



**NY Power
Authority**

**Canal
Corporation**

**MINUTES OF THE SPECIAL JOINT MEETING OF THE
NEW YORK POWER AUTHORITY AND CANAL CORPORATION
GOVERNANCE COMMITTEE**

JANUARY 30, 2019

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Minutes of the special joint meeting of the New York Power Authority and Canal Corporation's Governance Committee held at the Clarence D. Rappleyea Building, 123 Main Street, White Plains, New York, at approximately 8:35 a.m.

The following Members of the Governance Committee were present:

Eugene Nicandri, Acting Chair
John Koelmel
Dennis Trainor

Dr. Anne Kress - excused
Anthony Picente, Jr. - excused

Also in attendance were:

Gil Quiniones	President and Chief Executive Officer
Joseph Kessler	Executive Vice President and Chief Operating Officer
Justin Driscoll	Executive Vice President and General Counsel
Kristine Pizzo	Senior Vice President - Human Resources and
Karen Delince	Vice President and Corporate Secretary
Joseph Gryzlo	Vice President and Chief Ethics & Compliance Officer
Daniella Piper	Vice President - Digital Transformation/Chief of Staff
Karina Saslow	Vice President - Total Compensation & HRIS
Richard Smith	Director Business & Project Development
Lorna Johnson	Senior Associate Corporate Secretary
Sheila Quatrocci	Associate Corporate Secretary

Acting Chair Eugene Nicandri presided over the meeting. Corporate Secretary Delince kept the Minutes.

Introduction

Acting Chair Nicandri welcomed committee members and Authority senior staff to the meeting. He said the meeting had been duly noticed as required by the Open Meetings Law and called the meeting to order pursuant to Section B(4) of the Governance Committee Charter.

1. **Adoption of the Proposed Meeting Agenda**

Upon motion made by Member Dennis Trainor and seconded by Member John Koelmel, the Agenda for the meeting was adopted.

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

“Mr. Chairman, I move that the Committee conduct an executive session to discuss matters leading to the appointment, employment, promotion, demotion, discipline, suspension, dismissal or removal of a particular person or corporation (pursuant to section 105 of the Public Officers Law).” On motion made by Member Dennis Trainor and seconded by Member John Koelmel, the members held an Executive Session.

3. **Motion to Resume the Meeting in Open Session**

“Mr. Chairman, I move to resume the meeting in Open Session.” On motion made by Member Dennis Trainor and seconded by Member John Koelmel, the meeting resumed in Open Session.

4. CONSENT AGENDA:

Upon motion made by Member Dennis Trainor and seconded by Member John Koelmel, the Consent Agenda and Reports provided by staff to members of the of the Governance Committee were approved.

a. Committee Appointments

The Authority's Chairman, John Koelmel, provided the following report:

"SUMMARY

The Governance Committee is requested to review the committee appointments indicated below and to recommend its adoption to the Authority's Trustees and the Canal Corporation's Board of Directors.

BACKGROUND and DISCUSSION

The following changes in committee composition are recommended for adoption (Change indicated in **bold**.)

Audit Committee

Eugene L. Nicandri (Chair), John R. Koelmel, Anthony J. Picente, Jr., Tracy B. McKibben, **Dennis G. Trainor**

Finance Committee

Tracy B. McKibben (Chair), John R. Koelmel, Anne M. Kress, Michael A. L. Balboni, **Dennis G. Trainor**

Governance Committee

Anne M. Kress (Chair), John R. Koelmel, Eugene L. Nicandri, Jr., Dennis G. Trainor, **Michael A. L. Balboni**

Cyber and Physical Security Committee

Michael A.L. Balboni (Chair), John R. Koelmel, Eugene L. Nicandri, Tracy B. McKibben, **Anthony J. Picente, Jr.**

RECOMMENDATION

I recommend the above-requested action."

The following resolution is recommended for adoption by the Authority's Trustees and the Canal Corporation's Board of Directors.

RESOLVED, That the Governance Committee recommends that the Trustees and the Canal Board of Directors adopt the following Committee Appointments:

RESOLVED, That the members of the Audit Committee shall be: Eugene L. Nicandri (Chair), John R. Koelmel, Anthony J. Picente, Jr., Tracy B. McKibben, Dennis G. Trainor; and be it further

RESOLVED, That the members of the Finance Committee shall be: Tracy B. McKibben (Chair), John R. Koelmel, Anne M. Kress, Michael A. L. Balboni, Dennis G. Trainor; and be it further

RESOLVED, That the members of the Governance Committee shall be: Anne M. Kress (Chair), John R. Koelmel, Eugene L. Nicandri, Jr., Dennis G. Trainor, Michael A. L. Balboni; and be it further

January 30, 2019

RESOLVED, That the members of the Cyber and Physical Security Committee shall be: Michael A.L. Balboni (Chair), John R. Koelmel, Eugene L. Nicandri, Tracy B. McKibben, Anthony J. Picente, Jr.

