

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

**October 31, 1995**

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

Present: Clarence D. Rappleyea, Chairman  
Thomas R. Frey, Vice Chairman  
John B. Daly, Trustee  
Hyman M. Miller, Trustee  
Robert J. Waldbauer, Trustee

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Robert G. Schoenberger	President and Chief Operating Officer
Charles M. Pratt	General Counsel
John F. English	Senior Vice President - Transmission
Robert A. Hiney	Senior Vice President - Power Generation
Louise M. Morman	Senior Vice President - Marketing and Economic Development
Robert L. Tscherne	Senior Vice President - Business Services
Woodrow W. Crouch	Vice President - Project Management - Power Generation
Deborah Perry Estrin	Vice President - Human Resources
H. Kenneth Haase	Vice President - System Planning
Sally L. Irving	Vice President - Corporate Finance
Charles Lipsky	Vice President and Chief Engineer - System Operations
Philip J. Pellegrino	Vice President - Power Sales and Rates
Stephen P. Shoenholz	Vice President - Public Affairs
Joseph J. Carline	Assistant General Counsel
Ronald W. Ciamaga	Regional Manager - Northern New York
James Ford	Regional Manager - Western New York
Richard E. Kuntz	Regional Manager - Southeast New York
James J. McCarthy	Regional Manager - Central New York
Arthur Austerweil	Director - Financial Planning
Daniel P. Berical	Director - Intergovernmental Relations
Jordan Brandeis	Director - Performance Planning
Joseph J. Brennan	Director - Internal Audit
Frederick E. Chase	Director - Community Relations
Robert H. Meehan	Director - Compensation & Benefit Strategy & Design
John L. Murphy	Director - Public Information
Mark D. O'Connor	Director - Real Estate
James H. Yates	Director - Business Marketing and Economic Development
Shalom Zelingher	Director - Research and Development
Anne Wagner-Findeisen	Corporate Secretary
Laura M. Badamo	Assistant Secretary - Legal Affairs
Vernadine E. Quan-Soon	Assistant Secretary - Corporate Affairs

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Chairman Rappleyea presided over the meeting. Secretary Wagner-Findeisen kept the Minutes.

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**1. Approval of the Minutes**

The minutes of the Regular Meeting of September 27, 1995 were approved.

2. Financial Reports for the Nine Months Ended September 30, 1995

*In response to questions from Vice Chairman Frey concerning the \$15 million real property tax transition payment to the State in connection with IP3, Ms. Irving explained that the September financial report reflects that this amount had been charged against operating expenses, thus contributing to the net deficiency.*

*In response to questions from Trustee Daly concerning revenues from the Flynn Plant, Mr. Hiney explained that an additional \$1.1 million of such revenues will not be reflected until next month's financial reports since they have not yet been received from LILCO. Mr. Hiney further explained that although the Flynn Plant is highly efficient and has consistently produced at above-forecasted levels and under-projected costs, the current low price of gas makes it unlikely that the Plant will operate "profitably" in the near future. Mr. Schoenberger noted that the facility will ultimately generate net revenues. Mr. Hiney added that in the interim, staff anticipates that further net revenues will be imputed to the Authority under the terms of the power sales contract with LILCO.*

*In response to further questions from Trustee Daly, President Schoenberger and Mr. Hiney summarized the 1990 competitive bidding process for construction of the Flynn Plant in which the contract was awarded by LILCO to the Authority, and described the recent surplus of electric capacity in New York State which has kept gas prices low and resulted in lower than forecast revenues from the Plant.*

**3. Contract for the Sale of Fitzpatrick Power - Encore Paper Company, Inc. - Transmittal to the Governor**

The President submitted the following report:

SUMMARY

"The Trustees are requested to approve transmittal to the Governor of the proposed contract for the sale of 9,000 kW of Fitzpatrick Power to the Encore Paper Company, Inc. ('Encore') pursuant to Section 1009 of the Power Authority Act. (Exhibit `3-A')

BACKGROUND

"On August 29, 1995, the Trustees authorized the holding of a public hearing pursuant to section 1009 of the Public Authorities Law on the terms of a proposed contract with Encore for the sale of 7,500 kW of Fitzpatrick power.

"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 Authority's standard power allocation agreement with this company provides for a reduction in 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. Additionally, each contract will include specific energy audit and implementation requirements.

DISCUSSION

"Copies of the proposed contract were transmitted to the Governor, the Speaker of the Assembly, the Minority Leader 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. A public hearing on the proposed contract was held on October 23, 1995, at the Authority's New York office. At least 30 days' notice of the public hearing on the terms of the proposed contract was given by publication in at least six newspapers throughout New York State.

