

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

February 28, 2006

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Minutes of the Regular Meeting of the Power Authority of the State of New York held at the Clarence D. Rappleyea Building at 11:05 a.m.

Present: Joseph J. Seymour, Chairman
Frank S. McCullough, Jr., Vice Chairman
Elise M. Cusack, Trustee
Michael J. Townsend, Trustee

Timothy S. Carey	President and Chief Executive Officer
Thomas J. Kelly	Executive Vice President and General Counsel
Vincent C. Vesce	Executive Vice President – Corporate Services and Administration
Joseph Del Sindaco	Senior Vice President and Chief Financial Officer
Angelo S. Esposito	Senior Vice President – Energy Services and Technology
Louise M. Morman	Senior Vice President – Marketing, Economic Development and Supply Planning
Brian Vattimo	Senior Vice President – Public and Governmental Affairs
Edward A. Welz	Senior Vice President – Power Generation
Carmine J. Clemente	Deputy Secretary and Deputy General Counsel
Arthur T. Cambouris	Assistant General Counsel and Managing Attorney
Joseph J. Carline	Assistant General Counsel – Power and Transmission
Thomas P. Antenucci	Vice President – Project Management
Arnold M. Bellis	Vice President – Controller
Robert J. Deasy	Vice President – Energy Resource Management
John M. Hoff	Vice President – Procurement and Real Estate
Charles I. Lipsky	Vice President and Chief Engineer
Gary Paslow	Vice President – Governmental Affairs and Policy Development
Donald A. Russak	Vice President – Finance
William V. Slade	Vice President – Environmental Management
Thomas A. Warmath	Vice President and Chief Risk Officer
James H. Yates	Vice President – Major Accounts Marketing and Economic Development
Stephen P. Shoenholz	Deputy Vice President – Public Affairs
Dennis T. Eccleston	Chief Information Officer
Angela D. Graves	Deputy Secretary
Michael E. Brady	Treasurer
Frederick E. Chase	Executive Director – Hydro Relicensing
John B. Hamor	Executive Director – State Governmental Relations
John J. Suloway	Executive Director – Licensing, Implementation and Compliance
Paul W. Belnick	Director – Energy Services
Arthur M. Brennan	Director – Internal Audit
Paul F. Finnegan	Director – Upstate Public and Governmental Affairs
Joseph Leary	Director – Southeastern New York Public and Governmental Affairs
James F. Pasquale	Director – Business Power Allocation, Regulation and Billing
Keith G. Silliman	Director – Niagara Relicensing
Joan Tursi	Director – Budgets
Daniel Wiese	Director – Corporate Security and Inspector General
Michael J. Huvane	Manager – Business Marketing and Economic Development
Anthony C. Savino	Manager – Business Power Allocations & Compliance
Arnold J. Schuff	Manager – Operations Planning
Richard J. Ardolino	Project Manager
Michael A. Saltzman	Senior Information Specialist
Mihai Preda	Senior Mechanical Engineer

Mary Jean Frank	Associate Secretary
Lorna M. Johnson	Assistant Secretary
Lisa Farrell	Secretary to Executive Vice President and General Counsel
Despina Starakis	Executive Administrative Assistant
Lynnette J. Taylor	Senior Legal Secretary
George D. Maziarz	New York State Senator
Michael W. Tucker	Mayor of Lockport, New York

Chairman Seymour presided over the meeting. Executive Vice President and General Counsel Kelly kept the Minutes.

1. **Approval of the Minutes**

The minutes of the Regular Meeting of January 31, 2006 were unanimously adopted.

2. **Financial Reports for the Year Ended December 31, 2005 and
the Month of January 31, 2006**

Mr. Bellis presented an overview of the reports to the Trustees. In response to a question from Chairman Seymour, Mr. Bellis said that the disparity between the budgeted and actual figure for ISO energy revenues in January was primarily due to the facts that loads had been down due to the warmer-than-expected weather and natural gas prices had been substantially lower than expected.

3. **Motion to Advance for Consideration Agenda Item #13 – Allocation of 10,000 kW of Hydro Power – Made, Seconded and Unanimously Approved**

“Mr. Chairman I move that Agenda Item #13, Allocation of 10,000 kW of Hydro Power, be advanced for consideration to permit State Senator George D. Maziarz and Michael W. Tucker, Mayor of Lockport, to address the Trustees on the matter.” Upon completion of comments, a motion was made and seconded to resume the meeting in scheduled order.

4. Allocation of 10,000 kW of Hydro Power

The President and Chief Executive Officer submitted the following report:

SUMMARY

“The Trustees are requested to approve an allocation of available Expansion Power (‘EP’) totaling 10,000 kW to Delphi Automotive Systems, LLC (‘Delphi’) under criteria for the evaluation of applications for power allocated for the revitalization of industry.

BACKGROUND

“Under Section 1005 (13) of the Power Authority Act, as amended by Chapter 313, the Authority may contract to allocate or reallocate directly, or by sale for resale, 250 MW of firm hydroelectric power as EP to businesses in the State located within 30 miles of the Niagara Power Project, provided that the amount of EP allocated to businesses in Chautauqua County on January 1, 1987 shall continue to be allocated in such county.

“Each application for an EP allocation must be evaluated under criteria that include, but need not be limited to, those set forth in Public Authorities Law Section 1005 (13) (a), which sets forth the eligibility, and (b), which sets forth the criteria for revitalization.

“Among the factors to be considered when evaluating a request for revitalization purposes are whether or not the business is likely to partially close or relocate, resulting in loss of jobs, whether or not the business is an important employer in the community and whether or not the business has pursued other available sources of assistance to reduce energy costs.

“Delphi is the largest private employer in Niagara County, supporting approximately 4,000 jobs. Since 1937, the company has been at its current site, where it manufactures components for automotive heating and cooling systems. The current business situation is grave. The Lockport site was faced with an operating loss last year and its overall profitability has been in a downward trend since 1995. Delphi Lockport’s revenue stream is very closely linked to General Motors (‘GM’), with more than 96% of the site’s sales volume tied to GM. The Lockport plant has applied to the Authority for an allocation of EP for revitalization purposes.

DISCUSSION

“Delphi currently receives 14.3 MW of Authority EP in exchange for a commitment to retain 5,480 jobs. The contract for this allocation terminates in 2013. Delphi filed for Chapter 11 Business Reorganization in October 2005. There are several factors that drove Delphi North America to seek Chapter 11 relief. Issues specific to its Lockport site are:

- Lockport’s high wages relative to its North American competitors;
- A \$13 million increase in its portion of retiree health care costs over the past three years;
- A job bank in 2005 with a total of 400 employees receiving full benefits and pay while being idle; and
- Oppressive legacy costs that make the company non-competitive

“In 2005, Delphi Lockport initiated a two-year revitalization plan that included a request for an additional 10 MW of Authority hydro power.

“A major concern for the Authority regarding the requested allocation involves a 1995 Settlement Agreement among the Authority, New York State Electric and Gas Corporation (‘NYSEG’) and Delphi (‘1995 Settlement Agreement’). Delphi has informed the Authority of its desire to terminate the 1995 Settlement Agreement. A document effecting such termination is currently being drafted by Delphi and NYSEG’s legal counsel and is subject to the Authority’s approval.

“In assessing Delphi’s revitalization plan, the Authority has determined that the Lockport facility meets the criteria for a revitalization allocation. Consequently, a recommendation for an allocation of 10 MW of hydro power is appropriate. It is recommended that the approval of the 10 MW under the revitalization criteria be contingent on the Authority’s approval of the final agreement regarding the 1995 Settlement Agreement. The Authority will not incur any new obligations as a result of terminating the 1995 Settlement Agreement.

