

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

**February 22, 1994**

**Table of Contents**

<u>Subject</u>	<u>Page No.</u>	<u>Exhibit</u>
1) <b>Minutes of a Special Meeting held on January 18, 1994 and the Regular Meeting held on January 25, 1994</b>	<b>3</b>	
2) <b>Financial Reports for the year ended December 31, 1993</b>	<b>4</b>	<b>`2-A'</b>
3) <b>Proposed Economic Development Power Resale Agreement with Niagara Mohawk Power Corporation - Approval to Transmit to the Governor Resolution</b>	<b>6</b>	<b>`3-A' `3-B'</b>
4) <b>Diversity Power Contract with Hydro-Quebec - Price for Firm Energy During the 1994 Season Resolution</b>	<b>8</b>	<b>`4-A'</b>
5) <b>Contracts for the Sale of FitzPatrick Power to Island Container Corporation; Nassau Tool Works, Inc.; Nature's Bounty, Inc.; Renco Electronics, Inc.; and Southern Container Corporation - Transmittal to the Governor Resolution</b>	<b>11</b>	<b>`5-A'; `5-B'; `5-C'; `5-D'; `5-E'; `5-F'</b>
6) <b>New York City Public Utility Service - Allocation of FitzPatrick Power to Ultra-Creative Corporation Resolution</b>	<b>16</b>	<b>`6-A'</b>
7) <b>Industrial Customer Energy Conservation Project - Hunts Point Cooperative Market, Inc. - Increase in Expenditure Authorization Resolution</b>	<b>18</b>	<b>`7-A' `7-B'</b>

ii.  
February 22, 1994

<u>Subject</u>	<u>Page No.</u>	<u>Exhibit</u>
8) James A. FitzPatrick Nuclear Power Plant - Unsupported Firm Power Service - Emergency Action Resolution	22	'8-A'
9) Amendments to Part 453 of the Authority's Rules and Regulations - Public Access to Authority Records - Final Action Resolution	26	'9-A' '9-B'
10) Niagara Power Project - Conveyance of Map Number 315-C, Parcel 3254 to the Lewiston Limited Partnership Resolution	27	
11) Proposed Amendments to the By-Laws of the Authority Resolution	30	'11-A'
12) Next Meeting	33	
13) Motion to Conduct Executive Session	33	
14) Procurement (Services) Contract - Niagara Power Project Upgrade - Installation Services Turbines Contract - Voith Hydro, Inc. - Award Resolution	34	
Closing	37	

February 22, 1994

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

Present: Thomas R. Frey, Vice Chairman  
Linda P. Duch, Trustee  
Hyman M. Miller, Trustee  
Robert T. Waldbauer, Trustee

---

Robert G. Schoenberger	President
John F. English	Executive Vice President - System Operations
Robert A. Hiney	Executive Vice President - Marketing and Development
Robert L. Tscherne	Executive Vice President - Finance and Administration
James M. Cunningham	Senior Vice President - Public Affairs
Robert J. Deasy	Senior Vice President - Power Contracts
Charles M. Pratt	Senior Vice President and General Counsel
Alvin I. Becker	Vice President and Chief Accounting Officer
Arnold M. Bellis	Vice President - Facilities Controller
Paul Borer	Vice President - Nuclear Engineering
Woodrow W. Crouch	Vice President - Project Management - System Operations
Vincent Eckdahl	Vice President - Corporate Controller
Robert L. Goyette	Vice President - Production - System Operations
Leslie M. Hill, Jr.	Vice President - Appraisal and Compliance Services
John M. Hoff	Vice President - Procurement and Real Estate
Sally L. Irving	Vice President - Corporate Finance
John L. Lenney	Vice President - Public Affairs
Charles I. Lipsky	Vice President and Chief Engineer - System Operations
Angel J. Martin	Vice President - New Business
L. David Neely	Vice President - Management Information Services
Phillip J. Pellegrino	Vice President - Power Sales and Rates
Vincent J. Tobin	Vice President - Government and Public Policy Affairs
Michael F. Woods	Vice President - Industrial Economic Development
John F. Duffy	First Assistant General Counsel
Ronald W. Ciamaga	Resident Manager - St. Lawrence/FDR Power Project
James Ford	Resident Manager - Niagara Power Project
John H. Garrity	Resident Manager - Indian Point 3 Nuclear Power Plant
Richard E. Kuntz	Resident Manager - Charles Poletti Power Project
James J. McCarthy	Resident Manager - Blenheim-Gilboa Power Project
Harry P. Salmon, Jr.	Resident Manager - James F. FitzPatrick Nuclear Power Plant
John W. Blake	Director - Environmental Programs
Arthur M. Brennan	Director - Facility Planning and Budgets
Joseph J. Brennan	Director - Internal Affairs
Jules G. Franko	Director - Nuclear Operations
William Harrington	Director - Security, Safety and Fire Protection
Thomas R. Mahoney	Director - Real Estate
Stephen P. Shoenholz	Director - Public Relations

**February 22, 1994**

Laura M. Badamo  
Vernadine E. Quan-Soon  
Anne Wagner-Findeisen

Assistant Secretary - Legal Affairs  
Assistant Secretary - Corporate Affairs  
Corporate Secretary

---

Vice Chairman Frey presided and Secretary Wagner-Findeisen kept the Minutes.

**February 22, 1994**

**1. Approval of the Minutes**

The minutes of a Special Meeting held on January 18, 1994 were approved. The minutes of the Regular Meeting of January 25, 1994 were approved by the Trustees as amended.

**2. Financial Reports for the year Ended December 31, 1993**

***Ms. Irving reported that net revenues for the year 1993 totalled \$54.3 million. These results are net of the write-off of (a) a \$35 million payment made in 1992 to New York State related to its real property tax transition payments in connection with the acquisition of IP3, and (b) a \$21.7 million assessment on the FitzPatrick plant by the U.S. Department of Energy for decommissioning of federal facilities.***

***The impact of 1993's strong financial results is most apparent in the \$118 million increase in the Operating Fund. The various factors contributing to these results included high river flows, increased non-firm transmission revenues, lower interest expense, strong investment income results and generally lower spending on O&M. Extraordinary charges for the Series CC refunding totalling \$119.2 million resulted in negative net revenues of \$64.9 million for the year although the refunding produced a net present value gain to the Authority of \$132 million.***

***During the month of January, cash in the Operating Fund increased \$13 million to \$497.4 million. The General Reserve closed with a balance of \$173 million. NYPA's aggregate portfolio totaled \$1.27 billion and is currently yielding 6.4%. The Federal Reserve raised the Funds rate by 25 basis points which was viewed by the market as a preemptive strike against inflation. Although CPI was reported this month at a 0% increase, the markets' concern over future inflation drove interest rates higher with the 30-year Treasury Bond reaching 6.62%, up more than 30 basis points from the prior month.***

***The municipal market lagged the treasury market with NYPA's Series CC bonds due 2018 trading at a price of 97 to yield 5.47%, up 14 basis points from the prior month. The master note borrowings currently total \$135 million, of which \$74 million has been used to fund DSM. The existing rate is 2.68%, 20 basis points higher than last month. The rate paid on the \$200 million ART Note program for the past six months was 2.7%. It was reset***

***for the next six months at 2.75%, locking in a continuation of low cost debt for the better part of 1994.***

**February 22, 1994**

***In response to questions from Trustee Duch concerning staff's awareness and identification of the costs which arise from deferring capital improvements, Mr. Tscherne explained that prior to seeking Trustee approval of any expenditure or deferral thereof, staff's Capital Review Committee calculates and analyzes all fiscal aspects of the proposed action, including inflation rates, interest costs, and financial charges.***

***Responding to further questions from Trustee Duch concerning the existence of management incentives for fiscal restraint, Mr. English explained that specific budgetary criteria constitute integral elements of the Authority's annual performance review program for managers.***

***At Trustee Duch's request, Mr. English outlined the status of the ongoing ice study of the Niagara River required by FERC as a condition of the Niagara Upgrade plan.***

The Executive Vice President - Finance and Administration submitted the following report:

**3. Proposed Economic Development Power Resale Agreement with Niagara Mohawk Power Corporation - Approval to Transmit to the Governor**

The President submitted the following report:

SUMMARY

"The Trustees are requested to authorize the transmittal to the Governor for approval of a proposed agreement (Exhibit `3-B') with Niagara Mohawk Power Corporation (`Niagara Mohawk') for delivery of Economic Development Power (`EDP') to EDP customers within Niagara Mohawk's service area.