"Subsequent to the advertisement of this contract, Encore reassessed its power needs and requires an increase in the allocation from 7,500 kW to 9,000 kW. At the hearing, a representative of Encore spoke in favor of the proposed contract. He outlined Encore's plans to invest approximately \$2.25 million over 18 months following execution of the power contract. In the first quarter of 1996, expenditures of \$225,000 will be made to upgrade the converting equipment for hard wound towel production and create several new jobs. Next, \$400,000 will be dedicated to rebuild and upgrade converting equipment for napkin production; \$900,000 to increase paper production on Encore's paper machines - part of an overall goal to increase production by 15% - to 150 tons per day. Last, he noted that almost three-quarters of a million dollars will be spent to boost capabilities of production equipment, significantly adding speed and efficiency to operations. Also, at the hearing a representative on behalf of the United Paperworkers International Union spoke in favor of the proposed contract. In addition, a representative of Warren/Washington Counties Action Respite Community spoke in support of the proposed contract with Encore. Daniel Karpen, a professional engineer, spoke in favor of the proposed contract. Written statements in support of the

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proposed contracts were received from, among others, U.S. Congressman Gerald B. Solomon - Chairman Rules Committee, N.Y.S. Senator Joseph L. Bruno - President Pro Tem, and N.Y.S. Assemblyman Robert A. D'Andrea - 100th District. All written statements have been incorporated in the record of the hearing.

"Prior to the hearing, Niagara Mohawk Power Corporation ('Niagara Mohawk') questioned the proposed allocation to Encore. Niagara Mohawk contends that the Authority lacks the statutory authority to sell FitzPatrick power to Encore claiming that high load factor power can be allocated to 'attract and expand high load factor industry.' Encore's plans to expand operations at its South Glens Falls facilities, as noted in its statement at the hearing, fully satisfy the requirements of the Power Authority Act (Section 1005, 2d undesignated paragraph) that high load factor allocations be made only to manufacturers 'that will build new facilities in the authority's area of service or expand existing facilities.'

"After the public hearing the terms of the contract were reconsidered. Authority Staff finds it appropriate to modify the contract to increase the allocation from 7,500 kW to 9,000 kW as requested and to set forth in the contract Encore's expansion plan. No other modifications to the contract are being recommended. The contract submitted herewith is in the public interest.

RECOMMENDATION

"The Director - Business Marketing and Economic Development recommends that the proposed contract for the sale of 9000 kW of high load factor industrial power to the Encore Paper Company, Inc., as set forth in Exhibit '3-A', be submitted to the Governor with the recommendation that it be approved.

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

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

**WHEREAS, the Authority reached agreement with the Encore Paper Company, Inc. on the terms of the contract for the sale of high load factor industrial power; and**

**WHEREAS, copies of such contract have been transmitted to the Governor, the Speaker of the Assembly, the Minority Leader 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 at other locations throughout the State; and**

**WHEREAS, on October 23, 1995 the Authority held a public hearing on the terms of such contract 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 contract and deems it necessary and advisable to modify the contract as set forth in the attached memorandum of the President;**

**NOW THEREFORE BE IT RESOLVED, That the Authority hereby approves the form of the proposed contract for the sale of power between the Authority and the Encore Paper**

**Company, Inc. which was submitted to this meeting, and that the Authority believes such contract to be in the public interest and; be it further**

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**RESOLVED, That the Secretary shall transmit such contract 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 contract and the recommendation of the Authority that such contract be approved; and be it further**

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

**RESOLVED, That the Director - Business Marketing and Economic Development or his designee be, and hereby is, authorized to negotiate and execute any and all documents necessary or desirable to effectuate such contract.**

**4. Procurement (Services) Contract - Electric Rate  
Consulting Services - Rhema Services, Inc. - Award**

The President submitted the following report:

SUMMARY

"The Trustees are requested to approve the award of a contract to Rhema Services, Inc. ('Rhema') for a two year term with an option for an additional year at the Authority's option commencing November 1, 1995 at an estimated cost of \$320,000.

BACKGROUND

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

"The Marketing & Economic Development Business Unit ('MED') and Transmission Business Unit have an imminent need for consultant support to provide certain skills and expertise which are cost prohibitive to maintain within staff. The consultant will assist staff in addressing key issues impacting the Authority related to electric industry restructuring, and the evolving competitive environment, including the March 1995 Federal Energy Regulatory Commission ('FERC') Notice of Proposed Rulemaking ('NOPR'), and recent utility restructuring proposals in New York State.

"The major areas requiring consultant services are to: (1) assist staff in developing the theoretical bases for cost analyses for the Authority's hydroelectric facilities, nuclear fuel and fossil fuel projects; (2) provide staff with technical support in formulating, designing, proposing and implementing Authority production, ancillary service and transmission service rates that meet revenue requirements and which respond to the more competitive marketplace resulting from the federal and state driven industry restructuring; (3) assist staff in utility rate case intervention with advice and expert witness testimony at both the state and federal level; (4) advise the Authority in its regulatory role concerning municipal electric rates; (5) provide staff support in utility and customer negotiations and litigation; and (6) provide staff assistance in other rate and technical matters, such as evaluating the customer impact of Authority rate and electrotechnology proposals.