5. **DISCUSSION AGENDA:**

a. **New York Power Authority Ethics and Compliance Program**

The Vice President and Chief Ethics & Compliance Officer submitted the following report:

SUMMARY

The Office of Ethics and Compliance ('E&C Office') advises NYPA's trustees, officers and employees on the legal, regulatory and NYPA Code of Conduct ethics and compliance standards relating to NYPA's employees and operations. It coordinates the investigation of allegations and concerns involving NYPA's assets and employees. This report highlights significant developments in NYPA's ethics and compliance program for the period October 2, 2018 to January 30, 2019.

BACKGROUND

The principal substantive issues arising under the NYS ethics laws and NYPA's Code of Conduct investigated or researched since the most recent Governance Committee report include various requests to engage in outside activities and employment, several allegations, gifts reporting, paid volunteer time reviews, nepotism and post-employment analyses.

Discussion

The E&C Office reviewed approximately 130 inquiries since its last report to the Governance Committee. There were a significant amount of outside activities reviews, including various Paid Volunteer Time ('PVT') requests. The PVT Employee Guidelines allow management employees to take up to two days of paid time off each year to volunteer their time to eligible charities and other tax-exempt or tax-deductible not-for-profit organizations either in their individual capacity or alternatively, as part of a NYPA team event. Many of these requests are for departmental groups to volunteer together on a project to foster professional relationships and teamwork to enhance productivity in the workplace. The E&C Office reviews each PVT request to ensure the absence of conflicts of interest among NYPA's interests, the participating employees and recipient organizations.

The E&C Office was consulted regarding various business units' utilization of contractors and contingent labor in 2018. Issues included concerns from business partners that their competitors may have access to confidential pricing data and labor rates through invoices and contract documents, potential self-dealing for additional work outside of the competitive bidding process and failure to conduct comprehensive conflict of interest reviews which resulted in the termination of several consulting engagements.

Additionally, the E&C Office learned that the Strategic Supply Management ('SSM') department was embarking on a supplier relationship management ('SRM') model with several of NYPA's largest vendors. This type of program has been implemented in the private sector for many years but has not yet been widely implemented by the public sector. Its model requires that both parties meet regularly to share best and leading practices and intends to leverage the research and development departments of these large companies to assist NYPA in meeting its innovative business goals. Companies appreciate this relationship as it often provides them the opportunity to present ideas for future business directly to those who may benefit most from the knowledge. This relationship model led to a review of the Public Officers Law conflict of interest provisions. The E&C Office coordinated a working group from SSM and the Law Department to mitigate risk within the SRM program to ensure transparency and establish controls so that NYPA business partners are not offered any unfair advantages or business opportunities outside of the competitive procurement process.

2018 Employee Concerns Line Activity

There were eleven (11) allegations submitted through the outsourced Employee Concerns Line (877-TEL-NYPA). Five (5) related to activities at the White Plains headquarters, four (4) at the St. Lawrence/FDR Project and two (2) at the Niagara Project. Ten (10) of the (11) reports were submitted anonymously. There were approximately fifty (50) communications with the Concerns Line vendor, including initial claims reports, NYPA follow-up inquiries and investigation reports and incident updates. The majority of the allegations involved employee relations issues and alleged policy or collective bargaining agreement violations. Each of the allegations were investigated by the applicable NYPA department (i.e., Ethics and Compliance, Human Resources Employee Relations or Facility Human Resources, Office of Civil Rights and Inclusion, Internal Audit). Investigation summaries and conclusions were reported through the Concerns Line vendor.

The Employee Concerns Line is well publicized throughout NYPA's facilities and in various Company and Employee policies. Allegations relating to NYPA's employees, business partners and assets are reported through various channels. These include anonymous or direct reports to line management, Ethics and Compliance, Human Resources, Civil Rights and Inclusion, Internal Audit and Physical Infrastructure Security, as well as referrals from the NYS Inspector General's Office and the NYS Joint Commission on Public Ethics. The Employee Concerns Line has proven to be an effective method for resolving employee concerns.

Financial Disclosure and JCOPE Pilot Project

NYPA's E&C Office is completing the annual Financial Disclosure review for the mandatory calendar year 2018 filing due on May 15, 2019. This review includes verification of each required filer's name, mailing address, e-mail address, title, salary and filer designation as either a policy maker ('PM') or a threshold and over ('TO') filer. Completed verifications for NYPA, the Canal Corporation and all affiliated boards (Economic Development Power Allocation Board, Northern and Western New York Power Proceeds Allocation Boards, Canals Recreationway Commission) are to be submitted to the New York State Joint Commission on Public Ethics ('JCOPE') by February 28, 2019.