BACKGROUND

"At their meeting of December 16, 1993, the Trustees authorized the holding of a public hearing pursuant to Section 1009 of the Public Authorities Law on a proposed contract under which Niagara Mohawk would purchase a block of FitzPatrick power for resale to EDP customers and to other NMPC retail customers. The sale of EDP by Niagara Mohawk to EDP customers designated by the EDPAB would be made under a special Niagara Mohawk tariff rider which is currently in effect. To the extent that there is unallocated EDP available, it would be resold to Niagara Mohawk's other retail customers until it is reallocated to new EDP customers.

"Niagara Mohawk resells EDP to designated customers under a special tariff rider in the Company's retail tariff which has been approved by the Public Service Commission (`PSC'). The resale rates in the tariff rider incorporate the Authority's EDP rates plus any applicable transmission charges along with Niagara Mohawk's delivery charges. The proposed agreement provides for 90 days advance written notice of any changes to the rates.

"The proposed contract provides for an EDP allocation in Niagara Mohawk's service area of 46 MW which can be increased upon mutual agreement. The proposed contract would become effective upon the date of its execution by the Authority after approval by the Governor and would remain in effect until October 17, 2014.

"There are currently 19 EDP customers in Niagara Mohawk's service territory with allocations totaling 34.7 MW of which 16 are now receiving 23.7 MW. The attached Exhibit `3-A' lists the individual EDP customers and their allocations.

DISCUSSION

"Copies of the proposed contracts were transmitted to the Governor, the Speaker of the Assembly, the Minority Leader of the Assembly, the Chairman of the Assembly Committee on Ways and Means, the Temporary President of the Senate, the Minority Leader of the Senate, and the Chairman of the Senate Finance Committee. Copies of the proposed contracts were also made available for public inspection and notice of the public hearing was given as required by Section 1009.

"The public hearing was held on February 3, 1994 in the Authority's New York Office. Niagara Mohawk submitted a statement of support and urged that the proposed contract be approved. The Honorable Michael J. Bragman, Majority Leader of the State Assembly, also submitted a statement of support. No statements in opposition to the proposed contract were submitted at the hearing or during the post hearing comment period. Minor changes were made to the proposed contract to reflect the intent of the parties.

February 22, 1994

RECOMMENDATION

"The Senior Vice President - Power Contracts recommends that Trustees approve the transmittal of the proposed contract with Niagara Mohawk to the Governor with their recommendation that it be approved.

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

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

**RESOLVED, That the Authority hereby authorizes the transmittal to the Governor of the proposed contract with Niagara Mohawk Power Corporation substantially in the form as set forth in Exhibit "3-A" with the recommendation that such contract be approved.**

Economic Development Power Allocations  
in Niagara Mohawk Service Area

<u>Economic Development Power Long Term Allocations</u>	<u>Location</u>	<u>Allocation (Kilowatts)</u>	<u>Contract Demand (Kilowatts)</u>
Bus Industries of America	Oriskany	700	450
Curtains and Fabrics	Herkimer	600	600
Fountainhead Group	New York Mills	500	0
Granny's Kitchens	Frankfort	2,000	600
H. M. Quackenbush	Herkimer	300	250
Kaz/Rual Manufacturing	Hudson	750	0
Lawson Mardon Packaging	Baldwinsville	1,300	800
LeRoy Industries	LeRoy	1,300	1,000
Lyons Falls Pulp & Paper, Inc.	Lyons Falls	2,000	2,000
Markin Tubing	Wyoming	1,200	900
Metropolitan Life Insurance	North Greenbush	<u>3,500</u>	<u>2,600</u>
		14,200	9,200
 <u>Short Term Allocations</u>			
Keymark Corporation	Fonda	1,500	1,500
Lipe-Rollway Corporation	Liverpool	1,000	1,000
Oak-Mitsui	Hoosick Falls	4,000	4,000
Oswego Wire, Inc.	Oswego	1,000	1,000
Owl Wire and Cable, Inc.	Canastota	1,500	1,500
Playtex Family Products Corp.	Watervliet	1,500	1,500
Revere Copper Products, Inc.	Rome	6,000	0
Special Metals Corporation	New Hartford	<u>4,000</u>	<u>4,000</u>
Total in Niagara Mohawk area		<u>34,700</u>	<u>23,700</u>



**4. Diversity Power Contract with Hydro-Québec -  
Price for Firm Energy During the 1994 Season**

The President submitted the following report:

SUMMARY

"The Trustees are requested to approve letter agreements concerning the proposed amounts and prices of the 1994 summer Diversity Energy to be purchased from Hydro-Québec and resold to Consolidated Edison Company of New York, Inc. ('Con Edison') [and Rochester Gas and Electric ('RG&E')].

BACKGROUND

"In 1974, the Authority entered into a contract with Hydro-Québec for the purchase of 800,000 kilowatts ('kW') of Firm Diversity Power and up to 3 billion kilowatt-hours ('kWh') per year of Diversity Energy. Service under the contract began in 1979 after the Authority's Massena-Marcy 765 kilovolt transmission line was placed in service and will end on October 31, 1998. The power is sold to Con Edison (780,000 kW) and RG&E (20,000 kW) during the seven warm weather months (April through October) of the year when New York State experiences its annual peak load. The contract provides that the amount and price of Diversity Energy each year will be subject to negotiation and the approval of the Canadian National Energy Board ('NEB'). If no agreement is reached on the amount and price, or if agreement is made to purchase less than the 3 billion kWh, the contract provides that the remaining energy may still be taken during the summer months but it must be returned the following winter.

DISCUSSION

"The contract provides that a proposed amount and price of energy be offered two years prior to the delivery. Accordingly, in March 1992, Hydro-Québec offered 100 million kWh of energy for the 1994 Diversity period at a price equal to 120 percent of the cost to Hydro-Québec of its most costly 100 million kWh of fossil fuel generation and/or purchases during the April 1, 1992 to March 31, 1994 period. This price formula, which included a floor price of 42 mills per kWh, was not acceptable to the Authority and the utilities. Because the parties were unable to negotiate a mutually acceptable price, it was agreed, in March 1993, that Hydro-Québec would notify the Authority by November 1, 1993, of a new offer for an amount of energy and its price which would replace the original March 1992 offer.

"When the initial offer for 1994 was made by Hydro-Québec, it was expected that hydraulic conditions in Québec would not significantly improve before 1993. The March 1993 agreement to resume negotiations by November benefited both parties since Hydro-Québec was in a better position at that time to determine the amount of energy it could offer and New York is better able to assess its requirements for the following summer.

"From 1984 to the end of 1991, a cumulative net hydraulic runoff deficiency into Hydro Québec's reservoirs equivalent to approximately 117 billion kWh occurred. However, runoff substantially improved in 1992 and reservoir storage reached the highest levels since 1986. Inflows for 1993 were below average but after assessing its needs, Hydro-Québec in October 1993, offered 3 billion kWh of Diversity Energy for sale during the 1994 season.

February 22, 1994

"As a result of the availability of economic surplus energy from neighboring utilities and contracts with IPPs, Con Edison's and RG&E's need for Diversity Energy have been reduced. In addition, experience gained in using Diversity Energy on a summer-take-and-winter-return basis has provided Con Edison and RG&E with additional flexibility with regard to the amount of Diversity Energy purchased on a firm take-or-pay basis. Consequently, the parties have completed negotiation of energy prices for a firm take-or-pay basic amount of 1.975 billion kWh of Diversity Energy for the 1994 period.

"The price for the basic amount of 1.415 billion kWh of Diversity Energy delivered during peak hours will be 19 mills per kWh and the remaining basic amount of 0.560 billion kWh will cost 16.5 mills per kWh when delivered during off-peak periods.

"Submitted for approval is a proposed letter agreement (Exhibit `4-A') between Hydro-Québec and the Authority for the basic amount of 1.975 billion kWh of summer Diversity Energy for 1994. Also attached are proposed letter agreements (Exhibit `4-B') with Con Edison and RG&E. The agreement with Hydro-Québec will be contingent upon Con Edison's formal acceptance of the agreement.

"The agreement is subject to the approval of the Hydro-Québec Board and the National Energy Board of Canada.

#### RECOMMENDATION

"The Senior Vice President - Power Contracts recommends that the proposed letter agreements with Hydro-Québec, Con Edison and RG&E be approved substantially in the form attached hereto.

