

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

**April 29, 2008**

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Minutes of the Annual Meeting of the Power Authority of the State of New York held via video conference at the following participating locations at 11:05 a.m.:

- 1) New York Power Authority, 123 Main Street, White Plains, NY
- 2) Niagara Power Project, 5777 Lewiston Road, Lewiston, NY

The following Members of the Board were present at the following locations:

Present: Frank S. McCullough, Jr., Chairman (White Plains, NY)  
Michael J. Townsend, Vice Chairman (White Plains, NY)  
Elise M. Cusack, Trustee (Niagara Project, Lewiston, NY)  
Robert E. Moses, Trustee (White Plains, NY)  
Thomas W. Scozzafava, Trustee (White Plains, NY)  
James A. Besha, Sr., Trustee (White Plains, NY)  
D. Patrick Curley, Trustee (White Plains, NY)

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Roger B. Kelley	President and Chief Executive Officer
Thomas J. Kelly	Executive Vice President, General Counsel and Chief of Staff
Joseph Del Sindaco	Executive Vice President and Chief Financial Officer
Gil C. Quiniones	Executive Vice President – Energy Marketing and Corporate Affairs
Steven J. DeCarlo	Senior Vice President – Transmission
William J. Nadeau	Senior Vice President – Energy Resource Management and Strategic Planning
Edward A. Welz	Senior Vice President and Chief Engineer – Power Generation
James H. Yates	Senior Vice President – Marketing and Economic Development
Thomas P. Antenucci	Vice President – Project Management
Arnold M. Bellis	Vice President and Controller
Paul F. Finnegan	Vice President – Intergovernmental and Community Affairs
Lesly Y. Pardo	Vice President – Internal Audit
Donald A. Russak	Vice President – Finance
William V. Slade	Vice President – Environment, Health and Safety
Thomas Warmath	Vice President and Chief Risk Officer
Joseph J. Carline	Assistant General Counsel - Power and Transmission
Brian C. McElroy	Treasurer – Corporate Finance
Anne B. Cahill	Corporate Secretary
Angela D. Graves	Deputy Corporate Secretary
Dennis T. Eccleston	Chief Information Officer
John J. Suloway	Executive Director – Licensing, Implementation and Compliance
Joseph Leary	Director - Corporate Community Affairs – Public and Governmental Affairs
Gerard R. Mullin	Director - Fuel Planning and Operation - Energy Resource Management
James F. Pasquale	Director – Business Power Allocations, Compliance and Municipal and Cooperative Marketing
Christine Pritchard	Director - Intergovernmental and Community Affairs
Michael A. Saltzman	Director – Media Relations
Caroline G. Garcia	Manager - Power Contracts – Marketing and Economic Development
Michael J. Huvane	Manager - Business Marketing and Economic Development
Lou Paonessa	Community Relations Manager - Public and Governmental Affairs
Amy J. Levine	Principal Attorney II - Power and Transmission
Albert Swansen	First Deputy Inspector General
Mary Jean Frank	Associate Corporate Secretary
Lorna M. Johnson	Assistant Corporate Secretary

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Chairman McCullough presided over the meeting. Secretary Cahill kept the Minutes.

1. **Consent Agenda:**

*Chairman Frank McCullough said that item #1c (Allocation of 11,900 kW of Hydropower) was being moved to the Discussion Agenda at the request of Trustee Elise Cusack.*

a. **Minutes of the Annual Meeting held on March 25, 2008**

*The Minutes of the Annual Meeting held on March 25, 2008 were unanimously adopted.*

**b. Power for Jobs Program – Extended Benefits**

The President and Chief Executive Officer submitted the following report:

**SUMMARY**

“The Trustees are requested to approve extended benefits for 40 Power for Jobs (‘PFJ’) customers as listed in Exhibit ‘1b-A.’ These customers have been recommended to receive such extended benefits by the Economic Development Power Allocation Board (‘EDPAB’).

**BACKGROUND**

“In July 1997, the New York State Legislature approved a program to provide low-cost power to businesses and not-for-profit corporations that agree to retain or create jobs in New York State. In return for commitments to create or retain jobs, successful applicants receive three-year contracts for PFJ electricity.

“The PFJ program originally made 400 megawatts (‘MW’) of power available. The program was to be phased in over three years, with approximately 133 MW made available each year. In July 1998, as a result of the initial success of the program, the Legislature amended the PFJ statute to accelerate the distribution of the power and increase the size of the program to 450 MW.

“In May 2000, legislation was enacted that authorized another 300 MW of power to be allocated under the PFJ program. Legislation further amended the program in July 2002.

“Chapter 59 of the Laws of 2004 extended the benefits for PFJ customers whose contracts expired before the end of the program in 2005. Such customers had to choose to receive an ‘electricity savings reimbursement’ rebate and/or a power contract extension. The Authority was also authorized to voluntarily fund the rebates, if deemed feasible and advisable by the Trustees.

“PFJ customers whose contracts expired on or prior to November 30, 2004 were eligible for a rebate to the extent funded by the Authority from the date their contract expired through December 31, 2005.

“PFJ customers whose contracts expired after November 30, 2004 were eligible for rebate or contract extension, assuming funding by the Authority, from the date their contracts expired through December 31, 2005.

“Approved contract extensions entitled customers to receive the power from the Authority pursuant to a sale-for-resale agreement with the customer’s local utility. Separate allocation contracts between customers and the Authority contained job commitments enforceable by the Authority.

“In 2005, provisions of the approved State budget extended the period PFJ customers could receive benefits until December 31, 2006. Chapter 645 of the Laws of 2006 included provisions extending program benefits until June 30, 2007. Chapter 89 of the Laws of 2007 included provisions extending program benefits until June 30, 2008. Chapter 59 of the Laws of 2008 included provisions extending the program benefits until June 30, 2009.

“At its meeting of October 18, 2005, EDPAB approved criteria under which applicants whose extended benefits EDPAB had reduced for non-compliance with their job commitments could apply to have their PFJ benefits reinstated in whole or in part. EDPAB authorized staff to create a short-form application, notify customers of the process, send customers the application and evaluate reconsideration requests based on the approved criteria.

**DISCUSSION**

“At its meeting on April 29, 2008, EDPAB recommended that the Authority’s Trustees approve electricity savings reimbursement rebates to the 40 businesses listed in Exhibit ‘1b-A.’ Collectively, these organizations have agreed to retain more than 56,000 jobs in New York State in exchange for the rebates. The rebate program will be in effect until June 30, 2009, the program’s sunset.

“The Trustees are requested to approve the payment and funding of rebates for the companies listed in Exhibit ‘1b-A’ in a total amount currently not expected to exceed \$5.5 million. Staff recommends that the Trustees authorize a withdrawal of monies from the Operating Fund for the payment of such amount, provided that such amount is not needed at the time of withdrawal for any of the purposes specified in Section 503(1)(a)-(c) of the General Resolution Authorizing Revenue Obligations, as amended and supplemented. Staff expects to present the Trustees with requests for additional funding for rebates to the companies listed in the Exhibits in the future.

FISCAL INFORMATION

“Funding of rebates for the companies listed on Exhibit ‘1b-A’ is not expected to exceed \$5.5 million. Payments will be made from the Operating Fund. To date, the Trustees have approved \$114.9 million in rebates.

RECOMMENDATION

“The Executive Vice President and Chief Financial Officer and the Director – Business Power Allocations, Compliance and Municipal and Cooperative Marketing recommend that the Trustees approve the payment of electricity savings reimbursements to the Power for Jobs customers listed in Exhibit ‘1b-A.’

“The Executive Vice President, General Counsel and Chief of Staff, the Executive Vice President – Energy Marketing and Corporate Affairs, the Senior Vice President – Marketing and Economic Development and I concur in the recommendation.”

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

**WHEREAS, the Economic Development Power Allocation Board (“EDPAB”) has recommended that the Authority approve electricity savings reimbursements to the Power for Jobs (“PFJ”) customers listed in Exhibit “1b-A”;**

**NOW THEREFORE BE IT RESOLVED, That to implement such EDPAB recommendations, the Authority hereby approves the payment of electricity savings reimbursements to the companies listed in Exhibit “1b-A,” and that the Authority finds that such payments for electricity savings reimbursements are in all respects reasonable, consistent with the requirements of the PFJ program and in the public interest; and be it further**

**RESOLVED, That based on staff’s recommendation, it is hereby authorized that payments be made for electricity savings reimbursements as described in the foregoing report of the President and Chief Executive Officer in the aggregate amount of up to \$5.5 million, and it is hereby found that amounts may properly be withdrawn from the Operating Fund to fund such payments; and be it further**

**RESOLVED, That such monies may be withdrawn pursuant to the foregoing resolution upon the certification on the date of such withdrawal by the Vice President – Finance or the Treasurer that the amount to be withdrawn is not then needed for any of the purposes specified in Section 503(1)(a)-(c) of the General Resolution Authorizing Revenue Obligations, as amended and supplemented; and be it further**

**RESOLVED, That the Senior Vice President – Marketing and Economic Development or his designee be, and hereby is,**

April 29, 2008

authorized to negotiate and execute any and all documents necessary or desirable to effectuate the foregoing, subject to the approval of the form thereof by the Executive Vice President, General Counsel and Chief of Staff; 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 certificates, agreements and other documents to effectuate the foregoing resolution, subject to the approval of the form thereof by the Executive Vice President, General Counsel and Chief of Staff.

New York Power Authority  
Power for Jobs - Extended Benefits  
Recommendation for Electricity Savings Reimbursements