“On October 22, 2003, the Authority, National Grid (formerly Niagara Mohawk), Empire State Development Corporation and the Buffalo Niagara Enterprise signed a Memorandum of Understanding (‘MOU’) that outlines the process to coordinate marketing and allocating Authority hydro power. The entities noted above have formed the Western New York Advisory Group (‘Advisory Group’) with the intent of better using the value of this resource to improve the economy of Western New York and the State of New York. Nothing in the MOU changes the legal requirements applicable to the allocation of hydro power.

“Based on the Group’s discussions, staff recommends that the available power be allocated to Delphi. The project will help maintain Western New York’s industrial base. Although the base job numbers will be reduced from 4,000, this leaner approach to operations will help ensure Delphi’s ability to compete in the future.

RECOMMENDATION

“The Director – Business Power Allocations, Regulation and Billing recommends that the Trustees approve the allocation of 10,000 kW of Expansion Power to Delphi Automotive Systems, LLC, for a five year term, contingent on the Authority’s approval of the final agreement to terminate the 1995 Settlement Agreement.

“The Executive Vice President and General Counsel , the Senior Vice President – Marketing, Economic Development and Supply Planning, the Vice President – Major Accounts Marketing and Economic Development and I concur in the recommendation.”

Mr. Pasquale presented the highlights of staff’s recommendations to the Trustees and then introduced New York State Senator George D. Maziarz and Mayor of Lockport, Michael W. Tucker. Responding to a question from Chairman Seymour, Mr. Carline said that the 1995 settlement agreement came out of an antitrust suit brought by General Motors against New York State Electric and Gas Corporation (“NYSEG”) and the Authority. In response to a concern expressed by Trustee Townsend that the conditional terms of the resolution approving the allocation might delay the allocation, Mr. Carline explained that the resolution before the Trustees for consideration is structured to accommodate the terms of the new agreement being negotiated to replace the 1995 settlement agreement. Mr. Carline said that staff has seen the final new agreement, expects that it will be finalized by April 1, 2006, and that essentially there are no major issues left to be resolved. Responding to a question from Trustee Cusack, Mr. Carline said that if it appeared that the April 1st deadline would not be met, the Trustees would be notified, but that he was optimistic that the new agreement would be signed by April 1st. A discussion ensued about the complexity of the issues involved in this process, including the fact that Delphi has filed for Chapter 11 Business Reorganization.

Trustee Townsend said that he had received a letter from Congressman Reynolds in support of this allocation.

Senator Maziarz said that this additional 10 MW hydro power allocation, if approved by the Trustees, would save a significant number of high-paying manufacturing jobs in Lockport, where Delphi employs 4,000, and Rochester, where Delphi employs another 2,000. He thanked the Authority's staff for their professionalism in handling this matter.

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

RESOLVED, That the allocation of 10,000 kW of Expansion Power be, and hereby is, approved conditioned on execution of appropriate agreements among the Authority, Delphi and New York State Electric and Gas Corporation revising the 1995 Settlement Agreement as set forth in the foregoing report of the President and Chief Executive Officer, the terms of which shall be approved by the Authority's Executive Vice President and General Counsel; and be it further

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

5. Report from the President and Chief Executive Officer

President Carey introduced Mr. Kelly, the Authority's new Executive Vice President and General Counsel, saying that Mr. Kelly's long background in law and government service would serve the Authority well.

President Carey said that Chairman Seymour and he had met with State Senators Bruno and Wright, as well as Assembly Speaker Silver and Assemblyman Tonko, in an effort to establish a working dialogue with the State Legislature.

Because of the recent Power for Jobs ("PFJ") program rate increases, the Authority agreed to announce and implement a procedure by which PFJ customers that wish to terminate their PFJ agreements without the standard one-year's notice may do so.

According to President Carey, the Syracuse Post-Standard newspaper has been working for several months on what is likely to be at least a two-part series of articles on the Authority. Authority management and staff have cooperated with all requests made by the reporter working on the articles and have provided all documentation requested.

President Carey said that Chairman Seymour and he had recently visited the Vernon Boulevard Small Clean Power Plant site. Silvercup Studios in Queens is exercising an option to purchase property nearby the plant and it is anticipated that Mayor Bloomberg will request that the Authority move it. Chairman Seymour added that it is not anticipated that the Mayor will be requesting the plant be removed until early October 2006.

6. Amendment to the Authority's By-Laws

The President and Chief Executive Officer submitted the following report:

SUMMARY

“The Trustees are requested to amend the Authority’s By-laws to implement certain requirements of the Public Authorities Accountability Act of 2005 and senior management changes.

“For the reasons set forth below, the Trustees are requested to approve the following amendments to the Authority’s By-laws:

- (1) Amend Article II, Section 2 to expressly set forth the Trustees’ existing powers to oversee the ethical, financial and operational management of the Authority and add a requirement that the Trustees annually review and establish compensation and benefits for senior management, as well as time and attendance policies;
- (2) Amend Article III, Section 5 to increase the quorum requirement from three to four trustees;
- (3) Amend Article IV, Section 1 to provide for the appointment of a Chief Operating Officer, as well as a separate Executive Vice President and General Counsel and a Secretary;
- (4) Amend Article IV, Section 2 to provide for the appointment of the Chief Operating Officer by the board of trustees as well as for the appointment of all non-elected officers of the Authority by the President and Chief Executive Officer, except for certain appointments by the Executive Vice President and General Counsel, the Secretary and the Audit Committee;
- (5) Amend Article IV, Section 3 to provide for the term of office of the Chief Operating Officer;
- (6) Amend Article IV, Section 5 to provide for the removal by the President and Chief Executive Officer, the Executive Vice President and General Counsel, the Secretary or the Audit Committee of certain appointed employees with or without cause;
- (7) Amend Article IV, Section 6(A) to establish the role of the Chairman in implementing the Trustees’ management oversight function;
- (8) Amend Article IV, Section 6(D) to provide for the establishment of the Office of Internal Audit and Corporate Compliance and the reporting responsibilities of its Director;
- (9) Amend Article IV, Section 6(E) to provide for the reporting relationship and the duties of the Executive Vice President and General Counsel;
- (10) Amend Article IV, Section 6(F) to provide for the reporting relationship and duties of the Secretary;
- (11) Amend Article V, Section 1 to add the Chief Operating Officer to the Executive Management Committee and to provide for the appointment of non-listed members of such Committee by the President and Chief Executive Officer;
- (12) Add a new Section 3 to Article V to establish a new Governance Committee of the Board and to provide for its duties and responsibilities;
- (13) Amend Article VII, Section 2 to provide for the development of an annual strategic plan by the Executive Management Committee; and

- (14) Amend Article X, Section 1 to provide for the appointment of all regional managers and site executive officers by the President and Chief Executive Officer.

“The amended By-laws are set forth in Exhibit ‘6-A1’ attached hereto. A redlined version with strikethroughs denoting deletions and underlining reflecting new language is attached as Exhibit ‘6-A2.’

“The Trustees are also requested to adopt a Charter for the new Governance Committee of the Board (Exhibit ‘6-B,’ attached hereto), which Charter will authorize the Committee to oversee the activities, policies and procedures of the ethics, procurement and real estate staff of the Authority. Under the Public Authorities Accountability Act of 2005 (the ‘Act’), signed into law by Governor Pataki on January 15, 2006, all public authorities are required to establish such governance committees. The Trustees are also requested to amend the Audit Committee Charter (Exhibit ‘6-C,’ attached hereto) to make its oversight role consistent with the requirements of the Act and to provide for certain periodic reports by the Inspector General/Director of Security.

BACKGROUND

“The Act amended Public Authorities Law Section 1004 to delete the provision that allowed the Chairman of the Authority to serve as an employee of the Authority. Pursuant to Section 1004, the Chairman was elected in the past as Chief Executive Officer. This will no longer be possible under the Act and the By-laws need to be amended to reflect this fact. Thus, many of the proposed amendments delete powers given to the Chairman to act as President and Chief Executive Officer. In addition, many of the proposed By-laws amendments reflect the fact that the duties of the Executive Vice President and General Counsel and the Secretary will be handled by separate individuals.

