b>\$63.15</b>

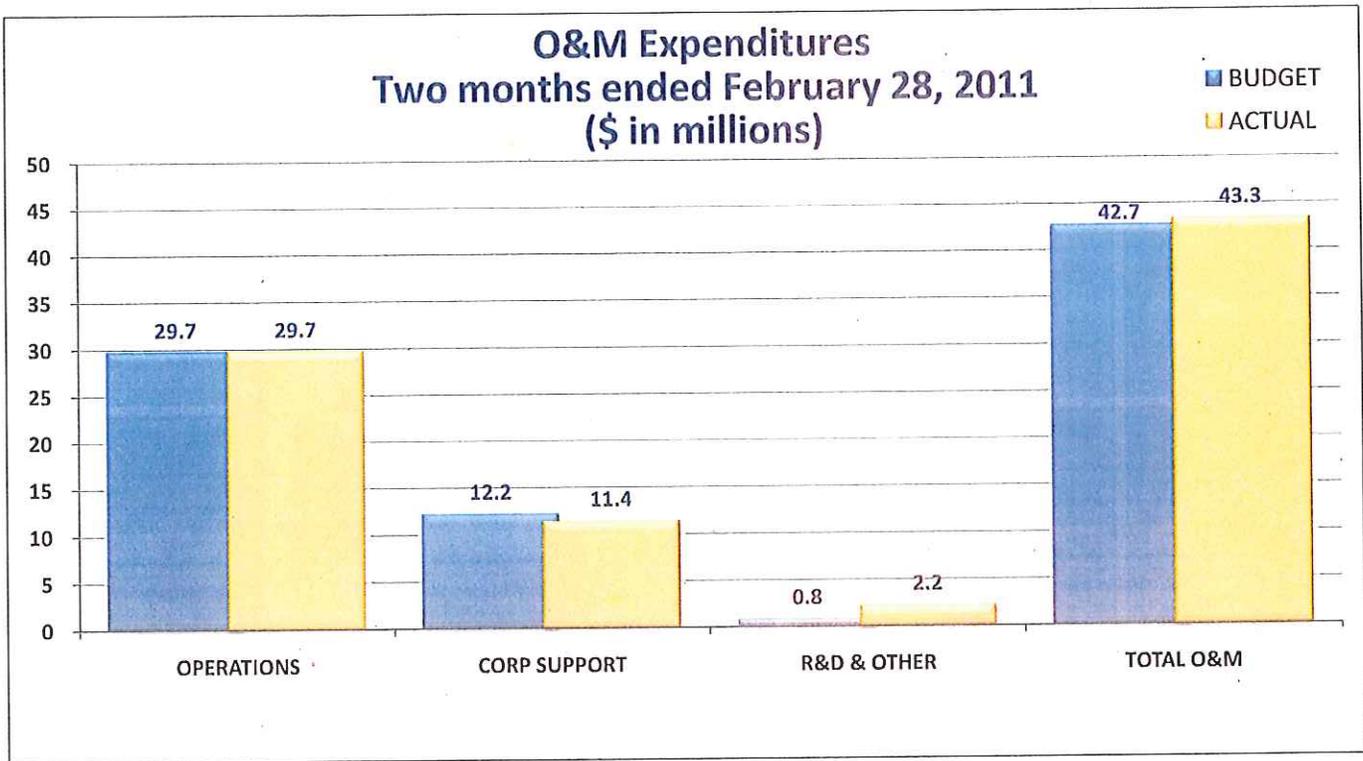
\* Includes Niagara, St. Lawrence, B-G, and Small Hydro.

REVENUES		
SALES (MWH)		
	BUDGET	ACTUAL
Niagara	436,776	427,414
St. Law.	217,283	278,905
PRICES (\$/MWH)		
Niagara	\$40.46	\$39.25
St. Law.	\$39.81	\$45.46

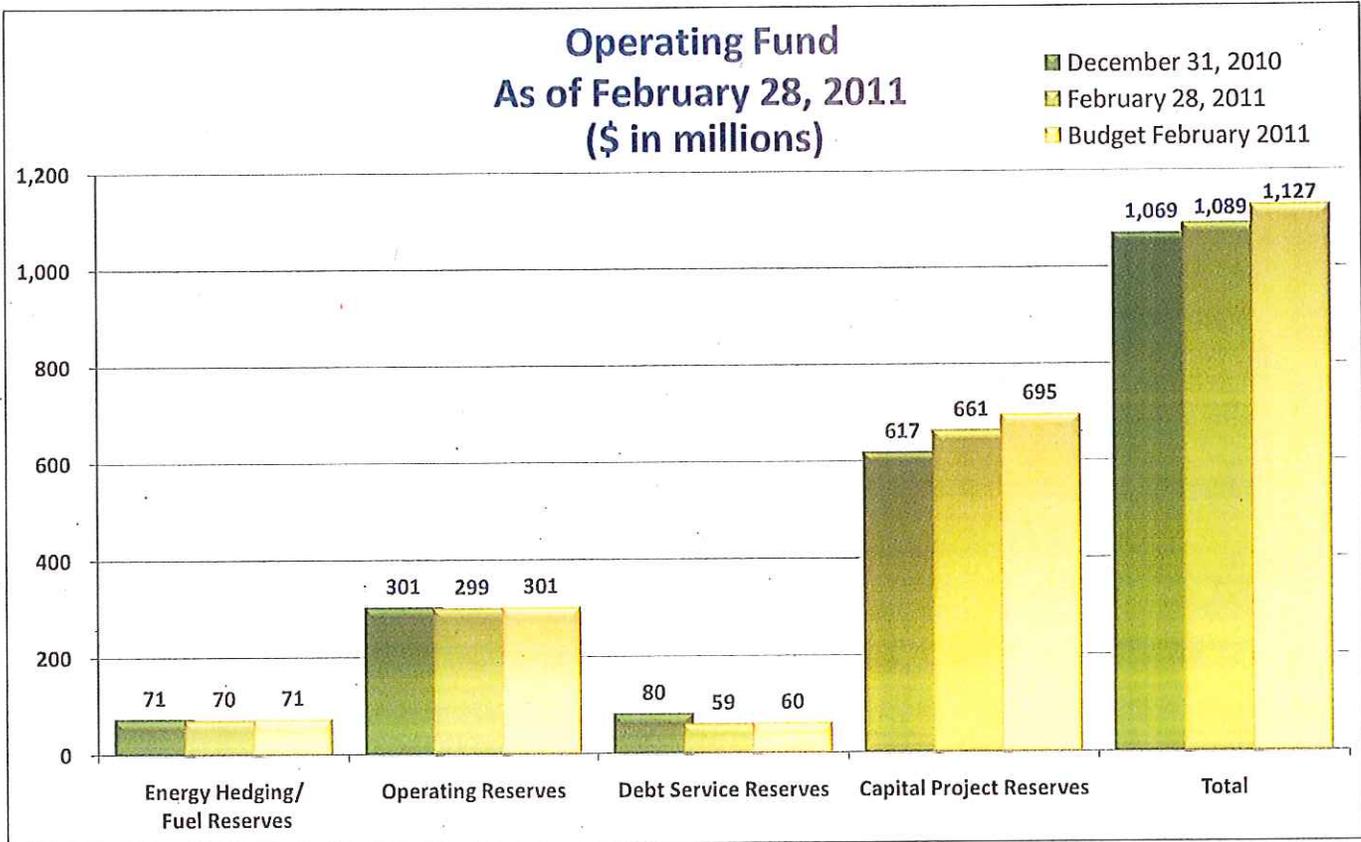
COSTS		
PURCHASES (MWH)		
	BUDGET	ACTUAL
Hydro	231,413	562,654
SENY	1,456,621	1,518,629
MSP	456,475	519,197
<b>TOTAL</b>	<b>2,144,509</b>	<b>2,600,480</b>
COSTS (\$/MWH)		
Hydro	\$26.29	\$41.06
SENY	\$53.20	\$56.54
MSP	\$39.55	\$48.80
<b>AVERAGE</b>	<b>\$47.39</b>	<b>\$51.64</b>

**RESULTS OF OPERATIONS**  
**Market Energy Prices**  
**Actual vs Budget**

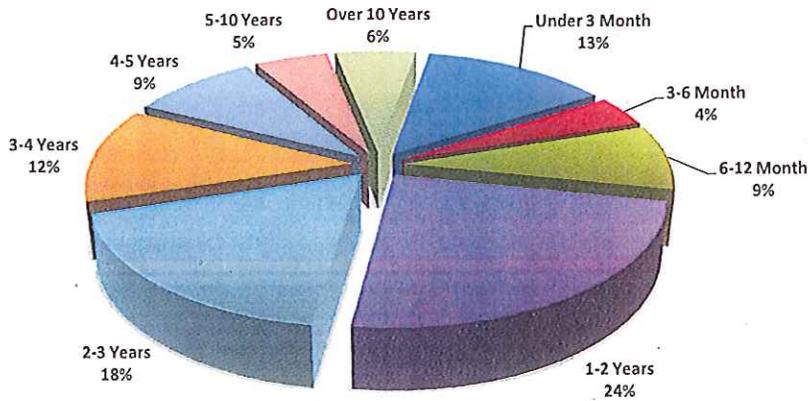




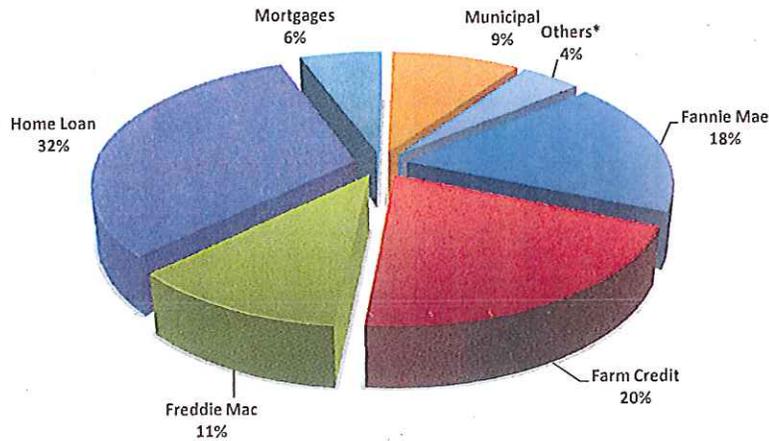
- Through February, O&M expenses were \$0.6 higher than the budget.
- Operations expenditures were on budget. A minor overrun in Operations Shared Services was offset by under budget spending at the transmission facilities for non-recurring projects.
- HQ Corporate Support was under budget by \$0.8 mostly due to lower expenditures for outside legal counsel and lower than expected WPO building expenses.
- Research and Development was over budget due to earlier than expected spending by Energy Services on renewable energy related projects.



The increase of \$20 in the Operating Fund (from \$1,069 to \$1,089) was primarily attributable to positive net cash provided by operating activities and the Value Sharing payment of \$72 received from Entergy, substantially offset by voluntary contributions to New York State (\$25) and repayments on commercial paper (\$50). The variance from budget is the result of lower net income for the period and the timing of cash payments related to prior year accruals.

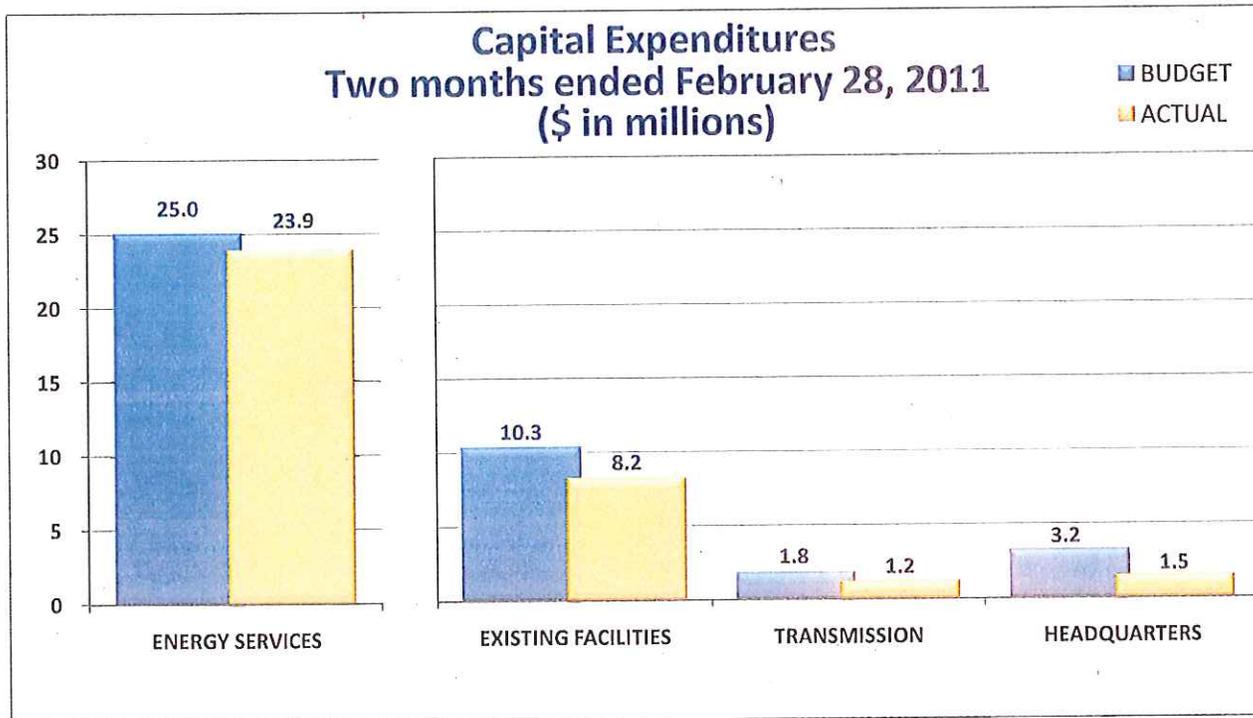
**Maturity Distribution  
As of February 28, 2011**


MATURITY DISTRIBUTION	
(\$ in millions)	
Under 3 Months	\$158.1
3-6 Months	47.2
6-12 Months	99.6
1-2 Years	285.3
2-3 Years	214.5
3-4 Years	145.6
4-5 Years	108.8
5-10 Years	63.5
Over 10 Yrs	69.5
<b>Total</b>	<b>\$1,192.1</b>

**Asset Allocation  
As of February 28, 2011**


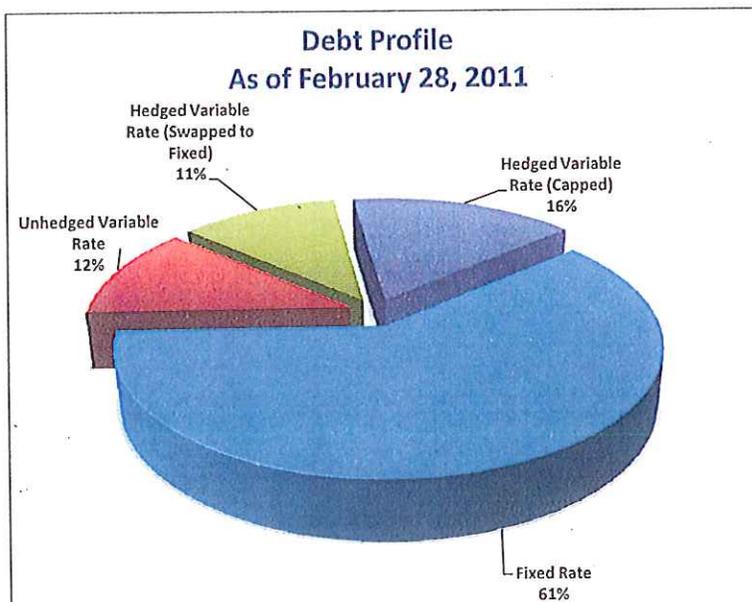
ASSET ALLOCATION	
(\$ in millions)	
Fannie Mae	\$209.3
Farm Credit	240.9
Freddie Mac	133.9
Home Loan	375.6
Mortgages	71.4
Municipal	109.7
Others*	51.3
<b>Total</b>	<b>\$1,192.1</b>

\*Includes CDs and Repos



- Energy Services expenditures were under budget by \$2.1 due primarily to the cancellation of the LIRR flywheel project.
- Existing facilities, headquarters and transmission expenditures were under budget due to early year timing differences.
- Under the Expenditure Authorization Procedure in the month of February 2011, the President has authorized the following new headquarters expenditures for budgeted capital projects:

Storage Area Network	\$2.9
Long Term Load Forecasting	1.3
Generation Optimization	1.4
IT Infrastructure	1.6



DEBT PROFILE (\$ in millions)	
Fixed Rate	\$1,134.4
Unhedged Variable Rate	221.2
Hedged Variable Rate (Swapped to Fixed)	212.3
Hedged Variable Rate (Capped) (1)	300.0
<b>Total</b>	<b>\$1,867.9</b>

(1) In January 2011 the Authority purchased a SIFMA based interest rate cap on a \$300 notional amount of Commercial Paper Series 1 Notes.



## ENERGY DERIVATIVES

### Results

Year-to-date, energy derivative settlements has resulted in a net loss of \$2.4 million by entering into hedge positions as requested by or transacted on behalf of the Authority's Customers. Gains and losses on these positions are substantially passed through to customers as resulting hedge settlements are incorporated into and recovered through customer rates.

***Year-to-Date 2011 Energy Derivative Settlements & Fair Market Valuation of Outstanding Positions***  
*(\$ in Millions)*

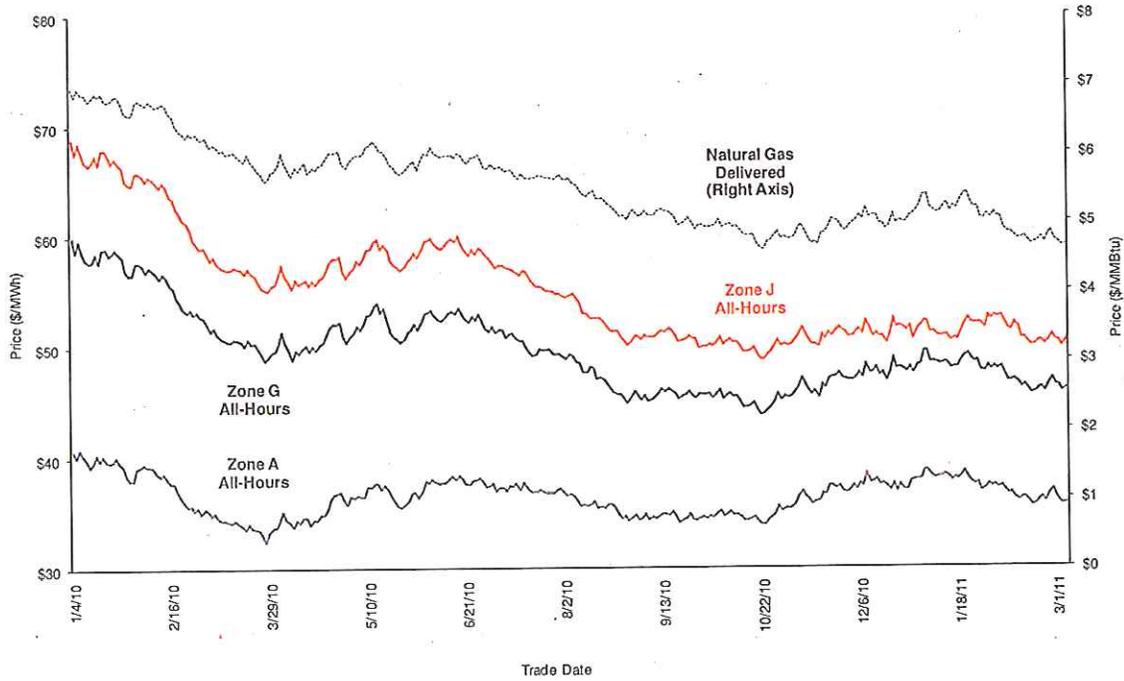
	Settlements		Fair Market Value		
	YTD	2011	2012	>2012	Total
NYPA	\$ (0.06)	\$ (1.21)	\$ -	\$ -	\$ (1.21)
Customer Contracts	\$ (2.29)	\$ (77.40)	\$ (92.28)	\$ (83.75)	\$ (253.43)
<b>Total</b>	<b>\$ (2.35)</b>	<b>\$ (78.61)</b>	<b>\$ (92.28)</b>	<b>\$ (83.75)</b>	<b>\$ (254.65)</b>

At the end of February, the fair market value of outstanding positions was valued at an unrealized loss of \$255 million for positions extending through 2017.

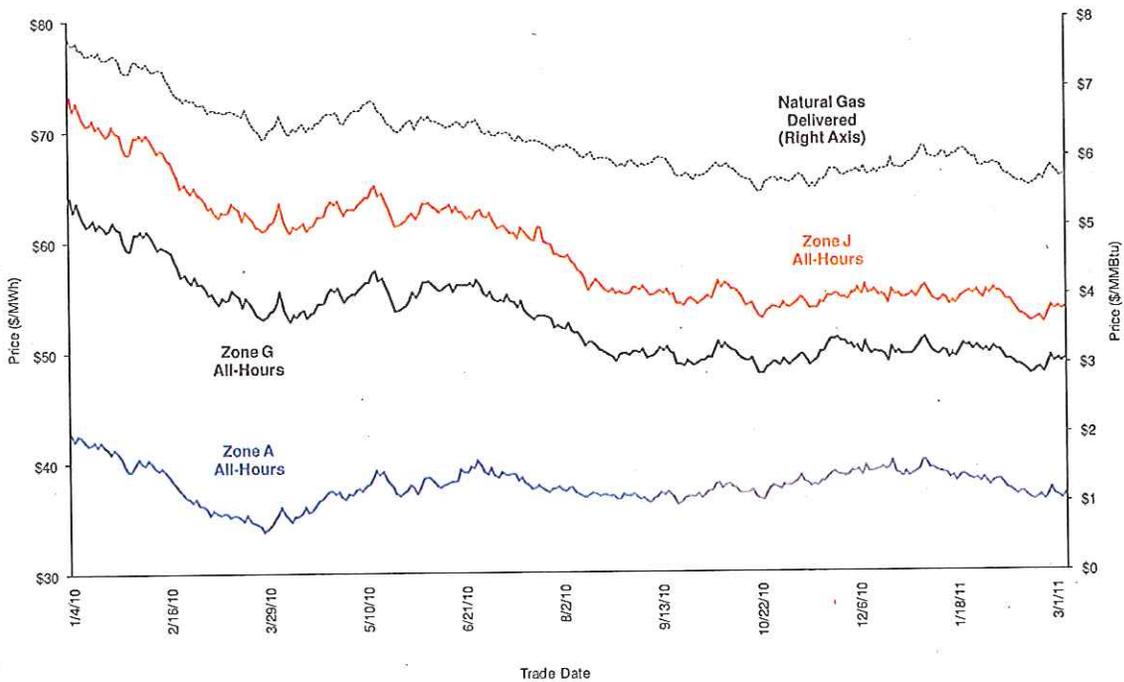
### Market Summary

Exhibit 1 shows the average price of April to December 2011 futures contracts and how they have traded since the beginning of 2010, while Exhibit 2 illustrates the average price of futures contracts for entire year 2012.