Exhibit "1b-A"  
April 29, 2008

Line	Company	City	County	IOU	KW	Job Committed	Jobs in Application	Over/ (under)	% Over (under)	Compliance	Recommended Allocation KW	Jobs/mw	Type	Service
1	Bowne & Co	New York	New York	Con Ed	550	391	384	-7	-2%	Yes	550	698	Large	Provides document management services
2	Home for Contemporary Theater & Art	New York	New York	Con Ed	30	19	23	4	21%	Yes	30	767	NFP	Arts venue
3	Jacmel Jewelry, Inc.	Long Island City	Queens	Con Ed	170	274	272	-2	-1%	Yes	170	1,600	Small	Makes & ships fine jewelry
4	Kingsbrook Jewish Medical Center	Brooklyn	Kings	Con Ed	1,200	2,403	2,325	-78	-3%	Yes	1,200	1,938	NFP	Medical and Research Institution
5	Long Island Jewish Medical Center	Manhasset	Nassau	Con Ed	2,000	6,143	6,958	815	13%	Yes	2,000	3,479	NFP	Healthcare Center
6	Mount Sinai Medical Center	New York	New York	Con Ed	2,000	11,647	11,647	0	0%	Yes	2,000	5,824	NFP	Medical Center
7	New York University	New York	New York	Con Ed	1,700	16,216	9,817	-6,399	-39%	Yes *	1,700	5,775	NFP	Institution of Higher Education
8	NYU Medical Center	New York	New York	Con Ed	4,000	11,414	10,924	-490	-4%	Yes	4,000	2,731	NFP	Medical Center
9	Pepsi Cola Bottling Company	College Point	Queens	Con Ed	2,200	990	1,015	25	3%	Yes	2,200	461	Large	Manufacturer & distributes of soft drinks
	<b>Total Con Ed</b>		<b>Subtotal</b>	<b>9</b>	<b>13,850</b>	<b>49,497</b>	<b>43,365</b>				<b>13,850</b>			
10	Commercial Envelope Manufacturing Corp.	Deer Park	Suffolk	LIPA	700	199	203	4	2%	Yes	700	290	Large	Manufacturer of envelopes
11	Ultimate Precision Metal	Farmingdale	Suffolk	LIPA	250	123	120	-3	-2%	Yes	250	480	Small	Manufactures controlled enclosures
	<b>Total LIPA</b>		<b>Subtotal</b>	<b>2</b>	<b>950</b>	<b>322</b>	<b>323</b>				<b>950</b>			
12	Albany Molecular Research, Inc.	Albany	Albany	N. Grid	600	395	393	-2	-1%	Yes	600	655	Large	Pharmaceutical research/manufacturing
13	Applied Energy Solutions	Caledonia	Livingston	N. Grid	300	63	65	2	3%	Yes	300	217	Small	Electronics
14	Borg Warner Morse Tech Corp	Cortland	Cortland	N. Grid	1,500	236	216	-20	-8%	Yes	1,500	144	Large	Manufacturer of Auto Components
15	Carville National Leather Corp.	Johnstown	Fulton	N. Grid	200	31	31	0	0%	Yes	200	155	Small	Leather Products
16	Cascades Tissue Group	Waterford	Saratoga	N. Grid	600	160	142	-18	-11%	No	530	268	Large	Large Industrial towel manufacturer
17	Corning, Inc. (Canton)	Canton	St. Lawrence	N. Grid	1,500	245	261	16	7%	Yes	1,500	174	Large	Manufacturer of optical fiber/glass/ceramics
18	Dielectric Laboratories, Inc.	Cazenovia	Madison	N. Grid	400	190	190	0	0%	Yes	400	475	Large	Ceramic capacitors and ceramic packaging
19	Dodge-Graphic Press Inc	Utica	Herkimer	N. Grid	300	72	67	-5	-7%	Yes	300	223	Small	Printing Company
20	Fitzpatrick & Weller, Inc.	Ellicottville	Cattaraugus	N. Grid	1,000	95	93	-2	-2%	Yes	1,000	93	Large	Lumber & wood components
21	Kilian Manufacturing Corporation	Syracuse	Onondaga	N. Grid	400	166	154	-12	-7%	Yes	400	385	Large	Mfr. ball bearings
22	Mohawk Paper Mills	Cohoes	Albany	N. Grid	2,250	424	488	64	15%	Yes	2,250	217	Large	Manufacturer of text and cover papers
23	Natrium Products, Inc.	Cortland	Cortland	N. Grid	90	21	21	0	0%	Yes	90	233	Small	Manufacturer of sodium bicarbonate
24	Organichem, Inc.	Rensselaer	Rensselaer	N. Grid	1,000	310	256	-54	-17%	Yes *	1,000	256	Large	Manufacturing pharmaceutical ingredients
25	PCI Paper Conversions, Inc.	Syracuse	Onondaga	N. Grid	400	223	214	-9	-4%	Yes	400	535	Large	Printed materials & adhesive manufacturing
26	Precision Systems Mfg., Inc.	Liverpool	Onondaga	N. Grid	200	71	63	-8	-11%	No	180	350	Small	Machining and sheet metal manufacturing
27	Queensboro Farm Products, Inc.	Canastota	Madison	N. Grid	500	79	81	2	3%	Yes	500	162	Large	Milk manufacturing and processing plant
28	Revere Copper Products	Rome	Oneida	N. Grid	2,000	425	424	-1	0%	Yes	2,000	212	Large	Copper & brass products
29	Sorrento Lactalis, Inc.	Buffalo	Erie	N. Grid	1,500	364	496	132	36%	Yes	1,500	331	Large	Produces cheese as well as whey products
30	Syracuse Label Co., Inc.	Liverpool	Onondaga	N. Grid	200	86	88	2	2%	Yes	200	440	Small	Printing labels
31	Weich Allyn Data Collection Inc.	Skaneateles Falls	Onondaga	N. Grid	2,000	1,275	1,302	27	2%	Yes	2,000	651	Large	Medical and dental diagnostic equipment
	<b>Total National Grd</b>		<b>Subtotal</b>	<b>20</b>	<b>16,940</b>	<b>4,931</b>	<b>5,045</b>				<b>16,850</b>			
32	A. T. Reynolds & Sons, Inc.	Kiamesha Lake	Sullivan	NYSEG	250	56	55	-1	-2%	Yes	250	220	Small	Spring water and Ice Mfr.
33	Agri-Mark, Inc	Chateaugay	Franklin	NYSEG	500	112	115	3	3%	Yes	500	230	Large	Cheese Manufacturer
34	Borg Warner Automotive Morse TEC	Ithaca	Tompkins	NYSEG	4,000	1422	1,318	-104	-7%	Yes	4,000	330	Large	Manufacture of automotive components
35	Corning, Inc. (Costar Plant)	Oneonta	Otsego	NYSEG	900	181	172	-9	-5%	Yes	900	191	Large	Manufacturer fiber/glass/ceramic products
36	Corning, Inc. (Northside)	Corning	Steuben	NYSEG	2,500	935	948	13	2%	Yes	2,500	379	Large	Manufacturer fiber/glass/ceramic products
37	Corning, Inc. (Southside)	Corning	Steuben	NYSEG	1,500	882	825	-57	-2%	Yes	1,500	550	Large	Manufacturer fiber/glass/ceramic products
38	Endicott Interconnect Technologies	Endicott	Broome	NYSEG	3,500	4,221	4,207	-14	0%	Yes	3,500	1,202	Large	Computers
39	Soucy USA	Champlain	Clinton	NYSEG	400	197	199	2	1%	Yes	400	498	Large	Storage & Warehouse facility
	<b>Total NYSEG</b>		<b>Subtotal</b>	<b>8</b>	<b>13,550</b>	<b>8,006</b>	<b>7,839</b>				<b>13,550</b>			
40	Flower City Printing, Inc.	Rochester	Monroe	RGE	650	275	312	37	13%	Yes	650	480	Large	Commercial printer
	<b>Total RG&amp;E</b>		<b>Subtotal</b>	<b>1</b>	<b>650</b>	<b>275</b>	<b>312</b>				<b>650</b>			
	<b>Total</b>			<b>40</b>	<b>45,940</b>	<b>63,031</b>	<b>56,884</b>				<b>45,850</b>	<b>1,241</b>		

\* This company has had all or part of their allocation restored through the reconsideration process or was deemed compliant based on program processes.

**c. Renewal of the Setauket and Holtsville Storage Agreements**

The President and Chief Executive Officer submitted the following report:

**SUMMARY**

“The Trustees are requested to approve the renewal of two agreements with Northville Industries Corp. (‘NIC’) that provide for oil storage and throughput services at Setauket and Holtsville, Long Island, in support of the Richard M. Flynn Power Plant (‘Flynn Facility’). The estimated cost of renewing the agreements through September 30, 2013 is \$3 million.

**BACKGROUND**

“The Authority’s Expenditure Authorization Procedures require the Trustees’ approval when the cumulative Change Order value (the exercise of a renewal option) for a non-procurement contract is in excess of \$1 million.

“The Setauket and Holtsville Storage Agreements (‘Agreements’), dated March 27, 1990, were originally negotiated in 1989-90 by the New Generation Division, which was tasked with bidding on the Long Island Lighting Company’s (‘LILCO’) Request for Proposals for Purchases of Electric Capacity and Energy as mandated by the New York State Public Service Commission (‘PSC’). The original agreements were signed by the Authority’s then-current President, Phillip Bayne, and became effective on October 1, 1993 and April 1, 1994, respectively. No. 2 heating oil is used as an alternative fuel to operate the Flynn Facility primarily when National Grid (formerly KeySpan) invokes its contractual rights to call on the Authority’s natural gas supplies up to 30 days each winter and/or when oil is used by the Authority as the fuel of economic choice. Environmental regulations permit the Authority to use a maximum of 60 days’ worth of oil each year. The Authority has a total of 21 days’ worth of usable storage capacity at the Setauket and Holtsville facilities.

**DISCUSSION**

“The Setauket and Holtsville Storage Agreements provide for 15-year initial terms with three 5-year renewal options, with the first option to be exercised in writing by the Authority on or before April 30, 2008. Although the Agreements have different expiration dates, staff’s intention is to renew both Agreements concurrently with a simultaneous final expiration date of September 30, 2013 (4.5 and 5 years, respectively). Competitive bidding was not used by the Authority in securing these agreements due to NIC’s unique ability to provide the requisite services, which are required on an ongoing basis in support of the Flynn Facility. NIC’s rates are considered competitive, consistent with fair market value.

**FISCAL INFORMATION**

“Payment will be made out of the Fuel Reserve Account (Operating Fund).

**RECOMMENDATION**

“The Senior Vice President – Energy Resource Management and Strategic Planning and the Director – Fuel Planning and Operations recommend that the Trustees approve the renewal of the Setauket and Holtsville Storage Agreements dated March 27, 1990.

“The Executive Vice President, General Counsel and Chief of Staff, the Executive Vice President and Chief Financial Officer and I concur in the recommendation.”

April 29, 2008

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

**RESOLVED, That pursuant to the Authority's Expenditure Authorization Procedures for procurement contracts, approval is hereby granted to renew the Setauket and Holtsville Storage Agreements dated March 27, 1990 with Northville Industries Corp. through September 30, 2013 for oil storage and throughput services, as recommended in the foregoing report of the President and Chief Executive Officer, in the amounts and for the purposes listed below:**

<b>Fuel Reserve Account (Operating Fund)</b>	<b>Contract Approval</b>	<b>Projected Closing Date</b>
<b>Oil Storage and Throughput Services</b>		
<b>Setauket Storage Agreement</b>	<b>\$2,400,000</b>	<b>September 30, 2013</b>
<b>Holtsville Storage Agreement</b>	<b><u>\$ 600,000</u> <u>\$3,000,000</u></b>	<b>September 30, 2013</b>

**AND BE IT FURTHER RESOLVED, That the Authority hereby ratifies and approves the Agreements and the exercise of the option to extend the Agreements for a period of up to five years; 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 documents to effectuate the foregoing resolution, subject to the approval of the form thereof by the Executive Vice President, General Counsel and Chief of Staff.**

**d. Procurement (Services) Contracts – Environmental  
Compliance Audit Program Technical Support – Awards**

The President and Chief Executive Officer submitted the following report:

SUMMARY

“The Trustees are requested to approve the award and funding of procurement contracts to Kleinfelder East, Inc. of Newburgh, New York and Shaw Environmental, Inc. of Latham, New York. The contracts will provide technical teams to assist the Authority in conducting environmental compliance audits. The term of the contracts will be for up to three years. The 2008 costs of the contracts are \$99,000 and \$61,300, respectively.

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.

“In 2005, the Licensing Implementation and Compliance Division (‘LICD’) assumed responsibility for the Environmental Compliance Audit Program (‘Program’). The objectives of the Program are to: (1) ensure that each Authority operating project is in compliance with all applicable laws, regulations, ordinances, permits, policies and procedures; and (2) provide senior management with an evaluation of the effectiveness of the Authority’s efforts in meeting all applicable environmental requirements. The Program is implemented through systematic audits of operating projects.