DISCUSSION

"An advertisement was placed in the New York State Contract Reporter on August 21, 1995 soliciting bids by September 19, 1995 for the provision of Electric Rate Consulting Services. Twenty-three firms received the bid documents for these services. The following five firms submitted proposals: AUS Consultants, Inc. ('AUS'); Rhema; Tenera, Inc. ('Tenera'); Metzger, Hollis, Gordon & Mortimer, Attorneys at Law ('Metzger, Hollis'); and Stone & Webster ('S&W'). Each of the respective bid documents was evaluated as to relevant experience and price. The proposals offered by Tenera and Metzger, Hollis proved to be non-responsive and were eliminated from further consideration. Neither demonstrated wholesale cost-of-service, rate design or pricing experience, while proposing higher hourly fees.

"Further evaluation proved AUS to be average in areas of required experience. Rhema Services and Stone & Webster proved to be significantly stronger in the areas of needed expertise. The experience of the Rhema Services

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and Stone & Webster proposals were closely matched with one exception: the experience of their Cost of Capital and Rate of Return witness. The Rhema Services proposal offered Dr. Keith Berry with very strong FERC and state level cost of capital and rate of return experience. Dr. Berry has prepared and presented FERC and state level expert testimony in the areas of cost of capital, cost of debt, rate of return, capital structure and various other revenue requirement issues. The cost of the Rhema Services proposal is approximately 14% less than the next most responsive proposal from Stone & Webster and about 8% lower than the AUS proposal (see Exhibit `4-A'). Rhema Services has been working with the Authority on a regular basis for the past 15 years.

"It is, therefore, recommended that the Trustees authorize the award of the Electric Rate Consulting contract to Rhema Services, Inc. on the basis that it is both the most qualified and the lowest bidder meeting the work scope requirement.

#### FISCAL INFORMATION

"The total estimated cost for the proposed contract term inclusive of the additional one year option is \$320,000. Funds will be made available from the 1995 MED uncommitted budget amounts to accommodate the needed services in 1995. Funds for the required services in 1996 and 1997 will be included in the budget submittals for those years.

#### RECOMMENDATION

"The Director - Pricing & Forecasting recommends that the Trustees approve the award of a procurement contract to Rhema Services, Inc. for a two year term, commencing November 1, 1995, with an option for an additional year at the Authority's discretion at a total estimated cost of \$320,000.

"The Vice President - Procurement and Real Estate, the Senior Vice President - Marketing and Economic Development, the General Counsel, the Senior Vice President - Transmission, the Senior Vice President - Business Services, and I concur in the recommendation."

***In response to questions from Trustee Waldbauer, Ms. Morman confirmed that the contract award would not exceed \$320,000 over the full three-year contract period. Trustee Miller questioned whether it would be more cost effective for this type of expertise to be available on a permanent, in-house basis. President Schoenberger and Ms. Morman explained that the consultants' unique know-how derives from performing continuous, ongoing work on a national scale and it would be difficult for the Authority to maintain this magnitude of expertise on an internal staffing basis, especially as this work is characterized by peaks and valleys. Ms. Morman added that the consultants do train Authority staff to perform those tasks which can be performed in-house. The Vice Chairman and Trustee Miller urged that Authority staff expertise be increased as much as practicable.***

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

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**RESOLVED, That pursuant to the Guidelines for Procurement Contracts adopted by the Authority, the award of a contract to Rhema Services, Inc. to provide rate consulting services for the Authority is hereby approved, as recommended in the foregoing report of the President, in the amount and for the purpose listed below:**

<u>O &amp; M</u>	<u>Contract Approval</u>	<u>Projected Closing Date</u>
<b>Rate Consulting Services</b>		
Rhema Services, Inc.	<u>\$320,000</u> (for 3 years)	10/31/97 (with an option to extend for an additional year)

**Exhibit `4-A`  
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**BIDDER PRICING**

<b><u>BIDDER</u></b>	<b><u>EVALUATED AVG. PRICE 1/</u></b>
Rhema Services, Inc.	\$162/hr.
AUS Consultants	\$176/hr.
Stone & Webster	\$188/hr.

1/ Inclusive of Travel & Living.

5. **Budget Information Pursuant to Section 2801  
of the Public Authorities Law**

The President submitted the following report:

SUMMARY

"The Trustees are requested to authorize the Secretary to submit budget information to the Governor and the legislative leaders pursuant to Section 2801 of the Public Authorities Law.

DISCUSSION

"Each year the Trustees are requested to authorize the Secretary to file the attached budget information (Exhibit `5-A') pursuant to Section 2801 of the Public Authorities Law which provides as follows:

Each authority or commission heretofore or hereafter continued or created by this chapter shall submit to the governor, chairman and ranking minority member of the senate finance committee and the chairman and ranking minority member of the assembly ways and means committee, for their information annually not less than sixty days before the commencement of its fiscal year, in the form submitted to its members or trustees, budget information on operations and capital construction setting forth the estimated receipts and expenditures for the next fiscal year and the current fiscal year, and the actual receipts and expenditures for the last completed fiscal year.

As requested by Executive Order No. 173, this information will also be submitted to the Division of the Budget.

RECOMMENDATION

"The Vice President - Corporate Finance recommends the Trustees' authorization to submit the attached budget information (Exhibit `5-A').

"The General Counsel, the Senior Vice President - Business Services, and I concur in this recommendation."