**Exhibit 1: Average April to December 2011 Forward Price**



**Exhibit 2: Average January to December 2012 Forward Price**



**STATEMENT OF NET INCOME**  
**For the Two Months Ended February 28, 2011**  
(\$ in millions)

Annual Budget		Actual	Budget	Variance Favorable/ (Unfavorable)
	<b>Operating Revenues</b>			
\$2,070.5	Customer	\$314.4	\$316.7	(\$2.3)
463.4	Market-based power sales	85.9	59.4	26.5
30.6	Ancillary services	5.4	5.5	(.1)
114.9	NTAC and other	19.9	21.0	(1.1)
608.9	<b>Total</b>	<b>111.2</b>	<b>85.9</b>	<b>25.3</b>
<b>2,679.4</b>	<b>Total Operating Revenues</b>	<b>425.6</b>	<b>402.6</b>	<b>23.0</b>
	<b>Operating Expenses</b>			
804.7	Purchased power	168.0	131.5	(36.5)
295.6	Fuel consumed - oil & gas	52.0	48.4	(3.6)
108.2	Ancillary services	10.4	17.1	6.7
543.4	Wheeling	73.4	72.3	(1.1)
327.1	Operations and maintenance	43.3	42.7	(.6)
194.9	Depreciation and amortization	26.2	27.0	.8
135.5	Other expenses	25.5	24.2	(1.3)
(10.9)	Allocation to capital	(.9)	(1.1)	(.2)
<b>2,398.5</b>	<b>Total Operating Expenses</b>	<b>397.9</b>	<b>362.1</b>	<b>35.8</b>
<b>280.90</b>	<b>Net Operating Income</b>	<b>27.7</b>	<b>40.5</b>	<b>(12.8)</b>
	<b>Nonoperating Revenues</b>			
88.0	Post nuclear sale income	17.1	17.1	-
39.9	Investment income	7.2	6.3	.9
(7.0)	Mark to market - investments	(4.7)	-	(4.7)
<b>120.9</b>	<b>Total Nonoperating Revenues</b>	<b>19.6</b>	<b>23.4</b>	<b>(3.8)</b>
	<b>Nonoperating Expenses</b>			
65.0	Contributions to New York State	25.0	25.0	-
157.5	Interest and other expenses	15.9	17.6	1.7
<b>222.5</b>	<b>Total Nonoperating Expenses</b>	<b>40.9</b>	<b>42.6</b>	<b>1.7</b>
<b>(101.6)</b>	<b>Net Nonoperating Income (Loss)</b>	<b>(21.3)</b>	<b>(19.2)</b>	<b>(2.1)</b>
<b>\$179.3</b>	<b>Net Income</b>	<b>\$6.4</b>	<b>\$21.3</b>	<b>(\$14.9)</b>

**COMPARATIVE BALANCE SHEETS**  
February 28, 2011  
(\$ in millions)

Assets	February 2011	February 2010	December 2010
<b>Current Assets</b>			
Cash	\$0.1	\$0.1	\$0.1
Investments in government securities	1,106.7	987.6	1,091.1
Interest receivable on investments	7.0	7.7	5.5
Accounts receivable - customers	273.1	184.7	204.0
Materials and supplies, at average cost:			
Plant and general	76.6	84.1	75.1
Fuel	15.1	17.1	15.3
Prepayments and other	186.8	151.9	190.5
<b>Total Current Assets</b>	<b>1,665.4</b>	<b>1,433.2</b>	<b>\$1,581.6</b>
<b>Noncurrent Assets</b>			
<b>Restricted Funds</b>			
Investment in decommissioning trust fund	1,057.1	952.2	1,032.4
Other	83.4	94.7	83.3
<b>Total Restricted Funds</b>	<b>1,140.5</b>	<b>1,046.9</b>	<b>1,115.7</b>
<b>Capital Funds</b>			
Investment in securities and cash	128.3	185.5	144.8
<b>Total Capital Funds</b>	<b>128.3</b>	<b>185.5</b>	<b>144.8</b>
<b>Net Utility Plant</b>			
Electric plant in service, less accumulated depreciation	3,330.5	3,320.6	3,344.1
Construction work in progress	122.4	156.5	123.3
<b>Net Utility Plant</b>	<b>3,452.9</b>	<b>3,477.1</b>	<b>3,467.4</b>
<b>Other Noncurrent Assets</b>			
Receivable - NY State	318.0	318.0	318.0
Deferred charges, long-term receivables and other	618.3	625.5	604.6
Notes receivable - nuclear plant sale	102.1	116.2	157.1
<b>Total other noncurrent assets</b>	<b>1,038.4</b>	<b>1,059.7</b>	<b>1,079.7</b>
<b>Total Noncurrent Assets</b>	<b>5,760.1</b>	<b>5,769.2</b>	<b>5,807.6</b>
<b>Total Assets</b>	<b>\$7,425.5</b>	<b>\$7,202.4</b>	<b>\$7,389.2</b>
<b>Liabilities and Net Assets</b>			
<b>Current Liabilities</b>			
Accounts payable and accrued liabilities	\$947.5	\$817.8	\$880.4
Short-term debt	315.4	294.5	323.2
<b>Total Current Liabilities</b>	<b>1,262.9</b>	<b>1,112.3</b>	<b>1,203.6</b>
<b>Noncurrent Liabilities</b>			
<b>Long-term Debt</b>			
Revenue bonds	1,150.8	1,192.3	1,151.2
Adjustable rate tender notes	130.5	137.5	130.5
Commercial paper	287.6	340.8	336.5
<b>Total Long-term Debt</b>	<b>1,568.9</b>	<b>1,670.6</b>	<b>1,618.2</b>
<b>Other Noncurrent Liabilities</b>			
Nuclear plant decommissioning	1,057.1	952.2	1,032.4
Disposal of spent nuclear fuel	216.2	215.9	216.1
Deferred revenues and other	312.9	363.5	316.5
<b>Total Other Noncurrent Liabilities</b>	<b>1,586.2</b>	<b>1,531.6</b>	<b>1,565.0</b>
<b>Total Noncurrent Liabilities</b>	<b>3,155.1</b>	<b>3,202.2</b>	<b>3,183.2</b>
<b>Total Liabilities</b>	<b>4,418.0</b>	<b>4,314.5</b>	<b>4,386.8</b>
<b>Net Assets</b>			
Accumulated Net Revenues - January 1	3,001.1	2,820.4	2,820.4
Net Income	6.4	67.5	182.0
<b>Total Net Assets</b>	<b>3,007.5</b>	<b>2,887.9</b>	<b>3,002.4</b>
<b>Total Liabilities and Net Assets</b>	<b>\$7,425.5</b>	<b>\$7,202.4</b>	<b>\$7,389.2</b>

**SUMMARY OF OPERATING FUND CASH FLOWS**  
For the Two Months Ended February 28, 2011  
(\$ in millions)

<b>Operating Fund</b>	
Opening	\$1,069.2
Closing	1,089.4
	<hr/>
Increase/(Decrease)	<b>20.2</b>
 <b>Cash Generated</b>	
Net Operating Income	27.7
Adjustments to Reconcile to Cash Provided from Operations	
Depreciation & Amortization	26.2
Net Change in Receivables, Payables & Inventory	(24.4)
Other	(1.0)
 <b>Net Cash Generated from Operations</b>	 <b>28.5</b>
 <b>(Uses)/Sources</b>	
Utility Plant Additions	(7.8)
Debt Service	
Commercial Paper 2	(44.8)
Commercial Paper 3 & Extendible Municipal Commercial Paper 1	(4.7)
Investment Income	4.6
Entergy Value Sharing Agreement	72.0
Voluntary Contribution to NY State	(25.0)
Other	(2.6)
	<hr/>
<b>Total (Uses)/Sources</b>	<b>(8.3)</b>
 <b>Net Increase in Operating Fund</b>	 <b>\$20.2</b>

**NYPA Governmental Customer Production Rate and Delivery Rate Redesign  
Recommended Plan**

**SUMMARY**

The conclusions from NYPA's governmental customer rate redesign and cost studies in 2010 and 2011 for New York City ("NYC") and Westchester County ("Westchester") governmental customers (collectively, "Governmental Customers" or "Customers") is that significant service class cross subsidies exist in the current production and delivery rates. Production and delivery rates are summarized in NYPA's Service Tariff No. 100 (applicable to the NYC Governmental Customers) and in NYPA's Service Tariff No. 200 (applicable to the Westchester Governmental Customers). Additionally, the delivery rate study notes that NYPA's current base delivery rates to Customers over-collect about \$9.6 million annually as compared to Consolidated Edison Company of New York, Inc.'s ("Con Edison") delivery charges to NYPA, which are contained in Con Edison's delivery tariff known as PASNY No. 4.

Throughout 2010, NYPA staff conducted numerous joint Customer meetings, joint technical conferences, individual Customer and consultant meetings and teleconferences to help initiate and refine the rate design studies, disseminate and explain the results, and obtain verbal and written feedback. NYPA procured the services of the consulting firm Black & Veatch to perform critical analyses and reports to assist NYPA staff in this effort. Based on the extensive interaction with Customers and their consensus on numerous issues, NYPA staff has developed this Recommended Plan which, if implemented, would reduce the production and delivery rate service class imbalances and mitigate excessive bill impacts.

Following are the notable features of the Recommended Plan:

- The redesign of the current production rates structure for NYC and Westchester Governmental Customers would be effective July 2011, based on NYPA's 2011 cost of service approved for these entities.
- Redesigned production rates are revenue-neutral to NYPA.
- For the delivery rate redesign, a bifurcated plan is recommended to address the significantly different cost impacts on the NYC Governmental Customers on the one hand, and the Westchester Governmental Customers on the other. Because of the wide disparity in bill impacts and differing contract terms under the electricity supply agreements with the Customers, a phase-in for the NYC Governmental Customers is recommended, while an immediate implementation is recommended for Westchester.
- Because certain NYC Governmental Customers would be subject to sudden, large cost impacts if redesigned delivery rates were implemented in one rate year, it is recommended that such delivery rates be phased in over a four-year period, beginning in July 2011. Subsequent phase-ins would occur each April thereafter for the next three years. (April is the month in which Con Edison implements new delivery rates per existing Public Service Commission rate orders.) At the

## **NYPA Governmental Customer Production Rate and Delivery Rate Redesign Recommended Plan**

end of the phase-in, the NYPA delivery rates would fully match up with the applicable Con Edison delivery rates.

- For Westchester Governmental Customers, it is recommended that redesigned delivery rates be re-set to match those of Con Edison immediately, commencing in July 2011.
- Concurrent with implementation of redesigned production and delivery rates in July 2011, NYPA recommends crediting Customers with the accumulated balance in over-recovered delivery charges through that date. The balance was \$39.1 million through the end of January 2011. Only those Customers whose current delivery rates are set too high would receive any credit for past over charges.

The attached Schedule 1 shows the estimated bill impacts for implementing recommended production and delivery rates for all Governmental Customers.

### **A. Production Rates**

Staff is recommending the immediate implementation of new, revenue-neutral, cost-based production rates based on the Black & Veatch September 2010 Report and March 2011 Addendum. These documents reflect feedback obtained from the Customers through ongoing meetings occurring throughout 2010. Further, the 2011 Addendum is updated to reflect the cost of service approved on January 25, 2011 by the NYPA Trustees for 2011 for the Governmental Customers.

New revenue-neutral production rates reflect the following:

- Cost allocation to each service class based on a 2009 NYPA load research study indicating various demand and energy usage characteristics of each service class.
- Implementation of time-of-day and seasonal rates based on a hourly marginal cost analysis using 2010 hourly NYPA load and New York Independent System Operator ("NYISO") hourly Zone G and Zone J price data.
- Collection of variable costs predominantly via energy kilowatt-hour ("kWh") charges and fixed costs predominantly via the demand kilowatt ("kW") charge.
- Use of Customer peak demands at the time of the NYISO peak to assign certain generation costs and revenues to Customer classes.
- Consolidation of general Service Classes 64 and 69 due to similarity of usage patterns and service.

Additional features of the production rate redesign Recommended Plan are:

- Implementation of new Standby and Net Metering tariff provisions in July 2011.
- Implementation of minimum billing charges in 2012.

**NYPA Governmental Customer Production Rate and Delivery Rate Redesign  
Recommended Plan**

**B. Production Rate Recommended Implementation Plan**

The recommended restructured production rates will become effective with the July 2011 billing period. This will be followed by a redesign update by year-end 2011 for the 2012 rate year (for production charges, NYPA's rate year is the same as the calendar year) and then biennial redesign updates to NYPA's cost of service in 2013 for the 2014 rate year and in 2015 for the 2016 rate year. For each cost of service update, the following is envisioned:

1. The goal will be to review existing production rate designs to verify that they remain cost-based. Any changes in the overall level of the cost of service will be incorporated into the study such that the recommended rate designs will recover the approved cost of service.
2. Load research will be updated to reflect the most recent historical calendar year data available. For instance, the 2013 biennial update will utilize 2012 load research results.
3. A new allocated cost-of-service study will be developed that relies on the most recently available approved cost-of-service study for the Governmental Customers. For instance, the 2013 biennial update will rely on the 2013 approved cost of service.
4. The study will incorporate a review of all cost allocation bases to verify that each cost item is assigned to service classes in the appropriate manner.
5. The marginal cost analysis will be updated for the most recent historical calendar year reflecting NYPA's Governmental Customer hourly load data and NYISO hourly Zone G and Zone J prices. Updated seasonal and time-of-day price differentials will be established.
6. New rate designs will be developed based on the allocated cost of service to each service class, incorporating seasonal and time-of-day price differentials resulting from the updated marginal cost study.
7. Bill impacts will be developed, using Governmental Customer billing determinants from the most recent calendar year historical data available or from forecasted Governmental Customer billing determinants.
8. Results will be shared with Customers during the summer/fall of each biennial update, and, as appropriate, rate designs will be modified to reflect feedback received.
9. New rate designs as required in the Recommended Plan will become effective in the next rate year. For example, the 2013 biennial update will be shared with Customers in summer/fall 2013, to propose new production rates effective in January 2014.

In the interim years of 2012 and 2014 the intent is not to restructure production rates. Rather, the then-existing rate designs will be maintained. Any change in the level of the

## **NYPA Governmental Customer Production Rate and Delivery Rate Redesign Recommended Plan**

production cost of service will be passed through to Customers in an equal, across-the-board manner. Additionally, in such non-update years, staff will perform preliminary analyses to verify that the existing production rates remain appropriately cost-based. If significant changes have occurred due to modifications in NYPA's cost structure or other factors impacting rates (such as changes in Customer load profiles or market prices affecting seasonal/time-of-day price differentials), then NYPA, at its own discretion, may propose to accelerate the schedule for updating production rate designs to what would otherwise be considered a non-update year.

### **C. Delivery Rates**

NYPA proposes to implement Con Edison-based delivery rates for all Governmental Customers. Significant misalignment between what Con Edison charges NYPA for delivery service and what NYPA, in turn, charges the Governmental Customers, has been documented. The Recommended Plan takes the necessary steps to correct this misalignment.

Westchester Governmental Customers, whose delivery rate changes will be effective immediately, will experience bill impact savings associated with the change to Con Edison delivery rates. For NYC Governmental Customers, it is estimated that at least six service classes would receive rate decreases of 20% while Service Classes 85 (MTA traction facilities) and 98 (NYC wastewater treatment plant) would receive rate increases of nearly 200% each. To mitigate the potential rate impacts of immediate implementation, a four-year phase-in of Con Edison delivery rates is planned for NYC Governmental Customers.

### **D. Base Delivery Rate Over-Collection**

The first year of phase-in rates eliminates the \$9.6 million over collection of Con Edison's delivery charges by NYPA. Of the \$9.6 million, it is estimated that Westchester overpays \$8.5 million. The remaining \$1.1 million is the net impact of a \$37.6 million under collection from the Metropolitan Transportation Authority ("MTA," one of the NYC Governmental Customers) offset by a \$38.7 million over collection from the remaining NYC Governmental Customers. During subsequent phase-in years, over- and under- collections among Customer service classes are further harmonized such that by 2014 NYPA's redesigned delivery rates charged to NYC Governmental Customers are fully synchronized with Con Edison's delivery rates on a revenue neutral basis to NYPA. As seen on Schedule 1, Column (E), the \$9.6 million over-collection in base delivery rates is eliminated during the first year of implementation of proposed phase-in of NYPA delivery rates.

**NYPA Governmental Customer Production Rate and Delivery Rate Redesign  
Recommended Plan**

**E. Delivery Rate Recommended Implementation Plan-Westchester**

The terms of Westchester and NYC Governmental Customer electricity supply agreements bolster a bifurcation approach. For Westchester Governmental Customers, contract provisions require a pass-through of these charges to each individual Customer and it is recommended that delivery rates be fully synchronized with those of Con Edison immediately commencing in July 2011. On the other hand, the NYC Governmental Customer agreement states that aggregate delivery charges to the NYC Governmental Customers should be designed to equal aggregate amounts charged by Con Edison. Therefore, staff recommends a bifurcated plan for implementation of new delivery rates where Con Edison rates are implemented immediately for Westchester Governmental Customers and phased-in for NYC Governmental Customers. In total Westchester Governmental Customers will see an \$8.5 million reduction in delivery charges resulting from elimination of the annual over-collection mentioned above.

**F. Delivery Rate Recommended Implementation Plan-NYC**

Given the disparity of Customer impacts and Westchester Governmental Customer contractual considerations as noted above, staff recommends a four-year transition to Con Edison delivery rates for NYC Governmental Customers, beginning in 2011 which is revenue neutral to NYPA. The recommended NYC Governmental Customer rate implementation plan balances the goal that new rates should be more closely aligned with Con Edison rates with the practical consideration of mitigating NYC Governmental Customer impacts given that NYPA's existing delivery rates and Con Edison delivery rates have fallen greatly out of alignment over time.

The Recommended Plan for NYC Governmental Customers reflects the following:

- Phase-in rates by service class (conventional and time of day, high/low tension) with complete alignment to Con Edison's delivery rates by April 2014.
- Systematic increases over a four-year phase-in period of existing service class rates which are set too low as compared to Con Edison delivery rates as follows:
  - In Year 1 rates are set at 75% of Con Edison delivery rate
  - Year 2 at 85%
  - Year 3 at 95%
  - Year 4 at 100%.
- Immediate elimination of NYPA's existing declining blocked delivery rates.
- Immediate elimination of the current \$1.1 million over-collection under existing NYPA delivery rates during year 1 of phase-in.
- Immediate implementation of Con Edison monthly street lighting facilities delivery charges for street lighting (Service Class 80) as the variance between the existing NYPA rate and Con Edison delivery rate is insignificant.

## **NYPA Governmental Customer Production Rate and Delivery Rate Redesign Recommended Plan**

- To mitigate bill impacts on MTA, Service Class 65 (mostly MTA commuter railroads) rates will be lowered to 100% of PASNY No. 4 immediately.
- With respect to the remaining service classes, with the exception of Service Classes 65 and 80 as noted above, corresponding systematic and gradual decrease of over collecting existing service class rates on a basis that is proportional to the amount of that particular class' over-collection relative to the over collections of all classes.

### **G. Future Con Edison Delivery Service Rate Increase**

For both NYC and Westchester Governmental Customers, annual increases in Con Edison delivery charges on a going forward basis will be passed on to Customers by rate component directly as they are charged to NYPA by Con Edison.

### **H. Re-Examination of Con Edison Delivery Rates**

Concurrent with implementation of new delivery rates, NYPA and the Customers intend to initiate communication with Con Edison regarding the cost basis for the existing PASNY No. 4 rates with the intent for Con Edison to develop a specific MTA rate. It is expected that Con Edison will file its next delivery rate case by 2012 for implementation in 2013, allowing ample time for NYPA and the Customers to conduct an investigation to better understand Con Edison delivery rates to NYPA. In 2013 and 2014, the third and fourth years of the delivery phase-in period, it is expected that the phase-in of rates will be modified to reflect the then newly approved Con Edison delivery rates.

### **I. Crediting Customers Delivery Over Collections**

Staff recommends crediting Customers with the accumulated balance in over-collections of Con Edison delivery charges commencing no later than the requested July 2011 effective date of redesigned delivery rates. Credits would be provided over twelve months to those Customers whose existing delivery rates are set too high as compared to the comparable Con Edison delivery charge. Each Customer's delivery credit would be determined using the proposed refund allocation percentages shown on Schedule 2 applied to the total accumulated over-collection balance. The basis for this schedule is the Black & Veatch rate study that utilized NYPA and Con Edison delivery rates effective April 2010 and historical calendar year 2009 billing determinants to calculate annual delivery revenue collections under existing NYPA delivery rates as compared to those that would result under Con Edison delivery rates. The allocation percentage for each Customer is determined to be that Customer's annual over-collection relative to the sum of annual over-collections for all Customer classes whose delivery rates are set too high.

**NYPA Governmental Customer Production Rate and Delivery Rate Redesign  
Recommended Plan**

**J. True-up of Delivery Charges**

Commencing with Year 1 of the phase-in plan, delivery charges billed by NYPA to Customers will be subject to annual true-up with delivery charges billed by Con Edison to NYPA. The true-up will take place each July for the prior 12-month period ending in April.

Over/under recovery of Con Edison delivery charges from Customers is also, in part, caused by discrepancies between the estimated billing, street lighting proration and minimum billing procedures of NYPA and Con Edison. Beginning with the January billing cycle, NYPA began to harmonize its procedures for estimating Customer usage (when actual meter reads are unavailable) with those of Con Edison. In late 2010, street lighting proration was corrected. Further, NYPA intends on modifying its Customer billing system in 2011 in order to implement minimum billing consistent with the minimum billing provisions of Con Edison.

Since changes in delivery service rates will in large part be phased-in over four years and there are planned changes in billing determinants, an over/under collection collar of \$5 million will be implemented. When delivery revenue over/under collections are outside the \$5 million collar, a refund or surcharge will be passed on to Customers as soon as practical. Delivery revenue over/under collections within the collar thresholds will be subject to the annual true-up cycle.

**K. NYPA Service Tariff Revisions**

NYPA will conform current Service Tariff Nos. 100 and 200 to be consistent with the final redesigned production and delivery rates, plus make other tariff changes as needed for proper organization and to enhance clarity.

Rate Redesign Exhibit A - Schedule I  
Estimated Customer Bill Impacts

Redesigned Production Rates: 1 Year Implementation for All Customers  
Redesigned Delivery Rates: 4 Year Implementation NYC, 1 Year Westchester

Customer Description	(A)		(B)		(C)		(D)		(E)		(F)		(G)		(H)		(I)	
	EXISTING ANNUAL CHARGES, \$		Delivery		Combined		Production		Delivery		Combined		Yr 2		Yr 3		Yr 4	
	Production	Delivery	Production	Delivery	Production	Delivery	Production	Delivery	Production	Delivery	Production	Delivery	Production	Delivery	Production	Delivery	Indicated Rate Increase / (Decrease) \$	
The City of New York ex DEP (SC 98)	\$ 326,602,293	\$ 222,161,578	\$ 548,763,871															
The City of New York DEP (SC 98)	47,650,721	3,986,067	51,636,788															
The City of New York Total	\$ 374,253,014	\$ 226,147,645	\$ 600,400,659															
Metropolitan Transportation Authority	\$ 266,868,853	\$ 90,659,433	\$ 357,528,286															
NYC Housing Authority	105,412,002	62,049,116	167,461,118															
Port Authority of NY & NJ	55,544,922	25,859,723	81,404,645															
State of New York Office of General Svcs	27,078,073	17,341,378	44,419,450															
Convention Center Operating Corp	3,729,676	2,475,109	6,204,785															
United Nations Development Corp	2,602,600	1,777,884	4,380,483															
New York Power Authority	718,119	587,710	1,305,828															
Hudson River Park Trust	733,334	448,269	1,181,604															
Roosevelt Island Operating Corp	380,130	233,198	613,328															
Battery Park City	166,925	195,377	362,302															
Empire State Development Corporation	23,873	26,480	50,352															
<b>Total NYC</b>	<b>\$ 837,511,520</b>	<b>\$ 427,801,321</b>	<b>\$ 1,265,312,841</b>															
Westchester County Entities	\$ 23,709,058	\$ 31,414,078	\$ 55,123,136															
Westchester County	13,216,829	9,818,203	23,035,032															
<b>Total Westchester</b>	<b>\$ 36,925,887</b>	<b>\$ 41,232,281</b>	<b>\$ 78,158,168</b>															
<b>Total Governmental Customers</b>	<b>\$ 874,437,407</b>	<b>\$ 469,033,602</b>	<b>\$ 1,343,471,009</b>															

Note 1: Existing production and delivery charges are based on approved NYPA January 2011 rates and 2009 billing determinants.

Note 2: Redesigned production rates are fully implemented in Year 1 and are based on a consensus developed cost allocation approach with customers.

Note 3: Redesigned delivery rates transition to Con Ed PASNY No. 4 rates over a 4 year period for NYC customers and in Year 1 for Westchester customers.

**Rate Redesign Exhibit A - Schedule 2**  
**Delivery Revenue Comparison**

**Governmental Customer Delivery Revenue**  
**ConEd PASNY No. 4 vs. Existing NYPA**  
**2009 Billing Determinants**

Customer	ConEd PASNY No. 4 Rates (April 2010)		NYPA Delivery Rates (April 2010)		Indicated Rate Increase / (Decrease) ConEd vs. NYPA	Over Collecting Customers Only \$	Over Collecting Customers Only %
	Total	Total	Total	Total			
The City of New York ex DEP	\$ 201,743,566	\$ 222,161,578	\$ (20,418,012)	√		\$ (20,418,012)	36.44%
DEP (SC98)	\$ 12,846,277	\$ 3,986,067	\$ 8,860,211				
Total City of New York	\$ 214,589,843	\$ 226,147,645	\$ (11,557,802)				
Metropolitan Transportation Authority	128,273,712	90,659,433	37,614,278				
NYC Housing Authority	47,457,989	62,049,116	(14,591,127)	√		\$ (14,591,127)	26.04%
Port Authority of NY & NJ	19,233,343	25,859,723	(6,626,380)	√		\$ (6,626,380)	11.83%
State of New York Office of General Svcs	12,987,429	17,341,378	(4,353,949)	√		\$ (4,353,949)	7.77%
Convention Center Operating Corp.	1,611,262	2,475,109	(863,847)	√		\$ (863,847)	1.54%
United Nations Development Corp	1,444,026	1,777,884	(333,858)	√		\$ (333,858)	0.60%
Hudson River Park Trust	459,283	587,710	(128,427)	√		\$ (128,427)	0.23%
New York Power Authority	327,678	448,269	(120,591)	√		\$ (120,591)	0.22%
Roosevelt Island Operating Corp	173,672	233,198	(59,526)	√		\$ (59,526)	0.11%
Battery Park City	159,307	195,377	(36,070)	√		\$ (36,070)	0.06%
Empire State Development Corporation	21,868	26,480	(4,612)	√		\$ (4,612)	0.01%
Westchester County Entities	25,811,348	31,414,078	(5,602,729)	√		\$ (5,602,729)	10.00%
Westchester County	6,932,425	9,818,203	(2,885,777)	√		\$ (2,885,777)	5.15%
<b>Total</b>	<b>\$ 459,483,186</b>	<b>\$ 469,033,602</b>	<b>\$ (9,550,416)</b>			<b>\$ (56,024,905)</b>	<b>100%</b>

√ Indicates customer delivery charge over collection

# New York Power Authority 2010 Financial Report

Management Report ( <i>Unaudited</i> )	20
Independent Auditors' Report	21
Management's Discussion & Analysis ( <i>Unaudited</i> )	23
Balance Sheets	31
Statements of Revenues, Expenses & Changes in Net Assets	33
Statements of Cash Flows	34
Notes to Financial Statements	35
<b>Required Supplementary Information:</b> Schedule of Funding Progress for the Retiree Health Plan ( <i>Unaudited</i> )	71

## Management Report

Management is responsible for the preparation, integrity and objectivity of the financial statements of the Power Authority of the State of New York (the Authority), as well as all other information contained in the Annual Report. The financial statements have been prepared in conformity with U.S. generally accepted accounting principles and, in some cases, reflect amounts based on the best estimates and judgments of management, giving due consideration to materiality. Financial information contained in the Annual Report is consistent with the financial statements.

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 U.S. generally accepted accounting principles and that the assets of the Authority are properly safeguarded. The system of internal controls is documented, evaluated and tested on a continuing basis. No internal control system can provide absolute assurance that errors and irregularities will not occur due to the inherent limitations of the effectiveness of internal controls; however, management strives to maintain a balance, recognizing that the cost of such system should not exceed the benefits derived.

The Authority maintains an internal auditing program to independently assess the effectiveness of internal controls and to report findings and recommend possible improvements to management. This program includes a comprehensive assessment of internal controls as well as testing of all key controls to ensure that the system is functioning as intended. Additionally, as part of its audit of the Authority's financial statements, KPMG LLP, the Authority's independent auditors, considers internal controls over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances, but not for purpose of expressing an opinion on the effectiveness of the Authority's internal controls over financial reporting. Management has considered the recommendations of its internal auditors, the Office of the State Comptroller (OSC), and the independent auditors concerning the system of internal controls and has taken actions that it believed to be cost-effective in the circumstances to respond appropriately to these recommendations. Based on its structure and related processes, management believes that, as of December 31, 2010, the Authority's system of internal controls provides reasonable assurance as to the integrity and reliability of the financial statements, the protection of assets from unauthorized use or disposition and the prevention and detection of fraudulent financial reporting.

The members of the Authority's Board of Trustees, appointed by the Governor, by and with the advice and consent of the Senate, are not employees of the Authority. The Trustees' Audit Committee meets with the Authority's management, its Vice President of Internal Audit and its independent auditors periodically, throughout the year, to discuss internal controls and accounting matters, the Authority's financial statements, the scope and results of the audit by the independent auditors and the periodic audits by the OSC, and the audit programs of the Authority's internal auditing department. The independent auditors, the Vice President of Internal Audit and the Vice President of Labor Relations & Chief Ethics and Compliance Officer have direct access to the Audit Committee.



Elizabeth M. McCarthy  
Executive Vice President & Chief Financial Officer

March 29, 2011



KPMG LLP  
515 Broadway  
Albany, NY 12207

## Independent Auditors' Report

The Board of Trustees  
Power Authority of the State of New York:

We have audited the balance sheets, statements of revenues, expenses, and change in net assets and statements of cash flows of the Power Authority of the State of New York (the Authority) as of and for the years ended December 31, 2009 and 2010. These financial statements are the responsibility of the Authority's management. Our responsibility is to express an opinion on these financial statements based on our audits.