“In 2006, LICD conducted three audits with assistance from a consultant. In 2007, LICD conducted nine audits with the assistance of two consultants. With the expiration of those contracts, staff recognized the need to engage additional consultants to assist in conducting the environmental compliance audits.

DISCUSSION

“On February 18, 2008, a Request for Proposals (‘RFP’) was published in the New York State Contract Reporter for two or more consultants to provide technical teams to assist in conducting environmental compliance audits from 2008 through 2010. Having two consultants provides flexibility in the event one consultant is not available at the time of the audit.

“Three bids with total 2008 costs ranging from \$58,995 to \$99,000 were received on March 18, 2008. Since the facilities to be audited in 2009 and 2010 have not yet been identified, billing rates were provided for those years. The bids were evaluated in detail from both a technical and a commercial perspective.

“The lowest-priced proposal, from Dvirka and Bartilucci, Consulting Engineers (‘Dvirka and Bartilucci’) of White Plains, New York, did not meet the technical requirements of the RFP. Additionally, Dvirka and Bartilucci’s proposed team did not have auditing experience. The proposals from the remaining two firms, Kleinfelder East, Inc. and Shaw Environmental, Inc., met the technical requirements of the RFP. Based on the credentials and experience of the staff proposed, Authority staff is confident that the proposed consultant teams are capable of providing the required services. The cost estimates and hourly rates are reasonable and are within the estimated budget.

“Each consultant will assist in conducting a portion of the nine audits scheduled for 2008, as well as those scheduled for 2009 and 2010. The locations of the 2009 and 2010 audits have not yet been selected; thus, costs for those years cannot be estimated because they are location specific.

“The Trustees are requested to authorize contracts with Kleinfelder East, Inc. and Shaw Environmental, Inc. for up to \$99,000 and \$61,300, respectively, in 2008 for a term of up to three years. Funding for subsequent years will be authorized in accordance with the limits set forth in the Authority’s Expenditure Authorization Procedures.

FISCAL INFORMATION

“Funds required to support these contracts, as described above, have been included in the 2008 Approved O&M Budget. Funds for subsequent years will be included in the budget submittals for those years.

RECOMMENDATION

“The Executive Director - Licensing, Implementation and Compliance recommends the Trustees’ approval of the award of procurement contracts to Kleinfelder East, Inc. and Shaw Environmental, Inc. for the purposes and in the amounts set forth above.

“The Executive Vice President, General Counsel and Chief of Staff, the Executive Vice President – Chief Financial Officer, the Executive Vice President – Corporate Services and Administration, the Executive Vice President – Energy Marketing and Corporate Affairs, the Executive Vice President and Chief Engineer – Power Generation, the Vice President – Procurement and Real Estate, the Vice President – Environment, Health and Safety 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 adopted by the Authority, the award and funding of contracts to Kleinfelder East, Inc. and Shaw Environmental, Inc. are hereby approved for the period of time indicated, in the amounts and for the purposes listed therein, as recommended in the foregoing report of the President and Chief Executive Officer; 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 certificates and other documents to effectuate the foregoing resolution, subject to the approval of the form thereof by the Executive Vice President, General Counsel and Chief of Staff.**

2. **Financial Reports for the Three Months Ended March 31, 2008**

*Mr. Arnold Bellis presented the highlights of the reports to the Trustees. In response to a question from Trustee James Besha, Mr. Bellis said that the Authority's return on invested capital had never been broken down on a facility-by-facility basis. A discussion ensued, at the end of which it was agreed that such a breakdown would be provided periodically.*

**NEW YORK POWER AUTHORITY**  
**FINANCIAL REPORTS**  
**FOR THE THREE MONTHS ENDED MARCH 31, 2008**

## Financial Reports Table of Contents

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9	Demand Side Management Financial Report
10	Operating Fund
11	Portfolio Performance and Financing Rates

<b>NEW YORK POWER AUTHORITY</b> <b>FINANCIAL REPORT</b> <b>FOR THE THREE MONTHS ENDED MARCH 31, 2008</b>
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(\$ in millions)

<u>Financial Summary</u>	<u>2008 YTD</u>		<u>March 2008</u>	
	<u>Actual</u>	<u>Budget</u>	<u>Actual</u>	<u>Budget</u>
Net operating revenues	\$79.0	\$54.9	\$41.3	\$18.4
Net revenues	95.7	68.9	44.2	21.7
O&M (incl. administrative)	64.2	69.5	21.4	23.9
Generation (gwh's)	6,713	6,181	2,437	2,114
	<u>Current</u>	<u>Prior Month</u>	<u>December 2007</u>	
<b>Reserves</b>	\$283	\$274	\$284	

Net revenues through March 31, 2008 were \$95.7 which was \$26.8 higher than budgeted including higher net operating revenues (\$24.1) and higher non-operating income (\$2.7). Net operating revenues were higher at Niagara (\$15.0) and St. Lawrence (\$6.4) due to higher generation. Higher market-based sales contributed to higher net operating revenues at Blenheim Gilboa (\$2.4) and the SCPP's (\$2.1). Year-to-date net generation (6,713 gwh) was 9% higher than budgeted (6,181 gwh) with higher production at both the hydro and fossil facilities. Non-operating income included a higher than anticipated year-to-date mark-to-market gain on the Authority's investment portfolio (resulting from a drop in market interest rates) and lower costs on variable rate debt.

Net revenues for the month of March were \$44.2 which was \$22.5 higher than budgeted primarily due to higher net operating revenues at the hydro facilities. Hydro production for the month was a combined 15.8% higher than anticipated resulting in significantly higher market-based sales. Higher net operating revenues at the SCPP's (\$1.7, higher volume of market-based sales) and Flynn (\$1.3) also contributed to this positive variance. Non-operating income was slightly lower including a mark-to-market loss on the Authority's investment portfolio partially offset by lower costs on variable rate debt. Overall production for the month of March was 15% higher than anticipated.

**NYPA**  
**Net Revenues**  
**For The Three Months ended March 31, 2008**  
**(\$ in 000'S)**

	<u>Annual Budget</u>	<u>Actual</u>	<u>Budget</u>	<u>Variance Favorable/ (Unfavorable)</u>
<b>Operating Revenues</b>				
Customer	\$2,001,278	\$483,719	\$490,315	(\$6,596)
Market-Based Power Sales	723,815	255,160	166,797	88,363
Ancillary Services	60,181	23,894	18,238	5,656
NTAC and Other	92,647	23,539	24,036	(497)
Total Market-Based and ISO	<u>876,643</u>	<u>302,593</u>	<u>209,071</u>	<u>93,522</u>
	<b>2,877,921</b>	<b>786,312</b>	<b>699,386</b>	<b>86,926</b>
<b>Operating Expenses</b>				
Purchased Power	1,055,203	287,297	\$266,151	(21,146)
Ancillary Services	91,102	39,253	22,666	(16,587)
Fuel Consumed - Oil & Gas	542,804	164,059	141,224	(22,835)
Wheeling	384,331	71,120	65,776	(5,344)
Operations & Maintenance	294,993	64,227	69,530	5,303
Other expenses	140,879	37,089	35,221	(1,868)
Depreciation & Amortization	175,420	45,883	45,689	(194)
Allocation to Capital	(8,002)	(1,599)	(1,747)	(148)
	<u>2,676,730</u>	<u>707,329</u>	<u>644,510</u>	<u>(62,819)</u>
<b>Net Operating Revenues</b>	<b>201,191</b>	<b>78,983</b>	<b>54,876</b>	<b>24,107</b>
Interest Income and Realized Gains	144,416	39,673	39,673	-
Mark to Market Adjustment	12,000	8,719	8,000	719
<b>Investment Income</b>	<u>156,416</u>	<u>48,392</u>	<u>47,673</u>	<u>719</u>
<b>Interest and Other Expenses</b>	<u>128,887</u>	<u>31,636</u>	<u>33,631</u>	<u>1,995</u>
<b>Net Revenues</b>	<u><u>228,720</u></u>	<u><u>95,739</u></u>	<u><u>68,918</u></u>	<u><u>26,821</u></u>

**New York Power Authority**  
**Net Revenues by Facility**  
**For the Three Months ended March 31, 2008**  
**(\$ in 000's)**

	Niagara	St. Lawrence	B-G	SENY	SCPP	Market Supply Power	Flynn	Transmission	Eliminations & Adjmts	Total
<b>Operating Revenues</b>										
Customer	\$ 70,518	\$ 31,198	\$ 1,801	\$ 261,827	\$ 187	\$ 67,630	\$ 36,415	\$ 20,752	\$ (6,609)	\$ 483,719
Market-Based Power Sales	49,726	8,813	28,111	160,685	31,686	9,431			(33,252)	255,160
Ancillary Services	18,674	521	(180)	4,693	186					23,894
NTAC and Other								23,539		23,539
Total Market-Based and ISO	68,400	9,334	27,931	165,378	31,872	9,431	-	23,539	(33,252)	302,593
<b>Operating Expenses</b>										
Purchased Power	138,918	40,532	29,732	427,205	32,059	77,061	36,415	44,291	(39,901)	786,312
Ancillary Services	33,937	14,851	17,440	181,564	1,856	78,995			(41,346)	287,297
Fuel Consumed - Oil & Gas	8,082	3,817	69	22,751	25	4,509				39,253
Wheeling	1,742	214		117,236	19,004		27,819			164,059
Operations & Maintenance	16,967	7,675	6,144	66,812	3,806	2,246	106	15,199		71,120
Other expenses	3,553	876	428	12,209	247	316	1,911	1,941		64,227
Depreciation & Amortization	7,515	3,860	1,823	3,511	127	12,560	127	13,846		37,088
Allocation to Capital	(463)	(226)	(193)	14,775	6,491	212	1,249	9,958		45,883
	71,333	31,067	25,711	418,587	31,422	98,838	31,159	26,712	(27,500)	707,329
<b>Net Operating Revenues</b>	67,585	9,465	4,021	8,618	637	(21,777)	5,256	17,579	(12,401)	78,983
Investment and Other Income							13		48,377	48,392
Interest and Other Expenses	(7,914)	(4,984)	188	(8,067)	(16)	(17)	(327)	(7,029)	(3,470)	(31,636)
<b>Net Revenues (loss)</b>	59,671	4,483	4,209	551 *	621	(21,794)	4,942	10,550	32,506	95,739
Budget	43,998	(1,854)	1,607	966	(1,430)	(19,455)	2,932	8,546	33,608	68,918
Variance	\$ 15,673	\$ 6,337	\$ 2,602	\$ (415)	\$ 2,051	\$ (2,339)	\$ 2,010	\$ 2,004	\$ (1,102)	\$ 26,821

\* Revenues for SENY are presented net of a \$13.1 million reduction resulting from the application of an energy charge adjustment to recover variable costs under the LT Supplemental Energy Supply Agreement.