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

***In response to questions from Trustee Miller, Mr. Deasy explained that the purchase and resale of power would constitute a fiscal "wash" for the Authority.***

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

**WHEREAS, the Authority has entered into a contract with Hydro-Québec for sale to the Authority of Diversity Power and Energy which provides that the amount and price of Diversity Energy for the years after 1981 will be subject to negotiation; and**

**WHEREAS, Hydro-Québec and the Authority have agreed on the amounts and prices for 1994; and**

**WHEREAS, Consolidated Edison Company of New York, Inc. and Rochester Gas & Electric Corp. have indicated acceptance of the proposed amounts and prices of Diversity Energy;**

**February 22, 1994**

**NOW THEREFORE BE IT RESOLVED, That the proposed amounts and prices of Diversity Energy be approved, and that the Senior Vice President - Power Contracts be, and hereby is, authorized to execute a letter agreement, substantially in the form attached hereto, with Hydro-Québec for the purchase of Diversity Energy, as recommended in the foregoing report of the President, contingent upon formal approval of such agreement by Consolidated Edison Company of New York, Inc. for Sale of Diversity Power and Energy.**

February 22, 1994

**5. Contracts for the Sale of FitzPatrick Power to Island Container Corp.; Nassau Tool Works, Inc.; Nature's Bounty, Inc.; Renco Electronics, Inc.; and Southern Container Corp. - Transmittal to the Governor**

The President submitted the following report:

SUMMARY

"The Trustees are requested to approve the allocation of 1,600 kW of FitzPatrick Economic Development Power ('EDP') to five companies as listed in Exhibit '5-A' and to authorize transmittal to the Governor of proposed contracts to implement these allocations.

BACKGROUND

"On November 9, 1993, the Economic Development Power Allocation Board ('EDPAB') approved applications for EDP submitted on behalf of the following companies:

<u>Company</u>	<u>kW</u>
Island Container Corp., Wyandanch	300
Nassau Tool Works, Inc., West Babylon	300
Nature's Bounty, Inc., Bohemia	300
Renco Electronics, Inc., Deer Park	400
Southern Container Corp., Deer Park	300

EDPAB recommended these allocations to the Authority with terms and conditions to be incorporated in the standard form of contract. On November 18, 1993, the Chairman, as authorized by the Trustees, authorized the Secretary to advertise a public hearing on the terms of proposed contracts with these companies.

"Copies of the proposed contracts with each of the five companies were transmitted to the Governor, the Speaker of the Assembly, the Minority Leader of the Assembly, the Chairman of the Assembly Committee on Ways and Means, the Temporary President of the Senate, the Minority Leader of the Senate, and the Chairman of the Senate Finance Committee. Copies were also made available for public inspection. At least 30 days' notice of the public hearing on the terms of the proposed contracts was given by publication in at least six newspapers throughout New York State. A public hearing on the proposed contracts was held on January 20, 1994, at the Authority's New York office.

"The Authority has a wheeling agreement with LILCO for the delivery of EDP, which limits EDP allocations to 26 MW on Long Island. Current EDP allocations are at the limit of the agreement. However, Computer Associates International, which has an allocation of 12 MW, has agreed to temporarily relinquish 3 MW for a period of approximately five years. The allocations proposed above would be reallocated from this amount of power that has

become temporarily available. Consequently, each allocation would have a term ending December 31, 1998.

DISCUSSION

"Island Container Corp. ('Island Container') is a privately held firm that produces corrugated sheets and boxes for packaging. Island Container is consolidating two facilities to a single plant to increase efficiency and reduce costs. Wyandanch is the location preferred by Island Container if costs are competitive. The company examined relocation to New Jersey and was actively solicited by development officials in Bridgeport, Connecticut. In Wyandanch, Island Container would commit to purchase the building, of which it currently leases a portion. Seventy-five jobs would be retained after consolidation, which yields a ratio of 250 jobs per MW. Island Container has participated in the Industrial Effectiveness Program of the New York State Department of Economic Development ('DED'). The company is installing sodium vapor lighting in the Wyandanch facility. Island Container would save about \$38,000 annually over Long Island Lighting Company ('LILCO's') standard rates with the proposed allocation of 300 kW. The proposed allocation is supported by the Town of Babylon.

"Nassau Tool Works, Inc. ('Nassau Tool Works') is a closely held partnership that performs specialized machining of aircraft components. The continuing decline in the volume of aerospace work has reduced Nassau Tool Works' employment to its present level of 57 from a high of 83. To become more competitive, the company's owners have studied the costs and benefits of relocating the business to Wilmington, North Carolina. Electric power costs, which are more than 7 percent of production costs in Long Island, would be reduced by more than half in Wilmington. With a commitment to remain in West Babylon, Nassau Tool Works would make various improvements to its existing building and construct a small addition if business conditions warrant. The existing 57 jobs would be retained, for a ratio of 190 jobs per MW, with the 300 kW allocation, which would save an estimated \$30,000 annually. LILCO has sponsored an energy audit of the plant. The company has insulated the structure and installed modular boilers and energy efficient lighting. The Town of Babylon supports the proposed allocation.

"Nature's Bounty, Inc. ('Nature's Bounty') is a publicly traded company producing vitamins, cosmetics and related products. At their meeting of April 24, 1990, the Trustees approved the allocation of 600 kW for an expansion project at 90 Orville Drive in Bohemia for a commitment of 675 jobs. The company has continued to grow. Nature's Bounty now operates in five buildings in Bohemia. With the additional allocation of 300 kW, Nature's Bounty would commit to create at least 30 jobs and expand in a building at 60 Orville Drive. The incremental allocation would produce a ratio of 100 jobs per MW. Nature's Bounty has installed high efficiency lighting throughout its facilities and will obtain efficient plastic molding machines for the production of bottles. The proposed allocation, which is supported by the Town of Islip, will save approximately \$30,000 annually over LILCO's standard rates.

"Renco Electronics, Inc. ('Renco') is a privately held company in Deer Park that manufactures coils and transformers for small electrical devices. Renco has increased sales by working closely with its customers and has now outgrown its space in Deer Park. Sites were examined in Alabama and Florida that offered substantially lower manufacturing costs than Long Island. Development officials of Suffolk County and the Town of Babylon have worked with Renco to keep the operation in Deer Park. With the proposed 400 kW allocation, Renco would construct a 13,000 square foot addition to its 27,000 square foot facility and would commit to retain 248 jobs. A LILCO-sponsored energy audit of the facility has been completed. High efficiency lighting is being installed throughout the plant. A ratio of 620 jobs per MW would result from the allocation, which would save Renco about \$17,000 annually over LILCO's standard rates.

"Southern Container Corp. ('Southern Container') is a privately held company that produces corrugated paper containers. Southern Container operates two plants in Suffolk County servicing customers located throughout the metropolitan region. Existing Southern Container facilities in New Jersey and Pennsylvania have space available for

relocation of the Long Island operations. DED qualified Southern Container for the state's Industrial Effectiveness Program, which targets retention candidates. Southern Container would commit to retain 132 jobs at its Deer Park

**February 22, 1994**

facility and to construct a 15,000 square foot addition to its facility with the proposed 300 kW allocation, which yields a ratio of 440 jobs per MW. The company's engineers have completed a study of energy management. Energy efficient lighting fixtures are being installed. Southern Container would save an estimated \$38,000 annually over LILCO's standard rates. The Suffolk County Office of Economic Development supports the proposed allocation.

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

"A public hearing on the proposed contracts was held on January 20, 1994, at the Authority's New York office. Island Container and Nature's Bounty submitted written statements in support of their respective contracts. John Kaiser, President of Nassau Tool Works, appeared at the hearing and spoke in support of the contract. Steven Hill, Senior Vice President of Southern Container, also appeared and took exception to the limited quantity and term of the allocation. Each of the allocations proposed herein is for less than the company's full power requirements. The proposed allocations for two similarly sized companies that manufacture corrugated containers (Southern Container and Island Container) are for the same quantity, which will produce approximately the same savings. The term of each allocation is five years. Because wheeling capacity for EDP on Long Island is limited, EDPAB has recommended partial allocations to these five companies in order to have power available for other EDP applicants.

"A letter was submitted by Peter Quinn, Executive Board Member of the Long Island Progressive Coalition, recommending rejection of the proposed contracts. Mr. Quinn suggests that there should be written job commitments and annual compliance monitoring by the Authority. He cites examples of companies that have reduced employment in recent years. Finally he recommends development of new policy for making allocations of Authority power that might include school districts. The Authority's industrial power sales contracts do provide for specific commitments concerning job retention and creation. Contractors are required to submit monthly employment figures to the Authority each year for evaluation of compliance with job commitments. Companies that do not meet their commitments are reviewed by the Authority's Trustees for possible power reductions. Allocations of EDP are recommended by EDPAB and approved by the Authority pursuant to criteria specified in the State's Economic Development Law. As official state policy, such criteria limit allocations of EDP to businesses.