We conducted our audits in accordance with auditing standards generally accepted in the United States and the standards for financial statement audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes consideration of internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Authority's internal control over financial reporting. Accordingly, we express no such opinion. An audit also includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of the Authority as of December 31, 2010 and 2009, and the changes in its financial position and its cash flows for the years then ended, in conformity with U.S. generally accepted accounting principles.

As described in note 8, the Authority adopted the provisions of Governmental Accounting Standards Board (GASB) Statement No. 53, *Accounting and Financial Reporting for Derivative Instruments* as of January 1, 2008.

In accordance with *Government Auditing Standards*, we have also issued our report dated March 29, 2011 on our consideration of the Authority's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts and grant agreements and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* and should be considered in assessing the results of our audit.

The accompanying management's discussion and analysis and the schedule of funding progress listed in the accompanying table of contents are not a required part of the basic financial statements but are supplementary information required by U.S. generally accepted accounting principles. We have applied certain limited procedures, which consisted principally of inquiries of management regarding the methods of measurement and presentation of the required supplementary information. However, we did not audit the information and express no opinion on it.

**KPMG LLP**

March 29, 2011

KPMG LLP, a U.S. limited liability partnership, is the U.S. member firm of KPMG International, a Swiss cooperative.

**NEW YORK POWER AUTHORITY**  
Management's Discussion and Analysis  
December 31, 2010 and 2009  
(Unaudited)

**Overview of the Financial Statements**

This report consists of three parts: management's discussion and analysis, the basic financial statements, and the notes to the financial statements.

The financial statements provide summary information about the New York Power Authority's (Authority) overall financial condition. The notes provide explanation and more details about the contents of the financial statements.

The Authority is considered a special-purpose government entity engaged in business-type activities and follows financial reporting for enterprise funds. The Authority's financial statements are prepared in accordance with generally accepted accounting principles (GAAP) as prescribed by the Governmental Accounting Standards Board (GASB). In accordance with GASB standards, the Authority has elected to comply with all authoritative pronouncements applicable to nongovernmental entities (i.e., Accounting Standards Codification of the Financial Accounting Standards Board) that do not conflict with GASB pronouncements.

**Forward Looking Statements**

The statements in this management discussion and analysis (MD&A) that are not historical facts are forward-looking statements based on current expectations of future events and are subject to risks and uncertainties that could cause actual results to differ materially from those expressed or implied by such statements. In addition, we, through our management, from time to time make forward-looking public statements concerning our expected future operations and performance and other developments. All of these forward-looking statements are subject to risks and uncertainties that may change at any time, and, therefore, our actual results may differ materially from those we expected. We therefore caution against placing substantial reliance on the forward-looking statements contained in this MD&A. All forward-looking statements included in this MD&A are made only as of the date of this MD&A and we assume no obligation to update any written or oral forward-looking statements made by us or on our behalf as a result of new information, future events or other factors.

## NEW YORK POWER AUTHORITY

### Management's Discussion and Analysis

December 31, 2010 and 2009

(Unaudited)

The following is a summary of the Authority's financial information for 2010, 2009, and 2008:

#### Summary of Revenues, Expenses, and Changes in Net Assets (In millions)

	2010	2009	2008	2010 vs. 2009 favorable (unfavorable)	2009 vs. 2008 favorable (unfavorable)
Operating revenues	\$ 2,568	2,595	3,185	(1)%	(19)%
Operating expenses:					
Purchased power	931	905	1,242	(3)	27
Fuel	224	366	615	39	40
Wheeling	528	436	388	(21)	(12)
Operations and maintenance	443	438	456	(1)	4
Depreciation	163	164	173	1	5
Total operating expenses	<u>2,289</u>	<u>2,309</u>	<u>2,874</u>	1	20
Operating income	<u>279</u>	<u>286</u>	<u>311</u>	(2)	(8)
Nonoperating revenues	138	132	164	5	(20)
Nonoperating expenses	236	165	176	(43)	6
Nonoperating (loss)	<u>(98)</u>	<u>(33)</u>	<u>(12)</u>	(197)	(175)
Net income and change in net assets	181	253	299	(28)	(15)
Net assets – beginning	<u>2,820</u>	<u>2,567</u>	<u>2,268</u>	10	13
Net assets – ending	<u>\$ 3,001</u>	<u>2,820</u>	<u>2,567</u>	6	10

The following summarizes the Authority's financial performance for the years 2010 and 2009:

The Authority had net income of \$181 million in the year 2010, compared to \$253 million in 2009. This \$72 million decrease in net income is primarily due to higher nonoperating expenses (\$65 million) as a result of higher voluntary contributions to N.Y. State. Operating income was slightly lower (\$7 million) than the prior year. Lower fuel costs and higher purchased power expenses in 2010 were substantially attributable to changes in resources utilized to serve the Authority's Southeast New York (SENY) Governmental Customers necessitated by the cessation of operations of the Authority's Poletti plant on January 31, 2010. Wheeling expenses increased due to a Con Ed rate increase for delivery service to the SENY Governmental Customers. The majority of these cost variations are offset through revenues as variances are reflected in customer rates. Nonoperating revenues increased by \$6 million in 2010 including an increased mark-to-market adjustment for investments in 2010 due to lower market interest rates partially offset by lower realized investment income.

During 2010, long-term debt decreased by \$118 million, or 7%, primarily due to scheduled maturities and cash funding of capital expenditures. Interest expense was \$6 million lower than 2009 primarily due to decreases in interest rates on short-term debt. During the period 2000 to 2010, the Authority reduced its total debt/equity ratio from 1.48 to 0.65.

The Authority had net income of \$253 million in the year 2009, compared to \$299 million in 2008. This \$46 million decrease in net income includes lower operating income (\$25 million) combined with lower nonoperating income (\$21 million). Revenues were lower (\$590 million) primarily due to lower market based sales and the pass through of lower fuel and purchased power prices to customers. Market based sales were lower mainly due to lower prices on power generated by the Authority's Niagara plant and the Small Clean

## NEW YORK POWER AUTHORITY

### Management's Discussion and Analysis

December 31, 2010 and 2009

(Unaudited)

Power Plants (SCPPs) that was sold in the New York Independent System Operator (NYISO) market. Lower operating expenses for 2009 include the aforementioned decreases in purchased power (\$337 million) and fuel (\$249 million) expenses. Operations and maintenance expenses were also lower (\$18 million) primarily due to a lower voluntary contribution to New York State related to the Authority's Power for Jobs program and the recognition of a loss in 2008 related to the early retirement of compressors at the Authority's 500-MW plant. The decrease in nonoperating income in 2009 included lower investment income (\$32 million) and a higher voluntary payment to the State (\$10 million) unrelated to the Authority's Power for Jobs program; partially offset by a lower interest expense (\$21 million). Investment income for 2009 was reduced by an unrealized loss of \$13 million on investments due to higher market interest rates as compared to a \$24 million unrealized gain in 2008.

#### Operating Revenues

Operating revenues of \$2,568 million in 2010 were \$27 million or 1% lower than the \$2,595 million in 2009, primarily due to lower market-based sales significantly offset by an increase in customer revenues related to the pass-through of increased wheeling charges. Market-based sales were lower mainly due to lower generation from the Niagara plant due to lower lake levels.

#### Purchased Power and Fuel

Purchased power costs increased by 3% in 2010 to \$931 million from \$905 million in 2009, primarily due to changes in the resources utilized to serve the SENY governmental customers necessitated by the cessation of operation of the Authority's Poletti plant on January 31, 2010. Fuel costs were \$142 million (39%) lower during 2010, also primarily due to discontinued operations at Poletti.

#### Operations and Maintenance (O&M)

O&M expenses increased by \$5 million or 1% in 2010 to \$443 million primarily due to expenditures relating to the North Country stimulus program at St. Lawrence (\$9 million) and the Industrial Incentive Award program at Niagara (\$6 million) which were partly offset by lower maintenance at the fossil fuel facilities due to the Poletti plant closure and less emergent work at the SCPPs.

#### Nonoperating Revenues

For 2010, nonoperating revenues increased by \$6 million or 5% due to a swing from an unrealized loss of \$13 million in 2009 to an unrealized gain of \$6 million in 2010 on the Authority's investment portfolio. This increase was substantially offset by reduced investment income due to lower average interest rates on investments. Nonoperating revenues for 2010 and 2009 include income recognition of \$72 million for each year resulting from a revenue sharing agreement relating the nuclear power plants sold by the Authority to subsidiaries of Entergy Corporation in 2000. See note 11(a), "Nuclear Plant Divestiture," for additional information.

#### Nonoperating Expenses

For 2010, nonoperating expenses increased by \$71 million or 43% primarily due to an increase of \$77 million in the Authority's voluntary contribution to New York State (\$147 million) that was not related to the Power for Jobs program partially offset by lower costs on variable rate debt (\$6 million).

#### Cash Flows

During 2010, the Authority generated cash flows of \$427 million from operations compared to \$491 million in 2009. Cash flows from operating activities for 2010 were lower than 2009 primarily due to decreased cash receipts from energy sales into the NYISO market as a result of lower volumes and lower average prices than the prior year.

#### Net Generation

Net generation for 2010 was 24.4 million megawatt-hours (MWh) compared to the 27.3 million MWh generated in 2009. Net generation from the Niagara (13.2 million MWh) and St. Lawrence (6.6 million MWh) plants were 7% and 8% lower, respectively, than 2009 as a result of lower hydro flows. During 2010, combined net generation of the fossil fuel plants was 4.6 million MWh or 19% lower than 2009 (5.8 million MWh), with decreased output from cessation of operations at the Poletti plant on January 31, 2010 and decreased output from the Flynn plant as a result of an unscheduled maintenance outage offsetting increases at the 500-MW plant and the SCPPs.

## NEW YORK POWER AUTHORITY

### Management's Discussion and Analysis

December 31, 2010 and 2009

(Unaudited)

Beginning in 1999 and continuing through 2003, below average water levels in the Great Lakes reduced the amount of water available to generate power at the Authority's Niagara and St. Lawrence-FDR projects, thereby requiring the periodic curtailment of the electricity supplied to the Authority's customers from these projects. Flow conditions improved such that hydroelectric generation levels returned to near long-term average from 2004 through 2010. During 2010, net generation was approximately 98% of long-term average, but below 2009, which was 106% of long-term average.

The following is a summary of the Authority's balance sheets for 2010, 2009, and 2008:

<b>Summary Balance Sheet</b>					
(In millions)					
	<u>2010</u>	<u>2009</u>	<u>2008</u>	<u>2010 vs.</u> <u>2009</u>	<u>2009 vs.</u> <u>2008</u>
Current assets	\$ 1,636	1,396	1,553	17%	(10)%
Capital assets	3,697	3,711	3,737	0	(1)
Other noncurrent assets	<u>2,288</u>	<u>2,203</u>	<u>1,717</u>	4	28
Total assets	<u><u>7,621</u></u>	<u><u>7,310</u></u>	<u><u>7,007</u></u>	4	4
Current liabilities	\$ 938	830	850	13	(2)
Long-term liabilities	<u>3,682</u>	<u>3,660</u>	<u>3,590</u>	1	2
Total liabilities	<u>4,620</u>	<u>4,490</u>	<u>4,440</u>	3	1
Net assets	<u>3,001</u>	<u>2,820</u>	<u>2,567</u>	6	10
Total liabilities and net assets	<u><u>\$ 7,621</u></u>	<u><u>7,310</u></u>	<u><u>7,007</u></u>	4	4

The following summarizes the Authority's balance sheet variances for the years 2010 and 2009:

In 2010, current assets increased by \$240 million (17%) to \$1,636 million primarily due to an increase in investments (\$204 million) reflecting the investment of cash generated by operations. Capital assets decreased by \$14 million (0.4%) to \$3,697 million primarily due to annual depreciation (\$163 million) substantially offset by an increase in plant assets which includes Life Extension and Modernization programs at St. Lawrence and Blenheim-Gilboa (B-G) (\$154 million). Other noncurrent assets increased by \$85 million (4%) to \$2,288 million primarily due to an increase in the market value of the nuclear decommissioning fund (\$90 million). Current liabilities increased by \$108 million (13%) to \$938 million primarily due to changes in fair market values related to the Authority's energy commodity hedging transactions (\$65 million) and an increase in short-term debt (\$34 million) relating to the Authority's Energy Services programs. Long-term liabilities increased by \$22 million (1%) to \$3,682 million primarily due to increases in other long-term liabilities (\$140 million) which includes an increase in the nuclear plant decommissioning obligation (\$90 million) offset by decreases in long-term debt resulting from reclassifications to long-term debt due within one year (\$121 million). The increase in the nuclear plant decommissioning obligation reflects the increase in the market value of the decommissioning fund (i.e., the Authority's obligation is limited to no more than the amount in the decommissioning fund and therefore the liability increases or decreases to reflect the fair value of the decommissioning fund). (See note 11(c) for more information on decommissioning.) The changes in net assets for 2010 and 2009 are discussed in the summary of revenues, expenses and changes in net assets in this Management Discussion and Analysis.

In 2009, current assets decreased by \$157 million (10%) to \$1,396 million primarily due to a \$119 million voluntary contribution to the State in January 2009. Capital assets decreased by \$26 million (1%) to \$3,711 million primarily due to annual depreciation (\$137 million) and a decrease in construction work in progress (\$13 million) partially offset by an increase in plant assets which includes Life Extension and Modernization programs at St. Lawrence and Blenheim-Gilboa (B-G) (\$124 million). Other noncurrent assets increased by \$486 million (28%) to \$2,203 million primarily due to the addition of the temporary asset transfer to New York State (\$318 million) (see note 12(g)) and an increase in the market value of the decommissioning fund (\$130 million). Current liabilities decreased by \$20 million (2%) to \$830 million primarily due to changes in fair market values related to the Authority's energy commodity hedging transactions (\$57 million) and accounts payable (\$6 million) offset by increases in current maturities of long-term debt (\$27 million) and short-term debt (\$16 million). Long-term liabilities increased by \$70 million (2%) to \$3,660 million primarily due to increases in the nuclear plant

**NEW YORK POWER AUTHORITY**  
Management's Discussion and Analysis  
December 31, 2010 and 2009  
(Unaudited)

decommissioning obligation (\$130 million), changes in fair market values related to the Authority's energy commodity hedging transactions (\$56 million), deferred regulatory liabilities (\$31 million) and other liabilities (\$8 million) offset by decreases in long-term debt resulting from reclassifications to long-term debt due within one year (\$129 million), and relicensing obligations (\$26 million). The increase in the nuclear plant decommissioning obligation reflects the increase in the market value of the decommissioning fund (i.e., the Authority's obligation is limited to no more than the amount in the decommissioning fund and therefore the liability increases or decreases to reflect the fair value of the decommissioning fund). (See note 11(c) for more information on decommissioning.) The changes in net assets for 2009 and 2008 are discussed in the summary of revenues, expenses and changes in net assets in this Management's Discussion and Analysis.

**Capital Asset and Long-Term Debt Activity**

The Authority currently estimates that it will expend approximately \$998 million for various capital improvements over the five-year period 2011-2015. The Authority anticipates that these expenditures will be funded using existing construction funds, internally generated funds and additional borrowings. Such additional borrowings are expected to be accomplished through the issuance of additional commercial paper notes and/or the issuance of long-term fixed rate debt. Projected capital requirements during this period include (in millions):

Projects:	
Plant Modernization Program (Lewiston Pump Generating Plant, St. Lawrence)	\$ 230
MA1 and MA2 Transmission Line	110
Switchyard Modernization Program (St. Lawrence, Niagara, Clark Energy Center)	94
Transmission Initiative - Licensing and Design	84
Relicensing Compliance/Implementation (B-G, Niagara, St. Lawrence)	57
Niagara Stator Rewind and Restack Project	39
IT Initiatives	24
Niagara Unit 2 and 13 Standardization	22
Fleet	16
Astoria Plant Upgrades	9
Other (projects less than \$9 million)	313
	\$ 998

In addition, the Authority's capital plan includes the provision of \$1,051 million in financing for Energy Services and Technology projects to be undertaken by the Authority's governmental customers and other public entities in the State. It should also be noted that due to projects currently under review, there is a potential for significant increases in the capital expenditures indicated in the table above. Such additional capital expenditures would be subject to evaluation and Trustee approval.

In June 2010, the Authority's Trustees approved a \$460 million Life Extension and Modernization ("LEM") Program at the Lewiston Pump-Generating Plant. The work to be done includes a major overhaul of the plant's 12 pump turbine generator units. The LEM Program will increase pump and turbine efficiency, operating efficiency, and the peaking capacity of the overall Niagara Project. The Authority intends to file an application with the Federal Energy Regulatory Commission (FERC) for a non-capacity license amendment in connection with the program. The unit work is scheduled to begin in late 2012, with the final unit being completed in 2020.

By order issued March 15, 2007, FERC issued the Authority a new 50-year license for the Niagara Project effective September 1, 2007. In doing so, FERC approved six relicensing settlement agreements entered into by the Authority with various public and private entities. By decision dated March 13, 2009, the U.S. Court of Appeals for the District of Columbia Circuit denied a petition for review of FERC's order filed by certain entities, thereby concluding all litigation involving FERC's issuance of the new license. The Authority currently expects that the costs associated with the relicensing of the Niagara Project will be at least \$495 million over a period of 50 years, which includes \$50.5 million in administrative costs associated with the relicensing effort and does not include the value of the power allocations and operation and maintenance expenses associated with several habitat and recreational elements of the settlement agreements. Of the \$495 million, \$184 million has been spent through December 31, 2010.

**NEW YORK POWER AUTHORITY**  
Management's Discussion and Analysis  
December 31, 2010 and 2009  
(Unaudited)

In addition to internally generated funds, the Authority issued additional debt obligations in October 2007 to fund, among other things, Niagara relicensing costs. The costs associated with the relicensing of the Niagara Project, including the debt issued therefore, were incorporated into the cost-based rates of the Project beginning in 2007.

More detailed information about the Authority's capital assets is presented in notes 2 and 5 to the financial statements.

**Capital Structure**

	<u>2010</u>	<u>2009</u> (In millions)	<u>2008</u>
Long-term debt:			
Senior:			
Revenue bonds	\$ 1,111	1,154	1,196
Adjustable rate tender notes	122	131	138
Subordinated:			
Subordinate revenue bonds	—	—	—
Commercial paper	264	330	410
Total long-term debt	<u>1,497</u>	<u>1,615</u>	<u>1,744</u>
Net assets	<u>3,001</u>	<u>2,820</u>	<u>2,567</u>
Total capitalization	<u>\$ 4,498</u>	<u>4,435</u>	<u>4,311</u>

During 2010, long-term debt, net of current maturities, decreased by \$118 million primarily due to scheduled maturities and cash funding of capital expenditures. In October 2010, the Authority's Trustees authorized the issuance of up to \$220 million of additional revenue bonds for the purpose of refunding certain Revenue Bonds and funding certain construction costs up to a maximum of \$80 million related to the life extension and modernization of the Lewiston Pump Generating Plant at the Niagara Project. It is uncertain whether and to what extent such revenue bonds will be issued in 2011.

During 2009, long-term debt, net of current maturities, decreased by \$129 million due to scheduled maturities.

Total Debt to Equity as of December 31, 2010, decreased to 0.65 to 1 from 0.72 to 1 as of December 31, 2009.

## NEW YORK POWER AUTHORITY

### Management's Discussion and Analysis

December 31, 2010 and 2009

(Unaudited)

#### Debt Ratings

	Moody's	Standard & Poor's	Fitch
NYPA's underlying credit ratings:			
Senior debt:			
Long-term debt	Aa2	AA-	AA
Adjustable rate tender notes	Aa2/VMIG1	AA-/A-1+	N/A
Subordinate debt:			
Commercial paper	P-1	A-1	F1+
Municipal bond insurance support ratings:			
Senior debt:			
Series 2007 A, B and C Revenue Bonds due 2013 to 2047	Aa2*	AA-*	AA*
Series 2006 A Revenue Bonds due 2009 to 2020	Aa2*	AA-*	AA*
Series 2003 A Revenue Bonds due 2009 to 2033	Aa2*	AA+	AA*

The Authority has a \$550 million line of credit with a syndicate of banks supporting the Commercial Paper Notes which line expires January 20, 2014. More detailed information about the Authority's debt is presented in note 6 to the financial statements.

In October 2010, S&P downgraded Assured Guaranty Municipal Corp's AAA rating (formerly Financial Security Assurance Inc.) to AA+. All other bond insurers' ratings are no longer above the Authority's underlying rating and/or are no longer rated. Consequently, the insured bonds carry the Authority's underlying rating denoted by an asterisk (\*) after the rating set forth in the table above.

The impact of the bond insurers' credit downgrades on the market value of the Authority's insured bonds was not discernible because of the Authority's strong underlying ratings.

#### Risk Management

The objective of the Authority's risk management program is to manage the impact of interest rate, energy commodity price and fuel cost volatility on its earnings and cash flows. To achieve these objectives, the Authority's Trustees have authorized the use of various interest rate, energy-price and fuel-price forward instruments for hedging purposes. In addition, the Authority also has a program designed to assess and manage enterprise-wide risk across the Authority.

The Vice President and Chief Risk Officer reports to the Executive Vice President and Chief Financial Officer and is responsible for establishing procedures for identifying, reporting and controlling energy commodity exposure and risk exposure connected with enterprise-wide risk.

On July 21, 2010, President Obama signed into law the Dodd-Frank Wall Street Reform and Consumer Protection Act ("DF Act") which addresses almost every aspect of the financial services industry. Among other things, the DF Act addresses forward interest rate and energy transactions of the type in which the Authority engages, and many of the requirements and processes in this area are expected to be set forth in regulations promulgated by the Commodities Futures Trading Commission in the coming months. Depending on the ultimate resolution of numerous issues, which is uncertain, including whether and to what extent forward transactions are required to be cleared through clearinghouses and/or traded on exchanges with accompanying collateral and/or margin requirements; whether and to what extent forward transactions entered into prior to the enactment of the DF Act are required to be collateralized; and whether and to what extent public power entities such as the Authority are exempted from these requirements, the impact of the DF Act on the Authority's liquidity and/or future risk mitigation activities could be significant. In the event such regulations are applied retroactively to forward positions predating the enactment of the DF Act, it could require the Authority to post as much as \$250 million in collateral to maintain its open hedge positions as of December 31, 2010. The Authority has sufficient liquidity to post such collateral, if required.

## NEW YORK POWER AUTHORITY

### Management's Discussion and Analysis

December 31, 2010 and 2009

(Unaudited)

#### Economic Conditions

The Authority operates in a competitive and sometimes volatile market environment. Volatility in the energy market has, in previous years, unfavorably impacted the Authority in its role as a buyer and has resulted in higher costs of purchased power and fuel in its New York City (NYC) Governmental Customer and other market areas. The NYC Governmental Customer market cost situation is mitigated by the cost recovery provisions in the long-term supplemental electricity supply agreements and generation from the Authority's 500-MW plant. Wholesale electricity prices, which declined towards the 2008 year-end reflecting weaknesses in the economy and in commodity prices, continued its decline in 2009 and 2010 resulting in lower costs of purchased power and fuel, but also unfavorably impacted the Authority in its role as a seller in the electricity market.

According to the National Bureau of Economic Research, a recession in the United States began in December 2007 and ended in June 2009. However, the economy continues to grow slowly and unemployment is high. Forecasted recovery time for these economic conditions range from a few to many years. In this environment, the Authority has continued to utilize its financial flexibility to support its mission and its customers. In December 2010, the Governor approved long-term contract extensions for the continued supply of low-cost hydropower to more than 100 of Western New York's leading companies. These expansion and replacement power customers, who account for more than 70 percent of the manufacturing jobs in the region, are integral to the area's economy with wide-ranging impacts associated with spinoff jobs, payments to suppliers for goods and services, local tax revenues and financial support of local communities and organizations. These contract extensions will help protect nearly 30,000 jobs and a combined annual payroll of over \$2 billion and encourage annual capital investments of tens of millions of dollars.

In response to the economic downturn's effects on New York's manufacturing sector, the Authority's Trustees in March 2009 approved execution of an agreement with Alcoa, Inc. to provide temporary relief from certain power sales contract provisions relating to the temporary shutdown of one of its two smelters served by the Authority in Massena, New York, including allowing Alcoa to release back to the Authority certain hydropower allocated to it, temporary waivers of certain minimum bill and employment thresholds, and entry into arrangements with the Authority for inclusion of a portion of Alcoa's load in the NYISO's demand response programs. In addition, in May 2009, the Authority's Trustees authorized a temporary program whereby up to \$10 million will be utilized to provide electric bill discounts for up to a year to businesses located in Jefferson, St. Lawrence, and Franklin counties. These counties constitute the geographic region served by the Authority's Preservation Power program. The source of the \$10 million is the net margin resulting from the sale of a portion of Alcoa's currently unused Preservation Power allocation into the NYISO markets. In September 2010, the Authority's Trustees approved extension of the electric bill discount program for the lesser of one year or the duration of the temporary curtailment of operations at the affected Alcoa facility. On January 7, 2011, Alcoa announced its plans to restart the temporarily curtailed facility beginning later in the first quarter of 2011 at which time the discount program would cease.

In March 2009, the Authority's Trustees approved the deferral for recovery in the future of a proposed hydropower rate increase for the Authority's municipal electric and rural cooperative customers, neighboring state municipal customers, upstate investor-owned utilities, and certain other customers that was scheduled to go into effect on May 1, 2009; and in August 2010, the Authority announced an extension of such deferral through the end of 2010. Currently, the rates are being reevaluated. The deferral amounts to approximately \$18.5 million through the end of 2010. Further, the Authority withdrew two proposed hydropower rate increases totaling approximately \$6.9 million for its Replacement Power, Expansion Power, and certain other industrial customers that were scheduled to go into effect on May 1, 2009 and May 1, 2010, respectively.

The Authority is requested, from time to time, to make financial contributions or transfers of funds to the State. Any such contribution or transfer of funds must (i) be authorized by State legislation (generally budget legislation), and (ii) satisfy the requirements of the Authority's Bond Resolution. The Bond Resolution requirements to withdraw moneys "free and clear of the lien and pledge created by the [Bond] Resolution" are as follows: (1) such withdrawal must be for a "lawful corporate purpose as determined by the Authority," and (2) the Authority must determine "taking into account, among other considerations, anticipated future receipt of Revenues or other moneys constituting part of the Trust Estate, that the funds to be so withdrawn are not needed" for (a) payment of reasonable and necessary operating expenses, (b) an Operating Fund reserve for working capital, emergency repairs or replacements, major renewals, or for retirement from service, decommissioning or disposal of facilities, (c) payment of, or accumulation of a reserve for payment of, interest and principal on senior debt, or (d) payment of interest and principal on subordinate debt.