***In response to questions from Trustees Waldbauer and Daly concerning projected revenues, Messrs. Tscherne and Austerweil explained that the format of the report, which shows only cash receipts and cash outflow, is statutorily mandated. Because such a format tends to primarily reflect the movement of cash funds, for example from the reserves to various bond funds, it does not actually provide the full financial picture of the Authority. In connection with the 1996 budget, staff will submit comprehensive fiscal data to the Trustees before the end of the year. In response to further questions from Trustee Daly, President Schoenberger and Mr. Tscherne explained that***

***staff will soon submit forecasts of power generation to the Trustees.***

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***In response to questions from Trustee Miller, Mr. Tscherne confirmed that the \$324 million categorized as "Escrow and Open Market Bond Purchases" has already been expended for open market purchases or the legal defeasance of bonds, and that accordingly, monies held in escrow for the Series V bonds reflect a legal defeasance, following which the cash asset and the debt liability were removed from the Authority's books.***

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

**RESOLVED, That the Secretary be, and hereby is, authorized to submit to the Governor, the Chairman and Ranking Minority Member of the Senate Finance Committee, the Chairman and Ranking Minority Member of the Assembly Ways and Means Committee, and the Division of the Budget, the attached budget information on operations and capital construction setting forth the estimated receipts and expenditures for the next fiscal year and the current fiscal year, and the actual receipts and expenditures for the last completed fiscal year in accordance with the foregoing report of the President.**

**6. Procurement (Services) Contracts - Refrigerator  
Contracts - Public Housing Energy Efficiency Program -  
General Electric and Maytag Corporation - Awards**

The President submitted the following report:

SUMMARY

"The Trustees are requested to approve the award of material procurement contracts to General Electric ('GE') and Maytag Corporation ('Maytag') for the purchase of the most efficient refrigerators available for the Authority's Public Housing Energy Efficiency Program. The contracts will have a term of one year, with an option to extend the contract for GE for one year. The total cost of the contracts will not exceed \$12.7 million.

BACKGROUND

"Section 2879 of the Public Authorities Law and the Authority's Guidelines for Procurement Contracts require the Trustees' approval for procurement contracts involving services to be rendered for a period in excess of one year or for contracts in excess of \$3 million.

"At their meeting of February 28, 1995, the Trustees approved \$40 million in funding for a Southeast New York Public Housing Energy Efficiency Program ('Program'). Through this Program, the Authority will provide turn-key installation of energy efficient electrical equipment such as refrigerators, window air conditioners, lighting, efficient elevator and ventilation motors, and laundry equipment. The center piece of this program will be the procurement and installation of high efficiency refrigerators. This program is contingent upon such customers executing long term agreements for the sale of Authority power by the end of the year. On June 20, 1995, the New York City Housing Authority ('NYCHA') executed such an agreement and will be the primary participant in the Program. Of the remaining 11 public housing authority customers in Westchester County, seven have also signed long term agreements.<sup>1</sup>

DISCUSSION

"Program staff working in conjunction with the NYCHA; the Natural Resources Defence Council ('NRDC'); the Department of Energy ('DOE'); the Environmental Protection Agency ('EPA'); and the Consortium for Energy Efficiency ('CEE') developed a detailed specification for the procurement of apartment sized refrigerators which meet NYCHA's requirements. As part of this development, Staff and the CEE met with refrigerator manufacturers in Chicago to incorporate their ideas into this specification which would then lead to a Request For Proposals ('RFP').

"The initial goal of this RFP was to procure 20,000 refrigerators per year over the next four years with an

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<sup>1</sup> The total number of housing units receiving Authority electric service is 185,669 of which 180,000 units are associated with NYCHA. The long term agreement with NYCHA obligates the Authority to provide efficient refrigerators. Contracts with other housing authorities reference energy efficiency projects, generally. These other housing authorities will be permitted to participate in the refrigerator procurement program.

efficiency progression such that refrigerators would become 10% more efficient each year. In the first year, refrigerators purchased will be best available technology. To encourage the market, the RFP would allow other large

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housing groups to procure refrigerators through the Authority's contract. Any procurement by outside entities would not involve the Authority in any financial obligations. The purpose of this 'piggy-back' concept was to demonstrate to manufacturers that a substantial market exists for this type of refrigerator. Included with the RFP were nine letters of interest from housing authorities across the United States which demonstrated a potential market of an additional 15,000 refrigerators.

"In May 1995, the Authority requested bids, following notice in the State Contract Reporter for refrigerators to be used in the Public Housing Energy Efficiency Program. On June 15, 1995, a pre-bid meeting was held for all prospective bidders to review the specifications, terms and conditions. The goal of this solicitation was to induce refrigerator manufacturers to produce a unit whose efficiency was greater than what is now presently available on the market. This concept followed the successful Super Efficient Refrigerator Program ('SERP') which was developed by the NRDC, EPA and a consortium of electric utilities. This market-driven contest, called the 'Golden Carrot' program, resulted in the development of a CFC-free refrigerator which utilizes 40% less energy than current standards. Whirlpool, the award winner, developed this 22 cubic foot side-by-side refrigerator. Due to the size constraints within NYCHA apartments, this refrigerator is not suitable for that application.

