

March 26, 2015

MEMORANDUM TO THE TRUSTEES

FROM THE PRESIDENT and CHIEF EXECUTIVE OFFICER

SUBJECT: Contribution of Funds to the State Treasury

SUMMARY

The Trustees are requested to authorize the release of \$23 million in funds to the State's general fund as authorized by legislation approving the 2014-15 Budget of the State of New York (Chapter 55 of the Laws of 2014).

BACKGROUND

The Authority is requested, from time to time, to make financial contributions and transfers of funds to the State or to otherwise provide financial support for various State programs. Any such contribution or transfer of funds must (1) be authorized by the law; (2) be approved by the Trustees 'as feasible and advisable;' and (3) satisfy the requirements of the Authority's General Resolution Authorizing Revenue Obligations dated February 24, 1998, as amended and supplemented ("Bond Resolution"). In addition, as set forth in the Trustees' Policy Statement dated May 24, 2011, a debt service coverage ratio of 2.0 is to be used as a reference point in considering any such payments or transfers.

The Bond Resolution's requirements to withdraw monies "free and clear of the lien and pledge created by the [Bond] Resolution" are such that (a) withdrawals must be for a "lawful corporate purpose as determined by the Authority," and (b) 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anticipated future receipt of revenues or other moneys constituting part of the Trust Estate, that the funds to be so withdrawn are not needed for (i) payment of reasonable and necessary operating expenses, (ii) an Operating Fund reserve for working capital, emergency repairs or replacements, major renewals or for retirement from service, decommissioning or disposal of facilities, (iii) payment of, or accumulation of a reserve for payment of, interest and principal on senior debt or (iv) payment of interest and principal on subordinate debt.

DISCUSSION

The State's fiscal year ("SFY") 2014-15 Budget legislation authorizes the Authority as deemed "feasible and advisable by its trustees" to provide up to \$90 million in contributions to the State's general fund, or as otherwise directed in writing by the State's director of the budget, whereupon such funds "will be utilized to support energy-related initiatives of the state or for economic development purposes." In addition, the Budget legislation specified that up to \$25 million is to be considered for payment by June 30, 2014 and with the remainder of any such contribution considered for payment by March 31, 2015. The legislation specifies that such economic development purposes may include, but shall not be limited to, efforts to attract and

expand business investment and job creation in New York state through the Open for Business program, provided that in the event any contributed funds are used by a state agency or public authority for the purpose of advertising and promoting the benefits of the START-UP NY program, no less than sixty percent of the contributed funds used for such purpose shall be used for advertising and promotion outside the state of New York.

In May 2014 and February 2015, the Trustees approved, and the Authority transferred \$25 million and \$42 million respectively to ESD in furtherance of ESD's Statewide economic development initiatives. With regard to the remaining amount contemplated in the SFY 2014-15 Budget (\$23 million), staff made no recommendation at the time, but indicated that it would return to the Board with a recommendation as to that amount based on the financial circumstances of the Authority at the time such contribution is to be considered for payment. New York State Division of Budget representatives have indicated that the State's fiscal plan anticipates a contribution in the amount \$23 million from the Authority at this time which will be utilized to support economic development initiatives of the state.

Staff has reviewed the effects of the release of \$23 million in State contributions on the Authority's expected financial position and reserve requirements. In addition, in accordance with the Board's Policy Statement, staff calculated the impact of these transfer amounts on the Authority's debt service coverage ratio and determined it would not fall below the 2.0 reference point level. Given the current financial condition of the Authority, its estimated future revenues, operating expenses, debt service and reserve requirements, staff is of the view that it will be feasible for the Authority to release \$23 million at this time.

FISCAL INFORMATION

Staff has determined that sufficient funds are available in the Operating Fund to transfer \$23 million in contributions and that such Authority funds are not needed for any of the purposes specified in Section 503(1)(a)-(c) of the Authority's Bond Resolution. Such transfer pursuant to the SFY 2014-15 Budget legislation was anticipated and is within the amount reflected in the Power Authority's 2015 Operating Budget approved by the Trustees at their December 16, 2014 meeting.

RECOMMENDATION

The Treasurer recommends that the Trustees affirm that the transfer to the State's general fund of \$23 million is feasible and advisable and authorize such payment.

For the reasons stated, I recommend the approval of the above-requested action by adoption of the resolution below.

Gil C. Quiniones
President and Chief Executive Officer

RESOLUTION

RESOLVED, That the Trustees hereby authorize a payment to the State's general fund in the amount of \$23 million from the Operating Fund as authorized by Chapter 55 of the Laws of 2014 as discussed in the foregoing memorandum of the President and Chief Executive Officer; and be it further

RESOLVED, That the amount of \$23 million to be used for the contributions to the State's general fund described in the foregoing resolution is not needed for any of the purposes specified in Section 503(1)(a)-(c) of the Authority's General Resolution Authorizing Revenue Obligations, as amended and supplemented; and be it further

RESOLVED, That as a condition to making the payments specified in the foregoing resolution, on the day of such payments, the Treasurer or the Deputy Treasurer shall certify that such monies are not then needed for any of the purposes specified in Section 503(1)(a)-(c) of the Authority's General Resolution Authorizing Revenue Obligations, as amended and supplemented; and be it further

RESOLVED, That the Chairman, the Vice Chair, the President and Chief Executive Officer, the Chief Operating Officer, the Executive Vice President and General Counsel, the Executive Vice President and Chief Financial Officer, the Corporate Secretary, the Treasurer and all other officers of the Authority be, and each of them hereby is, authorized and directed, for and in the name and 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 that they, or any of them, may deem necessary or advisable to effectuate the foregoing resolution, subject to approval as to the form thereof by the Executive Vice President and General Counsel.