Legislation enacted into law, as part of the 2000-2001 State budget, as amended in subsequent years, has authorized the Authority "as deemed feasible and advisable by the trustees," to make a series of "voluntary contributions" into the State treasury in connection with the Power for Jobs (PFJ) Program and for other purposes as well. The PFJ Program has been extended to May 15, 2011. Legislation enacted in 2008, among other things, authorized the Authority to make a voluntary contribution unrelated to the PFJ Program of \$107 million

**NEW YORK POWER AUTHORITY**  
Management's Discussion and Analysis  
December 31, 2010 and 2009  
(Unaudited)

during State Fiscal Year 2009-2010. This \$107 million voluntary contribution was approved and paid in March 2010. By legislation enacted in May 2010, the Authority was authorized to make an additional voluntary contribution of \$65 million unrelated to the PFJ Program for State Fiscal Year 2010-2011. In June 2010, the Authority's Trustees approved the payment of a voluntary contribution of \$40 million to the State which was paid in August 2010. The Authority's Trustees authorized and the Authority paid the remaining \$25 million in January 2011. Cumulatively through January 2011, the Authority has made voluntary contributions to the State totaling \$461.5 million in connection with the PFJ Program and \$302 million unrelated to the PFJ Program. The 2010 (\$147 million) and the 2009 (\$70 million) contributions to the State which are not related to the PFJ Program were recorded as nonoperating expenses and classified as contributions to New York State in the 2010 and 2009 statements of revenues, expenses and changes in net assets, respectively. The \$25 million paid in January 2011 will be reported as a nonoperating expense in the 2011 financial statements. On February 1, 2011, the Governor introduced his proposed Executive Budget for State Fiscal Year 2011-2012 in which the Authority would be authorized to make two additional voluntary contributions, one to be considered for payment in June, 2011 in the amount of \$40 million and a second, in the amount of \$60 million, to be considered for payment in January 2012. Such contributions will only be made if authorized by legislation and approved by the Authority's Trustees as feasible and advisable at that time. See note 12(g), "Proposed Recharge New York Power Program," for a discussion of recent legislative activity involving the State Fiscal Year 2011-2012 budget, the PFJ Program, and related matters.

By budget legislation enacted in February 2009, the Authority was further authorized to make certain temporary asset transfers to the State of reserve funds. Pursuant to the terms of a Memorandum of Understanding dated February 2009 (MOU) between the State, acting by and through the Director of Budget of the State, and the Authority, the Authority agreed to transfer \$215 million associated with its Spent Nuclear Fuel Reserves (Asset B) by the end of State Fiscal Year 2008-2009. The Spent Nuclear Fuel Reserves are funds that have been set aside for the liability to the federal government sometime in the future when the federal government accepts the spent nuclear fuel for permanent storage. The MOU provides for the return of these funds to the Authority, subject to appropriation by the State Legislature and the other conditions described below, at the earlier of the Authority's payment obligation related to the transfer and disposal of the spent nuclear fuel or September 30, 2017. Further, the MOU provides for the Authority to transfer during State Fiscal Year 2009-2010 \$103 million of funds set aside for future construction projects (Asset A), which amounts would be returned to the Authority, subject to appropriation by the State Legislature and the other conditions described below, at the earlier of when required for operating, capital or debt service obligations of the Authority or September 30, 2014. Both transfers were approved by the Authority's Trustees and made in 2009.

The MOU provides that the obligation of the State to return all or a portion of an amount equal to the monies transferred by the Authority to the State would be subject to annual appropriation by the State Legislature. Further, the MOU provides that as a condition to any such appropriation for the return of the monies earlier than September 30, 2017 for the Spent Nuclear Fuel Reserves and earlier than September 30, 2014 for the construction projects, the Authority must certify that the monies available to the Authority are not sufficient to satisfy the purposes for which the reserves were established.

The Authority classified the transfers of Asset A and Asset B (\$318 million) as a long-term loan receivable. In lieu of interest payments, the State waived certain future payments from the Authority to the State. The waived payments include the Authority's obligation to pay until September 30, 2017 the amounts to which the State is entitled under a governmental cost recovery process for the costs of central governmental services. These payments would have been approximately \$5 million per year based on current estimates but the waiver will be limited to a maximum of \$45 million in the aggregate during the period. Further, the obligation to make payments in support of certain State park properties and for the upkeep of State lands adjacent to the Niagara and St. Lawrence power plants will be waived from April 1, 2011 to March 31, 2017. These payments would have been approximately \$8 million per year but the waiver will be limited to a maximum of \$43 million for the period. The present value of the waivers approximates the present value of the lost interest income on the transferred reserve funds.

### **Contacting the Authority**

This financial report is designed to provide our customers and other interest parties with a general overview of the Authority's finances. If you have any questions about this report or need additional financial information, contact the New York Power Authority, 123 Main Street, White Plains, New York 10601-3107.

**NEW YORK POWER AUTHORITY**

Balance Sheets

December 31, 2010 and 2009

(In millions)

Assets and Deferred Outflows	2010	2009
Current assets and deferred outflows:		
Cash and cash equivalents	\$ 50	82
Investment in securities	1,032	828
Interest receivable on investments	6	7
Accounts receivable	212	192
Materials and supplies:		
Plant and general	75	82
Fuel	15	22
Miscellaneous receivables and other	160	162
Deferred outflows	86	21
Total current assets	1,636	1,396
Noncurrent assets and deferred outflows:		
Restricted funds:		
Cash and cash equivalents	20	21
Investment in securities	1,096	1,016
Total restricted funds	1,116	1,037
Capital funds:		
Cash and cash equivalents	17	14
Investment in securities	130	178
Total capital funds	147	192
Capital assets:		
Capital assets not being depreciated	273	292
Capital assets, net of accumulated depreciation	3,424	3,419
Total capital assets	3,697	3,711
Other noncurrent assets and deferred outflows:		
Unamortized debt expense	15	16
Regulatory assets - risk management activities	34	41
Due from New York State	318	318
Deferred charges, long-term receivables and other	445	424
Notes receivable - nuclear plant sale	68	82
Deferred outflows	145	93
Total other noncurrent assets	1,025	974
Total noncurrent assets	5,985	5,914
Total assets	\$ 7,621	7,310

## NEW YORK POWER AUTHORITY

### Balance Sheets

December 31, 2010 and 2009

(In millions)

Liabilities and Net Assets	<u>2010</u>	<u>2009</u>
<b>Current liabilities:</b>		
Accounts payable and accrued liabilities	\$ 408	391
Short-term debt	323	289
Long-term debt due within one year	121	129
Risk management activities - derivatives	86	21
Total current liabilities	<u>938</u>	<u>830</u>
<b>Noncurrent liabilities:</b>		
Long-term debt:		
Senior:		
Revenue bonds	1,111	1,154
Adjustable rate tender notes	122	131
Subordinated:		
Commercial paper	264	330
Total long-term debt	<u>1,497</u>	<u>1,615</u>
<b>Other noncurrent liabilities:</b>		
Liability to decommission divested nuclear facilities	1,032	942
Disposal of spent nuclear fuel	216	216
Relicensing	335	331
Deferred credits and other	416	417
Risk management activities - derivatives	186	139
Total other noncurrent liabilities	<u>2,185</u>	<u>2,045</u>
Total noncurrent liabilities	<u>3,682</u>	<u>3,660</u>
Total liabilities	<u>4,620</u>	<u>4,490</u>
<b>Net assets:</b>		
Invested in capital assets, net of related debt	1,748	1,717
Restricted	34	38
Unrestricted	1,219	1,065
Total net assets	<u>3,001</u>	<u>2,820</u>
Total liabilities and net assets	<u>\$ 7,621</u>	<u>7,310</u>

See accompanying notes to financial statements.

**NEW YORK POWER AUTHORITY**

Statements of Revenues, Expenses, and Changes in Net Assets

Years ended December 31, 2010 and 2009

(In millions)

	<u>2010</u>	<u>2009</u>
Operating revenues:		
Power sales	\$ 1,889	2,014
Transmission charges	151	145
Wheeling charges	<u>528</u>	<u>436</u>
Total operating revenues	<u>2,568</u>	<u>2,595</u>
Operating expenses:		
Purchased power	931	905
Fuel oil and gas	224	366
Wheeling	528	436
Operations	327	324
Maintenance	116	114
Depreciation	<u>163</u>	<u>164</u>
Total operating expenses	<u>2,289</u>	<u>2,309</u>
Operating income	<u>279</u>	<u>286</u>
Nonoperating revenues and expenses:		
Nonoperating revenues:		
Investment income	41	32
Other income	<u>97</u>	<u>100</u>
Total nonoperating revenues	<u>138</u>	<u>132</u>
Nonoperating expenses:		
Contributions to New York State	147	70
Interest on long-term debt	75	82
Interest – other	21	21
Interest capitalized	(4)	(5)
Amortization of debt premium	<u>(3)</u>	<u>(3)</u>
Total nonoperating expenses	<u>236</u>	<u>165</u>
Nonoperating loss	<u>(98)</u>	<u>(33)</u>
Net income and change in net assets	181	253
Net assets at January 1	<u>2,820</u>	<u>2,567</u>
Net assets at December 31	<u>\$ 3,001</u>	<u>2,820</u>

See accompanying notes to financial statements.

**NEW YORK POWER AUTHORITY**  
**Statements of Cash Flows**  
**Years ended December 31, 2010 and 2009**  
(In millions)

	3	<u>2010</u>	<u>2009</u>
<b>Cash flows from operating activities:</b>			
Received from customers for the sale of power, transmission and wheeling	\$	2,531	2,594
<b>Disbursements for:</b>			
Purchased power		(930)	(915)
Fuel oil and gas		(213)	(357)
Wheeling of power by other utilities		(512)	(430)
Operations and maintenance		(449)	(401)
Net cash provided by operating activities		<u>427</u>	<u>491</u>
<b>Cash flows from capital and related financing activities:</b>			
Earnings received on capital fund investments		4	6
Issuance of commercial paper		4	142
Repayment of notes		(8)	(6)
Retirement of bonds		(40)	(37)
Repayment of commercial paper		(80)	(197)
Gross additions to capital assets		(80)	(93)
Interest paid, net		(74)	(81)
Net cash used in capital and related financing activities		<u>(274)</u>	<u>(266)</u>
<b>Cash flows from noncapital – related financing activities:</b>			
Energy conservation program payments received from participants		123	111
Energy conservation program costs		(139)	(116)
Issuance of commercial paper		159	123
Repayment of commercial paper		(125)	(107)
Interest paid on commercial paper		(1)	(2)
Contributions to New York State		(160)	(119)
Temporary asset transfer to New York State		—	(318)
Entergy value sharing agreement		72	72
Entergy notes receivable		30	30
Net cash used in noncapital – related financing activities		<u>(41)</u>	<u>(326)</u>
<b>Cash flows from investing activities:</b>			
Earning received on investments		28	38
Purchase of investment securities		(5,852)	(4,329)
Sale of investment securities		5,682	4,478
Net cash provided by (used in) investing activities		<u>(142)</u>	<u>187</u>
Net increase (decrease) in cash		(30)	86
Cash and cash equivalents, January 1		<u>117</u>	<u>31</u>
Cash and cash equivalents, December 31	\$	<u>87</u>	<u>117</u>
<b>Reconciliation to net cash provided by operating activities:</b>			
Operating income	\$	279	286
<b>Adjustments to reconcile operating income to net cash provided by operating activities:</b>			
Provision for depreciation		163	164
<b>Change in assets and liabilities:</b>			
Net increase in prepayments and other		1	(29)
Net decrease in receivables and inventory		(15)	15
Net increase in accounts payable and accrued liabilities		(1)	55
Net cash provided by operating activities	\$	<u>427</u>	<u>491</u>

See accompanying notes to financial statements.

## NEW YORK POWER AUTHORITY

Notes to Financial Statements

December 31, 2010 and 2009

### (1) General

The Power Authority of the State of New York (Authority), doing business as The New York Power Authority, is a corporate municipal instrumentality and political subdivision of the State of New York (State) created in 1931 by Title 1 of Article 5 of the Public Authorities Law, Chapter 43-A of the Consolidated Laws of the State, as amended (Power Authority Act or Act).

The Authority is authorized by the Power Authority Act to help provide a continuous and adequate supply of dependable electricity to the people of the State. The Authority generates, transmits and sells electricity principally at wholesale. The Authority's primary customers are municipal and rural cooperative electric systems, investor-owned utilities, high-load-factor industries and other businesses, various public corporations located within the metropolitan area of New York City, including The City of New York, and certain out-of-state customers.

The Authority's Trustees are appointed by the Governor of the State, with the advice and consent of the State Senate. The Authority is a fiscally independent public corporation that does not receive State funds or tax revenues or credits. It generally finances construction of new projects through sales of bonds and notes to investors and pays related debt service with revenues from the generation and transmission of electricity. Accordingly, the financial condition of the Authority is not controlled by or dependent on the State or any political subdivision of the State. However, pursuant to the Clean Water/Clean Air Bond Act of 1996 (Bond Act), the Authority administers a Clean Air for Schools Projects program, for which \$125 million in Bond Act monies have been allocated for effectuation of such program. Also, in accordance with legislation enacted in 2006, the Authority was appropriated \$25 million to implement the Lower Manhattan Energy Independence Initiative involving certain clean energy and energy efficiency measures. Under the criteria set forth in Governmental Accounting Standards Board (GASB) Statement No. 14, *The Financial Reporting Entity*, as amended by Governmental Accounting Standard (GAS) No. 39, *Determining Whether Certain Organizations Are Component Units* and GAS No. 61, *The Financial Reporting Entity: Omnibus--an amendment of GASB Statements No. 14 and No. 34*, the Authority considers its relationship to the State to be that of a related organization.

Income of the Authority and properties acquired by it for its projects are exempt from taxation. However, the Authority is authorized by Chapter 908 of the Laws of 1972 to enter into agreements to make payments in lieu of taxes with respect to property acquired for any project where such payments are based solely on the value of the real property without regard to any improvement thereon by the Authority and where no bonds to pay any costs of such project were issued prior to January 1, 1972.

### (2) Summary of Significant Accounting Policies

The Authority's significant accounting policies include the following:

#### (a) General

The Authority complies with all applicable pronouncements of the GASB. In accordance with GAS No. 20, *Accounting and Financial Reporting for Proprietary Funds and Other Governmental Entities That Use Proprietary Fund Accounting*, the Authority also has elected to comply with all authoritative pronouncements applicable to nongovernmental entities (i.e., Accounting Standards Codification (ASC) of the Financial Accounting Standards Board) that do not conflict with GASB pronouncements. The Authority also applies the standard that allows utilities to capitalize or defer certain costs or revenues based on management's ongoing assessment that it is probable these items will be recovered or reflected in the rates charged for electricity. The operations of the Authority are presented as an enterprise fund following the accrual basis of accounting in order to recognize the flow of economic resources. Under this basis, revenues are recognized in the period in which they are earned and expenses are recognized in the period in which they are incurred.

In December 2010, the GASB issued GAS No. 62, *Codification of Accounting and Financial Reporting Guidance Contained in Pre-November 30, 1989 FASB and AICPA Pronouncements* which is effective for the Authority's 2012 financial statements. GAS No. 62 supersedes GAS No. 20 thereby eliminating the need to elect to comply with all authoritative FASB and AICPA pronouncements applicable to nongovernmental entities. The Authority has determined that the adoption of GAS No. 62 will have no impact on the Authority's accounting policies and financial reporting procedures.

#### (b) Accounting for the Effects of Rate Regulation

The Authority is subject to the provisions of ASC Topic 980, Regulated Operations (FAS No. 71, Accounting for the Effects of Certain Types of Regulation). These provisions recognize the economic ability of regulators, through the

## NEW YORK POWER AUTHORITY

Notes to Financial Statements

December 31, 2010 and 2009

ratemaking process, to create future economic benefits and obligations affecting rate-regulated companies. Accordingly, the Authority records these future economic benefits and obligations as regulatory assets and regulatory liabilities, respectively.

Regulatory assets represent probable future revenues associated with previously incurred costs that are expected to be recovered from customers. Regulatory liabilities represent probable future reductions in revenues associated with amounts that are expected to be refunded to customers through the ratemaking process.

In order for a rate-regulated entity to continue to apply the provisions of ASC Topic 980, it must continue to meet the following three criteria: (1) the enterprise's rates for regulated services provided to its customers must be established by an independent third-party regulator or its own governing board empowered by a statute to establish rates that bind customers; (2) the regulated rates must be designed to recover the specific enterprise's costs of providing the regulated services; and (3) in view of the demand for the regulated services and the level of competition, it is reasonable to assume that rates set at levels that will recover the enterprise's costs can be charged to and collected from customers.

Based upon the Authority's evaluation of the three criteria discussed above in relation to its operations, and the effect of competition on its ability to recover its costs, the Authority believes that the provisions of ASC Topic 980 continue to apply.

**(c) Estimates**

The preparation of financial statements in conformity with generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

**(d) Capital Assets**

Capital assets are recorded at original cost and consist of amounts expended for labor, materials, services and indirect costs to license, construct, acquire, complete and place in operation the projects of the Authority. Interest on amounts borrowed to finance construction of the Authority's projects is charged to the project prior to completion. Borrowed funds for a specific construction project are deposited in a capital fund account. Earnings on fund investments are held in this fund to be used for construction. Earnings on unexpended funds are credited to the cost of the related project (construction work in progress) until completion of that project. Construction work in progress costs are reduced by revenues received for power produced (net of expenditures incurred in operating the projects) prior to the date of completion. The costs of current repairs are charged to operating expense, and renewals and betterments are capitalized. The cost of capital assets retired less salvage is charged to accumulated depreciation. Depreciation of capital assets is generally provided on a straight-line basis over the estimated lives of the various classes of capital assets.

The related depreciation provisions at December 31, 2010 and 2009 expressed as a percentage of average depreciable capital assets on an annual basis are:

	Average depreciation rate	
	2010	2009
Type of plant:		
Production:		
Hydro	1.9%	1.8%
Gas turbine/combined cycle	3.5	3.6
Transmission	2.6	2.7
General	3.3	3.6
	2.6%	2.6%

## NEW YORK POWER AUTHORITY

Notes to Financial Statements

December 31, 2010 and 2009

**(e) Asset Retirement Obligation**

The Authority applies the applicable provisions of ASC Topic 410 Asset Retirement and Environmental Obligations (FAS No. 143, Accounting for Asset Retirement Obligations) which requires an entity to record a liability at fair value to recognize legal obligations for asset retirements in the period incurred and to capitalize the cost by increasing the carrying amount of the related long-lived asset. The Authority determined that it had legal liabilities for the retirement of certain SCPPs in New York City and, accordingly, has recorded a liability for the retirement of this asset. In connection with these legal obligations, the Authority has also recognized a liability for the remediation of certain contaminated soils discovered during the construction process.

ASC Topic 410 does not apply to asset retirement obligations involving pollution remediation obligations that are within the scope of GAS No. 49, *Accounting and Financial Reporting for Pollution Remediation Obligations*. The Authority applies GAS No. 49 which, upon the occurrence of any one of five specified obligating events, requires an entity to estimate the components of expected pollution remediation outlays and determine whether outlays for those components should be accrued as a liability or, if appropriate, capitalized when goods and services are acquired. The Authority had no liabilities recorded related to GAS No. 49 at December 31, 2010 or 2009.

In addition to asset retirement obligations, the Authority has other cost of removal obligations that are being collected from customers and accounted for under the provisions of ASC Topic 980. The balances of these other cost of removal obligations as of December 31, 2010 and 2009 were approximately \$228 million and \$216 million, respectively, and are recorded in other noncurrent liabilities on the balance sheets.

Asset retirement obligations (ARO) and cost of removal obligation amounts included in other noncurrent liabilities are as follows:

	ARO amounts	Cost of removal obligation
	(In millions)	
Balance – December 31, 2009	\$ 21	216
Depreciation expense	1	12
Balance – December 31, 2010	\$ 22	228

**(f) Long Lived Assets**

The Authority applies GAS No. 42, *Accounting and Financial Reporting for Impairment of Capital Assets and for Insurance Recoveries*, which states that asset impairments are generally recognized only when the service utility of an asset is reduced or physically impaired.

GAS No. 42 states that asset impairment is a significant, unexpected decline in the service utility of a capital asset. The service utility of a capital asset is the usable capacity that at acquisition was expected to be used to provide service, as distinguished from the level of utilization which is the portion of the usable capacity currently being used. Decreases in utilization and existence of or increases in surplus capacity that are not associated with a decline in service utility are not considered to be impairments.

**(g) Cash, Cash Equivalents and Investments**

Cash includes cash and cash equivalents and short-term investments with maturities, when purchased, of three months or less. The Authority accounts for investments at their fair value. Fair value is determined using quoted market prices. Investment income includes changes in the fair value of these investments. Realized and unrealized gains and losses on investments are recognized as investment income in accordance with GAS No. 31, *Accounting and Financial Reporting for Certain Investments and for External Investment Pools*.

## NEW YORK POWER AUTHORITY

Notes to Financial Statements

December 31, 2010 and 2009

**(h) Derivative Instruments**

The Authority uses financial derivative instruments to manage the impact of interest rate, energy price and fuel cost changes on its earnings and cash flows. The Authority recognizes the fair value of all derivative instruments as either an asset or liability on its balance sheets with the offsetting gains or losses recognized in earnings or deferred charges. In June 2008, the GASB issued GAS No. 53, *Accounting and Financial Reporting for Derivative Instruments*, which establishes accounting and reporting requirements for derivative instruments and which is effective for the Authority's 2010 calendar year. The adoption of GAS No. 53 did not have a significant impact on the Authority's financial results.

**(i) Accounts Receivable**

Accounts receivable are classified as current assets and are reported net of an allowance for uncollectible amounts.

**(j) Materials and Supply Inventory**

Material and supplies are valued at weighted average cost and are charged to expense during the period in which the material or supplies are used.

**(k) Deferred Charges**

At December 31, 2010 and 2009, deferred charges include \$146 million and \$108 million, respectively, of energy services program costs. These deferred costs will be recovered from certain customers through the terms of contracts.

**(l) Deferred Debt Refinancing Charges**

Debt refinancing charges, representing the difference between the reacquisition price and the net carrying value of the debt refinanced, are amortized using the interest method over the life of the new debt or the old debt, whichever is shorter, in accordance with GAS No. 23, *Accounting and Financial Reporting for Refundings of Debt Reported by Proprietary Activities*.

**(m) Compensated Absences**

The Authority accrues the cost of unused sick leave which is payable upon the retirement of its employees. The current year's cost is accounted for as a current operating expense in the statement of revenues, expenses, and changes in net assets and in other noncurrent liabilities on the balance sheets.

**(n) Net Assets**

Net Assets represent the difference between assets and liabilities and are classified into three categories:

- a. Investment in Capital Assets, Net of Related Debt – This reflects the net assets of the Authority that are invested in capital assets, net of related debt and accounts. This indicates that these assets are not accessible for other purposes.
- b. Restricted Net Assets – This represents the net assets that are not accessible for general use because their use is subject to restrictions enforceable by third parties.
- c. Unrestricted Net Assets – This represents the net assets that are available for general use.

Restricted and unrestricted resources are utilized, as applicable, by the Authority for their respective purposes.

**(o) Revenues**

Revenues are recorded when power is delivered or service is provided. Customers' meters are read, and bills are rendered, monthly. Wheeling charges are for costs incurred for the transmission of power over transmission lines owned by other utilities. Sales and purchases of power between the Authority's facilities are eliminated from revenues and operating expenses. Energy costs are charged to expense as incurred. Sales to the Authority's five (5) largest customers (three governmental customers and two investor-owned utilities) operating in the State accounted for approximately 53% and 52% of the Authority's operating revenues in 2010 and 2009, respectively. The Authority distinguishes operating revenues and expenses from nonoperating items in the preparation of its financial statements. The principal operating revenues are

## NEW YORK POWER AUTHORITY

Notes to Financial Statements

December 31, 2010 and 2009

generated from the sale, transmission, and wheeling of power. The Authority's operating expenses include fuel, operations and maintenance, depreciation, purchased power costs, and other expenses related to the sale of power. All revenues and expenses not meeting this definition are reported as nonoperating income and expenses.

**(p) Reclassifications**

Certain prior year amounts have been reclassified to conform with the current year's presentation. These reclassifications had no effect on net income and changes in net assets.

**(3) Bond Resolution**

On February 24, 1998, the Authority adopted its "General Resolution Authorizing Revenue Obligations" (as amended and supplemented up to the present time, the Bond Resolution). The Bond Resolution covers all of the Authority's projects, which it defines as any project, facility, system, equipment or material related to or necessary or desirable in connection with the generation, production, transportation, transmission, distribution, delivery, storage, conservation, purchase or use of energy or fuel, whether owned jointly or singly by the Authority, including any output in which the Authority has an interest authorized by the Act or by other applicable State statutory provisions, provided, however, that the term "Project" shall not include any Separately Financed Project as that term is defined in the Bond Resolution. The Authority has covenanted with bondholders under the Bond Resolution that at all times the Authority shall maintain rates, fees or charges, and any contracts entered into by the Authority for the sale, transmission, or distribution of power shall contain rates, fees or charges sufficient together with other monies available there for (including the anticipated receipt of proceeds of sale of Obligations, as defined in the Bond Resolution, issued under the Bond Resolution or other bonds, notes or other obligations or evidences of indebtedness of the Authority that will be used to pay the principal of Obligations issued under the Bond Resolution in anticipation of such receipt, but not including any anticipated or actual proceeds from the sale of any Project), to meet the financial requirements of the Bond Resolution. Revenues of the Authority (after deductions for operating expenses and reserves, including reserves for working capital, operating expenses or compliance purposes) are applied first to the payment of, or accumulation as a reserve for payment of, interest on and the principal or redemption price of Obligations issued under the Bond Resolution and the payment of Parity Debt issued under the Bond Resolution.

The Bond Resolution also provides for withdrawal for any lawful corporate purpose as determined by the Authority, including but not limited to the retirement of Obligations issued under the Bond Resolution, from amounts in the Operating Fund in excess of the operating expenses, debt service on Obligations and Parity Debt issued under the Bond Resolution, and subordinated debt service requirements. The Authority has periodically reacquired revenue bonds when available at favorable prices.

**(4) Cash and Investments**

Investment of the Authority's funds is administered in accordance with the applicable provisions of the Bond Resolution and with the Authority's investment guidelines. These guidelines comply with the New York State Comptroller's investment guidelines for public authorities and were adopted pursuant to Section 2925 of the New York Public Authorities Law.