"The current efficiency standard for refrigerators was set by the DOE in 1993. For the 14.3 cubic foot automatic defrost refrigerator/freezer, the maximum annual energy consumption is 620 kWh. New appliance standards for refrigerators/freezers were scheduled to take effect in 1998; however, as of September 29, 1995, Congress has passed the Interior Appropriations Bill containing an amendment placing a one year moratorium on appliance standards issued by the DOE. Although the President may veto the bill, the proposed 1998 refrigerator standard is likely to be delayed until 1999. Due to this congressional action, manufacturers are reluctant to commit to the Authority's ambitious refrigerator efficiency standard in 1998 and 1999.

"Staff received bids from GE, Welbilt Appliance and Maytag in response to the initial RFP. Since the proposals were non-responsive to the Authority's third and fourth year requirements, the bids were rejected. Whirlpool, which was represented at the Chicago meeting and had earlier expressed an interest, declined to bid given the uncertainty precipitated by the aforementioned Congressional action.

"In August 1995, program staff re-issued the RFP as a two year procurement with an allowance in the second year for a refrigerator that is one inch wider, but otherwise meets all of the original specifications. Evaluation of bids would be based on a life cycle cost analysis which accounts for initial cost as well as operating costs.

"Bids from GE, Maytag and Whirlpool were received in response to this later solicitation. Exhibit 'A' sets forth a list of the vendors to whom the award of contracts is recommended, and the refrigerators they would supply. GE, recommended for the award in 1996, has taken an exception to allowing other outside entities to procure equipment through the Authority's contract. As a primary supplier in the multi-dwelling market, GE has a fixed market share and relatively low margins. GE does not want to offer preferential pricing which will further impair such margins. While staff would have preferred the piggyback capability, it is not crucial to the GE contract because the procurement involves best available technology, which others could obtain independent of the NYPA contract. Assembly of the GE refrigerators will be in Decatur, Alabama.<sup>2</sup>

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<sup>2</sup> Staff's discussions with manufacturers included exploring the potential for developing a manufacturing capability in New York State. This was uniformly rejected on the basis of a market which is: (i) not growing; (ii) characterized by relatively low margins; and (iii) the investments already made in existing facilities.



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"Maytag is recommended for award in 1997. Maytag has a smaller market share in this refrigerator size range and accepts the concept of allowing other entities to procure refrigerators at the Authority's pricing and has provided shipping costs to the various regions of the country as specified on the RFP. The refrigerator developed by Maytag is assembled in Galesburg, Illinois. This unit, which will be available in 1997, meets the original proposed DOE 1998 refrigerator standards.

"Subsequent to submitting its bid, Maytag indicated in discussions with staff that will change the dimensions on its refrigerator, so that size will not be a constraint in meeting NYCHA's full annual order quantity. With this change, the entire 1997 order will be awarded to Maytag.

"Through this program the Authority expects other outside public housing agencies and private property owners to procure the Maytag refrigerator using the Authority's contract as the vehicle for procurement. The Authority incurs no liability in these outside purchases. More importantly, the Authority will catalyze market transformation as other manufacturers offer product to compete with Maytag to regain market share.

"In keeping with the original five year program plan, staff expects to issue a solicitation for refrigerators in the second quarter of 1997 for a minimum order quantity of 20,000 refrigerators annually in 1998 and 1999. The efficiency of these units is anticipated to be greater than the 1997 Maytag unit.

"The energy cost savings from the refrigerators recommended for procurement are considerable. Exhibit '6-A' provides a comparison to the average unit currently installed for NYCHA. The expected payback is 6.3 years, which will improve as the entire 1997 order will be filled by Maytag.

"Staff has also issued a separate RFP for the services of a qualified contractor(s) to install and remove the existing refrigerators. The old units will be recycled and all the hazardous materials will be removed in an environmentally friendly manner. The Authority will supervise and manage all aspects of this function.

"Authority staff has provided a cost recovery agreement ('CRA') to NYCHA for its review and approval. The CRA will obligate NYCHA to take delivery of the refrigerators procured by NYPA under the contracts recommended herein and to repay the Authority. The CRA is expected to be fully executed within several weeks. The vendor contracts recommended by staff, if approved by the Trustees, will be conditioned upon the execution of the CRA with NYCHA.

#### FISCAL INFORMATION

"Expenditures for the recommended refrigerator procurements will be funded from the \$40 million previously authorized by the Trustees for the Public Housing Energy Efficiency Program, under the tax exempt commercial paper program. The total cost of the contracts to be awarded will not exceed \$12.7 million. These costs will be recovered from participants within ten years, including the cost of advancing funds and Authority overheads.

#### RECOMMENDATION

"The Senior Vice President - Energy Efficiency and Technology recommends that the Trustees approve the award of refrigerator procurement contracts to the firms listed in Exhibit '6-A' in the total amount of \$12.7 million.