NYPA was one of three state agencies/authorities asked to participate in a pilot program to review filing exemptions in the Financial Disclosure Statement ('FDS') program. This review has not been conducted by JCOPE in over 30 years and will likely result in full application to all other state agencies and authorities after the three pilot program agencies have completed their analyses and recommendations.

JCOPE provided NYPA with a list of over 850 statewide job titles that had been previously categorized as exempt, including historic titles from the time that NYPA owned nuclear facilities. NYPA was asked to verify the number of employees in each of those titles, to provide a list of all employees serving in each title and to remove any titles no longer in use. NYPA was also asked to verify the status of all employees who had applied for and been granted an individual exemption from filing the FDS.

Exemptions from filing financial disclosure are based upon job description duties. To be exempted under the FDS program, job descriptions cannot include any of the following duties:

- the negotiation, authorization, or approval of contracts, leases, franchises, revocable consents, concessions, variances, special permits, or licenses as defined in Section 73 of the Public Officers Law;
- the purchase, sale, rental or lease of real property, goods or services, or a contract therefor;
- the obtaining of grants of money or loans; or
- the adoption or repeal of any rule or regulation having the force and effect of law.

The E&C Office completed its initial review of the catalogue of exempt titles and will recommend to JCOPE that title exempt positions which correspond to titles included in all current collective bargaining agreements ('CBA') remain exempt positions for purposes of the Financial Disclosure program. This list includes approximately 125 titles currently included in the IBEW and UWUA CBAs and covers approximately 105 NYPA employees in 15 titles. Employees serving in these titles have no job responsibilities under the Public Officers Law categories outlined above.

NYPA will recommend to JCOPE that all other title exemptions be revoked and reviewed individually against current job descriptions. There are currently 168 NYPA employees serving in 51 titles that are on the active title exemption list, and 48 who hold individual exemptions.

Public Authorities Law § 2800(1) (a) (5-a) ('PAL'), requires all Authorities to include in their annual report filed with various State officials and agencies non-confidential and non-personal biographical information relating to its directors (Trustees), officers and employees who hold a decision-making or managerial position and whose salary exceeds \$100,000 in annual compensation. In reviewing the title and individual exemption lists provided by JCOPE, the E&C Office determined that the differential between the 2018 FDS filing threshold and that of the PAL disclosure were similar enough that inclusion in the PAL filing should necessitate a new review of exemptions under the FDS categories above.

These recommendations will be discussed with JCOPE prior to implementing any changes to the structure of the FDS program at NYPA. It is the E&C Office's recommendation that this change not occur before the May 15, 2019 filing deadline for the 2018 FDS. Employees serving in exempt positions during the course of 2018 should not be expected to file a financial disclosure statement for a period in which they were officially exempt and had no expectation of filing.

Should JCOPE agree with NYPA's suggested approach, the E&C Office will work with Human Resources to ensure that all employees serving in TO positions have current, updated job descriptions to use in the event they choose to apply for an individual exemption in their titles. NYPA will only apply for title exemptions for titles covered by future collective bargaining agreements.

Training and Outreach

The E&C Office continues to offer monthly JCOPE Comprehensive Ethics Training Course ('CETC') sessions to new hires and employees who transfer into positions requiring financial disclosure. Nine sessions have been scheduled through 2019. The Office has delivered customized training to various departments on key components of the Public Officers Law and NYPA Code of Conduct, as well as Project Sunlight protocols.

The E&C Office will use the newly installed variable message boards throughout NYPA facilities to make program announcements and provide reminders to employees regarding reporting requirements, financial disclosure deadlines, upcoming training and as a tool to engage employees.

Compliance Reporting

The E&C Office maintains an electronic inventory of mandatory statutory and regulatory reports required to be created and submitted to external parties. The database identifies the report, responsible department/business unit, statutory/regulatory requirement, submission date and recipients, as well as the Law Department attorney responsible for legal support. The database also identifies all training initiatives required to be undertaken by NYPA's Trustees, officers and employees.

In accordance with established procedures, the designated subject matter experts review each reporting and training requirement to verify that all mandates have been met and identify any new or outdated items. Subsequently, the business unit heads are requested to certify that all of their content has been reviewed and is accurate. Lastly, the designated attorneys review the content and certifications to validate compliance with applicable statutes, regulations or other standards.