**(a) Credit Risk**

The Authority's investments are restricted to (a) collateralized certificates of deposit, (b) direct obligations of or obligations guaranteed by the United States of America or the State of New York, (c) obligations issued or guaranteed by certain specified federal agencies and any agency controlled by or supervised by and acting as an instrumentality of the United States government, and (d) obligations of any state or any political subdivision thereof or any agency, instrumentality or local government unit of any such state or political subdivision which is rated in any of the three highest long-term rating categories, or the highest short-term rating category, by nationally recognized rating agencies. The Authority's investments in the debt securities of Federal National Mortgage Association (FNMA), Federal Home Loan Bank (FHLB), Federal Farm Credit Bank (FFCB) and Federal Home Loan Mortgage Corp. (FHLMC) were rated Aaa by Moody's Investors Services (Moody's) and AAA by Standard & Poor's (S&P) and Fitch Ratings (Fitch).

**(b) Interest Rate Risk**

Securities that are the subject of repurchase agreements must have a market value at least equal to the cost of the investment. The agreements are limited to a maximum fixed term of five business days and may not exceed the greater of 5% of the investment portfolio or \$100 million. The Authority has no other policies limiting investment maturities.

**NEW YORK POWER AUTHORITY**

Notes to Financial Statements

December 31, 2010 and 2009

**(c) Concentration of Credit Risk**

There is no limit on the amount that the Authority may invest in any one issuer; however, investments in authorized certificates of deposit shall not exceed 25% of the Authority's invested funds. At December 31, 2010, \$371 million (16%), \$266 million (11%), \$232 million (10%) and \$158 million (7%) of the Authority's investments were in securities of Federal Home Loan Bank (FHLB), Federal Farm Credit Bank (FFCB), Federal National Mortgage Association (FNMA or Fannie Mae) and Federal Home Loan Mortgage Corp. (FHLMC), respectively.

**(d) Decommissioning Fund**

The Decommissioning Trust Fund is managed by external investment portfolio managers. Under the Decommissioning Agreements (see note 11), the Authority will make no further contributions to the Decommissioning Funds. The Authority's decommissioning responsibility will not exceed the amounts in each of the Decommissioning Funds. Therefore, the Authority's obligation is not affected by various risks which include credit risk, interest rate risk, and concentration of credit risk. In addition, the Decommissioning Trust Fund is not held within the Trust Estate of the Bond Resolution and therefore is administered under separate investment guidelines from those of the Authority or New York State.

**(e) Other**

All investments are held by designated custodians in the name of the Authority. At December 31, 2010 and 2009, the Authority had investments in repurchase agreements of \$50 million and \$72 million, respectively. The bank balances were \$29.1 million and \$35.6 million, respectively, of which \$28.0 million and \$34.5 million, respectively, were uninsured, but were collateralized by assets held by the bank in the name of the Authority.

Cash and Investments of the Authority at December 31, 2010 and 2009, are as follows:

December 31, 2010	Total	Total restricted	Decommissioning Trust Fund	Restricted		Capital fund	Unrestricted
				POCR and CAS projects and other (In millions)	ART note debt reserve		
Cash and investments:							
Cash and equivalents	\$ 87	20	—	20	—	17	50
U.S. government:							
Treasury bills	43	43	—	43	—	—	—
GNMA	38	—	—	—	—	—	38
	<u>81</u>	<u>43</u>	<u>—</u>	<u>43</u>	<u>—</u>	<u>—</u>	<u>38</u>
Other debt securities:							
FNMA	232	5	—	—	5	22	205
FHLMC	158	—	—	—	—	6	152
FHLB	371	5	—	—	5	6	360
FFCB	266	4	—	—	4	54	208
All other	118	7	—	—	7	42	69
	<u>1,145</u>	<u>21</u>	<u>—</u>	<u>—</u>	<u>21</u>	<u>130</u>	<u>994</u>
Portfolio Manager	<u>1,032</u>	<u>1,032</u>	<u>1,032</u>	<u>—</u>	<u>—</u>	<u>—</u>	<u>—</u>
Total investments	<u>2,258</u>	<u>1,096</u>	<u>1,032</u>	<u>43</u>	<u>21</u>	<u>130</u>	<u>1,032</u>
	<u>\$ 2,345</u>	<u>1,116</u>	<u>1,032</u>	<u>63</u>	<u>21</u>	<u>147</u>	<u>1,082</u>

**NEW YORK POWER AUTHORITY**

Notes to Financial Statements

December 31, 2010 and 2009

December 31, 2010	Total	Total restricted	Decommiss- ioning Trust Fund	Restricted		Capital fund	Unrestricted
				POCR and CAS projects and other (In millions)	ART note debt reserve		
Summary of maturities (years):							
0 – 1	\$ 317	63	—	63	—	47	207
1 – 5	826	21	—	—	21	74	731
5 – 10	69	—	—	—	—	—	69
10+	101	—	—	—	—	26	75
Portfolio manager	1,032	1,032	1,032	—	—	—	—
	<u>\$ 2,345</u>	<u>1,116</u>	<u>1,032</u>	<u>63</u>	<u>21</u>	<u>147</u>	<u>1,082</u>

Petroleum Overcharge Restitution (POCR) Funds and Clean Air for Schools (CAS) Projects Funds – Legislation enacted into State law from 1995 to 2002, 2007 and 2008 authorized the Authority to utilize petroleum overcharge restitution (POCR) funds and other State funds (Other State Funds), to be made available to the Authority by the State pursuant to the legislation, for a variety of energy-related purposes, with certain funding limitations. The legislation also states that the Authority “shall transfer” equivalent amounts of money to the State prior to dates specified in the legislation. The use of POOCR funds is subject to comprehensive Federal regulations and judicial orders, including restrictions on the type of projects that can be financed with POOCR funds, the use of funds recovered from such projects and the use of interest and income generated by such funds and projects. Pursuant to the legislation, the Authority is utilizing POOCR funds and the Other State Funds to implement various energy services programs that have received all necessary approvals.

The disbursements of the POOCR funds and the Other State Funds to the Authority, and the Authority’s transfers to the State totaling \$60.9 million to date, took place from 1996 to 2009. The POOCR funds are included in restricted funds in the balance sheets. The funds are held in a separate escrow account until they are utilized.

The New York State Clean Water/Clean Air Bond Act of 1996 made available \$125 million for Clean Air for Schools Projects (CAS Projects) for elementary, middle and secondary schools, with the Authority authorized to undertake implementation of the CAS Projects program. The CAS Projects are designed to improve air quality for schools and include, but are not limited to, projects that replace coal-fired furnaces and heating systems with furnaces and systems fueled with oil or gas. The conversion of 80 schools was substantially completed during 2010. As of December 31, 2010, restricted funds include the POOCR fund (\$16 million), the CAS Projects fund (\$10 million), the Lower Manhattan Energy Independence Initiative fund (\$18 million) and the Fish & Wildlife Habitat Enhancement fund related to the Niagara relicensing costs (\$17 million).

**NEW YORK POWER AUTHORITY**

Notes to Financial Statements

December 31, 2010 and 2009

December 31, 2009	Total	Total restricted	Decommissioning Trust Fund	Restricted		Capital fund	Unrestricted
				POCR and CAS projects and other (In millions)	ART note debt reserve		
Cash and investments:							
Cash and equivalents	\$ 117	21	—	21	—	14	82
U.S. government:							
Treasury bills	52	52	—	52	—	—	—
GNMA	39	—	—	—	—	—	39
	91	52	—	52	—	—	39
Other debt securities:							
FNMA	193	5	—	—	5	10	178
FHLMC	197	—	—	—	—	16	181
FHLB	234	9	—	—	9	48	177
FFCB	227	—	—	—	—	55	172
All other	138	8	—	1	7	49	81
	989	22	—	1	21	178	789
Portfolio Manager	942	942	942	—	—	—	—
Total investments	2,022	1,016	942	53	21	178	828
	\$ 2,139	1,037	942	74	21	192	910
Summary of maturities (years):							
0-1	\$ 301	74	—	74	—	54	173
1-5	679	21	—	—	21	101	557
5-10	110	—	—	—	—	10	100
10+	107	—	—	—	—	27	80
Portfolio manager	942	942	942	—	—	—	—
	\$ 2,139	1,037	942	74	21	192	910

**NEW YORK POWER AUTHORITY**

Notes to Financial Statements

December 31, 2010 and 2009

**(5) Capital Assets**

The following schedule summarizes the capital assets activity of the Authority for the year ended December 31, 2010:

	<u>Beginning balance</u>	<u>Additions</u>	<u>Deletions/ Transfers</u>	<u>Ending balance</u>
	(Amounts in millions)			
Capital assets, not being depreciated:				
Land	\$ 148	—	—	148
Construction in progress	144	149	(168)	125
Total capital assets not being depreciated	<u>292</u>	<u>149</u>	<u>(168)</u>	<u>273</u>
Capital assets, being depreciated:				
Production – Steam	437	—	—	437
Production – Hydro	1,689	74	(14)	1,749
Production – Gas turbine/combined cycle	1,236	12	—	1,248
Transmission	1,749	47	(11)	1,785
General	1,037	35	(2)	1,070
Total capital assets being depreciated	<u>6,148</u>	<u>168</u>	<u>(27)</u>	<u>6,289</u>
Less accumulated depreciation for:				
Production – Steam	436	—	—	436
Production – Hydro	614	28	(14)	628
Production – Gas turbine/combined cycle	448	49	—	497
Transmission	910	42	(1)	951
General	321	34	(2)	353
Total accumulated depreciation	<u>2,729</u>	<u>153</u>	<u>(17)</u>	<u>2,865</u>
Net value of capital assets, being depreciated	<u>3,419</u>	<u>15</u>	<u>(10)</u>	<u>3,424</u>
Net value of all capital assets	<u>\$ 3,711</u>	<u>164</u>	<u>(178)</u>	<u>3,697</u>

## NEW YORK POWER AUTHORITY

Notes to Financial Statements

December 31, 2010 and 2009

The following schedule summarizes the capital assets activity of the Authority for the year ended December 31, 2009:

	<u>Beginning balance</u>	<u>Additions</u>	<u>Deletions/ Transfers</u>	<u>Ending balance</u>
	(Amounts in millions)			
Capital assets, not being depreciated:				
Land	\$ 148	—	—	148
Construction in progress	<u>158</u>	<u>131</u>	<u>(145)</u>	<u>144</u>
Total capital assets not being depreciated	<u>306</u>	<u>131</u>	<u>(145)</u>	<u>292</u>
Capital assets, being depreciated:				
Production – Steam	436	1	—	437
Production – Hydro	1,622	81	(14)	1,689
Production – Gas turbine/combined cycle	1,225	11	—	1,236
Transmission	1,729	21	(1)	1,749
General	<u>1,011</u>	<u>28</u>	<u>(2)</u>	<u>1,037</u>
Total capital assets being depreciated	<u>6,023</u>	<u>142</u>	<u>(17)</u>	<u>6,148</u>
Less accumulated depreciation for:				
Production – Steam	436	—	—	436
Production – Hydro	603	26	(15)	614
Production – Gas turbine/combined cycle	398	50	—	448
Transmission	869	42	(1)	910
General	<u>286</u>	<u>37</u>	<u>(2)</u>	<u>321</u>
Total accumulated depreciation	<u>2,592</u>	<u>155</u>	<u>(18)</u>	<u>2,729</u>
Net value of capital assets, being depreciated	<u>3,431</u>	<u>(13)</u>	<u>1</u>	<u>3,419</u>
Net value of all capital assets	<u>\$ 3,737</u>	<u>118</u>	<u>(144)</u>	<u>3,711</u>

**NEW YORK POWER AUTHORITY**

Notes to Financial Statements

December 31, 2010 and 2009

**(6) Long-Term Debt**

**(a) Components**

	Amount		Interest rate	Maturity	Earliest redemption date prior to maturity
	2010	2009			
	(In millions)				
Senior debt:					
Revenue Bonds (Tax-Exempt):					
Series 2000 A Revenue Bonds:					
Term Bonds	\$ 10	10	5.25%	11/15/2030	Any date.
Term Bonds	67	67	5.25	11/15/2040	Any date
Series 2002 A Revenue Bonds:					
Serial Bonds	120	145	3.25% to 5.00%	11/15/2011 to 2022	11/15/2012
Series 2006 A Revenue Bonds:					
Serial Bonds	134	144	3.4% to 5.0%	11/15/2011 to 2020	11/15/2015
Series 2007 A Revenue Bonds:					
Term Bonds	82	82	4.5% to 5.0%	11/15/2047	11/15/2017
Series 2007 C Revenue Bonds:					
Serial Bonds	264	264	4.0% to 5.0%	11/15/2014 to 2021	11/15/2017
Revenue Bonds (Taxable):					
Series 2003 A Revenue Bonds:					
Serial Bonds	14	19	4.5% to 4.83%	11/15/2011 to 2013	Any date
Term Bonds	186	186	5.230% to 5.749%	11/15/2018 to 2033	Any date
Series 2007 B Revenue Bonds:					
Serial Bonds	18	18	5.253% to 5.603%	11/15/2013 to 2017	Any date
Term Bonds	239	239	5.905% to 5.985%	11/15/2037 and 2043	Any date
	<u>1,134</u>	<u>1,174</u>			
Plus unamortized premium and discount	21	25			
Less deferred refinancing costs	<u>4</u>	<u>6</u>			
	<u>1,151</u>	<u>1,193</u>			
Less due in one year	<u>40</u>	<u>39</u>			
	<u>\$ 1,111</u>	<u>1,154</u>			

## NEW YORK POWER AUTHORITY

### Notes to Financial Statements

December 31, 2010 and 2009

	Amount		Interest rate	Maturity	Earliest redemption date prior to maturity
	2010	2009			
	(In millions)				
Adjustable Rate Tender Notes:					
2016 Notes	\$ 55	63	0.29%	3/1/2016	Any adjustment date
2020 Notes	75	75	0.29%	3/1/2020	Same as above
	130	138			
Less due in one year	8	7			
	122	131			
Subordinate debt:					
Commercial Paper:					
EMCP (Series 1)	141	149	0.36%	2011 to 2025	
CP (Series 2)	128	196	0.29%	2011 to 2015	
CP (Series 3)	68	68	0.29%	2011 to 2025	
	337	413			
Less due within one year	73	83			
	264	330			
Total Long-term debt	1,618	1,744			
Less due within one year	121	129			
Long-term debt, net of due in one year	\$ 1,497	1,615			

Interest on Series 2003 A and 2007 B Revenue Bonds is not excluded from gross income for bondholders' Federal income tax purposes.

#### Senior Debt

As indicated in note 3, "Bond Resolution," the Authority has pledged future revenues to service the Obligations and Parity Debt (Senior Debt) issued under the Bond Resolution. Annual principal and interest payments on the Senior Debt are expected to require less than 35% of operating income plus depreciation. The total principal and interest remaining to be paid on the Senior Debt is \$2.2 billion. Principal and interest paid for 2010 and operating income plus depreciation were \$107 million and \$442 million, respectively.

Senior revenue bonds are subject to redemption prior to maturity in whole or in part as provided in the supplemental resolutions authorizing the issuance of each series of bonds, beginning for each series on the date indicated above, at principal amount or at various redemption prices according to the date of redemption, together with accrued interest to the redemption date.

## NEW YORK POWER AUTHORITY

### Notes to Financial Statements

December 31, 2010 and 2009

In October 2010, the Authority's Trustees authorized the issuance of up to \$220 million of additional revenue bonds for the purpose of refunding certain revenue bonds and funding certain construction costs up to a maximum of \$80 million related to the life extension and modernization of the Lewiston Pump Generating Plant at the Niagara Project. It is uncertain whether and to what extent such revenue bonds will be issued in 2011.

In prior years, the Authority defeased certain revenue bonds and general purpose bonds by placing the proceeds of new bonds in an irrevocable trust to provide for all future debt service payments on the old bonds. Accordingly, the trust account assets and the liability for the defeased bonds are not included in the Authority's financial statements. At December 31, 2010 and 2009, \$268 million and \$315 million, respectively, of outstanding bonds were considered defeased.

The Adjustable Rate Tender Notes may be tendered to the Authority by the holders on any adjustment date. The rate adjustment dates are March 1 and September 1. The Authority has entered into a revolving credit agreement (Agreement) with The Bank of Nova Scotia to provide a supporting line of credit. Under the Agreement, which terminates on September 1, 2015, the Authority may borrow up to \$131 million for the purpose of repaying, redeeming or purchasing the Notes. The Agreement provides for interest on outstanding borrowings (none outstanding at December 31, 2010 or 2009) at either (i) the Federal Funds Rate plus a percentage, or (ii) a rate based on the London Interbank Offered Rate (LIBOR) plus a percentage. The Authority expects that it will be able to renew or replace this Agreement as necessary. In accordance with the Adjustable Rate Tender Note Resolution, a Note Debt Service Reserve account has been established in the amount of \$20 million. See note 8 for the Authority's risk management program relating to interest rates.

At December 31, 2010 and 2009, the current market value of the senior debt was approximately \$1.294 billion and \$1.335 billion, respectively. Market values were obtained from a third party that utilized a matrix-pricing model.

#### Subordinate Debt – Commercial Paper

Under the Extendable Municipal Commercial Paper (EMCP) Note Resolution, adopted December 17, 2002, and as subsequently amended and restated, the Authority may issue a series of notes, designated EMCP Notes, Series 1, maturing not more than 270 days from the date of issue, up to a maximum amount outstanding at any time of \$200 million (EMCP Notes).

The proceeds of the Series 2, 3, and 4 Commercial Paper Notes (CP Notes) were used to refund General Purpose Bonds and for other corporate purposes. The proceeds of the EMCP Notes were used to refund Series 2 and 3 CP Notes. CP Notes and EMCP Notes have been used, and may in the future be used, for other corporate purposes. It is the Authority's intention to renew the Series 2 and 3 CP Notes and the EMCP Notes as they mature so that their ultimate maturity dates will range from 2011 to 2025, as indicated in the table above.

The Authority has a line of credit under a 2011 revolving credit agreement (the 2011 RCA) to provide liquidity support for the Series 1-3 CP Notes, with a syndicate of banks, providing \$550 million for such CP Notes until January 20, 2014, which succeeded another revolving credit agreement (the 2008 RCA) in January 2011. No borrowings have been made under the 2011 RCA or the 2008 RCA. The Authority has the option to extend the maturity of the EMCP Notes and would exercise such right in the event there is a failed remarketing. This option serves as a substitute for a liquidity facility for the EMCP Notes.

CP Notes and EMCP Notes are subordinate to the Series 2000 A Revenue Bonds, the Series 2002 A Revenue Bonds, the Series 2003 A Revenue Bonds, the Series 2006 A Revenue Bonds, the Series 2007 A, B, and C Revenue Bonds and the Adjustable Rate Tender Notes.

Interest on the CP (Series 3) is taxable for Federal income tax purposes.

## NEW YORK POWER AUTHORITY

Notes to Financial Statements

December 31, 2010 and 2009

### Long-Term Debt Maturities and Interest Expense (In millions)

Year:	<u>Principal</u>	<u>Interest</u>	<u>Hedging Derivative Instruments, Net</u>	<u>Total</u>
2011	\$ 121	69	9	199
2012	81	66	7	154
2013	98	62	6	166
2014	98	59	5	162
2015	95	54	3	152
2016 – 2020	454	217	3	674
2021 – 2025	198	144	—	342
2026 – 2030	104	116	—	220
2031 – 2035	114	82	—	196
2036 – 2040	110	55	—	165
2041 – 2045	87	24	—	111
2046 – 2047	41	3	—	44
	<u>1,601</u>	<u>951</u>	<u>33</u>	<u>2,585</u>
Plus unamortized bond premium	21	—	—	21
Less deferred refinancing cost	4	—	—	4
	<u>\$ 1,618</u>	<u>951</u>	<u>33</u>	<u>2,602</u>

The interest rate used to calculate future interest expense on variable rate debt is the interest rate at December 31, 2010.

**(b) Terms by Which Interest Rates Change for Variable Rate Debt**

**Adjustable Rate Tender Notes**

In accordance with the Adjustable Rate Tender Note Resolution adopted April 30, 1985, as amended up to the present time (Note Resolution), the Authority may designate a rate period of different duration, effective on any rate adjustment date. The Remarketing Agent appointed under the Note Resolution determines the rate for each rate period which, in the Agent's opinion, is the minimum rate necessary to remarket the notes at par.

**CP Notes and EMCP Notes (Long-Term Portion)**

The Authority determines the rate for each rate period which is the minimum rate necessary to remarket the notes at par in the Dealer's opinion. On July 28, 2009, the Authority approved an amendment to its 2002 EMCP Resolution revising the reset rate formula as well as capping such rate at 12%, applicable only to Series 1 Notes issued on or after October 29, 2009. If the Authority exercises its option to extend the maturity of the EMCP Notes, the reset rate will be the higher of (SIFMA + E) or F, where SIFMA is the Securities Industry and Financial Markets Association Municipal Swap Index, which is calculated weekly, and where "E" and "F" are fixed percentage rates expressed in basis points (each basis point being 1/100 of one percent) and yields, respectively, that are determined based on the Authority's debt ratings. As of December 31, 2010, the reset rate would have been 7.33%.

**NEW YORK POWER AUTHORITY**

Notes to Financial Statements

December 31, 2010 and 2009

**(c) Changes in Long-Term Liabilities**

Changes in the Authority's long-term liabilities for the year ended December 31, 2010 are comprised of the following:

	<u>Beginning balance</u>	<u>Additions</u>	<u>Maturities/ refundings and other</u>	<u>Ending balance</u>	<u>Due within one year</u>
	(Amounts in millions)				
Senior debt:					
Revenue bonds	\$ 1,174	—	40	1,134	40
Adjustable rate tender bonds	138	—	8	130	8
Subtotal	<u>1,312</u>	<u>—</u>	<u>48</u>	<u>1,264</u>	<u>48</u>
Subordinate debt:					
Commercial paper	413	4	80	337	73
Subtotal	<u>413</u>	<u>4</u>	<u>80</u>	<u>337</u>	<u>73</u>
Net unamortized discounts/ premiums and deferred losses	<u>19</u>	<u>—</u>	<u>2</u>	<u>17</u>	<u>—</u>
Total debt, net of unamortized discounts/ premiums/ deferred losses	<u>\$ 1,744</u>	<u>4</u>	<u>130</u>	<u>1,618</u>	<u>121</u>
Other long-term liabilities:					
Nuclear decommissioning	\$ 942	90	—	1,032	—
Disposal of nuclear fuel	216	—	—	216	—
Deferred revenues and other	887	87	37	937	—
Total other long-term liabilities	<u>\$ 2,045</u>	<u>177</u>	<u>37</u>	<u>2,185</u>	<u>—</u>

## NEW YORK POWER AUTHORITY

Notes to Financial Statements

December 31, 2010 and 2009

Changes in the Authority's long-term liabilities for the year ended December 31, 2009 are comprised of the following:

	Beginning balance	Additions	Maturities/ refundings and other (Amounts in millions)	Ending balance	Due within one year
<b>Senior debt:</b>					
Revenue bonds	\$ 1,211	—	37	1,174	39
Adjustable rate tender bonds	144	—	6	138	7
Subtotal	<u>1,355</u>	<u>—</u>	<u>43</u>	<u>1,312</u>	<u>46</u>
<b>Subordinate debt:</b>					
Commercial paper	469	142	198	413	83
Subtotal	<u>469</u>	<u>142</u>	<u>198</u>	<u>413</u>	<u>83</u>
<b>Net unamortized discounts/ premiums and deferred losses</b>					
	22	—	3	19	—
Total debt, net of unamortized discounts/ premiums/ deferred losses	<u>\$ 1,846</u>	<u>142</u>	<u>244</u>	<u>1,744</u>	<u>129</u>
<b>Other long-term liabilities:</b>					
Nuclear decommissioning	\$ 812	130	—	942	—
Disposal of nuclear fuel	216	—	—	216	—
Deferred revenues and other	716	202	31	887	—
Total other long-term liabilities	<u>\$ 1,744</u>	<u>332</u>	<u>31</u>	<u>2,045</u>	<u>—</u>

### (7) Short-Term Debt

CP Notes (short-term portion) outstanding was as follows:

	December 31			
	2010		2009	
	Availability	Outstanding	Availability	Outstanding
	(In millions)			
CP Notes (Series 1)	\$ 400	323	400	289

Under the Commercial Paper Note Resolution adopted June 28, 1994, as subsequently amended and restated, the Authority may issue from time to time a separate series of notes maturing not more than 270 days from the date of issue, up to a maximum amount outstanding at any time of \$400 million (Series 1 CP Notes). See note 6 – Long-term Debt for Series 2, 3 and 4 CP Notes and the EMCP Notes. The proceeds of the Series 1 CP Notes have been and shall be used to finance the Authority's current and future energy services programs and for other corporate purposes.

## NEW YORK POWER AUTHORITY

Notes to Financial Statements

December 31, 2010 and 2009

The changes in short-term debt are as follows:

	Beginning balance	Increases	Decreases	Ending balance
	(In millions)			
Year:				
2009	\$ 273	123	107	289
2010	289	159	125	323

CP Notes are subordinate to the Series 2000 A Revenue Bonds, the Series 2002 A Revenue Bonds, the Series 2003 A Revenue Bonds, the Series 2006 A Revenue Bonds, the Series 2007 A, B, and C Revenue Bonds and the Adjustable Rate Tender Notes.

### (8) Risk Management and Hedging Activities

The Authority purchases insurance coverage for its operations, and in certain instances, is self-insured. Property insurance purchase protects the various real and personal property owned by the Authority and the property of others while in the care, custody and control of the Authority for which the Authority may be held liable. Liability insurance purchase protects the Authority from third-party liability related to its operations, including general liability, automobile, aircraft, marine and various bonds. Insured losses by the Authority did not exceed coverage for any of the three preceding fiscal years. The Authority self-insures a certain amount of its general liability coverage and the physical damage claims for its owned and leased vehicles. The Authority is also self-insured for portions of its medical, dental and workers' compensation insurance programs. The Authority pursues subrogation claims as appropriate against any entities that cause damage to its property.

Another aspect of the Authority's risk management program is to manage the impacts of interest rate, energy and fuel market fluctuations on its earnings, cash flows and market values of assets and liabilities. To achieve its objectives the Authority's Trustees have authorized the use of various interest rate, energy, and fuel derivative instruments that are considered financial derivatives under GAS No. 53, *Accounting and Financial Reporting for Derivative Instruments* (GAS No. 53).

The fair values of all Authority derivative instruments, as defined by GAS No. 53, are reported in current and noncurrent assets or liabilities on the balance sheets as risk management activities. For designated hedging derivative instruments, changes in the fair values are deferred and classified as deferred inflows or deferred outflows in current and other noncurrent assets or liabilities. Renewable energy contracts, designated as investment derivative instruments, are deferred as regulatory assets or liabilities, as they are recoverable from customers by contractual agreements. GAS No. 53 provides for the recognition of deferred outflows of resources and deferred inflows of resources that arise from an effective hedging relationship. Deferred outflows of resources is defined as a consumption of net assets by the government that is applicable to a future reporting period. Deferred inflows of resources is defined as an acquisition of net assets by the government that is applicable to a future reporting period.