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

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*Mr. Pellegrino reported that in view of recent developments with Maytag, it is recommended that the entire contract award for calendar year 1997 be made to Maytag. The total amount for both contracts would not exceed \$12.7 million, which represents a savings on the \$13.1 originally requested of the Trustees. Mr. Pellegrino added that NYCHA is pleased with the monetary savings and that ERDA had donated some \$130,000 for funding efficiency monitoring studies.*

*In response to questions from Trustee Daly concerning the advisability of moving forward with the refrigerator program in the midst of Congressional inaction on the proposed federal standard, Mr. Pellegrino explained that NYCHA is expecting prompt implementation of the energy efficiency program under its contract with the Authority. President Schoenberger stressed that although the contract provides no fixed date for initiation of the program, NYCHA had insisted on inclusion of the refrigerator package as a condition precedent to signing a 10-year agreement and that NYCHA is now anticipating the program's prompt availability. In response to questions from Trustee Waldbauer, Mr. Pellegrino stated that the Authority, after having paid for the refrigerators, would commence billing NYCHA monthly for repayment, which the latter will make out of energy savings.*

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

**RESOLVED**, That pursuant to the Guidelines for Procurement Contracts adopted by the Authority, approval is hereby granted to award contracts for a period of one year, with a one-year extension option for General Electric, to the firms listed below, to supply refrigerators in connection with the Public Housing Energy Efficiency Program, as recommended in the foregoing report of the President, in the amount and for the purpose listed below:

<u>Energy Conservation Effectuation and Construction Fund</u>	<u>Contract Approval</u>	<u>Projected Closing Date</u>
General Electric	(not to exceed) \$11.3 million	11/01/96 (with the option to extend for one year to 11/01/97)
Maytag	<u>6.2 million</u> <u>\$12.7 million</u>	

**PRICE COMPARISON AND ENERGY USAGE  
FOR REFRIGERATOR PROCUREMENT**

Year	Manufacturer	Size Cubic Foot	Cost (\$)	Units Per Year	Total Cost (\$000)	Annual Energy Usage (kWh)	Estimated <sup>3)</sup> Savings Each	Payback (Yr's) <sup>4)</sup>
1996 <sup>1)</sup>	General Electric	14.4	\$326	20,000	\$6,520	499	\$51	6.4
1997 <sup>2)</sup>	General Electric	14.4	\$339	14,000	\$4,746	499	\$51	6.6
1997	Maytag	14.8	\$308	6,000	\$1,848	437	\$56	5.5
			<b>TOTAL</b>	<b>40,000</b>	<b>\$13,114</b>	<b>NA</b>	<b>NA</b>	<b>6.3</b>

<sup>1)</sup> Actual procurements will commence in 1995, but will not exceed the quantity indicated through 1996.

<sup>2)</sup> At the Authority's option a one (1) year contract can be extended to two (2) years. The Authority will thus retain the flexibility in the second contract year to competitively award a contract to an alternate vendor (including awarding the full 20,000 units to Maytag if it is successful in meeting dimensional requirements at the bid price of \$308 per unit) that may offer a lower unit price and/or higher efficiency model.

<sup>3)</sup> Savings assumption is based on the replacement of an older refrigerator using 1,100 kWh/Year (average of existing NYCHA refrigerator stock), at a blended electric rate of \$0.085/kWh.

<sup>4)</sup> Excluding installation/removal costs.

**7. Amendments to Procurement Guidelines to Delete a Preference for Small Businesses and New York State Suppliers**

The President submitted the following report:

SUMMARY

"The Trustees are requested to delete Sections IV G, H, and I of the Authority's Guidelines for Procurement Contracts ('Guidelines') which would eliminate four provisions which currently: (i) provide a 5% preference for New York State small businesses for all contracts with a value of \$25,000 to \$500,000; (ii) authorize the Vice President - Procurement and Real Estate to establish a set-aside for select goods and services, with a contract value not exceeding \$250,000, for bidding by New York State ('NYS') small businesses; (iii) provide a 5% preference to all NYS firms providing personal services for contracts of \$100,000 or more; and (iv) provide a 5% preference to all NYS suppliers and distributors of goods (excluding fuel) for contracts valued over \$100,000.

BACKGROUND

"The Guidelines, which govern the use, award, monitoring and reporting of procurement contracts over \$5,000, became effective January 1, 1990, as required by Section 2879 of the Public Authorities Law. These Guidelines have been reviewed and modified by the Trustees annually since that time. The preference provisions were approved by the Trustees at their meeting of October 25, 1994 and the most recent revisions were approved by the Trustees at their meeting of April 25, 1995.

DISCUSSION

"Over the last several months, the Department of Economic Development ('DED') has contacted both the Authority's Law Department as well as the Procurement Division, by telephone and in writing, expressing concerns on DED's part regarding the implementation of these preferences. The major concerns are as follows:

1. Twenty-six other states have existing legislation which would trigger penalties against New York firms should NYS enact preferences for in-state firms. Although the Authority is an independent authority, DED feels that other states would view the Authority's preferences as if it were enacted by NYS. DED has also informed Authority staff that NYS based firms export over \$27 billion in equipment and material to other states, and billions more in services. Therefore, penalties applied by other states against proposals submitted by New York firms could potentially be costly.
2. The DED also advises that it is negotiating with other states to eliminate preferences those states provide to their in-state firms. There are currently ten other states providing preferences of some type to their in-state firms. The State of Indiana has recently rescinded its preference as a result of negotiations with NYS.