NEW YORK POWER AUTHORITY  
VARIANCE FROM BUDGET  
MAJOR FACTORS  
For the Three Months ended March 31, 2008  
(Millions)

		<u>Better/(Worse) than budget</u>	
<b>Niagara</b>	o Higher customer revenues (pass-through of purchased power costs)	\$ 11.3	
	o Higher market-based revenues (higher volumes)	24.1	
	o Higher purchased power costs (higher prices & volumes)	(18.2)	
	o Higher ancillary service costs (primarily local reliability)	(3.1)	
	o Lower allocated administrative expenses	1.1	
	o Other	0.5	
		<u>          </u>	\$15.7
<b>St. Lawrence</b>	o Higher revenues (primarily a higher volume of market-based sales)	5.9	
	o Lower purchased power costs (lower volumes)	1.7	
	o Higher ancillary service costs	(1.1)	
	o Other	(0.2)	
		<u>          </u>	6.3
<b>Blenheim-Gilboa</b>	o Higher market-based revenues (higher prices & volumes)	2.9	
	o Higher purchased power costs (primarily higher volumes)	(1.2)	
	o Other	0.9	
		<u>          </u>	2.6
<b>SENY</b>	o Lower customer revenues (primarily ECA adjustment offset)	(15.2)	
	o Higher market-based sales (higher prices & volumes)	53.9	
	o Higher purchased power costs (higher volumes)	(8.2)	
	o Higher ancillary service costs (primarily local reliability)	(10.3)	
	o Higher fuel costs (higher generation & higher prices)	(19.5)	
	o Other	(1.1)	
		<u>          </u>	(0.4)
<b>SCPP</b>	o Higher revenues (higher volumes & prices on market-based sales)	7.2	
	o Higher purchased power costs (higher volumes)	(1.2)	
	o Higher fuel costs (higher generation)	(4.7)	
	o Lower site O&M (less than anticipated maintenance charges)	1.0	
	o Other	(0.3)	
		<u>          </u>	2.0
<b>Market Supply Power</b>	o Lower revenues	(0.9)	
	o Higher ancillary service costs (primarily local reliability)	(2.0)	
	o Other	0.6	
		<u>          </u>	(2.3)
<b>Flynn</b>	o Lower fuel costs (lower prices)	1.4	
	o Other	0.6	
		<u>          </u>	2.0
<b>Transmission</b>	o Higher revenues	0.5	
	o Lower allocated administrative expenses	0.8	
	o Other (includes lower interest costs)	0.7	
		<u>          </u>	2.0
<b>Consolidating adjustments</b>			<u>(1.1)</u>
<b>Net Revenues</b>			<u><u>\$ 26.8</u></u>

**NYPA**  
**Operations & Maintenance**  
**For the Three Months Ended March 31, 2008**

	(\$'s in millions)	
	<u>Actual</u>	<u>Budget</u>
<b>Power Generation</b>		
Headquarters Support	\$2.9	\$1.6
Blenheim-Gilboa	3.3	3.6
Charles Poletti	4.5	4.8
500 MW	2.2	2.8
R.M. Flynn	1.1	1.4
SCPP	3.6	4.6
Small Hydros	0.7	1.2
Niagara	9.5	9.3
St. Lawrence	<u>4.4</u>	<u>4.5</u>
	32.2	33.8
<b>Transmission</b>		
ECC/Headquarters	2.4	2.8
Transmission Facilities	<u>9.0</u>	<u>8.1</u>
	11.4	10.9
<b>Corporate Support</b>		
Executive Office	2.4	3.0
Business Services	7.5	9.2
HR & Corporate Support	4.3	4.9
Energy Marketing & Corporate Affairs	<u>4.1</u>	<u>4.6</u>
	18.3	21.7
<b>Research &amp; Development &amp; Other</b>	2.3	3.1
<b>Total</b>	<u>\$64.2</u>	<u>\$69.5</u>

Through March, O&M expenses were \$5.3 million under budget including underruns in HQ Corporate Support departments and Power Generation.

HQ Corporate Support expenses were under budget by \$3.4 million mostly due to under spending for legal consultants, HQ communications, IT contract services, industry dues and fuel cell maintenance.

Power Generation expenditures were \$1.6 million lower than anticipated due primarily to underruns at the SCPP's (\$1.0), the 500MW plant (\$0.6), and the Small Hydro facilities (\$0.5) partially offset by overruns at Power Generation HQ (\$1.3). Site underruns at the SCPP's, 500MW plant and the Small Hydro facilities were primarily due to early year timing differences in maintenance and non-recurring charges.

**NEW YORK POWER AUTHORITY  
COMPARATIVE STATEMENT OF NET ASSETS  
(IN THOUSANDS)**

	<u>MARCH</u> <u>2008</u>	<u>DECEMBER</u> <u>2007</u>	<u>NET CHANGE</u>
<b>ASSETS:</b>			
Electric Plant In Service, Less Accumulated Depreciation	\$3,420,539	\$3,449,829	(29,290)
Construction Work In Progress	136,091	124,519	11,572
Net Utility Plant	<u>\$3,556,630</u>	<u>\$3,574,348</u>	<u>(17,718)</u>
Restricted Funds	91,783	93,683	(1,900)
Construction Funds	279,919	261,181	18,738
Investment In Decommissioning Trust Fund	955,708	979,336	(23,628)
Current Assets:			
Cash	72	72	-
Investments In Government Securities	875,108	861,405	13,703
Interest Receivable On Investments	19,708	20,067	(359)
Receivables-Customers	252,457	175,365	77,092
Materials & Supplies-Plant & General	75,040	75,604	(564)
-Fuel	34,349	33,809	540
Prepayments And Other	33,319	44,318	(10,999)
Notes Receivable-Nuclear Sale	147,836	193,533	(45,697)
Deferred Charges And Other Assets	<u>504,463</u>	<u>478,576</u>	<u>25,887</u>
<b>TOTAL ASSETS</b>	<b><u>\$6,826,392</u></b>	<b><u>\$6,791,297</u></b>	<b><u>\$35,095</u></b>
<b>LIABILITIES AND OTHER CREDITS:</b>			
Long-Term Debt - Bonds	\$1,795,057	\$1,869,236	(74,179)
Notes	143,995	150,000	(6,005)
Short-Term Notes Payable	292,627	268,488	24,139
Accounts Payable And Accrued Liabilities	842,856	846,161	(3,305)
Spent Nuclear Fuel Disposal	213,109	211,316	1,793
Decommissioning Of Nuclear Plants	955,708	979,336	(23,628)
Deferred Revenue	<u>218,911</u>	<u>198,369</u>	<u>20,542</u>
<b>TOTAL LIABILITIES AND OTHER CREDITS</b>	<b><u>4,462,263</u></b>	<b><u>4,522,906</u></b>	<b><u>(60,643)</u></b>
ACCUMULATED NET REVENUES-JANUARY 1	2,268,390	2,033,621	234,769
NET REVENUES	<u>95,739</u>	<u>234,770</u>	<u>(139,031)</u>
<b>TOTAL LIABILITIES AND CAPITAL</b>	<b><u>\$6,826,392</u></b>	<b><u>\$6,791,297</u></b>	<b><u>\$35,095</u></b>

NYPA  
 SUMMARY OF NET GENERATION (MWH'S)  
 FOR THE THREE MONTHS ENDED MARCH 31, 2008

Facility	Year-to-date March			Month of March 2008		
	Actual	Budget	% Variance from Budget	Actual	Budget	% Variance from Budget
Niagara	3,539,600	3,437,113	2.98%	1,328,597	1,147,618	15.77%
St. Lawrence	1,565,737	1,385,186	13.03%	567,505	489,909	15.84%
Combined	5,105,337	4,822,299	5.87%	1,896,102	1,637,527	15.79%
Poletti	361,558	201,357	79.56%	116,356	64,601	80.11%
500MW	778,644	755,209	3.10%	256,735	258,556	-0.70%
SCPP	158,550	120,122	31.99%	59,280	48,865	21.31%
Blenheim Gilboa	(79,942)	(88,288)	-9.45%	(25,082)	(24,387)	2.85%
Small Hydro	64,711	50,043	29.31%	21,785	19,239	13.23%
R. M. Flynn	323,657	320,349	1.03%	111,987	109,476	2.29%
Total	6,712,515	6,181,091	8.60%	2,437,163	2,113,877	15.29%

**NYPA  
Capital Expenditures  
For the Three Months Ended March 31, 2008**

(\$'s in millions)

	<u>Actual</u>	<u>Budget</u>
<b>Energy Services</b>	19.4	19.5
<b>Existing Facilities</b>	15.2	21.0
<b>Transmission</b>	4.2	5.2
<b>Headquarters</b>	7.5	4.4
<b>General Plant and Minor Additions</b>	<u>3.3</u>	<u>2.9</u>
	<u>\$49.6</u>	<u>\$53.0</u>

Capital expenditures through March were \$3.4 million lower than budget. **Existing Facilities** were under running the budget by \$5.8 million primarily due to less than anticipated usage of consultants for the Niagara Relicensing Project and delays in the St. Lawrence & B-G LEM and Niagara Generator Stator Rewind Projects. **Headquarters** expenditures were over the budget by \$3.1 million primarily due to a timing difference related to the Billing System Project.

Under the Expenditure Authorization Procedure, the President has authorized new expenditures on budgeted capital projects of \$ 3.6 million for 2008. The following was authorized this month:

ISO Metering Upgrade Project	\$2.7
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**Demand Side Management  
Cost Summary (Inception to Date)  
March 31, 2008  
(\$ in 000's)**

**(A) DSM Projects**

Authorized	Program	Prog	(A) Projects In-Progress	(B) Completed Projects	(C) Cumulative Cost	(D) Recoveries to Date	(E) Net Investment (C-D)
\$183,050	Electrotechnologies LTEPA	ES-EPN	10,095	74,534	84,629	50,960	33,669
433,000	NYPA Energy Services Program	ES-ESN	88,872	113,895	202,767	73,574	129,193
780,000	SENY Govt Cust Energy Serv	ES-GSN	88,280	20,374	108,654	40,594	68,060
130,000	SENY HELP LTEPA	ES-LTN	5,921	81,805	87,726	62,010	25,716
1,200	MUNI Vehicle Program	ES-MVN		512	458	375	83
140,000	Non-Elect End Use LTEPA	ES-NEN	32,872	57,634	90,506	54,384	36,122
35,000	Peak Load Mgmt	ES-PLN	9,752	165	9,917		9,917
<b>Completed Programs</b>							
5,000	Coal Conversion LTEPA	ES-CCN		5,000	5,000	3,466	1,534
5,000	County & Muni's	ES-CMN		1,919	1,919	1,919	0
13,000	Distributed Generation	ES-DGN		\$1,440	\$1,787	\$1,183	\$604
14,600	Industrial	ES-IPN		6,875	6,875	6,875	0
51,000	LI HELP	ES-LIN		47,505	47,505	47,276	229
15,000	SENY New Constr	ES-NCN		2,992	2,992	2,992	0
75,000	Public Housing LTEPA	ES-PHN		72,081	72,081	72,081	0
40,000	Public Schools	ES-PSN		38,941	38,941	38,939	2
130,000	SENY HELP	ES-SEN		134,305	134,305	134,305	0
60,000	Statewide	ES-SWN		56,733	56,733	55,910	823
4,085	Other			746	746	746	0
7,500	Wattbusters			5,441	5,441	5,441	0
<u>\$2,122,435</u>			<u>\$235,792</u>	<u>\$722,897</u>	<u>\$958,982</u>	<u>\$653,030</u>	<u>\$305,952</u>