The fair value of interest rate swap contracts take into consideration the prevailing interest rate environment and the specific terms and conditions of each contract. The fair values were estimated using the zero-coupon discounting method. The fair value of the interest rate option contracts were measured using an option pricing model that considers probabilities, volatilities, time, underlying prices, and other variables. The fair value for over-the-counter energy, renewable energy and natural gas transportation contracts are determined by the monthly market prices over the lifetime of each outstanding contract using the latest end-of-trading-month forward prices published by Platts or derived from pricing models based upon Platt's prices.

The Authority's policy regarding the creditworthiness of counterparties for interest rate derivative contracts is defined in the Bond Resolution. It requires that such counterparties be rated in at least the third highest rating category for each appropriate rating agency maintaining a rating for qualified swap providers. In January 2011, the Authority's Trustees adopted a Policy for the Use of Interest Rate Exchange Agreements which established the framework, objectives and overall authority for governing activities relating to the Authority's interest rate risk management program.

## NEW YORK POWER AUTHORITY

### Notes to Financial Statements

December 31, 2010 and 2009

It is the Authority's policy to evaluate counterparties to commodity derivative contracts considering the market segment, financial ratios, agency and market implied ratings and other factors. In addition for certain counterparties the Authority may require a two way credit support agreement that require collateral such as parental guarantees, letters of credit or margin calls.

Based upon the fair values as of December 31, 2010 the Authority's individual or aggregate exposure to derivative contract counterparty credit risk is not significant.

The following table shows the fair value of derivatives contracts for 2010 and 2009:

Derivative instrument description	Fair value balance December 31, 2010	Net change in fair value (in millions)	Fair value balance December 31, 2009	Type of hedge or transaction	Financial statement classification for changes in fair value	Notional amount December 31, 2010	Volume
<b>Interest rate contracts (Swaps):</b>							
Series 2-CP Notes	\$ (8.7)	\$ 3.2	\$ (11.9)	Cash Flow	Deferred out-flow	104.2	USD
ART Notes	(12.7)	(2.2)	(10.5)	Cash Flow	Deferred out-flow	130.5	USD
<b>Energy contracts (Swaps):</b>							
Power for Jobs Program	—	(0.1)	0.1	Cash Flow	Deferred in-flow	—	MWh
Economic Cost Savings Benefits	(0.1)	(1.9)	1.8	Cash Flow	Deferred in-flow/ out-flow	136,400	MWh
SENY Customer Load	—	8.2	(8.2)	Cash Flow	Deferred out-flow	—	MWh
SENY Customer Load	—	12.5	(12.5)	Cash Flow	Deferred out-flow	—	MWh
SENY Customer Load	(101.0)	(58.1)	(42.9)	Cash Flow	Deferred out-flow	5,701,800	MWh
SENY Customer Load	(108.8)	(80.3)	(28.5)	Cash Flow	Deferred out-flow	6,574,200	MWh
<b>Renewable energy contracts: (Swaps)</b>							
SENY Renewable Energy	(33.8)	6.9	(40.7)	Investment	Regulatory Asset	1,284,880	MWh
Totals	<u>\$ (265.1)</u>	<u>\$ (111.8)</u>	<u>\$ (153.3)</u>				

#### Interest Rate Contracts:

**Series 2 CP Notes:** In 1998, the Authority entered into forward interest rate swaps to fix rates on long-term obligations initially issued to refinance \$268.2 million of Series 1998 B Revenue Bonds required to be tendered in the years 2002 (the 2002 Swaps). Based upon the terms of these forward interest rate swaps, the Authority would pay interest calculated at a fixed rate of 5.1% to the counterparties through February 15, 2015. In return, the counterparties would pay interest to the Authority based upon the SIFMA municipal swap index (SIFMA Index) on the established reset dates. On November 15, 2002 the Authority completed the mandatory payment on the Series 1998 B Revenue Bonds from the proceeds of the issuance of Series 2 CP Notes. The 2002 Swaps became active on November 15, 2002 and are scheduled to terminate on February 15, 2015. Net settlement payments were \$6.7 and \$9.4 million in 2010 and 2009 respectively.

**ART Notes:** In 2006, the Authority entered into a forward interest rate swap having an initial notional amount of \$156 million (which declines over time to \$75 million) with the objective of fixing the interest rates on the Authority's Adjustable Rate Tender Notes (ART Notes) for the period September 1, 2006 to September 1, 2016. Based upon the terms of the forward interest rate swap, the Authority pays interest calculated at a fixed rate of 3.7585% on the outstanding notional amount. In return, the counterparty pays interest to the Authority based upon 67% of the six-month LIBOR established on the reset dates that coincide with the ART Notes interest rate reset dates. Net settlement payments were \$4.5 and \$3.7 million in 2010 and 2009 respectively.

## NEW YORK POWER AUTHORITY

Notes to Financial Statements

December 31, 2010 and 2009

### Energy Contracts:

*Power for Jobs Program:* In 2010 and 2009, the Authority purchased a number of short-term energy swaps. The objective of these short-term energy swaps was to fix the price of purchases of energy in the NYISO electric market to meet short-term forecasted load requirements for the Authority's Power for Jobs program. These short-term energy swaps terminated in less than one year. Net settlement payments were \$ 0.4 and \$1.0 million in 2010 and 2009 respectively.

*Energy Cost Savings Benefits:* In 2010 and 2009, the Authority purchased a number of short-term energy swaps. The objective of these short-term energy swaps was to fix the cost of energy purchases in the NYISO electric market to meet the forecasted load requirements of certain Energy Cost Saving Benefits program customers. These short-term energy swaps terminate in less than one year. Net settlement payments were \$0.6 and \$0.4 million in 2010 and 2009 respectively.

*SENY Customer Load:* In 2008 and 2009, the Authority purchased a number of short-term energy swaps. The objective of these short-term energy swaps was to fix the cost of energy purchases in the NYISO electric market to the benefit of the NYC Governmental Customers. These short-term energy swaps terminate in less than two years. Net settlement payments were \$17.7 and \$183.3 million in 2010 and 2009 respectively.

In 2005, the Authority entered into a long-term forward energy swap to fix the cost of energy purchases in the NYISO electric market to meet certain long-term NYC Governmental Customers load requirements between 2008 and 2010. Net settlement payments were \$14.5 and \$21.5 million in 2010 and 2009 respectively.

On October 1, 2009, the Authority entered into the first of two medium-term forward energy swaps to fix the cost of energy purchases in the NYISO electric market to meet certain long-term NYC Governmental Customers load requirements between 2010 and 2012. Net settlement payments were \$27.7 million in 2010.

On October 1, 2009, the Authority entered into the second of two medium-term forward energy swaps to fix the cost of energy purchases in the NYISO electric market to meet certain long-term NYC Governmental Customers load requirements between 2011 and 2014.

### Renewable Energy Contracts:

*SENY Renewable Energy:* In 2006, the Authority entered into long-term forward energy swaps and purchase agreements based upon a portion of the generation of the counterparties' wind-farm-power-generating facilities between 2008 and 2017. The fixed price ranges from \$74 to \$75 per megawatt and includes the purchase of the related environmental attributes. The intent of the swaps and purchase agreements is to assist specific governmental customers in acquiring and investing in wind power and related environmental attributes to satisfy certain New York State mandates to support renewable energy. Net settlement payments were \$4.2 and \$5.1 million in 2010 and 2009 respectively. The Authority anticipates the recovery or distribution of any net settlements through specific contractual agreements with customers.

### Other Considerations:

In addition, the Authority utilized derivatives during the periods to hedge certain exposures. These derivatives had no value or open positions on December 31, 2010 or 2009. These derivatives included:

- In 2007, an interest rate cap was purchased with the objective of limiting exposure to rising interest rates relating to the Series I CP Notes at a premium cost of \$0.035 million. The interest rate for the Series I CP Notes was capped at 5.9% and was based upon the SIFMA Index for a notional amount (\$300 million) through August 15, 2010. On January 26, 2011 a new interest rate cap set at 5.5% was purchased for a premium of \$0.177 million. The cap, based upon the SIFMA Index, has a notional amount of (\$300 million) through January 26, 2013.
- In 2008, the Authority purchased a number of short-term energy swaps. The objective of these short-term energy swaps was to fix the cost of energy purchases in the NYISO electric market to meet the forecasted load requirements for certain Power for Jobs customers that opted to leave the program. Net settlement payments were \$4.1 million in 2009.
- In 2008, the Authority sold a number of short-term energy swaps. The objective of these short-term energy swaps was, in conjunction with NYMEX gas futures contracts to operate the 500 MW plant, to fix the margin between the prices of

## NEW YORK POWER AUTHORITY

Notes to Financial Statements

December 31, 2010 and 2009

sales of energy in the NYISO electric market and purchases of natural gas. The margin was for the benefit of the Authority's NYC Governmental Customers during 2009. Net settlement receipts were \$128.9 million in 2009.

- In 2008, the Authority purchased a number of NYMEX natural gas futures contracts with the objective, in conjunction with the sale of energy swaps, to fix the margin between the prices of purchases of natural gas to operate the 500 MW facility and sales of energy in the NYISO electric market to the benefit of the Authority's NYC Governmental Customers in 2009. Net settlement payments were \$73.0 million in 2009.
- In 2008, the Authority purchased a number of natural gas basis swaps with the objective to fix natural gas pipeline transportation costs to the New York City Gate for forecasted purchases of natural gas to operate the 500 MW facility. These natural gas basis swaps settled upon the natural gas Henry Hub and the IFERC NY Tranco 6 pricing in 2009. Net settlement payments were \$6.6 million in 2009.

The Authority from time to time may be exposed to any of the following risks defined under GAS 53.

*Basis risk:* The Authority is exposed to basis risk on its pay-fixed interest rate swaps because the variable-rate payments received by the Authority on these hedging derivative instruments are based upon indexes other than the actual interest rates the Authority pays on its hedged variable-rate debt. Under the terms of the related hedging fixed rate swap transactions, the Authority receives a variable rate based upon SIFMA and sixty-seven percent of LIBOR, respectively. The Authority remarkets its Notes at rates that approximate SIFMA and sixty-seven percent of LIBOR after considering other factors such as the Authority's creditworthiness.

The Authority is exposed to other basis risk in a portion of its electrical commodity based swaps where the electrical commodity swap payments received are based upon a reference price in a NYISO Market Zone that differs from the Zone in which the hedged electric energy load is forecasted. If the correlation between these Zones' prices should fall the Authority may incur costs as a result of the hedging derivative instrument's inability to offset the delivery price of the related energy.

*Tax risk:* The Authority is at risk that a change in Federal tax rates will alter the relationship between the actual rates at which the Authority remarkets its ART Notes and LIBOR Index used in the pay-fixed receive-variable interest rate swap transaction.

*Rollover risk:* The Authority is exposed to certain rollover risk on its variable ART Notes. Certain of the ART Notes mature on March 1, 2020 while its pay-fixed, receive-variable ART Notes swap terminates on September 1, 2016 leaving the Authority exposed to interest rate volatility during the period September 1, 2016 to March 1, 2020.

Certain electrical commodity, natural gas and natural gas pipeline transportation based derivative instruments are based upon projected future customer loads or facility operations. Beyond the terms of these derivative instruments (varying from one month to 48 months) the Authority is subject to the corresponding market volatilities.

*Termination risk:* The Authority or its counterparties may terminate a derivative instrument if the other party fails to perform under the terms of the contract. The Authority is at risk that counterparty will terminate a swap (interest rate or commodity swaps) at a time when the Authority owes the counterparty a termination payment. The Authority has mitigated this risk by specifying that the counterparty has the right to terminate only as a result of certain events, including: a payment default by the Authority; other Authority defaults which remain uncured within a defined time-frame after notice; Authority bankruptcy; insolvency of the Authority (or similar events); or a downgrade of the Authority's credit rating below investment grade. If at the time of termination, a hedging derivative instrument is in a liability position, the Authority would be liable to the counterparty for a payment equal to the liability, subject to netting arrangements.

*Market-Access Risk:* The Authority remarkets its CP Notes on a continuous basis and its ART Notes every March 1 and September 1. Should the market experience a disruption or dislocation, the Authority may be unable to remarket its Notes for a period of time. To mitigate this risk, the Authority has entered into liquidity facilities with highly rated banks to provide loans to support both the CP Note and ART Note program.

## NEW YORK POWER AUTHORITY

Notes to Financial Statements

December 31, 2010 and 2009

### (9) Pension Plans, Other Postemployment Benefits, Deferred Compensation and Savings Plans

#### (a) Pension Plans

The Authority and substantially all of the Authority's employees participate in the New York State and Local Employees' Retirement System (ERS) and the Public Employees' Group Life Insurance Plan (the Plan). These are cost-sharing, multiple-employer defined benefit retirement plans. The ERS and the Plan provide retirement benefits as well as death and disability benefits. Obligations of employers and employees to contribute and benefits to employees are governed by the New York State Retirement and Social Security Law (NYSRSSL). As set forth in the NYSRSSL, the Comptroller of the State of New York (Comptroller) serves as sole trustee and administrative head of the ERS and the Plan. The Comptroller adopts and may amend rules and regulations for the administration and transaction of the business of the ERS and the Plan, and for the custody and control of their funds. The ERS and the Plan issue a publicly available financial report that includes financial statements and required supplementary information. That report may be obtained by writing to the New York State and Local Employees' Retirement System, 110 State Street, Albany, NY 12236.

The ERS is contributory except for employees who joined the ERS on or prior to July 27, 1976. Employees who joined between July 28, 1976 and December 31, 2009 and have less than ten years of service, contribute 3% of their salary. Employees who join the ERS on or after January 1, 2010 contribute 3% of their salary during their entire length of service. Under the authority of the NYSRSSL, the Comptroller shall certify annually the rates expressed as proportions of payroll of members, which shall be used in computing the contributions required to be made by employers to the pension accumulation fund.

The Authority is required to contribute at an actuarially determined rate. The required contributions for 2010, 2009 and 2008 were \$17.1 million, \$9.6 million and \$11.8 million, respectively. The Authority's contributions made to the ERS were equal to 100% of the contributions required for each year.

During 2008, the global decline in financial markets adversely impacted state pension investment market values including those of the ERS. The average contribution rates relative to payroll for the fiscal years ended March 31, 2011 and 2012 have been set at approximately 10% and 16%, respectively. If ERS's investment market values do not recover, significant increases in the annual contributions to ERS in subsequent years are expected. For the Authority, such increases initially appeared during calendar year 2010 (State fiscal year 2011).

During 2010, the New York State Legislature passed a bill authorizing a temporary retirement incentive for certain State employees and other public employees. Under the legislation, public employees were able to either retire without penalty at 55 years of age with a minimum of 25 years of service (Part B), or be targeted to receive an additional month of pension credit for each year of service not to exceed 36 months (Part A) if the employee was 50 years of age or more and had a minimum of 10 years of service. On July 22, 2010 the Authority's Trustees authorized (a) participation in the Part B incentive program for all eligible employees and (b) participation in the Part A incentive on a limited basis for targeted employees at the Poletti plant. The open period for eligible employees ended on December 29, 2010 for the Part A incentive and October 30, 2010 for the Part B incentive. The Authority recognized a liability for an additional contribution to the System based on eligible employees who accepted the incentive. The incremental cost of participation, approximately \$4 million, was recognized in 2010.

#### (b) Other Postemployment Benefits (OPEB)

The Authority provides certain health care and life insurance benefits for eligible retired employees and their dependents under a single employer noncontributory (except for certain optional life insurance coverage) health care plan. Employees and/or their dependents become eligible for these benefits when the employee has at least 10 years of service and retires or dies while working at the Authority. Approximately 4,000 participants, including 1,600 current employees and 2,400 retired employees and/or spouses and dependents of retired employees, were eligible to receive these benefits at December 31, 2010. The Authority's post-retirement health care trust does not issue a stand-alone financial report.

Through 2006, other postemployment benefits (OPEB) provisions were financed on a pay-as-you-go basis and the plan was unfunded. In December 2006, the Authority's Trustees authorized staff to initiate the establishment of a trust for OPEB obligations (OPEB Trust), with the trust fund to be held by an independent custodian. Prior to 2009, the Authority funded the OPEB Trust with contributions totaling \$225 million. Plan members are not required to contribute to the OPEB Trust. The Authority did not make any contributions to the OPEB Trust in 2010 or 2009.

## NEW YORK POWER AUTHORITY

### Notes to Financial Statements

December 31, 2010 and 2009

The following table shows the components of the Authority's annual OPEB cost for the year, the amount actually contributed to the plan, and changes in the Authority's net OPEB obligation (dollar amounts in millions)

	<u>2010</u>	<u>2009</u>	<u>2008</u>
<b>Annual OPEB cost:</b>			
<b>Annual required contribution (ARC):</b>			
Normal cost	\$ 8	7	6
Amortization payment	20	13	25
Interest to the end of the year	—	1	2
Total	<u>28</u>	<u>21</u>	<u>33</u>
ARC adjustment	8	8	(4)
Interest on net OPEB obligation	(4)	(5)	3
Annual OPEB cost	<u>\$ 32</u>	<u>24</u>	<u>32</u>
<b>Net OPEB obligation:</b>			
Net OPEB (asset) obligation at beginning of fiscal year	\$ (61)	(69)	38
<b>Annual required contribution:</b>			
Annual OPEB cost	32	24	32
<b>Employer contribution:</b>			
Payments for retirees during the year	17	16	14
Trust fund contributions	—	—	125
Total employer contribution	<u>17</u>	<u>16</u>	<u>139</u>
Net OPEB (asset) obligation at end of fiscal year	<u>\$ (46)</u>	<u>(61)</u>	<u>(69)</u>

The \$46 million OPEB asset is reported as an other noncurrent asset in the balance sheets.

The Authority's annual OPEB cost for 2010 was \$32 million, which is reflected as an expense in the Statement of Revenues, Expenses, and Changes in Net Assets. The Authority's annual OPEB cost (expense) is calculated based on the annual required contribution of the employer (ARC), an amount actuarially determined in accordance with the parameters of GASB Statement 45. The ARC represents a level of funding that, if paid on an ongoing basis, is projected to cover normal cost each year and amortize any unfunded actuarial liabilities (or funding excess) over a period not to exceed thirty years. As indicated herein, the Authority uses a twenty (20) years amortization period.

Actuarial valuations of an ongoing plan involve estimates of the value of reported amounts and assumptions about the probability of occurrence of events far into the future. Examples include assumptions about future employment, mortality, and the healthcare cost trend. Amounts determined regarding the funded status of the plan and the annual required contributions of the employer are subject to continual revision as actual results are compared with past expectations and new estimates are made about the future. The schedule of funding progress, presented as required supplementary information following the notes to the financial statements, presents multiyear trend information about whether the actuarial value of plan assets is increasing or decreasing over time relative to the actuarial accrued liabilities for benefits. The Authority's most recent actuarial evaluation was performed on January 1, 2010 and reported an actuarial accrued liability of \$400 million which was funded with assets with an actuarial value of \$218 million resulting in the Authority's retiree health plan to be 55% funded.

Projections of benefits for financial reporting purposes are based on the substantive plan (the plan as understood by the employer and plan members) and include the types of benefits provided at the time of each valuation. The actuarial

## NEW YORK POWER AUTHORITY

Notes to Financial Statements

December 31, 2010 and 2009

methods and assumptions used include techniques that are designed to reduce short-term volatility in actuarial accrued liabilities and the actuarial value of assets, consistent with the long-term perspective of the calculations. In the 2010 actuarial valuation, the projected unit credit actuarial cost method was used with benefits attributed on a level basis. The actuarial assumptions included a 7% investment rate of return (net of administrative expenses) and an annual healthcare cost trend rate of 9% (net of administrative expenses) including inflation, declining approximately 1% each year to an ultimate trend rate of approximately 5%. Both rates include a 4.5% inflation assumption. Commencing with the January 1, 2010 actuarial valuation, the Authority commenced amortizing gains and losses, first recognized in 2010, over an open 20-year period while continuing to amortize its initial unfunded accrued liability (beginning January 1, 2002 through January 1, 2009) over a closed 20-year period.

### (c) *Deferred Compensation and Savings Plans*

The Authority offers union employees and salaried employees a deferred compensation plan created in accordance with Internal Revenue Code, Section 457. This plan permits participants to defer a portion of their salaries until future years. Amounts deferred under the plan are not available to employees or beneficiaries until termination, retirement, death or unforeseeable emergency.

The Authority also offers salaried employees a savings plan created in accordance with Internal Revenue Code, Section 401(k). This plan also permits participants to defer a portion of their salaries. The Authority matches contributions of employees up to limits specified in the plan. Such matching annual contributions were approximately \$2.4 million per year for 2010 and 2009.

Both the deferred compensation plan and the savings plan have a loan feature.

Independent trustees are responsible for the administration of the 457 and 401(k) plan assets under the direction of a committee of union representatives and nonunion employees and a committee of nonunion employees, respectively. Various investment options are offered to employees in each plan. Employees are responsible for making the investment decisions relating to their savings plans.

### (10) NYISO

Pursuant to FERC Order No. 888, the New York investor-owned electric utilities (the IOUs), a subsidiary of the Long Island Power Authority (doing business as LIPA hereafter referred to as LIPA) and the Authority, and certain other entities, established two not-for-profit organizations, the New York Independent System Operator (NYISO) and the New York State Reliability Council (Reliability Council). The mission of the NYISO is to assure the reliable, safe and efficient operation of the State's major transmission system, to provide open-access nondiscriminatory transmission services and to administer an open, competitive and nondiscriminatory wholesale market for electricity in the State. The mission of the Reliability Council is to promote and preserve the reliability of electric service on the NYISO's system by developing, maintaining, and from time to time, updating the reliability rules relating to the transmission system. The Authority, the current IOUs and LIPA are members of both the NYISO and the Reliability Council.

The NYISO is responsible for scheduling the use of the bulk transmission system in the State, which normally includes all the Authority's transmission facilities, and for collecting ancillary services, losses and congestion fees from transmission customers. Each IOU and the Authority retains ownership, and is responsible for maintenance of its respective transmission lines. All customers of the NYISO pay fees to the NYISO. Each customer also pays a separate fee for the benefit of the Authority that is designed to assure that the Authority will recover its entire transmission revenue requirement.

The Authority dispatches power from its generating facilities in conjunction with the NYISO. The NYISO coordinates the reliable dispatch of power and operates a market for the sale of electricity and ancillary services within the State. The NYISO surveys the capacity of generating installations serving the State (installed capacity) and the load requirements of the electricity servers and provides an auction market for generators to sell installed capacity. The NYISO also administers day-ahead and hourly markets whereby generators bid to serve the announced requirements of the local suppliers of energy and ancillary services to retail customers. The Authority participates in these markets as both a buyer and a seller of electricity and ancillary services. A significant feature of the energy markets is that prices are determined on a location-specific basis, taking into account local generating bids submitted and the effect of transmission congestion between regions of the State. The NYISO collects charges associated with the use of the transmission facilities and the sale of power and services bid through the markets that it operates. It

## NEW YORK POWER AUTHORITY

Notes to Financial Statements

December 31, 2010 and 2009

remits those proceeds to the owners of the facilities in accordance with its tariff and to the sellers of the electricity and services in accordance with their respective bids.

Because of NYISO requirements, the Authority is required to bid into the NYISO day-ahead market (DAM) virtually all of the installed capacity output of its units. The NYISO then decides which Authority units will be dispatched, if any, and how much of such units' generation will be dispatched. The dispatch of a particular unit's generation depends upon the bid prices for the unit submitted by the Authority and whether the unit is needed by the NYISO to meet expected demand. If an Authority unit is dispatched by the NYISO, the Authority receives a fixed price (the Market Clearing Price), based on NYISO pricing methodology, for the energy dispatched above that needed to meet Authority contractual load (the Excess Energy). For the energy needed to meet Authority contractual load (the Contract Energy), the Authority receives the price in its contracts with its customers (the Contract Price).

This procedure has provided the Authority with economic benefits from its units' operation when selected by the NYISO and may continue to do so in the future. However, such bids also obligate the Authority to supply the energy in question during a specified time period, which does not exceed two days (the Short Term Period), if the unit is selected. If a forced outage occurs at the Authority plant that is to supply such energy, then the Authority is obligated to pay during the Short Term Period (1) in regard to the Excess Energy amount, the difference between the price of energy in the NYISO hourly market and the Market Clearing price in the day-ahead market, and (2) in regard to the Contract Energy amount, the price of energy in the NYISO hourly market, which is offset by amounts received based on the Contract Price. This hourly market price is subject to more volatility than the day-ahead market price. The risk attendant with this outage situation is that, under certain circumstances, the Market Clearing Price in the day-ahead market and the Contract Price may be well below the price in the NYISO hourly market, with the Authority required to pay the difference. In times of maximum energy usage, this cost could be substantial. This outage cost risk is primarily of concern to the Authority in the case of its 500-MW plant (discussed in note 12(f)) because of its size, nature and location.

In addition to the risk associated with the Authority bidding into the day-ahead market, the Authority could incur substantial costs, in times of maximum energy usage, by purchasing replacement energy for its customers in the NYISO day-ahead market or through other supply arrangements to make up for lost energy due to an extended outage of its units or failure of its energy suppliers to meet their contractual obligations. As part of an ongoing risk mitigation program, the Authority investigates financial hedging techniques to cover, among other things, future maximum energy usage periods.

### (11) Nuclear Plant Divestiture and Related Matters

#### (a) Nuclear Plant Divestiture

On November 21, 2000 (Closing Date), the Authority sold its nuclear plants (Indian Point 3 (IP3) and James A. FitzPatrick (JAF)) to two subsidiaries of Entergy Corporation (collectively Entergy or the Entergy Subsidiaries) for cash and noninterest-bearing notes totaling \$967 million (subsequently reduced by closing adjustments to \$956 million) maturing over a 15-year period. The present value of these payments recorded on the Closing Date, utilizing a discount rate of 7.5%, was \$680 million.

As of December 31, 2010 and 2009, the present value of the notes receivable were:

	2010	2009
	(In millions)	
Notes receivable – nuclear plant sale	\$ 82	95
Less due within one year	14	13
	\$ 68	82

On September 6, 2001, a subsidiary of Entergy Corporation completed the purchase of Indian Point 1 and 2 (IP1 and IP2) nuclear power plants from Consolidated Edison Company of New York Inc. Under an agreement between the Authority and Entergy, which was entered into in connection with the sale of the Authority's nuclear plants to Entergy, the acquisition of the IP2 nuclear plant by a subsidiary of Entergy resulted in the Entergy subsidiary which now owns IP3 being obligated to pay the Authority \$10 million per year for 10 years beginning September 6, 2003, subject to certain

## NEW YORK POWER AUTHORITY

Notes to Financial Statements

December 31, 2010 and 2009

termination and payment reduction provisions upon the occurrence of certain events, including the sale of IP3 or IP2 to another entity and the permanent retirement of IP2 or IP3. The September 6, 2010 and 2009 payments were received and are included in other income.