These checks and balances mitigate the risk of non-compliance and reputational damage. The electronic inventory is a key component of NYPA's overall compliance program and provides a user-friendly, transparent tool for tracking key requirements."

b. Canal Corporation Ethics and Compliance Program

The Vice President and Chief Ethics & Compliance Officer submitted the following report:

SUMMARY

The Office of Ethics and Compliance ('E&C Office') advises the NYS Canal Corporation ('Canals') directors, officers and employees on the legal, regulatory and Code of Conduct ethics and compliance standards relating to Canals employees and operations. It coordinates the investigation of allegations and concerns involving Canals assets and employees. This report highlights significant developments of the Canals ethics and compliance program since the most recent Governance Committee meeting on October 2, 2018.

BACKGROUND

NYPA's E&C Office is responsible for the Canals Ethics & Compliance Program, provides interpretative guidance to Canals staff and facilitates Canals compliance with applicable rules and regulations. The principal substantive issues arising under the Public Officers Law investigated or researched since the most recent Governance Committee report include requests to engage in outside activities and employment, gifts reporting, nepotism and conflict of interest analyses.

DISCUSSION

Outside employment and activities reviews during this reporting period included a county election poll worker, an uncompensated position on the Albany Port District Commission, a Times Union mail room assistant and a home based business creating and selling holiday wreaths and decorations.

A Canals director was asked to make several out-of-state presentations as a result of a presentation she gave at the World Canals Conference in Ireland. The employee was offered travel and living expenses to attend. The E&C Office recommended that she not accept these gifts since she would be traveling on Canals' time and these activities were directly related to her official duties.

FINANCIAL DISCLOSURE

Preparation for the NYS Joint Commission on Public Ethics ('JCOPE') 2018 Financial Disclosure program is underway and final updated profile information is due at JCOPE by February 28, 2019. This annual review for both the Canal Corporation and the Canal Recreationway Committee will be completed and submitted by the deadline. The E&C Office will facilitate financial disclosure filers' timely compliance with this annual reporting requirement.

Financial Disclosure forms must be submitted by May 15, 2019.

TRAINING AND OUTREACH

The E&C Office developed a comprehensive computer-based training to be delivered to Canals employees as the result of a previously reported concern related to procurement practices. The allegation concerned a purchasing clerk in one of the divisions purchasing goods from a business owned by a relative. The clerk claimed to be unaware of the restrictions in the Public Officers Law related to conflicts of interest, including unwarranted privileges and appearances of impropriety. As a result, a multi-topic training was developed and is currently under review by the Strategic Supply Management department and will be delivered to all applicable Canals staff.

In late February, Canals will host an Operations Department training at its Utica Facility. The E&C Office has been asked to participate and staff members will be available to meet one-on-one with any participants with questions or suggestions to facilitate an open dialogue between staff and our office.

2018 Employee Concerns Line Activity

One (1) allegation was submitted through the outsourced Employee Concerns Line (1-877-TEL-NYPA) which related to an employee relations issue raised by a now retired Canals employee. The issue was reviewed by Canals Human Resources with support from NYPA's Human Resources and Law Department.

The Employee Concerns Line is well publicized throughout Canals and serves as one of many reporting options for concerned employees. The E&C Office works closely with Canals Human Resources and NYPA's Audit and Law Departments, Human Resources and other groups to support Canals management's efforts to maintain and promote an ethical work environment.

The E&C Office successfully facilitated the closure of a NYS Inspector General investigation by implementing the Inspector General's recommendations to enhance Canals policies and procedures relating to the use of the Canals insignia/logo and controls involving discarded Canals property. That case was initiated during the NYS Thruway Authority's oversight of Canals and was resolved after NYPA assumed responsibility for Canals.

COMPLIANCE REPORTING

The E&C Office has collaborated with Canals management to develop an inventory of mandatory statutory and regulatory reports required to be created and submitted with external parties. The inventory identifies the report, responsible Canals department, statutory/regulatory requirement and submission date and recipients. In some instances, reports are generated by Canals representatives and others are prepared by NYPA staff who serve as compliance owners for certain shared services functions between the organizations.

In accordance with established procedures, the responsible Canals and NYPA subject matter experts review each reporting requirement to verify that all mandates have been satisfied and identify any new or outdated items. Canals executive management certify the content for accuracy and completion. This process ensures that effective checks and balances exist to mitigate the risk of non-compliance and reputational damage."

6. **Next Meeting**

Acting Chair Nicandri said that the next regular meeting of the Governance Committee is to be held on Wednesday, March 6, 2019 at a time to be determined.

Closing

Upon motion made by Member Dennis Trainor and seconded by Member John Koelmel, the meeting was adjourned by the Acting Chair of the Committee at approximately 9:04 a.m.

Karen Delince

Karen Delince
Corporate Secretary