**(B) POCR Funding**

**LOANS**

Authorized	Program	Loans Issued	Repayments	Outstanding Balance
<u>\$ 16,390</u>	Colleges & Universities	<u>\$ 16,390</u>	<u>\$ 16,183 (1)</u>	<u>\$ 207</u>

**GRANTS**

Authorized	Program	Issued
\$9,105	Coal Conversion Pilot	\$9,105
4,558	Hybrid Bus Program	4,558
663	Solar Grants	663
3,000	NYSERDA	3,000
25,768 (1)	Energy Services Programs	16,034
31,199 (1)	POCR Grants	13,776
<u>\$ 74,293</u>		<u>\$ 47,136</u>

**(C) CASP Funding**

Authorized	Program	Issued
\$133,188 (2)	Coal Conversion	\$129,839

**(D) Board of Ed Funding**

Authorized	Program	Issued
\$44,614 (2)	Climate Controls (NYC BOE)	\$35,227

**(E) NYC Housing Auth Funding**

Authorized	Program	Issued
\$25,909 (2)	NYCHA Hot Water Heaters	\$21,653

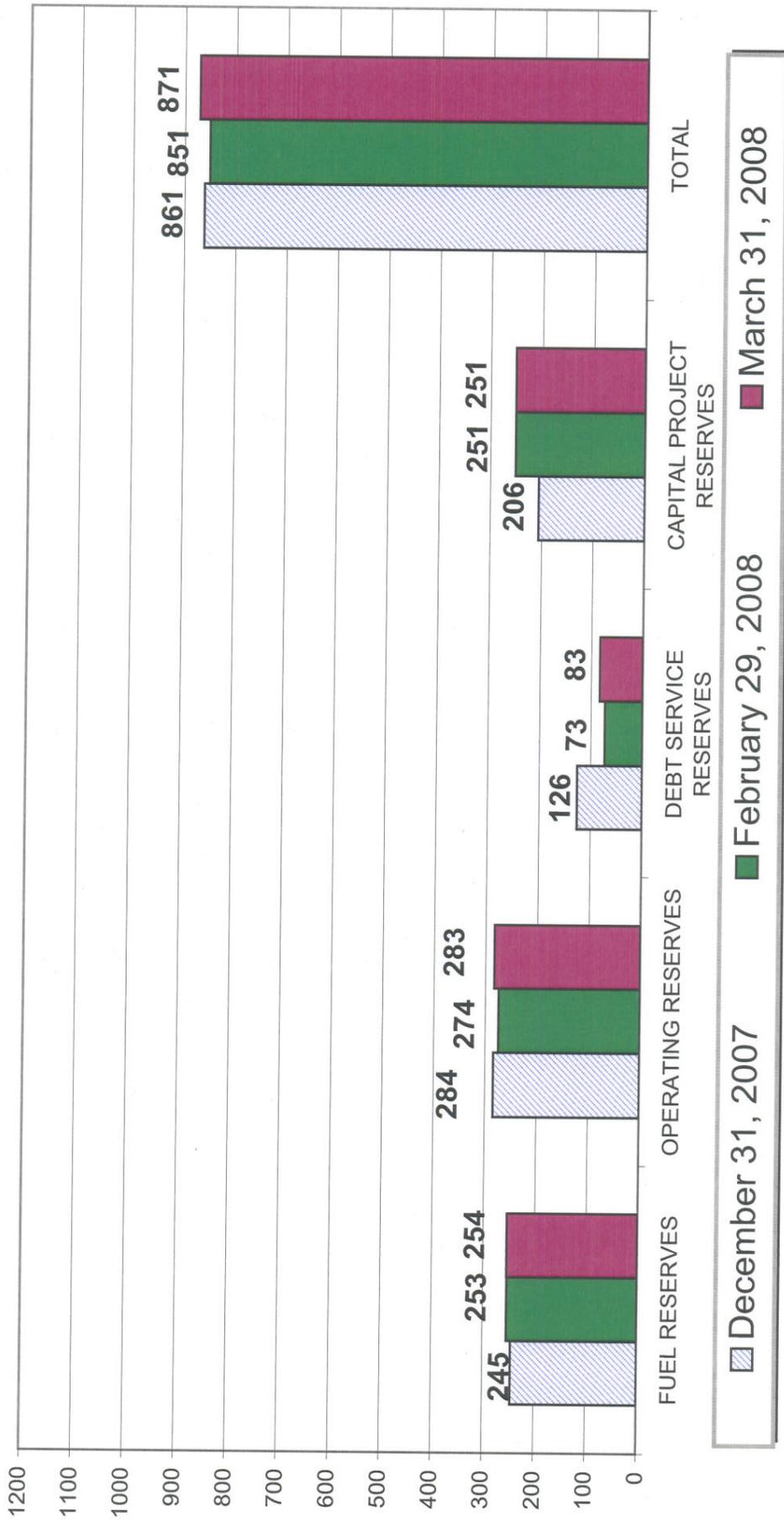
**(F) Lower Manhattan Energy Independence Initiative Program**

Authorized	Program	Issued
\$26,063 (2)	Lower Manhattan Energy Serv	\$6

(1) Funds recovered via loan repayments are available and assigned to be used as grants in the Energy Services Program and for POCR Grant Program.

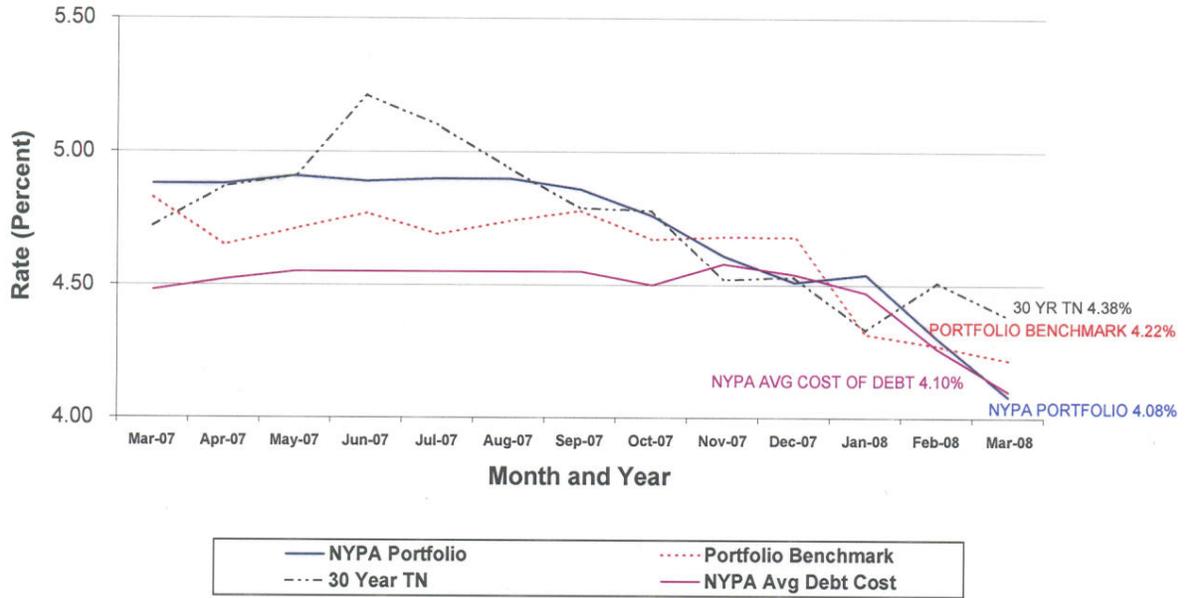
(2) Authorized funds reflect both principal received and the interest earned on such principal.

**NEW YORK POWER AUTHORITY  
OPERATING FUND  
(\$ MILLIONS)**

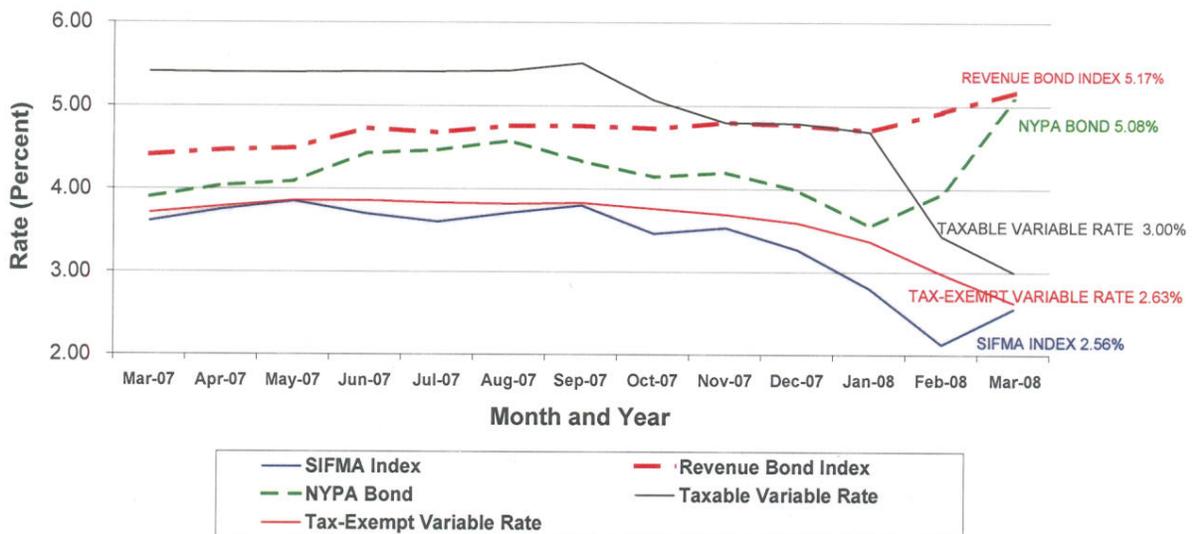


Fuel Reserves include \$213 million for Nuclear Spent Fuel and \$41 million for Energy Hedging Reserve Fund.

### Portfolio Performance



### Financing Rates



3. Report from the President and Chief Executive Officer

*President Roger Kelley said that both RFP #5 and the State Fiscal Year (“SFY”) 2008-09 Budget would be discussed later on the agenda. He reported on the following developments:*

*State Energy Plan: Since last month’s meeting, Governor Paterson issued an Executive Order establishing a State Energy Planning Board (“Board”) and authorizing the creation of a State Energy Plan, the purpose of which, among other things, is to enable the State to determine its future energy needs and facilitate deliberate, efficient and cost-effective means of meeting those needs. President Kelley said that the Authority and the Long Island Power Authority are not members of the Board, which is chaired by Mr. Paul DeCotis, the Governor’s Deputy Secretary for Energy. He also said that the Authority has been asked to consult with the Energy Planning Board on various issues and that the Authority has agreed to provide technical assistance for the Board’s effort to develop a new State Energy Plan.*

*State Budget: Also since last month’s meeting, the State Legislature passed and the Governor signed the 2008-09 SFY Budget into law. The Budget (i) extends the Power for Jobs (“PFJ”) and Energy Cost Savings Benefit (“ECSB”) programs through June 30, 2009 and (ii) authorizes the Authority to make a \$60 million contribution to the State’s general fund this year and up to \$35 million in each of the next two years, in addition to an \$8 million contribution for State Parks purposes. In addition, the Authority will be paying an estimated (i) \$50 million in rebates and another \$25 million contribution to the State general fund in connection with the PFJ program and (ii) an estimated \$45 million for the extended ECSB program. President Kelley said that these contributions would not be made until and unless the Trustees deem them advisable.*

*Unaccounted for Energy (“UFE”) Charges: As reported last month, the power bills for two of the Authority’s full-requirements customers, the villages of Lake Placid and Tupper Lake, included extraordinarily large UFE charges for January and February. UFE charges are imposed through the billing process of the New York Independent System Operator (“NYISO”). As also reported last month, the Authority agreed to defer the UFE charges to June pending an investigation into the root cause and also allow the two villages to spread their payment of the charges over several months. Staff continues its discussions with NYISO, the Public Service Commission and National Grid to address this issue and it is the Authority’s hope that it will be resolved in the very near future.*

**15X15 Initiative:** Authority staff is continuing its efforts to help the State meet the 15X15 Initiative and to assist Governor Paterson in connection with the Clean Energy Collaborative and Executive Order No. 111.