“The Act also includes a number of new requirements for all public authorities that need to be addressed. These include, among other things, requirements that public authority boards provide: (1) direct oversight of the effective and ethical management of the authorities, (2) policies governing the annual review of the salary and compensation of senior managers and time and attendance, (3) for codes of conduct to be adopted, (4) for written policies protecting whistle blowers, governing investments, providing for the acquisition and disposal of real property, procurement procedures and the defense and indemnification of officers and (5) for state-authorized training on legal, fiduciary, financial and ethical issues. The Act also requires public authority boards to establish audit and governance committees, and provides for a public authority Budget Office and an independent Office of Inspector General for public authorities.

“The Board currently performs a strong oversight role at the Authority. It has also adopted a Code of Conduct, as well as policies governing investments, defense and indemnification of officers, and guiding real estate and procurement activities at the Authority. Further, staff is in the process of reviewing all of these policies to make sure they are consistent with the Act. However, to provide for additional oversight over the activities of senior management in the code of conduct, procurement and real estate areas, it is proposed that the Board establish a new Governance Committee for that purpose and elect two trustees to serve on that Committee.

“Further, the Act requires that boards of public authorities provide effective oversight of management activities of internal audit and the inspector general. The Audit Committee currently performs this function. However, to strengthen the role of this Committee, it is proposed that the Committee be authorized to appoint the Director of Internal Audit and Corporate Compliance and to select and recommend to the full board the firm to be hired as the Authority’s outside auditor.

DISCUSSION

“The Authority has long been in the forefront of implementing sound corporate governance and ethical principles in its day-to-day operations. For example, in 1984 the Authority adopted a Code of Conduct for employees that expanded on the ethical rules and standards found in Sections 73 and 74 of the State’s Public Officers Law. Further, in 1989, the Trustees adopted an Internal Audit Program Corporate Policy to guide the efforts of then newly created Office of Internal Audit. And, in 1997, the Trustees provided for the establishment of the Office of Inspector General at the Authority, as well as for the establishment of the Office of Ethics and

Regulatory Compliance. All three of these offices work to ensure that the Authority's internal controls and ethical standards of conduct are fully compliant with good government principles and that all employees follow these controls and standards. Further, the managers of all three offices have regularly reported to the Audit Committee of the Board. Finally, in 2003, the Board adopted a corporate policy requiring the disclosure of the names of persons who attempt to influence the Authority's procurement process.

"To build on this solid record of accomplishment and to implement the principles developed by the Act, it is proposed that a new Governance Committee of the Board of Trustees be established to (1) oversee Authority management and policies relating to ethical conduct, (2) update and revise the Authority's Code of Conduct, (3) review and update the Authority's policies on procurement of goods and services and on the acquisition and disposal of real and personal property and (4) adopt a corporate policy on the protection of whistleblowers from retaliation. It is contemplated that this Committee will meet at least three times per year and, among other things, receive regular reports from the Vice President – Ethics and Regulatory Compliance and the Vice President – Procurement and Real Estate.

"Likewise, it is proposed that the Audit Committee be authorized to oversee the activities of Internal Audit, the Authority's outside auditors and the Office of Inspector General and receive reports at least three times per year from the Director of Internal Audit and Corporate Compliance and the Inspector General/Director of Security.

RECOMMENDATION

"The Executive Vice President and General Counsel, the Executive Vice President and Special Counsel to the Chairman, the Executive Vice President – Corporate Services and Administration, the Secretary, the Chief Financial Officer, the Inspector General/Director of Security, the Treasurer, the Vice Presidents of Ethics and Regulatory Compliance and Procurement and Real Estate, the Director of Internal Audit and Corporate Compliance and I recommend that the Trustees approve the proposed By-laws amendments as well as the amendment to the Audit Committee Charter and the adoption of the proposed Charter for the new Governance Committee."

Mr. Clemente presented the highlights of staff's recommendations to the Trustees.

In response to a question from Chairman Seymour, Mr. Clemente said that one of the changes to the By-laws would separate the office of the Secretary from that of the General Counsel, with the Secretary reporting to the Chairman and the Trustees and the Executive Vice President and General Counsel reporting to the President and Chief Executive Officer and the Chairman.

Vice Chairman McCullough said that he would recommend that the membership of the Audit Committee be increased from two to three Trustees, once additional Trustees have been appointed and confirmed.

President Carey requested that the recommended changes to the Audit Committee charter be postponed until the annual meeting in April, when there will be additional changes to the Audit Committee charter. He also asked that nominations to the Governance Committee be made at the March meeting, when two more Authority Trustees are likely to have been confirmed.

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

RESOLVED, That the revisions to the By-Laws, which By-laws were adopted February 29, 1989, and last amended in April 30, 2002, and which revisions are discussed in the foregoing report of the President and Chief Executive Officer and are attached hereto as Exhibit "6-A1," be hereby adopted; and be it further

RESOLVED, That the Trustees approve the proposed Charter for the Governance Committee as substantially set forth in Exhibit "6-B" hereto; and be it further

RESOLVED, That the Trustees approve the revisions to the Audit Committee Charter as substantially set forth in Exhibit "6-C" hereto; and be it further

RESOLVED, That the President and Chief Executive Officer, the Executive Vice President and General Counsel, the Secretary, the Chief Financial Officer, the Inspector General/Director of Security, the Treasurer, the Vice Presidents of Ethics and Regulatory Compliance and Procurement and Real Estate, the Director of Internal Audit and Corporate Compliance and their designees, are hereby authorized to take all actions and to do all things necessary to implement such amended By-laws and to assist the operations and oversight functions of such Audit and Governance Committees.

7. **Productivity Improvement Request Reductions**

The President and Chief Executive Officer submitted the following report:

SUMMARY

“It is requested that the Trustees approve reductions to the employment commitment for each of the seven companies listed in Exhibit ‘7-A.’ These customers have clauses in their contracts that allow them to request a reduction in their commitments if the reduction is due to productivity improvements. Each of the seven companies that made the productivity improvement requests met the appropriate criteria.

BACKGROUND

“Each year, Authority staff initiates a review of all business power allocations and the customers’ performance against agreed-upon job commitments. In 2004, the Authority had 303 contracts with 195 business customers, excluding Power for Jobs (‘PFJ’) agreements. In 2004, seven customers (with 17 contracts) requested a reduction to their base employment commitments due to productivity improvements made during the reporting period.

“The contracts contain a customer commitment to retain or add a specific number of jobs. A company may request a productivity review to have its job commitment reduced if the reduction in employment is due to increased efficiency or improved technology. Relocation of specific activities away from the facility will not be considered an increased efficiency, improved technology or productivity improvement. Employment reductions made due to reduced production or sales volume will not be considered an increased efficiency, improved technology or productivity improvement.

DISCUSSION

“Staff recommends that the Trustees approve action regarding the seven customers meeting the productivity improvement requirement for a reduction to their employment commitments in 17 contracts. Brief descriptions of those companies that meet the productivity improvement employment reduction requirements are listed in Section I.

“A summary of all contracts discussed in this item is provided as Exhibit ‘7-A.’

Section I.

Allocations to Continue with Job Commitment Changes for Productivity Improvements

American Axle and Manufacturing Inc., Tonawanda, Erie County

Allocation: 3,250 kW of Expansion Power (‘EP’), as well as 2600 kW and 1300 kW of Replacement Power (‘RP’)

Jobs Commitment: 680 jobs

Background: American Axle and Manufacturing Inc. (‘American Axle’) manufactures automobile driveline and chassis systems and components, including axles and drive-shafts for light trucks and SUVs. The Tonawanda facility forges ring gears and axle-shafts. The facility requested a productivity improvement reduction to its employment commitments of 12 employees. The Tonawanda facility installed four new robotic net shape gear presses, replacing the need for 12 workers. For the past year, American Axle averaged 737.00 jobs, i.e., 108.38% of its commitment.