"After the public hearing, the terms of the contracts were reconsidered. Southern Container requested a revision of its job commitment figure to reflect only employees working at the Deer Park facility rather than its total employment on Long Island. The proposed power allocation will be used at the Deer Park facility only. Furthermore, EDPAB had recommended a commitment of the employment at such facility. Accordingly, the job commitment is revised to 132 jobs at the Deer Park facility. The contracts submitted herewith are in the public interest.

#### RECOMMENDATION

"The Vice President - Industrial Economic Development recommends that the proposed contracts for the sale of Economic Development Power to Island Container Corp.; Nassau Tool Works, Inc.; Nature's Bounty, Inc.; Renco Electronics, Inc. and Southern Container Corp. be transmitted to the Governor with the recommendation that they be approved.

February 22, 1994

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

***Responding to questions from Trustee Waldbauer, Mr. Woods explained that there currently are 1.9 MW of EDP available for allocation to businesses on Long Island, and that despite Grumman's failure to meet its job commitments, the Authority had determined not to immediately reduce its allocation of EDP in recognition of the fact that Grumman, along with other suppliers to the defense industry, had been severely impacted by economic forces beyond its control.***

***At Trustee Duch's request, Mr. Woods outlined the methods of advertising and disseminating the availability of EDP. Mr. Hiney stated that the Trustees would be kept abreast of marketing developments.***

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

**WHEREAS, the Economic Development Power Allocation Board has recommended that the Authority enter into contracts with Island Container Corp.; Nassau Tool Works, Inc.; Nature's Bounty, Inc.; Renco Electronics, Inc. and Southern Container Corp. for the sale of Economic Development Power subject to the terms and conditions described in the foregoing report of the President; and**

**WHEREAS, the Authority reached agreement with Island Container Corp.; Nassau Tool Works, Inc.; Nature's Bounty, Inc.; Renco Electronics, Inc. and Southern Container Corp. on the terms of contracts for the sale of Economic Development Power generated by the Authority; and**

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

**WHEREAS, on January 20, 1994, the Authority held a public hearing on the terms of such contracts upon more than 30 days' notice given by publication once each week during such period in at least six newspapers within the State of New York; and**

**WHEREAS, after such public hearing the Authority reconsidered the terms of such contracts and revised the job commitment terms of the contract with Southern Container to conform with the recommendation of the Economic Development Power Allocation Board;**

February 22, 1994

**NOW THEREFORE BE IT RESOLVED, That the Authority approves the form of proposed contracts for the sale of power between the Authority and Island Container Corp.; Nassau Tool Works, Inc.; Nature's Bounty, Inc.; Renco Electronics, Inc. and Southern Container Corp. which were submitted to this meeting, and that the Authority believes such contracts to be in the public interest; and be it further**

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

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

**RESOLVED, That the Senior Vice President - Power Contracts or his designee be, and hereby is, authorized to negotiate and execute any and all documents necessary or desirable to effectuate such contracts.**

**Exhibit `5-A'**

**February 22, 1994**

<u>Company</u>	<u>Utility</u>	<u>Amount of JAF Power</u>	<u>Jobs Committed</u>
Island Container Corp. Wyandanch	LILCO	300	75
Nassau Tool Works, Inc. West Babylon	LILCO	300	57
Nature's Bounty, Inc. Bohemia	LILCO	300	30
Renco Electronics, Inc. Deer Park	LILCO	400	248
Southern Container Corp. Deer Park	LILCO	<u>300</u>	<u>132</u>
TOTAL		<u>1,600 kW</u>	<u>542 Jobs</u>

February 22, 1994

**6. New York City Public Utility Service - Allocation of FitzPatrick Power to Ultra-Creative Corporation**

The President submitted the following report:

SUMMARY

"The Trustees are requested to approve the allocation of 450 kW of FitzPatrick power to the New York City Public Utility Service ('NYCPUS') for resale to Ultra-Creative Corp. ('Ultra-Creative').

BACKGROUND

"At its meeting of March 4, 1993, the Economic Development Power Allocation Board ('EDPAB') recommended to the Authority an allocation of 450 kW of FitzPatrick Economic Development Power ('EDP') to Ultra-Creative for business expansion purposes. The power would be sold by the Authority under an existing contract with NYCPUS for resale to Ultra-Creative.

DISCUSSION

"Ultra-Creative, which is located in Brooklyn, converts and prints flexible plastic films into bags and packaging. The company has outgrown its present space and is seeking additional space to accommodate new six-color and eight-color presses. A structure that had been acquired for storage space would be adapted for the new presses with this proposed allocation. Fifteen jobs would be created and 120 existing jobs would be committed by Ultra-Creative, producing a ratio of 300 jobs per MW. The project has been further supported by New York City with low cost financing, real property tax abatements, and its Energy Cost Savings Program discount. Ultra-Creative has installed high efficiency lighting and motors in its facility. The ten-year allocation would begin on or about May 1, 1994, and would save approximately \$34,000 annually over Consolidated Edison Company of New York's standard rates.

"The proposed allocation has been reviewed in accordance with Part 460 of the Authority's Rules and Regulations (Procedures for Allocation of Industrial Power and Enforcement of Contracts (21 NYCRR 460 (1988))). The contract between Ultra-Creative and NYCPUS (Exhibit '6-A' hereto) provides for reductions in the allocation in the event that employment or power usage levels are not maintained at specified levels. Reports regarding employment and affirmative action commitments will be submitted to the Authority by NYCPUS as provided by Part 460.4 of the Authority's Rules and Regulations and pursuant to the contract between the Authority and NYCPUS.

RECOMMENDATION

"The Vice President - Industrial Economic Development recommends that the Trustees approve the allocation of 450 kW of FitzPatrick power to NYCPUS for resale to Ultra-Creative as described herein.

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

February 22, 1994

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

**RESOLVED, That the Authority hereby approves the allocation of 450 kW of FitzPatrick power to the New York City Public Utility Service for resale to Ultra-Creative Corp. substantially in accordance with the terms and conditions described in the foregoing report of the President; and be it further**

**RESOLVED, That the contract for the resale of FitzPatrick industrial power between the New York City Public Utility Service and Ultra-Creative Corp. is subject to approval by the Vice President - Industrial Economic Development; and be it further**

**RESOLVED, That the Senior Vice President - Power Contracts or his designee be, and hereby is, authorized to execute any and all documents necessary or desirable to effectuate the above allocation.**

**7. Industrial Customer Energy Conservation Project at the Hunts Point Cooperative Market, Inc. - Increase in Expenditure Authorization**

The President submitted the following report:

SUMMARY

"The Trustees are requested to authorize additional expenditures of \$1.8 million for funding an energy efficiency improvement project at the Hunts Point Cooperative Market, Inc. (the 'Cooperative').

BACKGROUND

"At their meeting of March 27, 1990, the Trustees authorized the allocation of 5,100 kW to the New York City Public Utility Service ('NYCPUS') for resale to the Cooperative, generating \$1.5 million in annual revenues to the Authority. Hunts Point was organized as a commercial cooperative to construct a specialized facility on New York City-owned land to be used by wholesale meat and frozen food distributors. The Bronx facility, which opened in 1977, comprises 528,000 square feet in six buildings on 37 acres. Direct employment by members of the Cooperative is approximately 2,400 and the Cooperative is also responsible for the indirect employment of about 800 additional persons in ancillary activities such as trucking in the economically depressed South Bronx.

"At their meeting of June 29, 1993, the Trustees approved \$2.8 million for an industrial customer demand side management ('DSM') program of which \$2.4 million was for a turn-key energy efficiency project at the Cooperative, and authorized implementation services by the firm of HEC Services, Inc. The Authority's 1993 project proposal would significantly improve the Cooperative's operating efficiency and reliability while reducing annual electricity and maintenance costs. The recommended conservation project included the following measures:

- renovation of the chilling plant cooling tower;
- installation of a direct digital control system to optimize operation of the chiller, cooling tower, cooling water pumps, and circulating brine pumps;
- lighting modernization including installation of T-8 lamps, electronic ballasts, high pressure sodium lamps and compact fluorescent lamps;
- installation of a new Part Load high temperature improved efficiency Chiller;
- improved pumping systems including installation of high efficiency motors.

"The measures noted above have an installed cost of \$2.4 million, including Authority overhead charges and would have resulted in annual energy and demand savings of about 5.8 million kilowatt-hours and 800 kW, respectively, with annual electricity cost savings of about \$360,000.

DISCUSSION

"Subsequent to development of the 1993 project proposal, the Cooperative received a competing proposal from Consolidated Edison Company of New York, Inc. ('Con Edison') to install a completely new, ammonia based refrigeration system powered by natural gas fueled engines. This proposal included significant financial incentives including rebates of up to \$500 per ton for the new chillers and financing of the remaining installed costs. Installation of this equipment would result in the loss of about \$1.0 million in revenues associated with this customer's load.