In some cases, firms from such states have been precluded from bidding for certain New York State Office of General Services ('OGS') contracts. It would be extremely difficult, in DED's opinion, to take such a position with other states if a NYS entity, such as the Authority, implements preferences

based upon geographic location.

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"In its most recent letter, dated October 6, 1995, the Department of Economic Development has formally confirmed its request that these preferences be eliminated.

"The following options were considered to resolve these issue:

1. The Authority could continue its current program and finalize implementation of these preferences. However, this would be counter to the apparent policy in place by the DED to have other states rescind any preferential legislation they have in place for in-state firms. The financial impact to NYS firms of implementing these preferences could far outweigh any economic benefit of the Authority's preferences.
2. The Authority could enact a Small Business Program, not based on geographic location. Therefore, any small business, whether located in New York State or out of State, meeting the definition of a small business could receive a preference. While this might be of some benefit to small businesses, it would not provide the benefit staff had hoped to provide for NYS Small Businesses. A small business program of this type might actually be of more help to out-of-state small businesses than in-state firms, particularly for those out-of-state businesses already operating in a less costly region of the U.S.
3. Based upon the recent concerns raised by the DED and OGS, the Authority could rescind the preferences to small businesses and other NYS firms. While this would eliminate specific assistance the Authority would be providing to these firms, it would have the benefit of allowing DED to implement its policy of maximizing opportunities for NYS firms by having preferences of other states eliminated. In addition, it would avoid the possibility that other states with reciprocity legislation would enact penalties against NYS firms competing for work in their states. Since NYS exports over \$27 billion of goods and services to other states, compared to the fact that the Authority's preferences would apply to no more than \$100 million worth of annual expenditures, it would be in the best interests of firms located in the State to simply rescind the Authority's preferences. The current competitive bid process, which includes noticing in the Contract Reporter for all non-emergency procurements over \$5,000, and the Authority's Minority and Women-Owned Business Outreach Program as well as the provisions of the NYS's Omnibus Procurement Act ensure that local New York firms have the maximum opportunity to bid on procurements in support of Authority operations throughout New York State.

"After reviewing the foregoing options, it is staff's opinion that option 3, rescinding these preferences, be adopted in the best interests of New York State and New York State firms. Option 3 responds fully to the DED's request that these preferences be eliminated.

#### FISCAL INFORMATION

"There is no impact on the Authority's O&M Budget as a result of these amendments.

#### RECOMMENDATION

"The Director - Procurement, Planning and Program Development and the Vice President - Procurement and

Real Estate recommend that the Trustees approve the above-described amendments to the Authority's Procurement Guidelines.

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

***In response to questions from Vice Chairman Frey, Mr. Hoff reported that the Department of Economic Development is urging all state and governmental entities to abolish such preferences, and that a corresponding movement is taking place in states such as Ohio, Indiana and others.***

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

**RESOLVED, That the Authority's Guidelines for Procurement Contracts are hereby amended by deleting Sections IV G, H and I which: (i) provide a 5% preference for New York State small businesses for contracts valued at \$25,000 to \$500,000; (ii) authorize the Vice President - Procurement and Real Estate to establish a set-aside for select goods and services to be bid only by New York State small businesses; (iii) provide a 5% preference for New York State firms providing professional consulting services for contracts valued at \$100,000 or more; and (iv) provide a 5% preference for all New York State suppliers and distributors of goods (excluding fuel) for contracts valued at \$100,000 or more, as recommended in the foregoing report of the President.**

**8. Informational Item - Competitive Opportunities**  
**Proceeding - PSC Case 94-E-0952**

The President submitted the following report:

SUMMARY

"On June 27, 1995, the Trustees authorized staff to continue to explore industry restructuring opportunities consistent with the single transmission entity model which was submitted in a Public Service Commission ('Commission') proceeding on June 6, 1995. On October 24, 1995, Authority Staff presented an initial position paper in the proceeding advocating a retail - or end user - bilateral industry model with the Authority as the transmission system owner/operator. This informational item provides an update on the progress of this case.

BACKGROUND

"The current phase of this proceeding (Phase II) commenced in August 1994. The purpose of this phase is to explore alternative models to restructure the electric utility industry in New York State. There are over 80 parties to the proceeding. In addition to the Authority, the parties include, among others, the Energy Association of the State of New York, Multiple Intervenors - representing large industrial customers, many of whom are Authority customers, the Municipal Electric Utilities Association, Public Interest Intervenors - the Natural Resources Defense Council and Pace University Project, the Consumer Protection Board and the Independent Power Producers of New York ('IPPNY'). The parties have been working collaboratively attempting to determine the ideal model for a restructured electric utility industry in New York State.