Recommendation: Staff recommends that the Trustees reduce American Axle’s EP and RP allocations employment commitments by 12 jobs to 668 positions.

Delphi Automotive Systems, Lockport, Niagara County

Allocation: 14,300 kW of EP

Jobs Commitment: 5,480 jobs

Background: Delphi Automotive Systems ('Delphi'), formerly a division of General Motors, manufactures radiators, condensers and heaters for General Motors automobiles. Delphi went into bankruptcy this year. The company requested a productivity improvement reduction of its job commitment by 234 jobs. The reductions were accomplished through rebalancing job duties, new methods of manufacturing parts and restructuring of a workstation. For the past year, Delphi averaged 4,346.46 jobs, i.e., 79.31% of its contractual commitment.

Recommendation: Staff recommends that the Trustees reduce Delphi's EP allocation employment commitment by 234 jobs to 5,246 positions.

Ford Motor Company, Buffalo, Erie County

Allocation: 4,300 kW of EP and 2,900 of EP

Jobs Commitment: 1,966 jobs

Background: Ford Motor Company ('Ford') opened its Buffalo Stamping Plant in 1950. Currently, Ford stamps doors, floor pans, quarter panels and some inner body components for the Windstar, Taurus and Crown Victoria models. The components then go to other Ford assembly plants and distribution centers throughout the U.S. and Canada. For the past year, Ford averaged 1,741.00 jobs, i.e., 88.56% of its contractual commitment. The company requested a productivity improvement reduction of its job commitment by 97 jobs. Ford's reduction comes from automation of the inspection of parts and various handling processes, as well as new manufacturing processes.

Recommendation: Staff recommends that the Trustees reduce Ford's EP allocation employment commitment by 97 jobs to 1,869 positions.

General Motors Corporation – Powertrain, Buffalo, Erie County

Allocation: 13,800 kW, 1,100 kW and 800 kW of EP and 2,000 kW and 725 kW of RP

Jobs Commitment: 3,706 jobs (13,800 kW), 3,470 (1,100 kW, 800 kW and 725 kW) and 3,470 base jobs and 44 created jobs (2,000 kW)

Background: General Motors Corporation – Powertrain ('GM Powertrain') manufactures engines for several of GM's automobile models, including the Chevy Colorado and Canyon pick-up. The company requested a productivity improvement reduction of its jobs commitment by 66 jobs. The bulk of GM's reduction comes from replacing an old engine line with the world's most advanced engine manufacturing facility and process for the new engine, as well as from rebalancing job duties along the assembly lines, automation and new manufacturing processes. For the past year, GM Powertrain averaged 3,041.75 jobs, i.e., 87.66% of its contractual commitment.

Recommendation: Staff recommends that the Trustees reduce GM Powertrain's EP and RP allocation employment commitments by 66 jobs to a base of 3,404 positions. The RP allocation that still has time to create jobs will have its employment commitment reduced to 3,404 base jobs with 44 created jobs (3,448).

Goodyear Dunlop Tire Company N.A. Ltd., Tonawanda, Erie County

Allocation: 850 kW and 250 kW of RP and 6,000 kW of EP

Jobs Commitment: 1,449 jobs, 1,449 jobs and 1,439 jobs, respectively

Background: Goodyear Dunlop Tire Company N.A. Ltd. ('Goodyear Dunlop') manufactures tires for automobiles and all-terrain vehicles at its Tonawanda facility. The company requested a productivity improvement reduction of its jobs commitment by 27 jobs. Goodyear Dunlop accomplished the productivity improvements through rebalancing job duties (1 position), and new manufacturing processes and equipment (26 positions). For the past year, Goodyear Dunlop averaged 1,465.75 jobs, i.e., 101.16%, 101.16% and 101.86% of its commitments, respectively.

Recommendation: Staff recommends that the Trustees reduce Goodyear Dunlop's RP and EP allocation employment commitments by 27 jobs, with the RP employment commitment reduced to 1,422 positions and the EP employment commitment reduced to 1,412 positions.

Occidental Chemical Corporation, Niagara Falls, Niagara County

Allocation: 56,000 kW of RP and 38,700 kW of EP

Jobs Commitment: 250 jobs and 258 jobs, respectively

Background: Occidental Chemical Corporation ('Oxy') is the country's largest merchant marketer of chlorine and caustic soda, which is used for the plastics, pulp and paper, water purification, bleach and sanitation industries. The company requested a productivity improvement employment commitment reduction. Both allocations are 'vintage' contracts, meaning that they have an 80% job ratio and two-year job average. For the past two years, Oxy averaged 271.84 jobs and 248.75 jobs, i.e., 108.74% and 96.41% of its contractual commitments, respectively. In 2004, Oxy streamlined its method of production (11 jobs reduced) and installed new equipment (2 jobs reduced).

Recommendation: Staff recommends that the Trustees reduce Oxy's RP and EP allocation employment commitments by 13 jobs to 237 and 245 positions, respectively.

Outokumpu American Brass, Inc., Buffalo, Erie County

Allocation: 8060 kW of RP

Jobs Commitment: 505 jobs

Background: Outokumpu American Brass, Inc. ('Outokumpu'), in business since 1906, manufactures copper and brass sheets and rolls. The allocation is a 'vintage' contract, meaning that it has an 80% job ratio and two-year job average. The company requested a productivity improvement reduction of its job commitment by four jobs.

Outokumpu's reduction comes from rebalancing of job duties (two positions), elimination of a process (one position) and new equipment (one position). For the past two years, Outokumpu averaged 649.38 jobs, i.e., 128.59% of its contractual commitment.

Recommendation: Staff recommends that the Trustees reduce Outokumpu's RP allocation employment commitment by 4 jobs to a base of 501 positions.

RECOMMENDATION

"The Director – Business Power Allocations, Regulation and Billing recommends that the Trustees adjust the job commitments for seven customers with 17 contracts due to productivity improvements as described above and set forth in Exhibit '7-A.'

"The Executive Vice President and General Counsel, the Senior Vice President – Marketing, Economic Development and Supply Planning, the Vice President – Major Account – Marketing and Economic Development and I concur in the recommendation."

Mr. Pasquale presented the highlights of staff's recommendations to the Trustees. In response to a question from Trustee Cusack, Mr. Pasquale said that all of the companies requesting productivity improvement reductions are located in Western New York because they are all hydro power customers.

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

RESOLVED, That the Authority hereby approves adjustment of the future job commitment levels for seven customers with 17 contracts that made productivity improvements as described in the foregoing report of the President and Chief Executive Officer and as set forth in Exhibit "7-A"; and be it further

RESOLVED, That the Director – Business Power Allocations, Regulation and Billing is hereby authorized to provide written notice to these companies whose allocations and job commitments are being reduced; and be it further