"Competition between gas and electricity in the commercial and industrial sectors has heightened as gas prices continue to remain favorable and gas utilities aggressively develop and market natural gas refrigeration technologies. The Cooperative, realizing that electric equipment is more efficient, has lower installation and maintenance costs and is less complicated and easier to operate, asked the Authority to expand its proposal to include a new ammonia based refrigeration system. Most modern refrigeration systems used in large scale food handling utilize ammonia chillers. These systems also ameliorate the problem of handling CFCs currently contained in the refrigerants utilized in the Cooperative chillers.

"Modification of the original Authority proposal to include a new refrigeration plant will add \$1.8 million to the original installed cost of \$2.4 million for a total cost of \$4.2 million, including Authority overhead charges. A table comparing original and revised project costs is attached as Exhibit '7-A'. The minutes of the June 29, 1993 Trustee Resolution are also attached, as Exhibit '7-B'.

"The revised project will result in reduced energy costs to the Cooperative exceeding \$400,000 annually, compared to current energy costs. The revised project is also eligible for the 'deep discount' energy cost reduction program sponsored by the City of New York, which will reduce the Cooperative's annual energy bill by an additional 30 percent or \$460,000 annually<sup>1</sup>. Finally, annual maintenance cost savings are expected to be about \$125,000. Thus, this new expanded project will result in annual savings of nearly \$990,000 to the Cooperative, resulting in a simple payback of total project costs in 4.1 years.

"From the Authority's standpoint, the expanded project has the following advantages:

- retention of 4 MW of load (net of DSM impacts), generating over \$1.2 million in annual revenues;
- encouraging the comprehensive installation of high efficiency electrical equipment;
- aiding an employment-intensive, economic development customer in the achievement of substantial savings in operating costs over an extended period;
- benefiting the environment through the removal of ozone depleting refrigerants and avoiding the installation of natural gas fired engines with correspondingly higher CO<sub>2</sub> (1.2x) and NO<sub>x</sub> (6.0x) emissions, compared to electrically driven compressors;

---

<sup>1</sup> The deep discount is a full 30 percent for the first eight years, reduced by annual increments of 6 percent beginning in year nine and totally phased-out in year 13.

February 22, 1994

- full recovery of all funds advanced by the Authority to finance the project at eight percent interest within seven years; and
- recovery of Authority overhead costs through the application of a 10 percent overhead rate applied to material and labor costs.

"The Authority will not contract directly for implementation services with the firm of HEC Services, Inc. as originally authorized by the Resolution adopted June 29, 1993. Rather, the Cooperative will be free to contract directly with a vendor of its choice, including HEC. As in the case of all of the Authority's conservation programs, the Authority will execute a cost recovery agreement with the Cooperative to recover the project's financing costs. The contract will provide for payments based on demonstrated progress in implementing the project. The Authority will retain a beneficial interest in the equipment installed as collateral security until repayment is complete.

"The Cooperative has agreed to reduce its power allocation by the amount of the peak demand savings expected to be about 1 MW; however, the Cooperative and other potential customers have expressed interest in receiving more Fitzpatrick power to cover future plant expansions. Any reduction would enable the Authority to reallocate that power to maximize the number of jobs attainable from each megawatt available for allocation.

#### FISCAL INFORMATION

"Expenditures for this project will be funded at \$4.2 million (\$2.4 million previously authorized in addition to \$1.8 million with this authorization) from the General Reserve Account of the General Fund. All costs associated with this project will be recovered from the Cooperative, over a period not to exceed seven years, together with the Authority's overheads and the cost of advancing funds.

#### RECOMMENDATION

"The Vice President - Power Sales and Rates recommends that the Trustees authorize an additional \$1.8 million in approved funding for the implementation of an energy conservation project at the Hunts Point Cooperative Market, Inc..

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

***Trustee Waldbauer inquired as to the existence of mechanisms for ensuring that equipment and supplies are purchased by the Cooperative in the most cost effective manner. Mr. Pellegrino explained that experienced Authority staff will scrutinize potential vendors' qualifications and will monitor the course of progress payments.***

***Responding to questions from Trustee Duch concerning staff's verification of the financial stability of Cooperative members, Mr. Pellegrino explained that although some degree of risk is unavoidable, the Cooperative itself has***

***been in business for some 17 years and the proposed action is supported by New York City officials.***

February 22, 1994

*Trustee Duch complimented staff on the format and breadth of the written information submitted to the Trustees and suggested that staff explore the possibility of developing some kind of financial incentive, such as a rebate or discount, to induce Cooperative members to repay the Authority on a more rapid basis, and that such an incentive could be made available to other participants in similar programs. Messrs. Hiney and Pellegrino responded that they would examine and report on the feasibility of such an incentive.*

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

**RESOLVED, That the Trustees of the Authority hereby: (1) authorize the payment to the Authority of funds available in the General Reserve Account for the lawful corporate purpose of providing energy conservation services to industrial customers; and (2) determine that there is available from the General Reserve Account, and not needed for the purposes specified in paragraphs 1 through 4 of Section 512 of the General Purpose Bond Resolution, monies in an amount not to exceed \$1.8 million which shall be paid over to the Authority for such lawful corporate purpose; and be further**

**RESOLVED, That the Vice President - Power Sales and Rates or his designee be authorized to execute a cost recovery agreement and any other documents which will cover the capital allocation, repayment terms and program responsibilities necessary or desirable for the implementation of an Industrial Customer Conservation Program project at the Hunts Point Cooperative Market; and be it further**

**RESOLVED, That overall expenditures are hereby approved as recommended in the foregoing report of the President, in the amounts and for the purpose listed below:**

<u>General Reserve Account</u>	<u>Expenditure Approval</u>
<b>Hunts Point Project</b>	
<b>Previously Authorized (06/29/93)</b>	<b>\$2,400,000</b>
<b>Current Authorization Request</b>	<b><u>1,800,000</u></b>
<b>Total Amount Authorized</b>	<b><u>\$4,200,000</u></b>

**8. James A. FitzPatrick Nuclear Power Plant -  
Unsupported Firm Power Service - Emergency Action**

The President submitted the following report:

SUMMARY

"The Trustees are requested to approve a proposed action to decrease the rates and modify certain contract provisions for unsupported firm power service from the James A. FitzPatrick Nuclear Power Plant ('JAF') to investor-owned utilities effective May 1, 1994. Emergency action is requested to enable the Authority to respond promptly to the current market conditions and to permit consumers to realize maximum benefits from reduced rates as soon as possible.

BACKGROUND

"The Authority was authorized by the Legislature in 1968 to construct the FitzPatrick Plant to meet the needs of large, high load factor industrial customers and the future needs of the Authority's public customers. The legislation was amended in 1987 to authorize sales to smaller businesses throughout the State to foster economic development. To the extent power is not required to meet the needs of industrial or public customers, the power is sold to investor-owned utilities ('utilities').

"Currently, the Authority provides unsupported firm power service to five of the seven utilities in New York pursuant to Service Tariff No. 2. When service began in 1975, all seven utilities purchased power from JAF. Since that time, two utilities have terminated power service (New York State Electric & Gas and Orange & Rockland Utilities) while two others reduced their relative share (Central Hudson & Electric and Niagara Mohawk Power Corporation). Such terminations and reductions in power service may be made by the customer on one year's notice to the Authority.

"The current rates applicable to Service Tariff No. 2 are \$13.40 per kilowatt-month for capacity and 1.7 cents per kilowatt-hour for energy. For sales at the contractually prescribed 70 percent load factor, the effective bus-bar rate is about 4.3 cents per kWh. The rates may be revised by the Authority on 90 days' written notice to the affected customers.

"In addition to the unsupported firm service, the Authority sells residual energy to the utilities. Residual energy, which is also sold at a rate of 1.7 cents per kWh, is energy available from the FitzPatrick plant after other obligations have been met. Availability of residual energy, which is highly dependent upon plant performance, is a critical element in the competitiveness of JAF. During 1993, the average bus-bar rate for utility customer sales, including residual energy, was 3.2 cents per kWh.

DISCUSSION

"The sale of JAF power to utilities competes in the wholesale power market in New York State where, over the past few years, significant changes have occurred. In November 1990, when the Public Service Commission ('PSC') issued its Long Run Avoided Cost ('LRAC') estimates, it was estimated that by 1994, energy in the Southeastern New York region would be worth 5.44 cents per kWh. The high LRAC levels projected during this period and the '6-cent law' (Article 66-c) resulted in the proliferation of independent power producers. This

February 22, 1994

development, in concert with a slow economy, the success of utility demand side management programs and low fuel prices, has created a large capacity surplus in the state. Consequently, the wholesale price of electricity has been driven down while retail prices have risen. Today, the 1994 LRAC energy component stands at 2.64 cents per kWh, more than a 50 percent decline in less than four years.