**Recent FERC Rulings:** As was reported last month, the Federal Energy Regulatory Commission (“FERC”) has recently issued rulings regarding interconnections and deliverability that affect the Authority. President Kelley said that staff reviewed these rulings and had the following to report:

- ***NYISO Consensus Deliverability Plan (“CDP”):*** The CDP, which was filed by NYISO and the New York Transmission Owners on October 5, 2007 and approved in principle by FERC in late March, imposes new, more rigorous deliverability standards, particularly for UCAP products. Specifically, when new generation (starting with Class Year 2007) applies for interconnection service, the capacity must be found to be “deliverable” or the customer must fund or commit to pay for transmission system upgrades required to make it so. This new ruling will make it much more expensive to bring additional capacity on line. While there are rules relating to “grandfathered” projects, it is Authority staff’s impression that these rights are limited.
- ***Mitigation of the In-City ICAP Market:*** In March, FERC also issued its Order Conditionally Approving Proposal (the “Order”) accepting NYISO’s proposal on mitigation of market power in the New York City ICAP market. In the Order, FERC agreed with NYISO’s objective of preventing those “sellers with market power from artificially raising capacity prices” and preventing “net purchasers from artificially depressing capacity prices with uneconomic generation.” Under the new rules, in certain instances for at least the first three years of operation, new generation facilities, whose output is controlled by entities that buy more capacity than they own (“Net Buyers”), must bid that capacity into the market at a price no lower than 75% of a predetermined price (called “Cost of New Entry”). If the capacity does not clear at or above that price, the contracted-for capacity will be deemed to be “uneconomic entry” and subject to NYISO’s buyer mitigation measures. This means that a buyer would need to buy replacement capacity from the market, thus resulting in essence in double payments.

**Earth Day Activities:** President Kelley said that the Authority has been very active in its 2008 Earth Day commemorations. The Authority participated in the Statewide Earth Day program, joined the Climate Registry and developed a web page devoted to environmental matters. In addition, the Authority:

**4. Revision to Village of Solvay Repayment Agreement**

The President and Chief Executive Officer submitted the following report:

**SUMMARY**

“The Trustees are requested to authorize the President and Chief Executive Officer to revise an agreement with the Village of Solvay (‘Village’), a municipal power customer of the Authority. The original agreement was approved by the Trustees at their meeting on January 25, 2005.

**BACKGROUND**

“Under the original agreement, the Authority agreed to finance certain ‘transition costs’ that the New York State Department of Agriculture and Markets’ New York State Fair (‘State Fair’) was required to pay Niagara Mohawk Power Corporation (‘NMPC’) before it was able to become a Village of Solvay electric power customer. The Trustees agreed to finance the transition costs so the State Fair would be able to avail itself of the lower electric rates charged by the Village, resulting in money savings to the State.

“The amount financed by the Authority, which the State Fair has paid to NMPC, was \$2,774,950, at an interest rate of 5% amortized over seven years. Repayment was to be made in monthly installments invoiced in the Village’s monthly electric bill. The monthly payment required to be made by the State Fair was \$39,220.89. Payment of the transition costs was made from the Authority’s Operating Fund. If the Village ceased being an Authority electricity customer, the outstanding amount of the repayment obligation (plus accrued interest) would be due and payable in a lump sum within 30 days.

**DISCUSSION**

“The State Fair recently contacted the Authority and requested that the agreement be revised to extend the payback period as it was having difficulties in making its monthly payment. It was determined that the Authority could extend the term on the remaining balance of \$1,861,722.06 at the same 5% interest rate for an additional nine years. The new monthly payment would be \$21,441.96 per month, down from \$39,220.89. The initial agreement was for a period of seven years ending in 2012. The revised agreement would end in 2017.

**FISCAL INFORMATION**

“The interest rate provided for in this agreement adequately compensates the Authority for the time value of its funds so there will be no net impact on the Authority’s finances.

**RECOMMENDATION**

“The Director – Business Power Allocations, Compliance and Municipal and Cooperative Marketing recommends that the Trustees approve a revision to the agreement with the Village of Solvay on the terms and conditions set forth above.

“The Executive Vice President, General Counsel and Chief of Staff, the Executive Vice President and Chief Financial Officer, the Executive Vice President – Energy Marketing and Corporate Affairs, the Senior Vice President – Marketing and Economic Development and I concur in the recommendation.”

***Mr. James Pasquale presented the highlights of staff’s recommendations to the Trustees. Trustee Moses recused himself from considering and voting on this item.***

April 29, 2008

The following resolution, as submitted by the President and Chief Executive Officer, was adopted by a vote of 6 to 1, with Trustee Moses abstaining.

**RESOLVED, That the Senior Vice President – Marketing and Economic Development or his designee be, and hereby is, authorized to revise the financing agreement between the Authority and the Village of Solvay, subject to the approval of the form thereof by the Executive Vice President, General Counsel and Chief of Staff. The revised terms for such financing and the requirements for the Village’s repayment to the Authority are as set forth and recommended in the foregoing report of the President and Chief Executive Officer; 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 certificates, agreements and other documents to effectuate the foregoing resolution, subject to the approval of the form thereof by the Executive Vice President, General Counsel and Chief of Staff.**

**4A. Allocation of 11,900 kW of Hydropower**

The President and Chief Executive Officer submitted the following report:

**SUMMARY**

“The Trustees are requested to approve allocations of available Replacement Power (‘RP’) totaling 11,900 kW to four industrial companies.

**BACKGROUND**

“Under Section 1005(13) of the Power Authority Act, as amended by Chapter 313 of the Laws of 2005, the Authority may contract to allocate or reallocate directly, or by sale for resale, 250 MW of firm hydroelectric power as Expansion Power (‘EP’) and up to 445 MW of RP to businesses in the State located within 30 miles of the Niagara Power Project, provided that the amount of power allocated to businesses in Chautauqua County on January 1, 1987 shall continue to be allocated in such county.

“Each application for an allocation of EP or RP 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 general eligibility requirements.

“Among the factors to be considered when evaluating a request for an allocation of hydropower are the number of jobs created as a result of the allocation; the business’ long-term commitment to the region as evidenced by the current and/or planned capital investment in the business’ facilities in the region; the ratio of the number of jobs to be created to the amount of power requested; the types of jobs created, as measured by wage and benefit levels, security and stability of employment and the type and cost of buildings, equipment and facilities to be constructed, enlarged or installed.

“On October 22, 2003, the Authority, National Grid, 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 hydropower. 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 hydropower.

**DISCUSSION**

“Staff recommends and the Advisory Group supports the available power being allocated to the four companies set forth in Exhibit ‘4A-A.’ The Exhibit shows, among other things, the amount of power requested, the recommended allocation and additional employment and capital investment information. These projects will help maintain and diversify the industrial base of Western New York and provide new employment opportunities. They are projected to result in the creation of 215 jobs.

**RECOMMENDATION**

“The Director – Business Power Allocations, Compliance and Municipal and Cooperative Marketing recommends that the Trustees approve allocations of 11,900 kW of hydropower to the companies listed in Exhibit ‘4A-A.’

“The Executive Vice President, General Counsel and Chief of Staff, the Executive Vice President – Energy Marketing and Corporate Affairs, the Senior Vice President – Marketing and Economic Development and I concur in the recommendation.”

***Mr. Pasquale presented the highlights of staff’s recommendations to the Trustees. Trustee Cusack recused herself from considering and voting on this item.***

April 29, 2008

The attached resolution, as recommended by the President and Chief Executive Officer, was adopted by a vote of 6 to 1, with Trustee Cusack abstaining.

**RESOLVED, That the allocation of 11,900 kW of Replacement Power, as detailed in Exhibit "4A-A," be, and hereby is, approved on the terms set forth in the foregoing report of the President and Chief Executive Officer; 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, 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, General Counsel and Chief of Staff.**

New York Power Authority  
 Replacement Power  
 Recommendations for Allocations

Exhibit "4A-A"  
 April 29, 2008

Exhibit Number	Company Name	City	County	Power Requested (kW)	New Jobs	Estimated Capital Investment	New Jobs Avg. Wage Benefits	Power Recommended (kW)	Contract Term
A-1	Allied Frozen Storage, Inc	West Seneca	Erie	600	54	\$2,300,000	\$52,000	600	Five Years
A-2	Northern Ethanol, LLC	Niagara Falls	Niagara	12,300	105	\$245,000,000	\$68,000	9,000	Seven Years
A-3	PortCoat, LLC	Lackawanna	Erie	2,000	50	\$30,000,000	\$62,000	2,000	Five Years
A-4	Val-Kro, Inc	North Tonawanda	Niagara	300	6	\$400,000	\$36,000	300	Five Years
	<b>Total RP Recommended</b>				<b>215</b>	<b>\$277,700,000</b>		<b>11,900</b>	

**APPLICATION SUMMARY**  
**Replacement Power**

<b>Company:</b>	Allied Frozen Storage, Inc.
<b>Location:</b>	West Seneca
<b>County:</b>	Erie
<b>IOU:</b>	New York State Electric and Gas Corporation
<b>Business Activity:</b>	Frozen storage warehousing
<b>Project Description:</b>	Allied Frozen Storage will be moving into a facility that is being vacated by its current operator. The project includes leasing a 195,000-square-foot cold storage warehouse and purchasing and installing equipment. New equipment will include compressors, condensers, fans, motors, various pumps, freezer air units, fans and miscellaneous equipment and battery chargers for forklift trucks.
<b>Existing Allocation:</b>	400 kW of Power for Jobs at the company's Buffalo site
<b>Power Request:</b>	600 kW
<b>Power Recommended:</b>	600 kW
<b>Job Commitment:</b>	
<b>Existing:</b>	0 jobs
<b>New:</b>	54 jobs
<b>New Jobs/Power Ratio:</b>	90 jobs/MW
<b>New Jobs - Avg. Wage and Benefits:</b>	\$52,000
<b>Capital Investment:</b>	\$2.3 million
<b>Capital Investment Per MW</b>	\$3.83 million
<b>Summary:</b>	Allied Frozen Storage, Inc. has been operating since 1983 as a regionally sized public refrigerated warehousing company. Allied stores food products in temperature-controlled environments for local food producers and retailers and currently has three sites in upstate New York in Cheektowaga, Brockport and Mt. Morris. Its customers store raw material and finished goods in its refrigerated warehouse. A low-cost hydropower allocation is key to the company's decision to expand in Western New York. Without this power allocation, the project economics would not be cost effective to expand and be competitive in western New York.