As part of the Authority's sale of its nuclear projects to Entergy Subsidiaries in November 2000, the Authority entered into two Value Sharing Agreements (VSAs) with them. In essence, these contracts provide that the Entergy Subsidiaries will share a certain percentage of all revenues they receive from power sales in excess of specific projected power prices for a ten-year period (2005 – 2014). During 2006 and 2007, disputes arose concerning the calculation of the amounts due the Authority for 2005 and 2006, respectively. In October 2007, the parties reached an agreement resolving these disputes and amending the VSAs. In essence, these amended VSAs provide for the Entergy Subsidiaries to pay the Authority a set price (\$6.59 per MWh for IP3 and \$3.91 per MWh for JAF) for all MWhs metered from each plant between 2007 and 2014, with the Authority being entitled to receive annual payments up to a maximum of \$72 million. Relating to calendar year 2010, payments totaling \$72 million have been accrued by the Authority and are reflected in other income in the Authority's statements of revenues, expenses, and changes in net assets. The Authority has received the maximum annual payments related to calendar years 2009 and 2010. In all other material respects, the terms of the amended and original VSAs are substantially similar. The payments, related to the calendar years ending after December 31, 2010, are subject to continued ownership of the facilities by the Entergy Subsidiaries or its affiliates.

As a result of competitive bidding, and not related to the sale of the nuclear plants, the Authority agreed to purchase energy from Entergy's IP3 and IP2 nuclear power plants in the total amount of 200 MW during the period 2009 to 2013.

### **(b) Nuclear Fuel Disposal**

In accordance with the Nuclear Waste Policy Act of 1982, in June 1983, the Authority entered into a contract with the U.S. Department of Energy (DOE) under which DOE, commencing not later than January 31, 1998, would accept and dispose of spent nuclear fuel. In conjunction with the sale of the nuclear plants, the Authority's contract with the DOE was assigned to Entergy. The Authority remains liable to Entergy for the pre-1983 spent fuel obligation (see note 12(g), "New York State Budget and Other Matters" relating to a temporary transfer of such funds to the State). As of December 31, 2010, the liability to Entergy totaled \$216 million. The Authority retained its pre-closing claim against DOE under the DOE standard contract for failure to accept spent fuel on a timely basis.

### **(c) Nuclear Plant Decommissioning**

The Decommissioning Agreements with each of the Entergy Subsidiaries deal with the decommissioning funds (the Decommissioning Funds) currently maintained by the Authority under a master decommissioning trust agreement (the Trust Agreement). Under the Decommissioning Agreements, the Authority will make no further contributions to the Decommissioning Funds.

The Authority will retain contractual decommissioning liability until license expiration, a change in the tax status of the fund, or any early dismantlement of the plant, at which time the Authority will have the option of terminating its decommissioning responsibility and transferring the plant's fund to the Entergy Subsidiary owning the plant. At that time, the Authority will be entitled to be paid an amount equal to the excess of the amount in the Fund over the Inflation Adjusted Cost Amount, described below, if any. The Authority's decommissioning responsibility is limited to the lesser of the Inflation Adjusted Cost Amount or the amount of the plant's Fund.

The Inflation Adjusted Cost Amount for a plant means a fixed estimated decommissioning cost amount adjusted in accordance with the effect of increases and decreases in the U.S. Nuclear Regulatory Commission (NRC) minimum cost estimate amounts applicable to the plant.

Certain provisions of the Decommissioning Agreements provide that if the relevant Entergy Subsidiary purchases, or operates, with the right to decommission, another plant at the IP3 site, then the Inflation Adjusted Cost Amount would decrease by \$50 million. In September 2001, a subsidiary of Entergy purchased the Indian Point 1 and Indian Point 2 plants adjacent to IP3.

If the license for IP3 or JAF is extended, an amount equal to \$2.5 million per year, for a maximum of 20 years, would be paid to the Authority by the relevant Entergy Subsidiary for each year of life extension during which the plant operates. In April 2007, the NRC received a license renewal application (for an additional 20 years) for IP3. The original licenses for

## NEW YORK POWER AUTHORITY

### Notes to Financial Statements

December 31, 2010 and 2009

JAF and IP3 expire in 2014 and 2015, respectively. On September 9, 2008, the NRC renewed the operating license of JAF for 20 years to October 17, 2034.

Decommissioning Funds of \$1,032 million and \$942 million are included in restricted funds and other noncurrent liabilities in the balance sheets at December 31, 2010 and 2009, respectively.

If the Authority is required to decommission IP3 or JAF pursuant to the relevant Decommissioning Agreement, an affiliate of the Entergy Subsidiaries, Entergy Nuclear, Inc. would be obligated to enter into a fixed price contract with the Authority to decommission the plant, the price being equal to the lower of the Inflation Adjusted Cost Amount or the plant's Fund amount.

## (12) Commitments and Contingencies

### (a) *Competition*

The Authority's mission is to provide clean, low-cost, and reliable energy consistent with its commitment to the environment and safety, while promoting economic development and job development, energy efficiency, renewables and innovation, for the benefit of its customers and all New Yorkers. The Authority's financial performance goal is to have the resources necessary to achieve its mission, to maximize opportunities to serve its customers better and to preserve its strong credit rating.

To maintain its position as a low cost provider of power in a changing environment, the Authority has undertaken and continues to carry out a multifaceted program, including: (a) the upgrade and relicensing of the Niagara and St. Lawrence-FDR projects; (b) long-term supplemental electricity supply agreements with its governmental customers located mainly within the City of New York (NYC Governmental Customers); (c) construction of a 500-megawatt (MW) combined-cycle electric generating plant at the Authority's Poletti plant site (500-MW plant); (d) a long-term electricity supply contract with Astoria Generating LLC for the purchase of the output of a new 500-MW power plant under construction in Astoria, Queens, adjacent to its existing plant, which is anticipated to enter service by the summer of 2011; (e) a significant reduction of outstanding debt; and (f) implementation of an energy and fuel risk management program. The Authority operates in a competitive and sometimes volatile market environment. Volatility in the energy market has impacted the Authority in its role as a buyer and until recent years had resulted in higher costs of purchased power and fuel in its NYC Governmental Customer and other market areas. The NYC Governmental Customer market cost situation is mitigated by the cost recovery provisions in the long-term supplemental electricity supply agreements and generation from the Authority's 500-MW plant. The Authority also has implemented a restructuring program for its long-term debt through open-market purchases, early retirements and refundings, which has resulted in cost savings and increased financial flexibility. The Authority can give no assurance that even with these measures it will not lose customers in the future as a result of the restructuring of the State's electric utility industry and the emergence of new competitors or increased competition from existing participants. In addition, the Authority's ability to market its power and energy on a competitive basis is limited by provisions of the Power Authority Act that restrict the marketing of the 500-MW plant output, restrictions under State and Federal law as to the sale and pricing of a large portion of the output from the Niagara and St. Lawrence-FDR projects, and restrictions on marketing arising from Federal tax laws and regulations.

According to the National Bureau of Economic Research, a recession in the United States began in December 2007 and ended in June 2009. However, the economy continues to grow slowly and unemployment is high. Forecasted recovery time for these economic conditions ranges from a few to many years. In this environment, the Authority has continued to utilize its financial flexibility to support its mission and its customers. In December 2010, the Governor approved long-term contract extensions for the continued supply of low-cost hydropower to more than 100 of Western New York's leading companies. These expansion and replacement power customers, who account for more than 70 percent of the manufacturing jobs in the region, are integral to the area's economy with wide-ranging impacts associated with spinoff jobs, payments to suppliers for goods and services, local tax revenues and financial support of local communities and organizations. These contract extensions will help protect nearly 30,000 jobs and a combined annual payroll of over \$2 billion and encourage annual capital investments of tens of millions of dollars. In addition to other actions and programs aimed at creating and maintaining jobs, the Authority has also used low cost energy to attract businesses to New York State.

## NEW YORK POWER AUTHORITY

Notes to Financial Statements

December 31, 2010 and 2009

In response to the economic downturn's effects on New York's manufacturing sector, the Authority's Trustees in March 2009 approved execution of an agreement with Alcoa, Inc. to provide temporary relief from certain power sales contract provisions relating to the temporary shutdown of one of its two smelters served by the Authority in Massena, New York, including allowing Alcoa to release back to the Authority certain hydropower allocated to it, temporary waivers of certain minimum bill and employment thresholds, and entry into arrangements with the Authority for inclusion of a portion of Alcoa's load in the NYISO's demand response programs. In January 2011, Alcoa announced that its idled Massena East plant will be back online by midsummer and that it will recall 95 furloughed employees and an additional 20 to 30 employees will be added. The \$600 million planned modernization of Massena East will be delayed, as agreed to by the Authority, until 2013. In addition, in May 2009, the Authority's Trustees authorized a temporary program whereby up to \$10 million would be utilized to provide electric bill discounts for up to a year to businesses located in Jefferson, St. Lawrence, and Franklin counties. These counties constitute the geographic region served by the Authority's Preservation Power program. The source of the \$10 million is the net margin resulting from the sale of a portion of Alcoa's currently unused Preservation Power allocation into the NYISO markets. In September 2010, the Authority's Trustees approved extension of the electric bill discount program for the lesser of one year or the duration of the temporary curtailment of operations at the affected Alcoa facility. On January 7, 2011, Alcoa announced, as indicated above, its plans to restart the temporarily curtailed facility beginning later in the first quarter of 2011 at which time the discount program would cease.

In March 2009, the Authority's Trustees approved the deferral for recovery in the future of a proposed hydropower rate increase for the Authority's municipal electric and rural cooperative customers, neighboring state municipal customers, upstate investor-owned utilities, and certain other customers that was scheduled to go into effect on May 1, 2009; and in August 2010, the Authority announced an extension of such deferral through the end of 2010 at which time the rates are to be reevaluated. The deferral amounts to approximately \$18.5 million through the end of 2010. Further, the Authority withdrew two proposed hydropower rate increases totaling approximately \$6.9 million for its Replacement Power, Expansion Power, and certain other industrial customers that were scheduled to go into effect on May 1, 2009 and May 1, 2010, respectively.

### Legislation

Chapter 436 of the Laws of 2010 established a Western New York Economic Development Fund Benefit program, and authorized the Authority to fund the program from net earnings from the Authority's sale of unallocated, relinquished, and withdrawn Expansion Power and Replacement Power into the wholesale market. Net earnings are defined as any excess revenues earned from such power allocated to the wholesale market over the revenues that would have been received had the power been sold at the Expansion Power and Replacement Power rates. Proceeds from the Fund may be used to support eligible projects undertaken within a 30-mile radius of the Niagara Project that qualify under applicable criteria. The law authorizes the Authority to administer the new program with assistance from public and private entities. Authority revenues for the Fund could range from between \$2 million and \$10 million per year.

### **(b) Governmental Customers in the New York City Metropolitan Area**

In 2005, the Authority and its eleven NYC Governmental Customers, including the Metropolitan Transportation Authority, The City of New York, the Port Authority of New York and New Jersey (Port Authority), the New York City Housing Authority, and the New York State Office of General Services, entered into long-term supplemental electricity supply agreements (Agreements). Under the Agreements, the NYC Governmental Customers agreed to purchase their electricity from the Authority through December 31, 2017, with the NYC Governmental Customers having the right to terminate service from the Authority at any time on three years' notice and, under certain limited conditions, on one year's notice, provided that they compensate the Authority for any above-market costs associated with certain of the resources used to supply the NYC Governmental Customers.

Under the Agreements, the Authority will modify rates annually through a formal rate case where there is a change in fixed costs to serve the NYC Governmental Customers. Except for the minimum volatility price option, changes in variable costs, which include fuel and purchased power, will be captured through contractual pricing adjustment mechanisms. Under these mechanisms, actual and projected variable costs are reconciled and all or a portion of the variance is either charged or credited to the NYC Governmental Customers. The Authority provides the customers with indicative electricity prices for the following year reflecting market-risk hedging options designated by the NYC Governmental Customers. Such market-risk hedging options include a full cost energy charge adjustment ("ECA") pass-through arrangement relating to fuel, purchased power, and NYISO-related costs (including such an arrangement with some cost hedging) and a sharing option where the customers and the Authority will share in actual cost variations as specified in the Agreements.

## NEW YORK POWER AUTHORITY

Notes to Financial Statements

December 31, 2010 and 2009

For 2010, the NYC Governmental Customers chose a market-risk hedging price option designated a modified "sharing option," and the customers and the Authority will share equally in actual non-energy related cost variations (up to \$60 million) above a projected amount for the year and cost variations in excess of \$60 million are borne by the Authority. In addition, if actual costs are below the projected amount, the NYC Governmental Customers and the Authority share equally in such savings after the NYC Governmental Customers receive the first \$10 million in savings, in aggregate over the term of the Agreement. Under this modified sharing option, the NYC Governmental Customers agreed to absorb all variations, either positive or negative in the cost of energy supply.

For 2011, the NYC Customers chose a market-risk hedging price option designated an "ECA with hedging" pricing option whereby actual cost variations in variable costs are passed through to the customers as specified above.

With the customers' guidance and approval, the Authority will continue to offer up to \$100 million annually in financing for energy efficiency projects and initiatives at governmental customers' facilities, with the costs of such projects to be recovered from such customers.

As a result of a Request for Proposals for Long-Term Supply for the benefit of its NYC Governmental Customers, issued in March 2005, Authority staff entered into negotiations for the execution of a firm transmission capacity purchase agreement with Hudson Transmission Partners, LLC (HTP) to serve the long-term requirements of the Authority's NYC Governmental Customers through the transmission rights associated with HTP's proposed transmission line extending from Bergen County, New Jersey, to Consolidated Edison's West 49<sup>th</sup> Street substation. Negotiations concerning a number of issues relating to the proposed transmission line, including the terms and conditions of a related agreement with the NYC Governmental Customers, have occurred and are continuing. The Authority has posted certain interim financial guarantees as security for interconnection and system upgrade work that would be undertaken in the future in the event the Authority authorizes such work and enters into a supply agreement with HTP. The Authority is unable to predict whether it will enter into a supply agreement with HTP.

In anticipation of the closure of the Authority's existing Poletti plant in January 2010, and in addition to its supply agreements, the Authority, in November 2007, issued a nonbinding request for proposals for up to 500 MW of in-city unforced capacity and optional energy to serve the needs of its NYC Governmental Customers as early as the summer of 2010. In April 2008, the Authority's Trustees authorized negotiation of a long-term electricity supply contract with Astoria Generating LLC for the purchase of the output of a new 500-MW power plant to be constructed in Astoria, Queens, adjacent to its existing plant. Following approval of the NYC Governmental Customers, the Authority and Astoria Energy entered into a long-term supply contract in July 2008. The costs associated with the contract will be borne by these customers. It is anticipated that the new plant, which is under construction, will enter into service by the summer of 2011. The Authority will account for and report this lease transaction as a capital asset and a capitalized lease liability in the amount of \$1.12 billion which reflects the present value of the monthly portion of lease payments allocated to real and personal property. The balance of the monthly lease payments represents the portion of the monthly lease payment allocated to operations and maintenance costs which will be recorded monthly. Fuel for the 500-MW power plant will be provided by the Authority.

The Authority's other Southeastern New York (SENY) Governmental Customers are Westchester County and numerous municipalities, school districts, and other public agencies located in Westchester County (collectively, the "Westchester Governmental Customers"). By early 2008, the Authority had entered into a new supplemental electricity supply agreement with all 104 Westchester Governmental Customers. Among other things, under the agreement, an energy charge adjustment mechanism is applicable, and customers are allowed to partially terminate service from the Authority on at least two months notice prior to the start of the NYISO capability periods. Full termination is allowed on at least one year's notice, effective no sooner than January 1 following the one year notice.

### **(c) Power for Jobs**

In 1997, and thereafter, legislation was enacted into New York law which authorized the Power for Jobs (PFJ) Program to make available low-cost electric power to businesses, small businesses, and not-for-profit organizations. All customers awarded an allocation under the PFJ Program were recommended for such award by the New York State Economic Development Power Allocation Board (EDPAB). The PFJ Program power is sold to the local utilities of the eligible recipients pursuant to sale for resale agreements at rates which are based on the cost of the competitive procurement (or alternative acquisition) power plus a charge for the transmission of such power.

## NEW YORK POWER AUTHORITY

### Notes to Financial Statements

December 31, 2010 and 2009

In recent years, annual extensions of the Power for Jobs (PFJ) Program have been signed into law. The most recent in 2010 (1) extended the PFJ Program, including the PFJ Rebate provisions, to May 15, 2011; (2) authorizes certain customers that had elected to be served by PFJ contract extensions to elect to receive PFJ Rebates instead; and (3) requires the Authority to make payments to certain customers to reimburse them with regard to PFJ Program electric prices that are in excess of the electric prices of the applicable local electric utility. The Authority approved PFJ Rebates totaling \$241 million for the years 2005-2010 and expects such payments will not exceed \$25 million for the remainder of the extended PFJ Program through May 15, 2011. See note 12(g), "Proposed Recharge New York Power Program," for a discussion of recent legislative activity involving the PFJ Program.

Two Authority PFJ customers initiated an Article 78 proceeding challenging the Authority's implementation of Chapter 645 of the Laws of 2006, signed by the Governor on August 16, 2006. The Authority was served on February 8, 2007. The petition primarily alleged two Authority misinterpretations of the new law: (a) the Authority limited the restitution benefits provided by the new law only to PFJ customers who chose to continue with the standard PFJ contracts; and (b) the Authority computes the rebates available to petitioners who now elect the PFJ Rebates option (in lieu of the standard contract) based on 2006 rates rather than 2005 rates. The petition did not quantify the damages it sought but asked the court to order an inquest to determine the amount. In its responsive papers served on February 23, 2007, the Authority maintained that its implementation of the new legislation was lawful and appropriate in all respects. By decision dated April 26, 2007, the Court dismissed the petition and ruled in favor of the Authority. The petitioners appealed this decision to the Appellate Division, Third Department, and by decision issued April 17, 2008, the court modified the lower court's decision and held that the Authority's determinations on both issues discussed above were erroneous. Thereafter, the Authority moved for permission to appeal to the Court of Appeals and that motion was granted. By decision dated October 20, 2009, the Court of Appeals affirmed the decision of the Appellate Division and, subsequently, the Court of Appeals denied the Authority's motion for reargument. The Authority has made the additional PFJ Reimbursement payments resulting from completion of this litigation.

The Power for Jobs legislation authorizes the Authority "as deemed feasible and advisable by the trustees," to make annual "voluntary contributions" to the State in connection with the Program. Commencing in December 2002 through December 2010, the Authority made such voluntary contributions to the State in an aggregate amount of \$461.5 million, including a \$12.5 million payment in March 2010.

#### **(d) Legal and Related Matters**

In 1982 and again in 1989, several groups of Mohawk Indians, including a Canadian Mohawk tribe, filed lawsuits against the State, the Governor of the State, St. Lawrence and Franklin counties, the St. Lawrence Seaway Development Corporation, the Authority and others, claiming ownership to certain lands in St. Lawrence and Franklin counties and to Barnhart, Long Sault and Croil islands (St. Regis litigation). These islands are within the boundary of the Authority's St. Lawrence-FDR Project and Barnhart Island is the location of significant Project facilities. Settlement discussions were held periodically between 1992 and 1998. In 1998, the Federal government intervened on behalf of all Mohawk Indians.

On May 30, 2001, the United States District Court (the Court) denied, with one minor exception, the defendants' motion to dismiss the land claims. However, the Court barred the Federal government and one of the tribal plaintiffs, the American Tribe of Mohawk Indians from relitigating a claim to 144 acres on the mainland which had been lost in the 1930s by the Federal government. The Court rejected the State's broader defenses, allowing all plaintiffs to assert challenges to the islands and other mainland conveyances in the 1800s, which involved thousands of acres.

On August 3, 2001, the Federal government sought to amend its complaint in the consolidated cases to name only the State and the Authority as defendants. The State and the Authority advised the Court that they would not oppose the motion but reserved their right to challenge, at a future date, various forms of relief requested by the Federal government.

The Court granted the Federal government's motion to file an amended complaint. The tribal plaintiffs still retain their request to evict all defendants, including the private landowners. Both the State and the Authority answered the amended complaint. In April 2002, the tribal plaintiffs moved to strike certain affirmative defenses and, joined by the Federal government, moved to dismiss certain defense counterclaims. The defendants filed their opposition papers in September 2002. In an opinion, dated July 28, 2003, the Court left intact most of the Authority's defenses and all of its counterclaims.

## NEW YORK POWER AUTHORITY

Notes to Financial Statements

December 31, 2010 and 2009

Thereafter, settlement discussions produced a land claim settlement, which if implemented would include, among other things, the payment by the Authority of \$2 million a year for 35 years to the tribal plaintiffs, the provision of up to 9 MW of low cost Authority power for use on the reservation, the transfer of two Authority-owned islands; Long Sault and Croil, and a 215-acre parcel on Massena Point to the tribal plaintiffs, and the tribal plaintiffs withdrawing any judicial challenges to the Authority's new license, as well as any claims to annual fees from the St. Lawrence-FDR project. Members of all three tribal entities voted to approve the settlement, which was executed by them, the Governor, and the Authority on February 1, 2005. The settlement would also require, among other things, Federal and State legislation to become effective. Litigation in the case had been stayed to permit time for passage of such legislation and thereafter to await decision of appeals in two relevant New York land claim litigations (Cayuga and Oneida) to which the Authority is not a party.

The legislation was never enacted and once the Cayuga and Oneida appellate decisions were issued in 2005 and 2006, respectively, efforts to obtain legislative approval for the settlement ceased. Because these appellate decisions dismissed land claims by the Cayugas and Oneidas based on the lengthy delay in asserting such claims (i.e., the defense of laches), the defense in the instant actions, in motions filed in November 2006, moved to dismiss the three Mohawk complaints as well as the United States' complaint on similar delay grounds. The Mohawks and the Federal government filed papers opposing those motions in July 2007, and additional briefing by the parties occurred thereafter. By order dated May 16, 2008, U.S. Magistrate Lowe granted the defense motion to stay all proceedings until the U.S. Court of Appeals for the Second Circuit issued its decision in the Oneida case, one raising similar laches issues.

On August 9, 2010, the Second Circuit issued a decision in the Oneida case (Oneida Indian Nation of New York et al. v County of Madison et al.), thereby lifting the stay of this litigation. The Second Circuit, in that case, dismissed both the Native American and U.S. claims in their entirety finding, among other things, that those claims were barred by equitable principles as articulated in the earlier Cayuga and other decisions. Defendants in the St. Regis litigation advised the Court, by letter, that the decision was issued and sought its direction as to the pending motions. U.S. Magistrate Lowe has ordered all parties to submit supplemental briefs by February 7, 2011, and reply briefs by March 9, 2011. The Authority had previously accrued an estimated liability based upon the provisions of the settlement described above. This liability is reflected in the balance sheet as of December 31, 2010.

The Authority is unable to predict the outcome of the matters described above, but believes that the Authority has meritorious defenses or positions with respect thereto. However, adverse decisions of a certain type in the matters discussed above could adversely affect Authority operations and revenues.

In addition to the matters described above, other actions or claims against the Authority are pending for the taking of property in connection with its projects, for negligence, for personal injury (including asbestos-related injuries), in contract, and for environmental, employment and other matters. All of such other actions or claims will, in the opinion of the Authority, be disposed of within the amounts of the Authority's insurance coverage, where applicable, or the amount which the Authority has available therefore and without any material adverse effect on the business of the Authority.

**(e) Construction Contracts and Net Operating Leases**

Estimated costs to be incurred on outstanding contracts in connection with the Authority's construction programs aggregated approximately \$400 million at December 31, 2010.

Noncancelable operating leases primarily include leases on real property (office and warehousing facilities and land) utilized in the Authority's operations. Commitments under noncancelable operating leases are as follows:

	Total	2011	2012	2013	2014	2015	2016
	(In millions)						
Operating leases	\$ 2.6	0.9	0.7	0.4	0.3	0.2	0.1

**(f) Small, Clean Power Plants and 500-MW Plant**

To meet capacity deficiencies and ongoing load requirements in the New York City metropolitan area, which could also adversely affect the statewide electric pool, the Authority placed in operation, in the Summer of 2001, the Small, Clean

## NEW YORK POWER AUTHORITY

Notes to Financial Statements

December 31, 2010 and 2009

Power Plants (SCPPs), consisting of eleven natural-gas-fueled combustion-turbine electric units, each having a nameplate rating of 47 MW at six sites in New York City and one site in the service region of LIPA.

As a result of the settlement of litigation relating to certain of the SCPPs, the Authority has agreed under the settlement agreement to cease operations at one of the SCPP sites, which houses two units, as early as the commercial operation date of either the 500-MW plant (December 31, 2005) or another specified plant being constructed in the New York City area, if the Mayor of New York City directs such cessation. No such cessation has occurred.

To serve its NYC Governmental Customers and to comply with the NYISO in-city capacity requirement in the New York City area, the Authority has constructed a 500-MW combined-cycle natural-gas-and-distillate-fueled power plant at the Poletti site (the 500-MW plant) as the most cost-effective means of effectuating such compliance. In connection with the licensing of the 500-MW plant, the Authority entered into an agreement that resulted in the cessation of operation of the Authority's Poletti plant (which had entered into service in 1977) on January 31, 2010.

### (g) *New York State Budget and Other Matters*

Section 1011 of the Power Authority Act (Act) constitutes a pledge of the State to holders of Authority obligations not to limit or alter the rights vested in the Authority by the Act until such obligations together with the interest thereon are fully met and discharged or unless adequate provision is made by law for the protection of the holders thereof. Bills are periodically introduced into the State Legislature, which propose to limit or restrict the powers, rights and exemption from regulation which the Authority currently possesses under the Act and other applicable law or otherwise would affect the Authority's financial condition or its ability to conduct its business, activities, or operations, in the manner presently conducted or contemplated by the Authority. It is not possible to predict whether any such bills or other bills of a similar type which may be introduced in the future will be enacted.

In addition, from time to time, legislation is enacted into New York law which purports to impose financial and other obligations on the Authority, either individually or along with other public authorities or governmental entities. The applicability of such provisions to the Authority would depend upon, among other things, the nature of the obligations imposed and the applicability of the pledge of the State set forth in Section 1011 of the Act to such provisions. There can be no assurance that in the case of each such provision, the Authority will be immune from the financial obligations imposed by such provision. Examples of such legislation affecting only the Authority include legislation, discussed below and elsewhere herein, relating to the Authority's voluntary contributions to the State, the Authority's temporary transfer of funds to the State, the Power for Jobs and Energy Cost Savings Benefits programs, and the establishment of the Western New York Economic Development Fund.