"In an effort to reduce their surplus capacity and thereby lower costs to their retail customers, utilities are evaluating all power supply contracts that may be terminated relative to their avoided cost estimates. Consolidated Edison Company of New York, Inc. ('Con Edison') undertook such an evaluation of its JAF contract last year. Con Edison is JAF's largest utility buyer, with allocations of 203 MW during this past summer capability period and 164 MW in the current winter period, representing on average about 60 percent of the total utility share and more than 25 percent of the total firm marketable output of the plant. Following extensive discussions between Authority and Con Edison staff, ultimate agreement could not be reached on modifications to the contract terms and rates. Consequently, Con Edison provided notice to the Authority of its decision to terminate JAF service effective April 1, 1994.

"The four remaining utility customers, who currently purchase 130 MW of capacity, have also been evaluating their FitzPatrick purchases. In response to the concerns of these customers as to the economics of the Authority's power service, the following modifications are recommended.

"First, the price and amount of JAF power delivered to the utilities would be modified so that the demand charge would be approximately halved and the allocations doubled to 260 MW from the current level of 130 MW. Further, the energy charge would be modified to provide an on-peak/off-peak pricing arrangement in order to better meet market conditions. It is proposed that the following rate change take effect May 1, 1994:

	<u>Current Charges</u>	<u>Proposed Charges</u>
Demand:	\$13.40 / kW-month	\$6.00 / kW-month
Energy:	1.7 cents / kWh	2.1 cents / kWh (on-peak) 1.7 cents / kWh (off-peak)

"Second, taking advantage of the seasonal diversity in its municipal customer loads, the Authority would commit to the long term allocation to utilities of 260 MW in the summer period. As proposed, the summer allocations to utilities would not be revised by the Authority except by mutual agreement of the Authority and the utility. Availability of this capacity in the summer months is consistent with the Authority's meeting the projected needs of the municipal system customer requirements through this period. Winter allocations can still be revised by the Authority each year in accordance with existing contract terms.

"The proposed allocations for the five year period beginning May 1994, shown in the attached table, are compared to the estimates approved by the Trustees at their meeting of March 30, 1993. The Authority is seeking a commitment from each of the utilities under which they will not exercise their option to terminate service during the next three years, unless the Authority increases the rates.

"Finally, a provision in the utility contracts presently requires these customers to continue to pay demand charges for a period of up to ninety days when the plant is out of service. After the ninety day period, a credit is applied to the demand charge for any hours in which service is curtailed. This provision has the effect of increasing the average cost of JAF power. With the proposed change, the 90 day period will be reduced to one day.

February 22, 1994

"Upon the May 1, 1994 implementation of the above changes, the average bus-bar rate to the utilities is expected to be about 2.5 cents per kWh.

"In accordance with the Authority's Administrative Procedures (21 NYCRR 455 (1988)) notice of proposed action is normally published in the State Register at least 45 days prior to adoption by the Trustees. However, under these procedures, 'emergency adoption' is possible when immediate adoption is necessary for the 'general welfare'. In this case, emergency adoption is warranted to enable the Authority to respond promptly to the current market conditions and to permit consumers to realize maximum benefits from reduced rates as soon as possible and promote the general welfare. The Trustees will be requested to reconsider the action and to give their final approval on the proposed modification after all publication requirements are met.

#### FISCAL INFORMATION

"The proposed contract and rate modifications will not result in a material change in the Authority's net revenues for 1994 and have been factored into the 1994 Operating Forecast and longer range plans.

#### RECOMMENDATION

"The Senior Vice President - Power Contracts recommends that the rates and contract provisions be modified as described above. It is also recommended that, consistent with the Authority's Administrative Procedures, the Secretary be authorized to file notice for publication in the New York State Register of emergency adoption of the above action and of proposed Authority action to adopt permanently the provisions of the measure, and to file such other notice as is required by statute or regulation.

"The Vice President - Power Sales and Rates, the Senior Vice President and General Counsel, the Executive Vice President - Finance and Administration, the Executive Vice President - Marketing and Development, and I concur in the recommendation."

***In response to questions from Trustee Miller, Mr. Hiney explained that if any EDP is relinquished such power reverts to Niagara Mohawk at the new rates.***

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

**RESOLVED, That the proposed revisions to the charges and other provisions of Service Tariff No. 2 for unsupported firm power service to utilities from the James A. FitzPatrick Nuclear Power Plant be approved effective May 1, 1994; and be it further**

**RESOLVED, That the Senior Vice President - Power Contracts is authorized to enter into contract amendments substantially as set forth in the foregoing report of the President; and be it further**

**RESOLVED, That the Senior Vice President - Power Contracts is authorized to execute such other documents as are necessary or desirable to effectuate the foregoing; and be it further**

**RESOLVED, That the foregoing action must in the judgement of the Authority be taken immediately to discharge its responsibilities and for the preservation of the general welfare since**

**a portion of the rate reduction savings would be lost if immediate action is not taken; and be it further**

**February 22, 1994**

**RESOLVED, That the Secretary of the Authority be, and hereby is, authorized to file notice of emergency adoption and notice of proposed action to adopt permanently the proposed revisions and to submit such revisions for publication in the New York State Register and to submit such other notification as may be required by statute or regulation; and be it further**

**RESOLVED, That within 90 days from such filing, the Authority reconsider the action for permanent adoption and republication in the State Register.**

February 22, 1994

**9. Amendments to Part 453 of the Authority's Rules and Regulations  
- Public Access to Authority Records - Final Action**

The President submitted the following report:

SUMMARY

"The Trustees are requested to adopt as a final action amendments to Part 453 of the Authority's Rules and Regulations (21 NYCRR 453 (1983)) relative to public access to the Authority's records. The Trustees are also requested to authorize the Secretary to file notice of adoption for publication in the State Register and to submit such other notice as required by statute or regulation.

BACKGROUND

"At their meeting of November 30, 1993, the Trustees adopted a resolution authorizing the Secretary to file notice for publication in the State Register of the Authority's proposed action to amend Part 453 of its Rules and Regulations relative to public access to the Authority's records.

DISCUSSION

"As set forth in the minutes of the meeting of November 30, 1993 (attached hereto as Exhibit `9-A'), the Authority is amending Part 453.2(e) to extend the period during which the Authority must respond to Freedom of Information Law (`FOIL') appeals from seven to ten business days and to reflect the redesignation of the Committee on Public Access to records as the Committee on Open Government. Also the Authority is amending Parts 453.1(a) and 453.2(a)(1) to reflect the Authority's current New York City office address.

RECOMMENDATION

"The First Assistant General Counsel recommends that the Trustees approve the proposed amendments in the form attached hereto as a final action and further authorize the Secretary of the Authority to file notice of adoption for publication in the State Register and to submit such other notice as required by statute or regulation.

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

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

**RESOLVED, That the proposed amendments to Part 453 of the Authority's Rules and Regulations (21 NYCCR 453 (1982)) concerning public access to records are approved as recommended in the foregoing report of the President by modifying the language contained in sections 453.1(a), 453.2(a)(1) and 453.2(e) substantially in the form set forth in Exhibit "9-B"; and be it further**

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

**Exhibit "9-B"**  
**February 22, 1994**

Section 453.1, paragraph (a) to read:

- (a) The public records of the Power Authority of the State of New York, which are required to be made available under Article 6 of the New York Public Officers Law, shall be available for inspection and copying upon written request, reasonably describing the record or records sought, during the times provided in this Part at the authority's main office at 1633 Broadway, 22nd Floor, New York, NY 10019.

Section 453.2, paragraph (a) to read:

- (a) A request for inspection or copying of a public record of the authority shall be made to the secretary of the authority in writing, and shall contain sufficient information to identify the particular record sought, including, if possible, information regarding the date, file designation or other information describing the record sought. Any request shall be made either: (1) in person during regular business hours at the authority's main office at 1633 Broadway, 22nd Floor, New York, NY 10019; or (2) by mailing such request, postage prepaid, to the Secretary, Power Authority of the State of New York, at the aforesaid address.