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

I. ALLOCATIONS TO CONTINUE WITH JOB COMMITMENT CHANGES FOR PRODUCTIVITY IMPROVEMENTS

Company	Location	Date of Trustee Approval	Type of Power	Allocation kW	Employment Commitment (# of jobs)	Average 2004 Jobs	Average Annual % Achieved	Revised Jobs
American Axle & Mfg Inc. - Tonawanda	Tonawanda	May 94	EP	3,250	680	737.00	108.38	668
American Axle & Mfg Inc. - Tonawanda	Tonawanda	Apr 94	RP	2,600	680	737.00	108.38	668
American Axle & Mfg Inc. - Tonawanda	Tonawanda	Apr 91	RP	1,300	680	737.00	108.38	668
Delphi Automotive Systems LLC	Lockport	Dec 88	EP	14,300	5,480	4,346.46	79.31	5,246
Ford Motor Company	Buffalo	Dec. 94	EP	4,300	1,966	1,741.00	88.56	1,869
Ford Motor Company	Buffalo	Feb. 93	EP	2,900	1,966	1,741.00	88.56	1,869
G. M. Powertrain - Tonawanda Plant	Buffalo	Sep 97	EP	1,100	3,470	3,041.75	87.66	3,404
G. M. Powertrain - Tonawanda Plant	Buffalo	Jun. 96	EP	800	3,470	3,041.75	87.66	3,404
G. M. Powertrain - Tonawanda Plant	Buffalo	Aug 97	RP	725	3,470	3,041.75	87.66	3,404
G. M. Powertrain - Tonawanda Plant	Buffalo	Jan 94	EP	13,800	3,706	3,041.75	82.08	3,404
G. M. Powertrain - Tonawanda Plant	Buffalo	Jun 00	RP	2,000	3,514	3,041.75	86.56	3,448
Goodyear Dunlop Tires N.A. Ltd.	Tonawanda	Jun. 00	RP	850	1,449	1,465.75	101.16	1,422
Goodyear Dunlop Tires N.A. Ltd.	Tonawanda	Apr 91	RP	250	1,449	1,465.75	101.16	1,422
Goodyear Dunlop Tires N.A. Ltd.	Tonawanda	Aug 89	EP	6,000	1,439	1,465.75	101.86	1,412
Occidental Chemical Corporation	Niagara Falls	1963	RP	56,000	250	271.84	108.74	237
Occidental Chemical Corporation	Niagara Falls	Oct 88	EP	38,700	258	248.75	96.41	245
Outokumpu American Brass, Inc..	Buffalo	Various	RP	8060	505	649.38	128.59	501

EP = Expansion Power

RP = Replacement Power

8. Procurement (Services) Contract – Consulting/Engineering Services – Malcolm Pirnie – Award

The President and Chief Executive Officer submitted the following report:

SUMMARY

“The Trustees are requested to approve the award of a two-year services contract to Malcolm Pirnie, in an amount not to exceed \$105,700, to conduct a facility site assessment and develop a Best Management Practice Plan and a Pollution Minimization Program Plan for the St. Lawrence/FDR Power Project (‘Project’).

BACKGROUND

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

“The services to be provided are required to comply with the Authority’s new State Pollutant Discharge Elimination System (‘SPDES’) Permit for the Project, which was modified by the New York State Department of Environmental Conservation on January 1, 2006.

DISCUSSION

“In accordance with the Authority’s competitive bidding requirements, a Request for Proposals was sent directly to 11 consultants and was advertised in the New York State Contract Reporter. Five proposals (as detailed in the table below) were received in response to Bid Inquiry Q02-3745AT.

<u>Company</u>	<u>Lump Sum Amount</u>
TRC (Lowell, MA)	\$25,000
Shaw Environmental (Latham, NY; Hopkinton, MA)	\$36,459
Malcolm Pirnie (Latham, NY)	\$59,700
ENSR (Langhorne, PA)	\$110,000
URS (Buffalo, NY)	\$156,237

“TRC’s and Shaw Environmental’s proposals were deemed non-responsive. TRC’s proposal was non-responsive due to a lack of detail as to how it would develop these plans, absence of relevant experience and evidence of an extremely low level of effort, which suggests it does not understand the full extent of this project. The proposal from Shaw Environmental was non-responsive due to the lack of experience of the person conducting the majority of the tasks, the low level of effort involved with the facility site assessment and the failure of the firm to provide all required information asked for in the scope of services, thus making it impossible to compare it with the other proposals.

“The lowest-priced, most responsive and technically qualified firm, Malcolm Pirnie, provided a proposal that meets all of the requirements laid out in the scope of work, has the necessary experience to perform the requested tasks and proposes a reasonable level of effort to accomplish this project. The proposed key personnel all reside in their Latham, New York office and consist of engineers and geologists each with over eight years of experience in SPDES permitting, developing various plans such as BMP plans, Spill Prevention, Control and Countermeasure Plans, Oil Spill Contingency Plans, and Hazardous Waste Contingency Plans, conducting contaminant source identification and remedial investigations, and have project experience with PCBs. In the event that optional drilling, sampling, laboratory analyses and data validation may be required, as authorized by the Authority, it is recommended that an additional \$46,700 (based on unit pricing provided by Malcolm Pirnie) be added to its proposed cost of \$59,700.

FISCAL INFORMATION

“Funding for operating expenditures has been included in the approved 2006 O&M budget.

RECOMMENDATION

“The Vice President – Procurement and Real Estate and the Vice President – Environmental Management recommend that the Trustees authorize award of a contract, in an amount not to exceed \$105,700, to Malcolm Pirnie of Latham, New York, to conduct the facility site assessment and develop the Best Management Practice and Pollution Minimization Program Plans as required by the State Pollutant Discharge Elimination System permit for the St. Lawrence/FDR Power Project.

“The Executive Vice President – Corporate Services and Administration, the Executive Vice President and General Counsel, the Senior Vice President – Chief Financial Officer, the Senior Vice President – Power Generation, the Vice President – Controller and I concur in the recommendation.”

Mr. Slade presented the highlights of staff’s recommendations to the Trustees. In response to a question from Vice Chairman McCullough, Mr. Slade said that the higher bid prices quoted by two of the responders to the RFP did not include additional work beyond that envisioned for the winning bidder. Responding to a question from Chairman Seymour, Mr. Slade said that approval of funding for potential additional work beyond the first phase of the contract was being requested at this time because, if the initial work indicated that additional work needed to be done, time would be of the essence in order to meet the schedule required by the State Pollutant Discharge Elimination System permit.

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

RESOLVED, That pursuant to the Authority’s Guidelines for Procurement Contracts, the award of a multiyear services contract to Malcolm Pirnie is approved as recommended in the foregoing report of the President and Chief Executive Officer, in an amount not to exceed \$105,700, to conduct the facility site assessment and develop the Best Management Practice and Pollution Minimization Program Plans as required by the State Pollutant Discharge Elimination System permit for the St. Lawrence/FDR Power Project; and be it further

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

9. Procurement (Services) Contract – On-Call Security Consultant Services Contract – TRC Security, LP, A Division of TRC Engineers, Inc. – Award

The President and Chief Executive Officer submitted the following report:

SUMMARY

“The Trustees are requested to approve the award of a five-year services contract to TRC Security, LP (‘TRC’), a Division of TRC Engineers, Inc., New York, NY, in an amount not to exceed \$1,050,000. Services will include assessing physical security and vulnerabilities at the Authority’s facilities in order to mitigate security threats and improve current security systems operations. Services will be utilized on several planned security projects over the timeframe of this agreement.

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.

“The services are required to assess, plan and initiate security related capital improvement projects at the Authority’s facilities. These services are a component of the comprehensive capital Security Project approved by the Trustees at their meeting of December 13, 2005.

DISCUSSION

“Seven proposers responded to Bid Inquiry Q-02-3705-AT as follows:

<u>Company</u>	<u>Composite Hourly Rate</u>
1. TRC Security, LP, a Division of TRC Engineers, Inc., New York, NY	\$117
2. Weidlinger Associates, Inc., New York, NY	\$139
3. Safir Rosetti, Carrollton, TX	\$141
4. Carpeny and Associates, LLC, Gaithersburg, MD (‘Carpeny’)	\$158
5. Aggleton & Associates, Inc., New York, NY	\$160
6. Shen Milson & Wilke, Inc., New York, NY	\$160
7. Cosentini Information Technologies, New York, NY	\$172

“The composite hourly rate was calculated assuming typical project staffing distribution of 20% Principal; 30% Team Leader; 30% Threat Assessment Specialist; 10% Electrical Engineer; and, 10% Computer Aided Drafting/Design.

“To meet the Authority’s needs, it is essential that the security consultant have hands-on, practical experience with security systems, systems integration, intrusion detection systems, CCTV, lighting, access control, powering and grounding of systems, communications, security computer systems and security command centers/consoles. The low bidder, TRC, has the requisite practical experience conducting security assessments at utilities, ports, airports and other facilities. The company also has Authority experience in environmental consulting rather than security consulting.