"The basic format agreed to by the parties called for any interested party to submit for consideration a proposed model for industry restructuring. Nine parties floated fourteen models for consideration. Included among these was the Authority's single transmission entity model, which was the subject of the June 27, 1995 Trustee item. After much discussion and thorough review by the parties, the models were consolidated into five generic 'model types'. (The Authority's model was not in itself an overall industry model and therefore was included by reference into each of the generic model types.) These models included the following:

- o Wholesale Bilateral Model
- o Wholesale Poolco Model
- o Retail Bilateral Model
- o Retail Poolco Model
- o Evolving Regulatory Model

A poolco arrangement is a market where all generation supplies and load requests are bid into and dispatched by the pool operator. All power and energy is sold at one price: the market clearing price. In a bilateral arrangement, the parties who sell and purchase electricity strike their 'best deal' through private contract arrangements. There is a system operator for transmission, but it receives scheduling information only; no price data is given.

"In September, the Administrative Law Judge directed the parties to submit initial position papers by October 25, 1995 which outlines the parties' support for a particular model. Authority staff complied with the Judge's directive and filed its report, which is attached hereto as Exhibit '8-A'.



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"The parties to this proceeding may file reply position papers by November 15, 1995. The Administrative Law Judge is required to submit a report to the Commission by the end of 1995. No date has been set for final Commission action in this proceeding.

#### DISCUSSION

"Staff's selection of a bilateral model - as opposed to a poolco model - is one which came after much deliberation and discussion. When staff first proposed the single transmission entity model in June, it was noted that such a proposal can work in either a poolco or a bilateral market regime. After reviewing the attributes of each of these market types, staff felt the flexible nature of the bilateral market place would allow maximum customer choice and lead to the greatest degree of innovation. Although the parties' understanding of the poolco model in the Commission's proceeding has evolved to include a flexible pool in conjunction with a separate power exchange for spot purchases (which is essentially a bilateral regime), the staff does not subscribe to locational based marginal cost pricing for transmission service, which appears to be an integral component of the poolco model.

"The selection of a retail model was much more difficult. Staff originally was of the opinion that an orderly transition to a competitive environment would first require the establishment of an efficient wholesale market. However, as the proceeding evolved it became apparent that first, retail competition could work and that, second, retail choice is inevitable. A case in point is Niagara Mohawk Power Corporation's ('Niagara Mohawk') restructuring proposal filed earlier this month. In their proposal, Niagara Mohawk has indicated that retail choice could be achievable within three years of implementation of their proposal. Further, the distinction between retail and wholesale is based on (the Federal Energy Regulatory Commission definition of) whether or not the purchase is for resale, not on the quantity purchased or the delivery voltage. In this context, a retail sale can be (and often is) much larger than a wholesale one. Such a distinction between who can and cannot choose suppliers can lead to customers devising often wasteful means to qualify as a 'wholesale customer.'

"Lastly, an efficient market is one where there is a large number of buyers and sellers. A retail bilateral market will ensure that criterion is met.

"Integral to the staff's position is the concept of the single transmission entity in New York State with the Authority as the transmission system owner/operator ('TSO'). Staff is steadfast in its belief that a single TSO is essential to the development of efficient competition in both the wholesale and retail markets. Staff has also reaffirmed its call for the development of a statewide regional transmission group ('RTG'). The Authority's role as TSO and the attributes of the RTG are much the same as what was proposed previously in our June submission to the proceeding.

#### FISCAL INFORMATION

"There is no immediate fiscal impact.

#### CONCLUSION

"Staff will continue to participate in the Competitive Opportunities Proceeding and will report back to the Management Committee and the Trustees as directed."

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*At the request of Mr. English, Mr. Don Russak described the ongoing PSC proceedings and the operational efficiencies and economies which would result from a single transmission entity. Vice Chairman Frey noted that the proposal appears to be capable of providing a statewide benefit to ratepayers as well as the utilities. President Schoenberger added that much will depend upon the precise impact of various tax statutes and taxing authorities upon the potential transactions.*

**9. Proposed Schedule of Trustees' Meeting in 1996**

The Corporate Secretary submitted the following report:

"The following schedule of regular meetings for the Authority for 1996 is recommended:

<u>Date</u>	<u>Location</u>	<u>Time</u>
January 30, 1996	NYO	10:00 a.m.
February 27, 1996	NYO	10:00 a.m.
March 26, 1996	NYO	10:00 a.m.
April 30, 1996 ( <b>Annual</b> )	NYO	10:00 a.m.
May 21, 1996	Open	10:00 a.m.
June 25, 1996	Open	10:00 a.m.
July 30, 1996	Open	10:00 a.m.
August 27, 1996	Open	10:00 a.m.
September 24, 1996	NYO	10:00 a.m.
October 29, 1996	NYO	10:00 a.m.
November 26, 1996	NYO	10:00 a.m.
December 17, 1996	NYO	10:00 a.m."

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**10. Next Meeting**

The next Regular meeting of the Trustees will be held on **Tuesday, November 28, 1995, at the New York Office at 10:00 a.m.**, unless otherwise designated by the Chairman with the concurrence of the Trustees.

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**Closing**

Upon motion made and seconded, the meeting was closed at 11:55 a.m.

Anne Wagner-Findeisen  
Corporate Secretary

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