Section 453.2, paragraph (e) to read:

- (e) Any person who is denied access to a public record of the authority by the secretary of the authority may, within 30 days of such denial, file an appeal from such denial with the authority's general counsel. Appeals pursuant to this subdivision shall be decided by the general counsel. If an appeal is denied, the reasons therefor shall be explained fully in writing to the person requesting the record within ten business days of the date on which such appeal is received by the general counsel. The general counsel will forward to the Committee on Open Government a copy of such appeal and the determination thereon.

**10. Niagara Power Project - Conveyance of Map Number 315-C,  
Parcel 3254 to the Lewiston Limited Partnership**

The President submitted the following report:

SUMMARY

"The Trustees are requested to authorize the sale of 2.08 acres of land located in the Town of Lewiston, Niagara County, Map Number 315-C, Parcel 3254, to the Lewiston Limited Partnership ('LLP') for the sum of \$3,760.

BACKGROUND

"In September 1993, the LLP contacted Real Estate Division staff requesting a purchase of property from the Authority. LLP is the owner of Lewiston Country Estates located on property north of the Niagara Project Power Reservoir on Upper Mountain Road. Lewiston Country Estates is a 25-unit apartment complex constructed in 1990 and financed under a low interest loan from the Department of Agriculture Farmer's Home Administration. Its purpose is to provide housing for rural elderly. The New York State Division of Housing and Community Renewal provides rent subsidies according to tenants' income.

"The 25-unit complex developed in 1990, has been so successful that there is a 100-person waiting list to obtain an apartment. Vacancy per year is approximately three units. The Authority sold 3.44 acres of property to LLP in 1989 which remains undeveloped except for landscaping. LLP is now proposing to add two additional 25-unit complexes under financing similar to that used for the existing development.

"Town of Lewiston ('Town') zoning density requirements specify one acre for every five rental units. LLP currently owns 10 acres of property on which the existing 25-unit complex is located. In order to meet Town requirements needed to construct the two proposed 25-unit complexes, LLP is acquiring approximately 3 acres from an adjacent landowner and has requested to purchase approximately 2 acres from the Authority. Prior to construction, LLP must obtain a zoning variance and obtain Town Board approval of the project. The Town Board of the Town of Lewiston is the lead agency under the State Environmental Quality Review Act ('SEQRA') for the expansion. It is expected that the Town Board will vote to issue a negative declaration at its next meeting. The attached resolution includes a provision under which the property to be conveyed by the Authority to LLP will revert to the Authority if the proposed expansion is not completed within three years of the date of the transfer.

DISCUSSION

"The Authority property requested by LLP is located approximately 500 feet north of the Niagara Project Pump Storage Reservoir. The property was acquired at the time the Niagara Power Project was constructed. The subject property includes 0.57 acres lying within the Federal Energy Regulatory Commission ('FERC') Niagara Project boundary and 1.51 acres lying outside the boundary. The portion within the project boundary is wholly encumbered by a permanent easement granted to the Niagara Mohawk Power Corporation for existing and future transmission lines. The 1.51-acre parcel lying outside the project boundary was previously designated as surplus to the Authority's needs and made available for sale. The sale of the 0.57 acres lying within the Niagara Project boundary would be subject to review by FERC, after the Authority completes consultation with interested federal and state agencies.

February 22, 1994

"It has been agreed by LLP that it would be responsible for the cost of survey. Therefore there will be no direct expenses borne by the Authority. Market research of property sales in the immediate area results in an appraised value of \$3,760. The market data and resultant appraisal have been reviewed by the Director of Real Estate and found to represent the fair market value.

FISCAL INFORMATION

"Proceeds of the sale would be returned to the General Reserve Fund.

RECOMMENDATION

"The Director - Real Estate, the Director - Environmental Programs, and the Resident Manager - Niagara Power Project recommend that subject to FERC approval, the Authority approve the sale of the 2.08 acres shown and described on Map 315-C 3254 to Lewiston Limited Partnership for the total appraised value of \$3,760 and that such conveyance be conditioned on use of the property for the stated purpose within three years.

"The Vice President - Production - System Operations, the Vice President - Procurement and Real Estate, the Senior Vice President and General Counsel, the Executive Vice President - System Operations, the Executive Vice President - Finance and Administration, and I concur in the recommendation."

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

**RESOLVED, That the Authority, subject to the Federal Energy Regulatory Commission's acceptance of this proposal in accordance with its procedures, hereby approves the sale of the lands in the Town of Lewiston, Niagara County, New York, acquired by the Authority by purchase in its own name substantially as shown and described on Power Authority of the State of New York, Map 315-C Parcel 3254, comprising 2.08 acres to the Lewiston Limited Partnership for \$3,760. Such sale is to be made by the Authority on the condition that title to said lands revert to the Authority in the event Lewiston Limited Partnership does not obtain approval and complete the expansion of the senior citizens' apartment complex within three years from the date of this resolution. The Authority hereby determines that such sale by the Authority under conditions substantially as specified above is on terms beneficial to the Authority and will not result in significant adverse environmental impacts; and be it further**

**RESOLVED, That the President is authorized to execute on behalf of the Authority an agreement with the Lewiston Limited Partnership for the sale of the property substantially as shown and described on Power Authority of the State of New York, Niagara Power Project, Niagara County, Map No. 315-C on terms substantially as set forth above and in the foregoing report of the President; and be it further**

**RESOLVED, That the President is authorized to execute and deliver to the Lewiston Limited Partnership in accordance with said agreement on behalf of the Authority in such form as approved by the General Counsel of the Authority, a quitclaim deed of the lands shown and described on Power Authority of the State of New York, Niagara Power Project, Niagara County, Map 315-C; and be it further**

**February 22, 1994**

**RESOLVED, That the President, the Senior Vice President and General Counsel or the Director - Real Estate of the Authority be, and hereby is, authorized on behalf of the Authority, to execute any and all other agreements, papers or instruments which may be deemed necessary or desirable to carry out the foregoing.**

February 22, 1994

**11. Proposed Amendments to the By-Laws of the Authority**

The General Counsel submitted the following report:

SUMMARY

"Pursuant to Article IX, Section 1 of the Authority's By-laws, the Trustees are requested to amend applicable sections of such By-laws in order to reflect the authority intended to be vested in the newly-appointed President by virtue of his designation as Chief Executive Officer of the Authority. The text of the proposed amendments is set forth in Exhibit `11-A'. They should be in effect from the date of their adoption by the Trustees until the earlier of 1) March 1, 1997, or 2) the termination of the employment of S. David Freeman. On such date the By-laws would revert, without further action by the Trustees, to the text in effect immediately prior to the amendments proposed in this memorandum as set forth in Exhibit `11-A'.

BACKGROUND

"Article IX, Section 1 of the Authority's By-laws provides that the Trustees shall have the power to amend, alter or repeal any provision or provisions of these By-laws at any regular or special meeting. The Trustees most recently adopted amendments to the By-laws in February 1989, primarily to establish an Office of the Chairman in place of the Office of External Affairs and to establish separate Offices of Nuclear Generation and System Operations.

DISCUSSION

"At their meeting of January 25, 1994, the Trustees appointed S. David Freeman as President and Chief Executive Officer of the Authority. In order to implement the Trustees' action at such meeting the By-laws are being amended as set forth in Exhibit `11-A'.

"The amended By-laws would continue in force until March 1, 1997, or the earlier termination of employment of S. David Freeman. At such time, the By-laws proposed in this memorandum would revert, without further action by the Trustees, to the text in effect immediately prior to the amendments proposed in this memorandum as set forth in Exhibit `11-A'.

FISCAL INFORMATION

"There is no fiscal impact.

RECOMMENDATION

"It is recommended that the proposed amendments to the By-laws of the Authority as set forth (Exhibit `11-A' attached hereto) be adopted."