“Because TRC is qualified and is the low bidder, it is recommended that the Security Consultant Services Contract be awarded to it.

FISCAL INFORMATION

“Payments will be made from the Capital Fund and have been included in the 2006 approved Capital Budget.

RECOMMENDATION

“The Vice President and Chief Engineer – Power Generation, the Director of Civil/Structural Engineering – Power Generation and the Director – Corporate Security and Inspector General recommend that the Trustees authorize award of a contract to TRC Security, LP, a Division of TRC Engineers, Inc., New York, NY, in an amount not to exceed \$1,050,000 to assess physical security and vulnerabilities at the Authority’s facilities/sites in order to mitigate security threats and improve current security systems operations on an ‘on-call’ basis.

“The Executive Vice President – Corporate Services and Administration, the Executive Vice President and General Counsel, the Senior Vice President – Chief Financial Officer, the Senior Vice President – Power Generation, the Vice President – Controller and I concur in the recommendation.”

Mr. Lipsky presented the highlights of staff’s recommendations to the Trustees. In response to a question from Chairman Seymour, Mr. Wiese said that he was familiar with the firm being recommended for contract award and had reviewed all of the proposals to the RFP.

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

RESOLVED, That pursuant to the Authority’s Guidelines for Procurement Contracts, the award of a multiyear services contract, for the term of five years, to TRC Security, LP, a Division of TRC Engineers, Inc. is approved as recommended in the foregoing report of the President and Chief Executive Officer for an amount not to exceed \$1,050,000 to assess physical security and vulnerabilities in order to mitigate security threats and improve current security systems operations on an “on-call” basis at Authority facilities; and be it further

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

10. Procurement (Services) Contract – Niagara Power Project Relicensing – Compliance and Implementation Services – Gomez and Sullivan Engineers, P.C. – Award

The President and Chief Executive Officer submitted the following report:

SUMMARY

“The Trustees are requested to approve the issuance of a contract for consultant services with Gomez and Sullivan Engineers, P.C. (‘Gomez & Sullivan’) to provide compliance and implementation services associated with the relicensing of the Niagara Power Project (‘Project’). The intended term of the contract is six years, which would cover the initial phase of compliance and implementation activities. The compensation limit under the contract is \$15.4 million. Funding for 2006 is included in the approved 2006 Budget and existing CEAR. No increase in Capital Authorization is requested at this time; initial funds to defray the cost of work conducted in 2006 will be decommitted from the existing Relicensing Services Contract and redirected in support of this contract.

BACKGROUND

“In accordance with the Authority’s Expenditure Authorization Procedures, the award of non-personal services or equipment purchase contracts in excess of \$3 million, as well as personal services contracts in excess of \$1 million if low bidder, or \$500,000 if sole source or non-low bidder, requires Trustees’ approval.

“The Authority’s existing federal license for the Project expires in August 2007. The Authority filed an Application for a New License in August 2005. The License Application was supported by a Draft Applicant-Prepared Environmental Assessment as well as an Offer of Settlement, which included draft license articles. Hydropower Relicensing staff has already commenced planning for the compliance and implementation phase of the relicensing project.

DISCUSSION

“The contract with Gomez & Sullivan (Q02-3706AT; PO # TBA) would commence on March 1, 2006, subject to the Trustees’ approval. The purpose of this contract is to provide assistance in support of compliance and implementation obligations associated with the new license for the Project. Such support is essential for meeting the Authority’s commitments under the Offer of Settlement filed with the Federal Energy Regulatory Commission (‘FERC’) on August 19, 2005, including compliance with the proposed license terms and conditions and development of Habitat Improvement Projects and Recreation Access Projects. Services would include, but not be limited to: Development of a Compliance and Implementation Plan; Project Administration and Management Services; Procurement of Subcontractor Services; Engineering Design; Construction Management; Development of the Recreation Plan, Land Management Plan and Historic Properties Management Plan; Equipment Procurement; GIS/Database services and licensing support. It is anticipated that FERC will issue a new license in early 2007, effective upon the expiration of the current license. In order to be adequately prepared to meet its obligations under the proposed license terms and Offer of Settlement, it is essential that the Authority obtain the requested services to support the Compliance and Implementation efforts currently under way.

“A Request for Proposals (‘RFP’) was developed by Hydropower Relicensing, Procurement and Environmental Division staff. The RFP was approved by the Executive Director – Hydropower Relicensing and the Vice President – Procurement and Real Estate. Notice was placed in the New York State Contract Reporter on November 14, 2005. Thirty-one firms requested the RFP; five proposals were received in response to the RFP. Several of the prospective bidders ‘teamed’ together, resulting in three qualified proposals: Gomez & Sullivan Engineers, P.C., URS Corporation and PB Power Inc. These proposals were reviewed in detail, and personal interviews were conducted with the Gomez & Sullivan Team and the URS Team by the Authority’s evaluation team, which consisted of representatives from the Hydropower Relicensing, Law, Procurement, Real Estate and Environmental Divisions. The third proposal from PB Power Inc. was held for possible further review, as the rate structure provided was significantly higher than the other two proposals. The evaluation criteria included: composition and qualifications of the consultant team; experience and expertise in FERC license compliance and

implementation, project management and administration, database and GIS, construction management and oversight; compensation schedule; overall quality and clarity of proposal and performance at the personal interview.

“The Gomez & Sullivan Team includes E/PRO Engineering, Kleinschmidt Associates and Bernier Carr Associates. This team of four companies is well organized and balanced, covering all required disciplines. The Team possesses the depth and has the unique ability to perform many of the tasks in-house, rather than through subcontracting, which has the potential to streamline and simplify the compliance and implementation process. The Gomez & Sullivan Team has an excellent record in working together seamlessly. They have been involved in FERC licensing compliance and implementation and have significant experience in these activities at other hydropower facilities in New York State, including the St. Lawrence/FDR Power Project, as well as in providing Relicensing Services for the Niagara Power Project. Their proposal and performance at the personal interview reflect a clear grasp of the services sought under this RFP and an ability to meet the needs of the Authority during the compliance and implementation phase of Niagara Relicensing. Their overall costs are competitive. Based on their analysis, each member of the Authority’s evaluation team independently concluded that the Gomez & Sullivan Team is best qualified to complete the tasks outlined in the RFP.

“The contract will be awarded on a time-and-materials basis. Detailed tasks will be developed and budgeted as the Niagara Relicensing Compliance and Implementation Plan is developed. During the review process, staff conducted an examination of the fixed hourly rates for the three qualified bidders. As a result of this analysis, it was determined that the Gomez & Sullivan Team’s hourly rates based on the percentage of participation by key personnel were lower than the other bidders. The Gomez & Sullivan rates are fixed for the initial two years. Rates after 2007 would change in accordance with a United States Department of Labor index to be agreed upon by the Contractor and the Authority. The intended term of this contract is six years, subject to the Trustees’ approval, which is hereby requested.

“Based on the foregoing, the Gomez & Sullivan Team best meets the requirements of the Authority, as reflected in the evaluation criteria set forth above. Therefore, the Authority’s evaluation team recommends that the contract be awarded to Gomez & Sullivan, the lowest-cost, most technically qualified bidder.

FISCAL INFORMATION

“Funds required to support the Niagara Compliance and Implementation Services contract will be withdrawn from the Capital Fund and will be disbursed in accordance with the Project’s approved CEAR.

“The total authorized amount for the Niagara Relicensing effort, last approved by the Trustees at their meeting of September 23, 2003, is \$52.1 million. Approval is now requested for award of the subject \$15.4 million contract. Annual expenditures from this amount will be detailed in the annual budget requests submitted by Hydropower Relicensing. No increase in Capital Expenditure Authorization is requested at this time; funds will be decommitted from funds allocated to the Relicensing Services Contract, which will be allowed to sunset in June 2006, and redirected to support this contract in 2006. Additional capital authorization for this contract will be included in a comprehensive Niagara Relicensing Compliance and Implementation CEAR that will be submitted to the Trustees for approval once settlement discussions have been concluded and FERC has issued its Draft Environmental Impact Statement for the Project.