**APPLICATION SUMMARY**  
**Replacement Power**

**Company:** Northern Ethanol, LLC

**Location:** Niagara Falls

**County:** Niagara

**IOU:** National Grid

**Business Activity:** Manufacturer of ethanol

**Project Description:** Northern Ethanol is planning to construct a new ethanol production facility in Niagara Falls on a brownfields site. This plant will process approximately 37 million bushels of corn to produce 108 million gallons of undenatured ethanol and 400,000 tonnes of dry distiller grain per year. In addition to building an ethanol plant, the company will also be constructing approximately 10,000 square feet of office, laboratory and warehouse space.

**Existing Allocation:** None

**Power Request:** 12,300 kW

**Power Recommended:** 9,000 kW

**Job Commitment:**

<b>Existing:</b>	0 jobs
<b>New:</b>	105 jobs

**New Jobs/Power Ratio:** 12 jobs/MW

**New Jobs - Avg. Wage and Benefits:** \$68,000

**Capital Investment:** \$245 million

**Capital Investment Per MW:** \$27.2 million/MW

**Summary:** A hydropower allocation is one of the key factors for selecting Niagara Falls as a location for the plant. A hydropower allocation would help the company achieve its desired position as a low-cost producer of ethanol. This would help the company weather the cyclical nature of the commodities involved in the ethanol production business, ensuring that its plant remained competitive, and, thus remain a fixture in Niagara Falls for years to come. The company is also considering building this plant in Ontario, Canada, or in South Carolina.

**APPLICATION SUMMARY**  
**Replacement Power**

**Company:** PortCoat, LLC

**Location:** Lackawanna

**County:** Erie

**IOU:** National Grid

**Business Activity:** Steel processing facility

**Project Description:** PortCoat will construct and operate a 180,000-ton-per-year continuous steel processing facility to supply coated steel to the construction products market in the U. S. and Canada. New equipment installed will include steel rollers, welders, furnaces, a cooling tower, tanks, an air dryer, chemical tanks, belt wrappers, etc.

**Existing Allocation:** None

**Power Request:** 2,000 kW

**Power Recommended:** 2,000 kW

**Job Commitment:**

Existing:	0 jobs
New:	50 jobs

**New Jobs/Power Ratio:** 25 jobs/MW

**New Jobs - Avg. Wage and Benefits:** \$62,000

**Capital Investment:** \$30 million

**Capital Investment Per MW:** \$15 million/MW

**Summary:** Coated steels are used in a wide range of commercial and consumer products, including automotive, appliances, building and housing. This operation is a startup company where every effort to conserve cash flow is central to the company's success; therefore, containing electricity costs will help the company to lower its operational costs and be competitive. Hydropower makes western New York more competitive with other locations that are under consideration, such as Detroit and Ohio. The company is currently pursuing other economic development incentives from Empire State Development Corporation, National Grid and the City of Lackawanna.

**APPLICATION SUMMARY**  
**Replacement Power**

**Company:** Val-Kro, Inc.

**Location:** North Tonawanda

**County:** Niagara

**IOU:** National Grid

**Business Activity:** Metal finishing

**Project Description:** The project will include the installation and purchase of equipment for a new anodizing line that will treat various aluminum products Val-Kro's customers that require anodizing services. New equipment installed will include a rectifier, chillers, 30 processing tanks, spray equipment, racks, sealing equipment, dryers, motors, air agitation blowers, an air compressor, electric dryers, etc.

**Existing Allocation:** None

**Power Request:** 300 kW

**Power Recommended:** 300 kW

**Job Commitment:**

Existing:	13 jobs
New:	6 jobs

**New Jobs/Power Ratio:** 20 jobs/MW

**New Jobs - Avg. Wage and Benefits:** \$ 36,000

**Capital Investment:** \$400,000

**Capital Investment Per MW:** \$1.3 million/MW

**Summary:** This anodizing project is an effort to keep Val-Kro in business through sales growth and diversification of its customer base. The proposed anodizing line will treat various aluminum products for Val-Kro's current nickel customer and new western New York customers that require anodizing services. It is likely that this project will generate more sales than presently exist at Val-Kro. The company is at risk as a going concern. A low-cost hydropower allocation will allow the company to diversify its customer base, grow in New York and be competitive.

**5. Hydropower Contracts with Upstate Investor-Owned Utilities for the Benefit of Rural and Domestic Consumers – Notice of Public Hearing**

The President and Chief Executive Officer submitted the following report:

**SUMMARY**

“The Trustees are requested to authorize a public hearing, pursuant to Section 1009 of the Public Authorities Law, on contract extensions for sale to National Grid (formerly Niagara Mohawk Power Corporation), New York State Electric & Gas Corporation (‘NYSEG’) and Rochester Gas & Electric Corporation (‘RGE’) (hereinafter referred to collectively as the ‘Utilities’) of a total of 455 MW of firm and 360 MW of firm peaking hydropower currently being sold to the Utilities for the benefit of rural and domestic consumers. The proposed contract extensions are attached as Exhibits ‘5-A’ (National Grid), ‘5-B’ (NYSEG) and ‘5-C’ (RGE).

**BACKGROUND**

“The Utilities had been receiving firm power from the St. Lawrence/FDR and Niagara Power Projects and firm peaking hydropower from the Niagara Project for the benefit of rural and domestic consumers under contracts signed in 1990 that expired on August 31, 2007 (the ‘1990 Hydro Contracts’). The power is purchased at the cost-based hydropower rate and the benefits are passed on to the Utilities’ residential and small farm customers (the rural and domestic, or ‘R&D,’ customers) without markup under Public Service Commission tariffs.

“At their meeting of July 31, 2007, the Trustees approved an extension of the 1990 Hydro Contracts (the ‘2007 Contract Extensions’) to take effect on an interim basis on September 1, 2007, pending completion of the formal contract approval process under §1009 of the Public Authorities Law. At their meeting of September 25, 2007, the Trustees authorized the holding of a public hearing, pursuant to Section 1009 of the Public Authorities Law, on the 2007 Contract Extensions. The public hearing was held on November 8, 2007 at Syracuse City Hall. At their meeting of November 27, 2007, the Trustees approved transmitting the 2007 Contract Extensions to the Governor with the recommendation that they be approved. The Governor approved the 2007 Contract Extensions on February 4, 2008. The 2007 Contract Extensions will expire on June 30, 2008.

“Chapter 59 of the Laws of 2006 (Part U) authorized the creation by the Governor of a ‘Temporary State Commission on the Future of New York State Power Programs for Economic Development’ (‘Commission’). The charge to the Commission was to recommend to the Governor and the Legislature on or before December 1, 2006, ‘whether to continue, modify, expand or replace the state’s economic development power programs, including but not limited to the power for jobs program and the energy cost savings benefit program. . . .’

“On December 1, 2006, the Commission issued its report, which included an array of findings and recommendations. A key recommendation of the report was that, among other things, hydropower now sold to the Utilities ought to be ‘redeployed’ for economic development purposes.

**DISCUSSION**

“The Power for Jobs and Energy Cost Savings Benefit Programs were extended for an additional year through June 30, 2008 (Chapter 89 of the Laws of 2007) with the understanding that a reformation of the State’s economic development power programs was necessary in order to create a long-term power resource with price stability for business, whether based on the recommendations of the Commission or some other approach. It was anticipated that this issue will be addressed before the current programs expire in mid-2008.

“Since the 2007 Contract Extensions are scheduled to expire June 30, 2008, new Contract Extensions with the Utilities are necessary so that the benefits of low-cost hydropower can continue to flow to the Utilities’ R&D customers until such time as new legislation is enacted that redeploys this hydropower for other purposes. The new Contract Extensions (the ‘2008 Contract Extensions’) have a provision that will permit service to continue on a month-to-month basis until the Governor approves them. Should the Governor reject the 2008 Contract Extensions, they will terminate on the last day of the month following the month during which the Governor disapproves them.

“The 2008 Contract Extensions would continue the sale of firm and firm peaking hydropower to the Utilities in the amounts approved by the Trustees at their July 31, 2007 meeting, specifically, for National Grid, 189 MW of firm and 175 MW of firm peaking; for NYSEG, 167 MW of firm and 150 MW of firm peaking and for RGE, 99 MW of firm and 35 MW of firm peaking. The 2008 Contract Extensions would have a term of 18 months to December 31, 2009, subject to earlier termination by the Authority on 30 days’ advance written notice.

“In addition to the withdrawals specified above, the Authority may reduce or terminate service if it is determined to be necessary to comply with any ruling, order or decision by a regulatory or judicial body or the Trustees relating to hydropower and energy allocated under the proposed contracts.

“The 2008 Contract Extensions provide for the deletion of a provision in the 1990 Hydropower Contracts (Article K – Restoration of Withdrawn Power and/or Energy) that would restrict the sale of any industrial hydropower surrendered by Alcoa, Reynolds (now a part of Alcoa) or General Motors to certain geographic regions of the State or to certain classes of customers served by the Utilities. Specifically, Article K of the 1990 Hydro Contracts would require that the first 25 MW of surrendered power and energy be made available for permanent allocations to businesses served by National Grid and NYSEG within the counties of Franklin, Clinton and St. Lawrence. Surrendered power and energy in excess of the first 25 MW would be made available for direct allocations to businesses served by the Utilities. It is necessary to terminate Article K since its terms conflict with the more recently enacted Preservation Power legislation governing the reallocation of power and energy surrendered by these industries.

#### FISCAL INFORMATION

“The 2008 Contract Extensions provide that the Utilities continue to pay for hydropower at the same rates they are currently charged, that is, determined in accordance with the ratemaking principles incorporated in the Auer Settlement and subsequent rate settlements. At their meeting of April 24, 2007, the Trustees approved an increase in these rates effective May 1, 2008. Accordingly, there will be no fiscal impact associated with the power sold on a month-to-month basis.

#### RECOMMENDATION

“The Manager – Power Contracts recommends that the Trustees authorize a public hearing on the 2008 Contract Extensions with the Utilities to be held at Syracuse City Hall on June 4, 2008, at 10:30 AM or at such other place, date and time as designated by the Chairman. It is further recommended that, pursuant to Section 1009 of the Public Authorities Law, the Corporate Secretary be authorized to transmit copies of the proposed contracts to the Governor and legislative leaders.

“The Executive Vice President, General Counsel and Chief of Staff, the Executive Vice President and Chief Financial Officer, the Executive Vice President – Energy Marketing and Corporate Affairs, the Senior Vice President – Marketing and Economic Development and I concur in the recommendation.”

The attached resolution, as recommended by the President and Chief Executive Officer, was unanimously adopted.