February 22, 1994

*Vice Chairman Frey stated that the proposed changes reflect the substance of the Authority's employment agreement with Mr. S. David Freeman, which appoints him as President and Chief Executive Officer ("CEO"). The Vice Chairman added that these amendments would expire automatically on the occurrence of the earlier of either Mr. Freeman's separation from employment, or March 1, 1997, and that the By-laws would revert to their prior form without the necessity of further action by the Trustees. At the Vice Chairman's request, Mr. Pratt summarized the principal provisions of the amendments.*

*Trustee Miller stated that he had not supported the January 25th resolution authorizing the employment contract, and that he would not support the proposed amendments for the same reasons; i.e., the ongoing process represents an unwarranted cession of the Trustees' powers as a body and as individuals. Trustee Miller stated that for the last 50 years, the Authority's Board of Trustees has played an outstanding role in areas such as economic development by acting as a board rather than as representatives of specific commercial enterprises or political groupings; that although heretofore he had felt honored to serve as a Trustee, as a result of recent developments the Board members and the Acting Chairman have relinquished important powers and have kept only limited areas of decision-making which are either vaguely defined as policy-making or are trivial, such as approving meeting dates and locations. Trustee Miller further stated that he views these actions as an abdication of powers and responsibilities by the Board members and tantamount to comprising a "rubber stamp" as well as a violation of the Trustees' oath of office.*

*Vice Chairman Frey stated that the proposed amendments would implement the employment agreement which the Trustees had approved and that the employment of Mr. Freeman is a positive development. He stated that the amendments provide for a continuation of the Trustees' role as the Authority's policy makers and noted that the Management Committee will continue to function. He stressed the need for all Board members to work together to resolve the Authority's problems in an economic climate which has completely changed the pricing and marketing of electricity, and stated that Mr. Freeman will be instrumental in addressing these changes. In response to a question raised by Trustee Miller, the Vice Chairman explained that the Corporate Secretary now reports to the*

***General Counsel who will continue to report to the Trustees as well as to the President.***

February 22, 1994

*Trustee Waldbauer stated that he understands the basis for Trustee Miller's observations; however, as a Trustee he is aware of the vast amount of work lying ahead and will support the amendments.*

*Trustee Duch stated her objections to Trustee Miller's characterization of the Trustees as serving as "rubber stamps" for political purposes. She stated that Mr. Freeman's talents are needed by the Authority and that the Trustees will remain the policy makers, as is appropriate. She stressed that each of the Trustees have been greatly concerned with events at the Authority and that now is the time for pulling and working together in making difficult but necessary decisions.*

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

**RESOLVED, That the By-laws of the Power Authority of the State of New York, as adopted December 18, 1984 and last amended February 28, 1989, pursuant to Section 1004 of Title 1 of Article 5 of the Public Authorities Law, as amended, be further amended pursuant to said statute as set forth in Exhibit "11-A" for a period ending on the earlier of 1) March 1, 1997, or 2) the termination of the employment of S. David Freeman. On such date the By-laws shall revert, without further action by the Trustees, to the text in effect immediately prior to the amendments proposed in the foregoing report of the General Counsel.**

**February 22, 1994**

**12. Next Meeting**

The next Regular meeting of the Trustees will be held on **Tuesday, March 29, 1994**, at the **New York Office** at **10:00 a.m.**, unless otherwise designated by the Chairman with the concurrence of the Trustees.

**13. Motion to Conduct Executive Session**

"Mr. Chairman, I move that the Authority conduct an executive session in connection with matters leading to its employment of services of persons and corporations." Upon motion duly made and seconded, an executive session was held.

February 22, 1994

**14. Procurement (Services) Contract - Niagara Power Project Upgrade - Installation Services Turbines Contract - Voith Hydro, Inc. - Award**

The President submitted the following report:

SUMMARY

"The Trustees are requested to approve the award of a contract in the amount of \$3,251,810 to Voith Hydro, Inc. ('Voith') of York, PA to install two new turbines and a set of fairing plates on a third unit as part of the upgrade of Robert Moses Niagara Power Project ('RMNPP') generating units.

BACKGROUND

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

"At their meeting of August 31, 1993, the Trustees approved additional capital expenditures of \$40.2 million for the upgrade of two units and installation of fairing plates on a third unit at the RMNPP. The cost of the turbine installation services is included in the additional capital expenditure of \$40.2 million.

"The existing 13 generating units at the RMNPP are each rated at 150 MW, with the design overload capability of approximately 175 MW. These are the original units placed in service in 1961.

"The objective of the RMNPP Upgrade is to increase generating capacity of all 13 units from 175 MW to 200 MW each, to improve operating efficiency, and to provide for life extension through replacement or improvement of major equipment components which have deteriorated after 32 years of operation.

"Installation and testing of the upgrade prototype unit was completed in June 1993. Performance of the upgraded unit meets or exceeds the design objectives and its operating efficiency is higher than that of the existing units. The prototype unit continues to operate at an average output level of 200 MW as compared to an average operating level of 160 MW for the existing units.

"The total estimated cost of upgrading the remaining 12 units is \$210 million in present day dollars. On December 21, 1993, the Federal Energy Regulatory Commission ('FERC') issued an order extending the deadline for completion of construction at the Niagara Power Project until August 31, 2003.

DISCUSSION

"In October 1993, the Authority requested proposals for installation services of two new turbines at RMNPP from ten selected companies. In addition, a public notice was placed in the New York State Contract Reporter. A site visit was conducted on October 30, 1993, in order to provide an opportunity for the bidders to view a previously upgraded unit. Of 16 companies that obtained the bid documents, proposals were received on November 23, 1993,

February 22, 1994

from the following four companies:

<u>BIDDER</u>	<u>BID AMOUNT</u>
Voith Hydro, Inc. - York, PA	\$3,067,830
East Coast Management - Haverford, PA	\$3,200,000
Siemens Power Corp. - Milwaukee, WI	\$4,043,515
NPS Energy Services, Inc. - Ontario, NY	\$4,139,666

"The proposals were evaluated independently by the Authority's evaluation committee and the Authority's Engineer, Parsons Main of New York, Inc.

"Siemens Power Corporation's and NPS Energy Services' bid prices are 32-35 percent higher than the low bid price, and were not given further consideration.

"As a result of post-bid changes in the requirements for paint material and disposal of lead based original paint, the two low bidders were requested to provide additional pricing information. Voith submitted an increase to its bid price of \$107,980. East Coast Management confirmed that it will perform the additional work at no change to its bid price.

"Voith provided clarification to its proposal indicating that an item of work they valued at \$76,000 was included in the bid proposal as an optional item instead of a part of the lump sum bid price.

"Voith is the supplier of new turbines and accessories for the upgrade of RMNPP, and as such is responsible for meeting turbine efficiency performance guarantees. In accordance with the Voith procurement contract, the performance guarantees are subject to Voith providing technical supervision during turbine installation. Voith's proposal for the installation services includes the cost of such supervision. If East Coast Management were to perform the turbine installation, a separate contract would be required with the turbine supplier, Voith, for field supervision at an added cost of approximately \$140,000.

"The final adjusted prices of the two low bidders are as follows:

<u>VOITH HYDRO</u>	<u>EAST COAST</u>	<u>ITEM</u>	<u>MANAGEMENT</u>
Bid Price	\$3,200,000		\$3,067,830
Added Scope of Work	- 0 -	107,980	
Adjustments to Bid Price	<u>140,000</u>	<u>76,000</u>	
Total Evaluated Price	<u>\$3,340,000</u>		<u>\$3,251,810</u>

"Parsons Main's cost estimate for the installation of two turbines and fairing plates is \$3,340,400.

February 22, 1994

"Both Parsons Main and the Authority's evaluation committee recommend the installation services contract be awarded to Voith, based on the lowest evaluated cost and its record with the satisfactory installation of the RMNPP upgrade prototype turbine.

FISCAL INFORMATION

"Payment will be made from the General Reserve Account.

RECOMMENDATION

"The Project Manager, the Resident Manager - Niagara Power Project, the Vice President and Chief Engineer - System Operations, the Vice President - Production - System Operations, and the Vice President - Project Management - System Operations recommend that the Trustees approve the award of a contract to Voith Hydro, Inc. in the amount of \$3,251,810 for installation services of two new turbines and a set of fairing plates on a third unit at the Robert Moses Niagara Power Project.

"The Vice President - Facilities Controller, the Vice President - Procurement and Real Estate, the Senior Vice President and General Counsel, the Executive Vice President - System Operations, and I concur in the recommendation."

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

**RESOLVED, That the Trustees of the Authority hereby: (1) authorize the payment to the Authority of funds available in the General Reserve Account for the lawful corporate purpose of installing two new turbines and a set of fairing plates on a third unit as part of the upgrade of Robert Moses Niagara Power Project generating units; and (2) determine that there is available from the General Reserve Account, and not needed for the purposes specified in paragraphs 1 through 4 of Section 512 of the General Purpose Bond Resolution, monies in an amount not to exceed \$3,251,810 which shall be paid over to the Authority for such lawful corporate purpose.**

**RESOLVED, That pursuant to the Guidelines for Procurement Contracts adopted by the Authority, the award of a contract is hereby approved for the installation services for two new turbines and a set of fairing plates on a third unit at the Robert Moses Niagara Power Project in the amount listed below:**

<u>Capital</u>	<u>Contract Approval</u>
<b>Installation Services</b>	
<b>Voith Hydro, Inc.</b>	<b><u>\$3,251,810</u></b>

February 22, 1994

**Closing**

On motion made and seconded, the meeting was closed at 4:55 p.m.

Anne Wagner-Findeisen  
Corporate Secretary

FEBMINS.94