RECOMMENDATION

“The Senior Vice President – Public and Governmental Affairs, the Vice President – Procurement and Real Estate, the Executive Director – Hydropower Relicensing and the Director – Niagara Relicensing recommend the Trustees’ approval of the award of the multiyear Niagara Compliance and Implementation Services Contract to Gomez and Sullivan Engineers, P.C. as discussed above.

“The Executive Vice President – Corporate Services and Administration, the Executive Vice President and General Counsel, the Senior Vice President and Chief Financial Officer, the Senior Vice President – Power Generation and I concur in the recommendation.”

Mr. Silliman presented the highlights of staff's recommendations to the Trustees. In response to a question from Chairman Seymour, Mr. Silliman said that funds that had already been included in the 2006 Niagara relicensing budget would be transferred to this contract and that in the fall, staff would come back to the Trustees to request the balance of funds for this contract as part of a comprehensive Niagara Relicensing Compliance and Implementation Capital Expenditure Authorization Request.

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

RESOLVED, That pursuant to the Guidelines for Procurement Contracts adopted by the Authority, the award of, and funding for, the contract with Gomez and Sullivan Engineers, P.C. (Q02-3706AT; PO # TBA) are hereby approved as recommended in the foregoing report of the President and Chief Executive Officer for the period of time indicated, in the amounts and for the purposes listed below:

	<u>Initial Contract Authorization</u>	<u>Total Expenditure Authorization</u>	<u>Project Completion</u>
Gomez and Sullivan Engineers, P.C. (Q02-3706AT) Compliance and Implementation Services for Niagara Relicensing	\$15,400,000	<u>\$1,700,000</u>	02/28/12

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

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

“Mr. Chairman, I move that the Authority conduct an executive session in connection with potential litigation relating to particular persons and corporations.” Upon motion moved and seconded, an executive session was held.

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

“Mr. Chairman, I move to resume the meeting in open session.” Upon motion moved and seconded, the meeting resumed in open session.

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13. Tri-Lakes Reliability Project – Final Environmental Impact Statement – Adoption of Findings

The President and Chief Executive Officer submitted the following report:

SUMMARY

“The Trustees are requested to: (1) adopt the Certification and Statement of Findings (‘Findings’) set forth in Exhibit ‘13-A’ and (2) approve the actions adopted in the Findings. The Findings are based on the information collected and analyses performed as reflected in the Final Environmental Impact Statement (‘FEIS’) prepared for the Tri-Lakes Reliability Project. The actions that are the subject of these Findings are the licensing, funding and construction of the Tri-Lakes Reliability Project.

BACKGROUND

“At their meeting of October 26, 2004, the Trustees authorized a settlement agreement (‘Agreement’) that, in part, provides for two independent projects:

1. The construction of substation equipment (the Static Var Compensator ‘SVC’ Project) to provide the Adirondack transmission system with better voltage regulation; and
2. A new transmission line and related substation/regulator facilities to alleviate serious transmission capacity deficiencies in the Lake Placid, Tupper Lake and Saranac Lake area of the Adirondacks (the ‘Tri-Lakes Reliability Project’ or ‘the Project’).

“As part of that Agreement, the Authority agreed to finance the two projects and license the transmission line.

“The Tri-Lakes Reliability Project consists of 26.8 miles of a new 46 kilovolt (‘kV’) line sharing wood pole structures and right-of-way (‘ROW’) with existing distribution lines in some locations and new 46 kV lines on wood poles within new ROW in others, a new 115/46 kV substation facility located in the Town of Parishville and a new regulator station located in the vicinity of the existing Piercefield Substation in the Town of Piercefield.

“The basic purpose of Article 8 of the Environmental Conservation Law, the State Environmental Quality Review Act (‘SEQRA’), is to ensure the consideration of environmental impacts in the planning and decision-making processes of state and local governments as early as practical. In May 2005, the Adirondack Park Agency (‘APA’), the New York State Department of Environmental Conservation (‘NYSDEC’) and the New York State Department of Transportation (‘NYSDOT’) agreed that the Authority would be Lead Agency for the SEQRA review of the Project. The Authority’s implementing regulations for SEQRA are found at 21 NYCRR Part 461. As the Lead Agency, the Authority is responsible for preparing these Findings. Therefore, these Findings are prepared pursuant to Part 461 and, in particular, Section 461.13. Section 461.13 requires that before actions that are the subject of an Environmental Impact Statement (‘EIS’) can be approved by the Trustees, they must: (1) consider the EIS, (2) make the Findings specified in Exhibit ‘13-A’ and (3) prepare a written statement describing the basis for their Findings.

DISCUSSION

“On February 10, 2005, as a result of competitive bidding, the President and Chief Executive Officer authorized the award of a contract to Tetra Tech for licensing the Project in accordance with the Authority’s Expenditure Authorization Procedures. Tetra Tech began the necessary studies and prepared the documents required to obtain regulatory approvals to construct the project. The Authority held a public outreach meeting in June to identify issues to be addressed under SEQRA. Supplemental funding was approved by the Trustees at their meetings of July 26 and November 29, 2005 for the additional studies and analyses necessary to prepare applications and documents, including the EIS, to obtain required regulatory approvals for the Project. The applications to APA and NYSDEC, as well as the Draft Environmental Impact Statement (‘DEIS’), were filed on November 30, 2005.

The public comment period began on November 30, 2005. A SEQRA hearing on the DEIS was held on January 11, 2006, with written comments due on the DEIS by January 31, 2006. After review of the public comments, a Final EIS ('FEIS') was issued on February 17, 2006. It is anticipated that APA's Board will issue its order and permits for the Project at its March 9, 2006 meeting. To enable APA Board action, APA staff has indicated to Authority staff that the Board wants the Authority Trustees to adopt a statement of findings based on the FEIS, certify these findings and approve the actions adopted in the certificate of findings.

"The Findings in Exhibit '13-A' are recommended and are based on the evaluation of the actions as reflected in the FEIS. The following facts and conclusions from the FEIS support these Findings.

"Project operation is anticipated to have a beneficial effect on the Tri-Lakes Region. The Project will enhance the reliability of the power delivery system in the villages of Tupper Lake and Lake Placid and the Region and should significantly reduce the number of power outages in the area. Benefits of increased reliability include fewer outages during the winter when the loss of heat can create significant public safety concerns, fewer lost days of school and fewer losses to area businesses from closure due to outages. Also, the Project will generate 150 construction jobs with a payroll of \$8.8 million lasting approximately 19 months.

"The EIS and Appendices demonstrate that this Project will be capable of meeting all federal and state regulatory standards and criteria. Extensive efforts have been made to avoid negative impacts on environmental, agricultural, archaeological and historical resources; rare, threatened and endangered species; wetlands and water resources; land use and visual resources. In cases where there are effects, mitigation measures have been identified and will be implemented so that the Project has the least possible negative impacts on the environment.

FISCAL INFORMATION

"Adoption of the Findings has no fiscal impact on the Authority.

RECOMMENDATION

"The Vice President – Environmental Division, the Executive Director – Licensing, Implementation and Compliance and the Senior Vice President – Public and Governmental Affairs, recommend that the Trustees adopt the Certification and Statement of Findings in Exhibit '13-A' and approve the actions adopted in the Statement of Findings, consistent with the foregoing and the attached resolution.

"The Executive Vice President – Corporate Services and Administration, the Executive Vice President and General Counsel, the Senior Vice President and Chief Financial Officer and I concur in the recommendation."