### **Budget**

The Authority is requested, from time to time, to make financial contributions or transfers of funds to the State. Any such contribution or transfer of funds must (i) be authorized by State legislation (generally budget legislation), and (ii) satisfy the requirements of the Bond Resolution. The Bond Resolution requirements to withdraw moneys "free and clear of the lien and pledge created by the (Bond) Resolution" are as follows: (1) such withdrawal must be for a "lawful corporate purpose as determined by the Authority," and (2) the Authority must determine "taking into account, among other considerations, anticipated future receipt of Revenues or other moneys constituting part of the Trust Estate, that the funds to be so withdrawn are not needed" for (a) payment of reasonable and necessary operating expenses, (b) an Operating Fund reserve for working capital, emergency repairs or replacements, major renewals, or for retirement from service, decommissioning or disposal of facilities, (c) payment of, or accumulation of a reserve for payment of, interest and principal on senior debt, or (d) payment of interest and principal on subordinate debt.

Legislation enacted into law, as part of the 2000-2001 State budget, as amended in subsequent years, has authorized the Authority "as deemed feasible and advisable by the trustees," to make a series of "voluntary contributions" into the State treasury in connection with the Power for Jobs (PFJ) Program and for other purposes as well. The PFJ Program has been extended to May 15, 2011. Legislation enacted in 2008, among other things, authorized the Authority to make a voluntary contribution unrelated to the PFJ Program of \$107 million during State Fiscal Year 2009-2010. This \$107 million voluntary contribution was approved and paid in March 2010. By legislation enacted in May 2010, the Authority was authorized to make an additional voluntary contribution of \$65 million unrelated to the PFJ Program for State Fiscal Year 2010-2011. In June 2010, the Authority's Trustees approved the payment of a voluntary contribution of \$40 million to the State. The Authority's Trustees authorized and the Authority paid the remaining \$25 million in January 2011.

## NEW YORK POWER AUTHORITY

### Notes to Financial Statements

December 31, 2010 and 2009

Cumulatively, the Authority has made voluntary contributions to the State totaling \$461.5 million in connection with the PFJ Program and \$302 million unrelated to the PFJ Program. The 2010 (\$147 million) and the 2009 (\$70 million) contributions to State which are not related to the PFJ Program were recorded as nonoperating expenses and classified as a contribution to New York State in the 2010 and 2009 statements of revenues, expenses and changes in net assets, respectively. The \$25 million in January 2011 will be reported in the same manner in the 2011 financial statements. On February 1, 2011, the Governor introduced his proposed Executive Budget for State Fiscal Year 2011-2012 in which the Authority would be authorized to make two additional voluntary contributions, one to be considered for payment in June, 2011 in the amount of \$40 million and a second, in the amount of \$60 million, to be considered for payment in January 2012. Such contributions will only be made if authorized by legislation and approved by the Authority's Trustees as feasible and advisable at that time. See note 12(g), "Proposed Recharge New York Power Program," for a discussion of recent legislative activity involving the State Fiscal Year 2011-2012 budget.

By budget legislation enacted in February 2009, the Authority was further authorized to make certain temporary asset transfers to the State of funds in reserves. Pursuant to the terms of a Memorandum of Understanding dated February 2009 (MOU) between the State, acting by and through the Director of the Budget of the State, and the Authority, the Authority agreed to transfer \$215 million associated with its Spent Nuclear Fuel Reserves (Asset B) by March 27, 2009. The Spent Nuclear Fuel Reserves are funds that have been set aside for the liability to the federal government sometime in the future when the federal government accepts the spent nuclear fuel for permanent storage. The MOU provides for the return of these funds to the Authority, subject to appropriation by the State Legislature and the other conditions described below, at the earlier of the Authority's payment obligation related to the transfer and disposal of the spent nuclear fuel or September 30, 2017. Further, the MOU provides for the Authority to transfer within 180 days of the enactment of the 2009-2010 State budget \$103 million of funds set aside for future construction projects (Asset A), which amounts would be returned to the Authority, subject to appropriation by the State Legislature and the other conditions described below, at the earlier of when required for operating, capital or debt service obligations of the Authority or September 30, 2014. Both transfers were approved by the Authority's Trustees and made in 2009.

The MOU provides that the obligation of the State to return all or a portion of an amount equal to the moneys transferred by the Authority to the State would be subject to annual appropriation by the State Legislature. Further, the MOU provides that as a condition to any such appropriation for the return of the monies earlier than September 30, 2017 for the Spent Nuclear Fuel Reserves and earlier than September 30, 2014 for the construction projects, the Authority must certify that the monies available to the Authority are not sufficient to satisfy the purposes for which the reserves, which are the source of the funds for the transfer, were established.

The Authority classified the transfers of Assets A and B (\$318 million) as a long-term loan receivable. In lieu of interest payments, the State waived certain future payments from the Authority to the State. The waived payments include the Authority's obligation to pay until September 30, 2017 the amounts to which the State is entitled under a governmental cost-recovery process for the costs of central governmental services. These payments would have been approximately \$5 million per year based on current estimates but the waiver will be limited to a maximum of \$45 million in the aggregate during the period. Further, the obligation to make payments in support of certain State park properties and for the upkeep of State lands adjacent to the Niagara and St. Lawrence power plants will be waived from April 1, 2011 to March 31, 2017. These payments would have been approximately \$8 million per year but the waiver will be limited to a maximum of \$43 million for the period. The present value of the waivers approximates the present value of the lost interest income.

In May 2009, the County of Niagara, "on behalf of its residents", and several individuals commenced an Article 78 lawsuit in Niagara County Supreme Court against the Authority, its Trustees, the State of New York, and the State Comptroller. The lawsuit challenges on numerous grounds the legality of the two temporary asset transfers totaling \$318 million and the two voluntary contributions totaling \$226 million authorized by 2009/10 budget legislation (except as such contributions relate to the Power for Jobs Program) discussed above. Among other things, the lawsuit seeks judgment providing for the return to the Authority of any such monies that have been paid; prohibiting such asset transfers and voluntary contributions in the future; directing the Authority to utilize such returned monies only for "statutorily permissible purposes"; directing the Authority to "rebate" to certain customers receiving hydropower from it some portion, to be determined, of the monies returned to the Authority; and directing that the Authority submit to an audit by the State Comptroller. No temporary or preliminary injunctive relief was sought in the petition. By decision dated October 5, 2009, the court granted a cross-motion by petitioners to further amend the petition so as to remove the State Comptroller from the amended petition's prayer for relief. That pleading was never filed.

## NEW YORK POWER AUTHORITY

### Notes to Financial Statements

December 31, 2010 and 2009

By decision dated December 23, 2009, the court denied respondents' motion to dismiss the petition and granted petitioners' motion to file a complaint and serve discovery demands. Petitioners subsequently filed such complaint and discovery demands. The complaint contains new causes of action including unjust enrichment, conversion, breach of a fiduciary duty, and claims of deceptive acts and practices. The Authority filed a motion to dismiss and the State filed an answer; petitioners filed a partial motion for summary judgment; and respondents filed opposition papers to said motion. However, on March 5, 2010, the Appellate Division (Fourth Department) granted respondents' motions for permission to appeal the lower court's decision dated December 23, 2009 and the lower court indicated that it would await the outcome of that appeal before deciding the Authority's motion to dismiss the complaint. By decision dated March 25, 2011, the Appellate Division unanimously reversed the lower court's ruling of December 23, 2009 and dismissed the amended petition and denied the petitioners' motion for leave to serve a complaint and discovery demands. It is uncertain at this time whether petitioners will seek rehearing of the Appellate Division's decision and/or to appeal such decision. The Authority is unable to predict the outcome of this matter but believes it has meritorious defenses with respect to the claims asserted in the petition and complaint. However, adverse decisions of a certain type could adversely affect Authority revenues.

#### Energy Cost Savings Benefits

Legislation was enacted into law in July 2005 (Chapter 313, 2005 Laws of New York) (the 2005 Act) which amended the Act and the New York Economic Development Law (EDL) in regard to several of the Authority's economic development power programs and the creation of energy cost savings benefits to be provided to certain Authority customers. Relating to the Energy Cost Savings Benefits (ECS Benefits), the 2005 Act revises the Act and the EDL to allow up to 70 MW of relinquished Replacement Power and up to 38.6 MW of Preservation Power that might be relinquished or withdrawn in the future to be sold by the Authority into the market and to use the net earnings, along with other funds of the Authority, as deemed feasible and advisable by the Authority's Trustees, for the purpose of providing ECS Benefits. The ECS Benefits are administered by the New York State Economic Development Power Allocation Board (EDPAB) and awarded based on criteria designed to promote economic development, maintain and develop jobs, and encourage new capital investment throughout New York State. Initially scheduled to expire on December 31, 2006, additional legislative enactments have extended the ECS Benefits program through May 15, 2011. A 2006 amendment provides that the Authority make available for allocation to customers the 70 MW of hydropower that had been utilized as a source of funding the ECS Benefits. From the inception of the ECS Benefits program through December 31, 2007, there were no ECS Benefits paid by the Authority from internal funds, as opposed to funds derived from the sale of such hydropower. For 2008, due to the general increase in energy prices, the Authority paid \$20.7 million in ECS Benefits from internal funds. In 2009 and 2010, following the general decline in energy prices, no ECS Benefits were paid from internal funds of the Authority, nor are any such payments from internal funds expected through the May 15, 2011 expiration date of the program. See note 12(g), "Proposed Recharge New York Power Program," for a discussion of recent legislative activity involving the ECSB Program.

#### Proposed Recharge New York Power Program

In February 2011, legislation proposed by the Governor was introduced to establish the "Recharge New York Power Program" (RNYPP). The RNYPP would be a new, permanent power program, administered by the Authority and the EDPAB, which would have as its central benefit up to 910 MW of power comprised of up to 455 MW of hydropower from the Niagara and St. Lawrence-FDR Projects (which power is currently used by residential and farm customers of three upstate utilities) and up to 455 MW of power procured or produced by the Authority. The 910 MW of power would be available for allocation to eligible new and existing businesses and not-for-profit corporations under contracts of up to seven years effective no sooner than July 1, 2012. The legislation also proposes to temporarily extend the PFJ and ECSB Programs through June 30, 2012 at which time the two programs would be replaced by the RNYPP. Those PFJ and ECSB Program customers that do not receive RNYPP allocations would be eligible to apply for certain "transitional electricity discounts," which would decline to zero by June 30, 2016, if payment of such discounts is deemed feasible and advisable by the Authority's Trustees. The legislation also would authorize the Authority, as deemed feasible and advisable by its Trustees, to provide annual funding of \$100 million for the first three years following withdrawal of the hydropower from the residential and farm customers, \$75 million for the fourth year, \$50 million for the fifth year, and \$30 million each year thereafter for the purpose of mitigating bill impacts on the residential and farm customers that currently use the hydropower that would be utilized in the RNYPP.

## NEW YORK POWER AUTHORITY

Notes to Financial Statements

December 31, 2010 and 2009

On March 27, 2011, the Governor and legislative leaders announced that an agreement had been reached on the State Fiscal Year 2011-2012 budget and certain other matters, including the RNYPP; however, as of March 28, 2011, the legislation evidencing such agreement has not yet been enacted into law.

### Other Legislation

The "Public Authorities Accountability Act of 2005" ("PAAA") was signed into law in January 2006 and its various provisions address public authority reporting, governance, budgeting, oversight, and auditing matters, among other things. Additional public authority reform legislation took effect on March 1, 2010 which provides, among other things, for State Senate approval of certain authorities' chief executive officers, including the Authority, and also provides the State Comptroller with discretionary authority to review and approve certain contracts entered into by public authorities, including the Authority.

On July 21, 2010, President Obama signed into law the Dodd-Frank Wall Street Reform and Consumer Protection Act ("DF Act") which addresses almost every aspect of the financial services industry. Among other things, the DF Act addresses interest rate and energy swap transactions of the type in which the Authority engages ("Swaps"), and many of the requirements and processes in this area are to be set forth in regulations promulgated by the Commodities Futures Trading Commission in the coming months. Depending on the ultimate resolution of numerous issues, which is uncertain, including whether and to what extent Swaps are required to be cleared through clearinghouses and/or traded on exchanges with accompanying collateral and/or margin requirements; whether and to what extent Swaps entered into prior to the enactment of the DF Act are required to be collateralized; and whether and to what extent public power entities such as the Authority are exempted from these requirements, the impact of the DF Act on the Authority's liquidity and/or future risk mitigation activities could be significant. In the event such regulations are applied retroactively to Swap positions predating the enactment of the DF Act, it could require the Authority to post as much as \$250 million in collateral to maintain its open hedge positions as of December 31, 2010. The Authority has sufficient liquidity to post such collateral, if required.

### (h) Relicensing of Niagara

By order issued March 15, 2007, FERC issued the Authority a new 50-year license for the Niagara Project effective September 1, 2007. In doing so, FERC approved six relicensing settlement agreements entered into by the Authority with various public and private entities. By decision dated March 13, 2009, the U.S. Court of Appeals for the District of Columbia Circuit denied a petition for review of FERC's order filed by certain entities, thereby concluding all litigation involving FERC's issuance of the new license. The Authority currently expects that the costs associated with the relicensing of the Niagara Project will be at least \$495 million (2007 dollars) over a period of 50 years, which does not include the value of the power allocations and operation and maintenance expenses associated with several habitat and recreational elements of the settlement agreements. Of the \$495 million, \$184 million has already been spent.

In addition to internally generated funds, the Authority issued additional debt obligations in October 2007 to fund, among other things, Niagara relicensing costs. The costs associated with the relicensing of the Niagara Project, including the debt issued therefore, were incorporated into the cost-based rates of the Project beginning in 2007.

In December 2009, the Authority's Trustees approved an amendment of the Niagara Relicensing Settlement Agreement (Settlement Agreement) to implement a proposal to expedite the then current funding stream provided for Buffalo's waterfront redevelopment effort under the Settlement Agreement in order to facilitate the completion of the Canal Side project and reinvigorate downtown Buffalo's inner harbor area. This acceleration in funding results in the Authority providing a payment stream of \$4.7 million a year for 20 years in lieu of the original payment stream of \$3.5 million per year for the remaining 47 years of the Niagara License.

In addition, the EDPAB and the Authority's Trustees approved an Industrial Incentive Award which provides an additional \$3.7 million a year for the next 20 years to support the harbor revitalization efforts. The first \$3.7 million payment was made in October 2010.

### (i) Regional Greenhouse Gas Initiative and Related Matters

The Regional Greenhouse Gas Initiative (RGGI) is a cooperative effort by Northeastern and Mid-Atlantic states (including New York) to hold carbon dioxide emission levels steady from 2009 to 2014 and then reduce such levels by 2.5% annually

## NEW YORK POWER AUTHORITY

Notes to Financial Statements

December 31, 2010 and 2009

in the years 2015 to 2018 for a total 10% reduction. Central to this initiative is the implementation of a multi-state cap-and-trade program with a market-based emissions trading system. The program requires electricity generators to hold carbon dioxide allowances in a compliance account in a quantity that matches their total emissions of carbon dioxide for the compliance period. The Authority's Flynn, SCPPs, and 500-MW Plant are subject to the RGGI requirements. The Authority has participated in program auctions commencing in September 2008 and expects to recover RGGI costs through its power sales revenues. The Authority is monitoring the potential federal programs that are under discussion and debate for their potential impact on RGGI in the future.

Regarding such potential federal programs, comprehensive energy legislation passed in the House of Representatives in June 2009 (Waxman-Markey) which would, among other things: (a) establish federal cap-and-trade requirements applicable to greenhouse gas emissions, including emissions from fossil fuel power plants, commencing in 2012 that are designed to gradually reduce such emissions through 2050 and (b) establish a combined efficiency and renewable electricity standard that would require retail electricity suppliers beginning in 2012 to acquire prescribed amounts of renewable energy certificates, which may be substituted for in part by quantified electricity savings, with such prescribed amounts gradually increasing over time and with the standard sunseting in 2040. Both of these programs would be applicable to the Authority. It is uncertain at this time whether Waxman-Markey or similar legislation will be enacted into law in the future and what the impact of such legislation would be on the Authority.

In July 2010, the U.S. Environmental Protection Agency issued proposed Ozone Transport regulations which if adopted could impact operations of the Flynn plant by reducing allowable emissions. If adopted in their current form, the proposed regulations could require installation of additional emission control technologies such as selective catalytic reduction and a change in fuel use from No. 2 fuel oil to ultra low sulfur fuel at the Flynn plant. Other Authority fossil-fired generating plants could also be affected by the proposed regulations but to a lesser extent. Additional emission credits may also need to be purchased through the trading process provided for in the proposed regulations.

### *(j) Wind and Solar Initiatives*

In December 2009, the Authority issued a non-binding RFP for development of a utility scale, offshore wind power project in the range of 120 MW to 500 MW to be located within New York State waters of Lake Erie and/or Lake Ontario. The RFP indicates that the Authority would purchase the full output of the project under a long-term power purchase agreement. In June 2010, the Authority announced that five proposals had been received in response to the RFP. Evaluation of the proposals is currently ongoing.

In January 2010, the Authority issued a non-binding RFP seeking a public-private partnership for the installation of up to 100 MW of photovoltaic ("PV") systems across the State including roof-mounted and ground-mounted solar arrays. The RFP solicits proposals from developers to install, own, and operate the arrays and to sell the energy and environmental attributes to the Authority pursuant to power purchase agreements. The PV systems would be located primarily at schools, public universities and colleges, state and local government facilities, and municipal electric and rural electric cooperative facilities. Responses to the RFP were received in April 2010. Evaluation of the responses is currently ongoing.

**REQUIRED SUPPLEMENTARY INFORMATION  
(UNAUDITED)**

**NEW YORK POWER AUTHORITY**  
**Required Supplementary Information**  
**Schedule of Funding Progress for the Retiree Health Plan (Unaudited)**  
(In millions)

<u>Actuarial valuation date</u>		<u>Actuarial value of assets (a)*</u>	<u>Actuarial Accrued Liability (AAL) – projected unit credit method (b)</u>	<u>Unfunded AAL (UAAL) (b – a)</u>	<u>Funded ratio (a/b)</u>		<u>Covered payroll (c)</u>	<u>UAAL as a percentage of covered payroll ((b – a)/c)</u>
January 1, 2010	\$	218	400	182	55%	\$	141	129%
January 1, 2008		100	337	237	30		133	178
January 1, 2006		—	301	301	—		130	232
January 1, 2004		—	279	279	—		116	241
January 1, 2002		—	271	271	—		107	253

See accompanying independent auditors' report.

# NYPA Facilities



## 1. ST. LAWRENCE-FRANKLIN D. ROOSEVELT POWER PROJECT

Type: Hydroelectric

Location: Massena, on the St. Lawrence River, St. Lawrence County

Net Dependable Capability: 800,000 kw

First Commercial Power: July 1958

2010 Net Generation: 6.6 billion kwh

Net Generation Through 2010: 353.0 billion kwh

## 2. NIAGARA POWER PROJECT

Type: Hydroelectric

Location: Lewiston, on the Niagara River, Niagara County

Net Dependable Capability: 2,441,000 kw

First Commercial Power: January 1961

2010 Net Generation: 13.2 billion kwh

Net Generation Through 2010: 722.0 billion kwh

## 3. BLENHEIM-GILBOA PUMPED STORAGE POWER PROJECT

Location: Blenheim and Gilboa, southwest of Albany, in Schoharie County

Net Dependable Capability: 1,100,000 kw

First Commercial Power: July 1973

2010 Gross Generation: 0.3 billion kwh

Gross Generation Through 2010: 49.3 billion kwh

## 4. RICHARD M. FLYNN POWER PLANT

Type: Gas/Oil

Location: Holtsville, Suffolk County

Net Dependable Capability: 135,600 kw

First Commercial Power: May 1994

2010 Net Generation: 0.9 billion kwh

Net Generation Through 2010: 18.5 billion kwh

## 5. FREDERICK R. CLARK ENERGY CENTER

Function: Coordinates NYPA system operations

Location: Marcy, north of Utica, Oneida County

Opened: June 1980

## 6. SMALL HYDRO FACILITIES

Located on reservoirs and waterways around the state, these facilities include the Ashokan Project (shown), the Kensico Project, the Gregory B. Jarvis Plant, the Crescent Plant and the Vischer Ferry Plant, with a combined net capability of 13,000 kw. They produced a total of 156 million kwh in 2010.

## 7. SMALL, CLEAN POWER PLANTS

Type: Gas

Location: Six New York City sites and Brentwood, Suffolk County

Net Dependable Capability: 461,000 kw

First Commercial Power: June 2001

2010 Net Generation: 0.5 billion kwh

Net Generation Through 2010: 6.3 billion kwh

## 8. 500-MW COMBINED-CYCLE PLANT

Type: Gas/Oil

Location: New York City, on the East River

Net Dependable Capability: 500,000 kw

First Commercial Power: December 2005

2010 Net Generation: 2.9 billion kwh

Net Generation Through 2010: 14.8 billion kwh

## 9. CHARLES POLETTI POWER PROJECT

Type: Gas/Oil

Location: New York City, on the East River

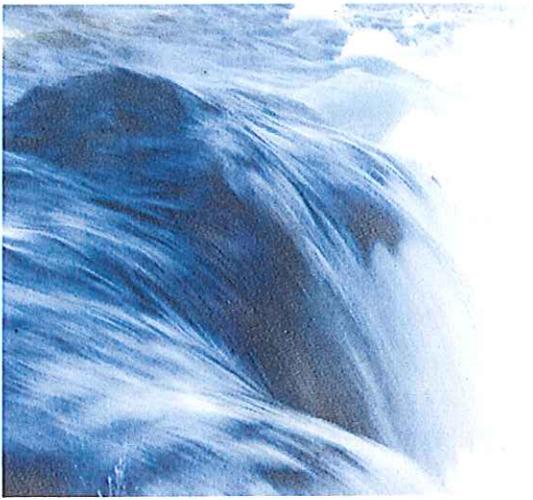
Net Dependable Capability: 885,000 kw

First Commercial Power: December 2005

2010 Net Generation: 0.1 billion kwh

Net Generation Through 2010: 77.3 billion kwh

\*The Poletti plant ceased operations on January 31, 2010



# TRUSTEES and OFFICERS

Michael J. Townsend  
Chairman

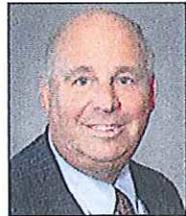
Jonathan F. Foster  
Vice Chairman

D. Patrick Curley  
Trustee

Eugene L. Nicandri  
Trustee

Mark O'Luck  
Trustee

Richard M. Kessel  
President and  
Chief Executive Officer



Gil C. Quiniones  
Chief Operating Officer

Francine Evans  
Executive Vice President and  
Chief Administrative Officer &  
Chief of Staff

Elizabeth M. McCarthy  
Executive Vice President and  
Chief Financial Officer

Edward A. Welz  
Executive Vice President and  
Chief Engineer, Power Supply

Judith C. McCarthy  
First Deputy General Counsel

Paul W. Belnick  
Acting Senior Vice President,  
Energy Services

Jordan Brandeis  
Senior Vice President,  
Power Resource Planning and  
Acquisition

Bert J. Cunningham  
Senior Vice President,  
Corporate Communications

Steven J. DeCarlo  
Senior Vice President, Transmission

Paul F. Finnegan  
Senior Vice President, Public and  
Governmental Affairs

William J. Nadeau  
Senior Vice President,  
Energy Resource Management

James F. Pasquale  
Senior Vice President, Marketing and  
Economic Development

Donald A. Russak  
Senior Vice President,  
Corporate Planning and Finance

Joan Tursi  
Senior Vice President, Corporate  
Support Services

Thomas Concadoro  
Vice President and Controller

Karen Delince  
Corporate Secretary

# ABOUT NYPA

The New York Power Authority is the nation's largest state public power organization and one of New York's leading electricity suppliers. NYPA provides lower-cost power to government agencies; to municipally owned and rural-cooperative electric systems; to job-producing companies and non-profit groups; to private utilities for resale – without profit – to their customers; and to neighboring states, under federal requirements. The Power Authority is also a national leader in promoting energy efficiency and the development of clean energy technologies and electric vehicles.

A non-profit, public-benefit energy corporation, NYPA does not use tax revenues or state credits. It finances its projects through bond sales to private investors and cash from operations.

## Our Mission is to...

provide clean, low-cost and reliable energy consistent with our commitment to the environment and safety, while promoting economic development and job development, energy efficiency, renewables and innovation, for the benefit of our customers and all New Yorkers.



♻️ This 2010 Annual Report was designed, written, photographed and produced in-house by the New York Power Authority's Corporate Communications staff, and was digitally printed by the NYPA Reproduction Division's iGen3 printer, on recycled paper.

New York Power Authority  
Net Income - Actual vs. Budgeted  
For the Year ended December 31, 2010  
(\$ in millions)

	Actual	Budget	Variance Favorable/ (Unfavorable)
<b>Operating Revenues</b>			
Customer	\$ 1,953	\$ 2,062	\$ (109)
NYISO Market Revenues	615	749	(134)
Total Operating Revenues	<u>2,568</u>	<u>2,811</u>	<u>(243)</u>
<b>Operating Expenses</b>			
Purchased Power	931	956	25
Fuel Consumed - Oil & Gas	224	341	117
Wheeling	528	520	(8)
Operations & Maintenance	443	443	-
Depreciation & Amortization	163	160	(3)
	<u>2,289</u>	<u>2,420</u>	<u>131</u>
<b>Operating Income</b>	<b>279</b>	<b>391</b>	<b>(112)</b>
<b>Nonoperating Revenues and Expenses</b>			
<b>Nonoperating Revenues</b>			
Investment Income	41	34	7
Other income	97	102	(5)
Total Nonoperating Revenues	<u>138</u>	<u>136</u>	<u>2</u>
<b>Nonoperating Expenses</b>			
Contribution to New York State	147	107	(40)
Interest and Other Expenses	89	112	23
Total Nonoperating Expenses	<u>236</u>	<u>219</u>	<u>(17)</u>
<b>Nonoperating Income (Loss)</b>	<b>(98)</b>	<b>(83)</b>	<b>(15)</b>
<b>Net Income</b>	<b>\$ 181</b>	<b>\$ 308</b>	<b>\$ (127)</b>

Net income for the year ended December 31, 2010 was \$181 which was \$127 below budget. The primary drivers of the unfavorable budget variance for the year included lower operating income (\$112) primarily due to lower production at the Authority's hydro facilities and lower prices on market-based sales; and a higher than anticipated voluntary contribution to New York State (\$40). These items were partially offset by positive variances including lower interest and other expenses (\$23) due to lower interest rates. Variances in fuel and purchased power costs are offset through revenues as variances are reflected in customer rates.