Mr. Suloway presented the highlights of staff's recommendations to the Trustees. In response to a question from Chairman Seymour, Mr. Suloway said that the Trustees were being asked to approve the findings of the Environmental Impact Statement. Responding to a question from Vice Chairman McCullough, Mr. Suloway said that the Adirondack Park Agency would base its action on this matter at its meeting on March 9 on the Authority's Trustees' action today. In response to another question from Vice Chairman McCullough, Mr. Suloway said that the findings address comments made throughout the process, including those made at the public hearing, and that only one residents' group was likely to object to the project going forward. Responding to questions from Chairman Seymour, Mr. Suloway said that the Authority will not receive any incremental revenues from the project; however, when the project is sold in 2012, the Authority will recover most of its costs in the sale

price. The sale price will include the Authority's financing costs, but will exclude half of any cost overruns in the construction of the line, as these amounts will be split with National Grid.

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

RESOLVED, That the Trustees adopt the Statement of Findings set forth in Exhibit "13-A" as supported by the Final Environmental Impact Statement prepared for the Tri-Lakes Reliability Project as referenced in the foregoing report of the President and Chief Executive Officer; and be it further

RESOLVED, That the Vice President – Environmental Division be directed to sign, in the name of the Trustees, the Certification of Findings (Exhibit "13-A") to Approve/Fund/Undertake the actions that were the subject of the Final Environmental Impact Statement and that he cause that Certification to be served on all involved agencies; and be it further

RESOLVED, That the Trustees approve the actions adopted in the Certification and Statement of Findings, which were the subject of the Final Environmental Impact Statement; and be it further

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

14. Robert Moses Niagara Power Project – Dam Face Rehabilitation – Crane Hogan, Inc. – Increase in Compensation Ceiling

The President and Chief Executive Officer submitted the following report:

SUMMARY

“The Trustees are requested to increase the compensation limit of the contract with Crane-Hogan, Inc. (‘Crane-Hogan’) for the refurbishment of the dam face of the Robert Moses Niagara Power Project (‘Niagara Power Project’) from \$13,400,000 to \$17,900,000, resulting from increased quantities of deteriorated concrete and clarifications of the scope of work.

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.

“Also, in accordance with the Authority’s recently revised Expenditure Authorization Procedures, the Trustees’ approval is required for additional funding in excess of \$1,000,000 for non-personal services, construction and equipment contracts where it is impractical to rebid.

“At their meeting of April 27, 2004, the Trustees authorized the award of a competitively bid contract to Crane-Hogan, with a compensation ceiling of \$13,400,000, for the refurbishment of the dam face of the Niagara Power Project. The Niagara Power Project dam face consists of 20 bays with a total surface area of 405,000 square feet. Approximately 53,000 square feet of the total surface area will be repaired under this contract.

“As a result of the need to de-energize the power lines above the dam face during the rehabilitation work and the increased quantities of deteriorated concrete discovered, the contract should be revised and the contract value increased.

“The contract is based on unit pricing for removal and repair of a portion of the dam face, but did not include unit pricing for additional removal behind the reinforcing steel.

DISCUSSION

A. Contract Revision

The original contract required the contractor to refurbish all of the 20 bays that make up the Niagara Power Project dam face. High-voltage transmission lines traverse three of those bays and affect work on part of two others, requiring de-energization of the power lines during the rehabilitation work. Because of the difficulty of scheduling outages in accordance with North American Electric Reliability Council (‘NERC’) rules and the associated extra costs of completing the work within a compressed schedule, Authority staff has concluded that the scope of work of this project should be revised to eliminate the equivalent of four bays. A separate bid package would be prepared to repair those bays at a future date when system electrical conditions permit. With this revision, Crane- Hogan would be required to repair a total of approximately 16 bays unaffected by the transmission lines.

B. Increased Quantities of Concrete Removal

The Authority’s 2003 pre-construction estimate of deteriorated concrete for bidding purposes was based on an extrapolation of the 1996 survey of the dam face. During the course of the contractor’s rehabilitation work, greater quantities of deteriorated concrete were discovered. Specifically, while the original contract required the removal of 42,000 square feet of deteriorated concrete, the new survey data indicated that a

total of 53,600 square feet had to be removed to complete approximately 16 full bays. The additional cost to remove this increased quantity of deteriorated concrete per the contract is \$1,392,000.

C. New Unit Pricing for Extra Depth Concrete Removal

An element of the proposed increase in the contract amount is the result of discussions between the contractor and the Authority to clarify and resolve the specification requirement that concrete be removed to a depth of three-quarters of an inch behind any exposed reinforcing bar. This removal requirement is more rigorous than Crane-Hogan initially understood and was not included in its bid price. This has resulted in Crane-Hogan filing a significant dollar claim for the additional work. To resolve these issues, the Authority and Crane-Hogan negotiated the amount of this claim. Because the contractor has been satisfactorily performing the work, the Authority believes that the most prudent and cost-effective course would be to increase the amount per square foot being paid to Crane-Hogan for the extra-depth concrete removal and repair. This scope clarification of the extra-depth removal will result in an increased cost of \$2,219,000.

“As work progressed, discrepancies between the design drawing and the ‘as-built’ conditions for the rustication joints were discovered. The rustication joints are the seams between the bays. This drawing discrepancy has resulted in an additional cost of \$560,000 for the rustication joint repair. In order to ensure vigorous prosecution of this work by the contractor, an incentive arrangement will be implemented. The contractor will be paid a prorated amount of the \$560,000 upon completion of each of the approximately 16 full bays.

“It is staff’s opinion that the negotiated resolution of outstanding issues with Crane-Hogan provides the least costly and most favorable business solution for the Authority.

“A summary of the contract is as follows:

Original Bid	\$13,400,000
Increased Quantities	1,392,000
Scope Clarification	2,219,000
Rustication Joint Repair	560,000
Contingency	<u>329,000</u>
Total	<u>\$17,900,000</u>

FISCAL INFORMATION

“Payment will be made from the Operating Fund.

RECOMMENDATION

“The Deputy Secretary and Deputy General Counsel, the Vice President – Project Management, the Vice President – Procurement and Real Estate, the Vice President and Chief Engineer – Power Generation, the Regional Manager – Western New York and the Project Manager recommend that the Trustees authorize an additional \$4,500,000 for the Dam Face Rehabilitation contract with Crane-Hogan, Inc., resulting in a revised contract price of \$17,900,000.

“The Executive Vice President – Corporate Services and Administration, the Executive Vice President and General Counsel, the Senior Vice President and Chief Financial Officer, the Senior Vice President – Power Generation, the Vice President – Controller and I concur in the recommendation.”

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

RESOLVED, That pursuant to the Guidelines for Procurement Contracts and the Expenditure Authorization Procedures adopted by the Authority, additional funds of \$17,900,000 are approved as recommended in the foregoing report of the President and Chief Executive Officer, in the amount and for the purpose listed below:

<u>O & M</u>	<u>Contract Approval</u>
Robert Moses Niagara Power Project Dam Face Rehabilitation	
Crane Hogan, Inc.	
Original Contract Approval	\$13,400,000
Current Authorization Request	<u>\$ 4,500,000</u>
Total Contract Amount	<u>\$17,900,000</u>

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

15. Other

Trustee Townsend thanked staff for their hard work on the Strategic Planning Conference, saying that it had been very useful for the Trustees to participate in it. Vice Chairman McCullough and Trustee Cusack added their thanks.

16. **Next Meeting**

The next Regular Meeting of the Trustees will be held on **Tuesday, March 28, 2006, at 11:00 a.m., at the Clarence D. Rappleyea Building in White Plains**, unless otherwise designated by the Chairman with the concurrence of the Trustees.

Closing

On motion duly made and seconded, the meeting was adjourned by the Chairman at approximately 12:30 p.m.

A handwritten signature in black ink, appearing to read "T. J. Kelly". The signature is written in a cursive style with a large initial "T" and "J".

Thomas J. Kelly
Executive Vice President and General Counsel