**RESOLVED, That the Trustees hereby authorize a public hearing on the terms of the contract extensions for the sale of hydroelectric power and energy generated by the Authority for sale to National Grid, New York State Electric & Gas Corporation and Rochester Gas & Electric Corporation to be held at Syracuse City Hall on June 4, 2008, or such other place, date and time as determined by the Chairman; and be it further**

**RESOLVED, That the Corporate Secretary be, and hereby is, authorized to transmit copies of the contract extensions to the Governor, the Speaker of the Assembly, the Minority Leader of the Assembly, the Chairman of the Assembly Ways and Means**

April 29, 2008

**Committee, the Temporary President of the Senate, the Minority Leader of the Senate and the Chairman of the Senate Finance Committee pursuant to Section 1009 of the Public Authorities Law; and be it further**

**RESOLVED, That the President or his designee be, and hereby is, authorized, subject to the approval of the form thereof by the Executive Vice President, General Counsel and Chief of Staff, to enter into such other agreements, and to do such other things as may be necessary or desirable to implement the contract extensions with National Grid, New York State Electric & Gas Corporation and Rochester Gas & Electric Corporation as set forth in the attached memorandum of the President and Chief Executive Officer; 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, 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, General Counsel and Chief of Staff.**

April 29, 2008

Exhibit "5-A"

2008 Amendment to and Extension of Service Agreement of Niagara Mohawk Power Corporation under Service Tariff No. 41 and Service Tariff No. 42

Niagara Mohawk Power Corporation, d/b/a National Grid (the "Company") and the New York Power Authority (the "Authority") are parties to an agreement dated February 22, 1989 under which the Authority sells certain quantities of hydroelectric power and energy from Authority's Niagara and St. Lawrence Projects to Company for resale to its rural and residential consumers (the "Service Agreement under ST No. 41 and ST No. 42"). The Company and the Authority have previously extended the Service Agreement under ST No. 41 and ST No. 42 to June 30, 2008 by letter agreement dated August 30, 2007 (the "2007 Amendment").

The Company and the Authority agree to terminate the 2007 Amendment effective July 1, 2008, and further extend and modify certain terms of the Company's Service Agreement under ST No. 41 and ST No. 42 as follows:

- 1) The amount of Firm Hydroelectric Power and Energy allocated to the Company under Service Tariff No. 41 will be reduced from 230 MW to 189 MW. The Firm Peaking Power allocation of 175 MW under Service Tariff No. 42 will remain unchanged.
- 2) Article E – Rates. The current text is deleted in its entirety and is replaced with the following text.

"The rates charged by the Authority under this Agreement shall be established in accordance with this Article.

The Authority shall charge and the Company shall pay the preference power rates adopted by the Authority on April 24, 2007, as such rates may be revised from time to time. The Company waives any and all objections, suits, appeals or other challenges to the preference power rates adopted by the Authority on April 24, 2007, except as otherwise provided for below.

The Company waives any challenges to any of the following methodologies and principles used by the Authority to set future preference power rates, numbers (ii) through (vii) as set forth in the "January 2003 Report on Hydroelectric Production Rates" as modified by the April 2003 "Staff Analysis of Public Comments and Recommendations":

- (i) The principles set forth in the March 5, 1986 Settlement Agreement settling *Auer v. Dyson*, No. 81-124 (Sup. Ct. Oswego Co.), *Auer v. Power Authority*, Index No. 11999-84 (Sup. Ct. N.Y. Co.) and *Delaware County Electric Cooperative, Inc. v. Power Authority*, 82 Civ. 7256 (S.D.N.Y.) (the "Auer Settlement").

- (ii) Recovery of capital costs using Trended Original Cost and Original Cost methodologies.
- (iii) Treatment of sales to third parties, including the New York Independent System Operator.
- (iv) Allocation of Indirect Overheads.
- (v) Melding of costs of the Niagara Power Project and the St. Lawrence-FDR Power Project for ratemaking.
- (vi) Post-employment benefits other than pensions (*i.e.*, retiree health benefits).
- (vii) Rate Stabilization Reserve (“RSR”) methodology.

In the event the Authority ceases to employ any of the methodologies and principles enumerated above, the Company shall have the right to take any position whatsoever with respect to such methodology or principle, but shall not have the right to challenge any of the remaining methodologies and principles that continue to be employed by the Authority.”

- 3) Article F – Transmission. The current text is deleted in its entirety and is replaced with the following text.

“In accordance with the terms of the existing transmission service agreement, which by its terms will expire on August 31, 2007, the Company will cease taking transmission service from Authority and will instead take transmission service under the New York Independent System Operator's ("NYISO") Open Access Transmission Tariff. The Company agrees to settle any outstanding transmission charges that may apply prior to September 1, 2007, including any subsequent NYISO true up settlements.”

- 4) Article G – Notification. In the contact address for the Authority, replace “10 Columbus Circle, New York, NY 10019” with “123 Main Street, White Plains, NY 10601.”
- 5) Article K – Restoration of Withdrawn Power and/or Energy is deleted in its entirety.
- 6) Article L – Term of Service, is revised to read as follows:

“Service under this contract shall commence at 12:01 A.M. on January 1, 1990 and shall continue unless cancelled as provided for in the “Withdrawals of Power and/or Energy” or the “Cancellation or Reduction” provisions until December 31, 2009, subject to earlier termination by the Authority with respect to any or all of the

quantities of power and energy provided hereunder on at least thirty (30) days' prior written notice to the Company."

- 7) Article M – Availability of Energy – Firm and Firm Peaking Hydroelectric Power Service. In the third paragraph, line 1, starting with the words "In the event that . . ." through ". . . minimize the impact of such reductions" on line 10, replace with the following:

"The Authority will have the right to reduce on a *pro rata* basis the amount of energy provided to the Company under Service Tariff Nos. 41 and 42 if such reductions are necessary due to low-flow (*i.e.*, hydrologic) conditions at the Authority's Niagara and St. Lawrence-FDR hydroelectric generating stations. In the event that hydrologic conditions require the Authority to reduce the amount of energy provided to the Company, reductions as a percentage of the otherwise required energy deliveries will be the same for all firm Niagara and St. Lawrence-FDR Project customers. The Authority shall be under no obligation to deliver and will not deliver any such curtailed energy to the Company in later billing periods. The offer of Energy for delivery shall fulfill the Authority's obligations for purposes of this Provision whether or not the Energy is taken by the Company. The Authority shall provide reasonable notice to the Company of any condition or activities that could result, or have resulted, in low-flow conditions consistent with the notice provided to other similarly affected customers."

- 8) This amendment shall be referred to as the "2008 Amendment to the Company's Service Agreement under ST No. 41 and ST No. 42."
- 9) Continuation of service under this 2008 Amendment to the Company's Service Agreement under ST No. 41 and ST No. 42 shall be subject to ultimate approval by the Governor of the State of New York pursuant to Section 1009 of the Power Authority Act. If the Governor does not approve this amendment, service will cease on the last day of the month following the month during which the Governor disapproved this Contract Extension.

Except as expressly provided in this 2008 Amendment to the Company's Service Agreement under ST No. 41 and ST No. 42, the Service Agreement under ST No. 41 and ST No. 42 shall remain unchanged and in full force and effect.

This 2008 Amendment to the Company's Service Agreement under ST No. 41 and ST No. 42 shall be governed by and construed in accordance with the laws of the State of New York applicable to contracts to be performed in such state, without regard to conflict-of-laws principles.

This 2008 Amendment to the Company's Service Agreement under ST No. 41 and ST No. 42 may be signed in any number of counterparts, each of which shall be an original, with the same effect as if the signature thereto and hereto were upon the same instrument.

April 29, 2008

Upon approval of the Governor of the State of New York pursuant to Section 1009 of the Public Authorities Law, and upon execution by the Chairman of the Authority, this 2008 Amendment shall come into full force and effect, provided however that pending such gubernatorial approval and execution this 2008 Amendment shall take effect upon the expiration of the 2007 Amendment and continue on a month-to-month basis.

If the foregoing changes are acceptable to your organization, please so indicate by executing both copies of this amendment and returning one copy to us.

AGREED:

Power Authority of the State of New York

By: \_\_\_\_\_

Roger B. Kelley  
President and Chief Executive Officer

Date: \_\_\_\_\_

By: \_\_\_\_\_

Frank S. McCullough, Jr.  
Chairman

Date: \_\_\_\_\_

Niagara Mohawk Power Corporation d/b/a National Grid

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

April 29, 2008

Exhibit "5-B"

### 2008 Amendment to 1990 Hydropower Contract

New York State Electric & Gas Corporation (the "Company") and the New York Power Authority (the "Authority") are parties to an agreement dated February 22, 1989 under which the Authority sells certain quantities of hydroelectric power and energy from the Authority's Niagara and St. Lawrence Projects to the Company for resale to its rural and residential consumers (the "1990 Hydropower Contract"). The Company and the Authority have previously extended the 1990 Hydropower Contract to June 30, 2008 by letter agreement dated August 30, 2007 (the "2007 Amendment").

The Company and the Authority agree to terminate the 2007 Amendment effective July 1, 2008, and further extend and modify certain terms of the 1990 Hydropower Contract as follows:

- 10) The amount of Firm Hydroelectric Power and Energy allocated to the Company under Service Tariff No. 41 will be reduced from 203 MW to 167 MW. The Firm Peaking Power allocation of 150 MW under Service Tariff No. 42 will remain unchanged.
- 11) Article E – Rates. The current text is deleted in its entirety and is replaced with the following text.

"The rates charged by the Authority under this Agreement shall be established in accordance with this Article.

The Authority shall charge and the Company shall pay the preference power rates adopted by the Authority on April 24, 2007, as such rates may be revised from time to time. The Company waives any and all objections, suits, appeals or other challenges to the preference power rates adopted by the Authority on April 24, 2007, except as otherwise provided for below.

The Company waives any challenges to any of the following methodologies and principles used by the Authority to set future preference power rates, numbers (ii) through (vii) as set forth in the "January 2003 Report on Hydroelectric Production Rates" as modified by the April 2003 "Staff Analysis of Public Comments and Recommendations":

- (i) The principles set forth in the March 5, 1986 Settlement Agreement settling *Auer v. Dyson*, No. 81-124 (Sup. Ct. Oswego Co.), *Auer v. Power Authority*, Index No. 11999-84 (Sup. Ct. N.Y. Co.) and *Delaware County Electric Cooperative, Inc. v. Power Authority*, 82 Civ. 7256 (S.D.N.Y.) (the "Auer Settlement").

- (ii) Recovery of capital costs using Trended Original Cost and Original Cost methodologies.
- (iii) Treatment of sales to third parties, including the New York Independent System Operator.
- (iv) Allocation of Indirect Overheads.
- (vi) Melding of costs of the Niagara Power Project and the St. Lawrence-FDR Power Project for ratemaking.
- (vi) Post-employment benefits other than pensions (*i.e.*, retiree health benefits).
- (viii) Rate Stabilization Reserve (“RSR”) methodology.

In the event the Authority ceases to employ any of the methodologies and principles enumerated above, the Company shall have the right to take any position whatsoever with respect to such methodology or principle, but shall not have the right to challenge any of the remaining methodologies and principles that continue to be employed by the Authority.”

12) Article F – Transmission. The current text is deleted in its entirety and is replaced with the following text.

“In accordance with the terms of the existing transmission service agreement, which by its terms will expire on August 31, 2007, the Company will cease taking transmission service from the Authority and will instead take transmission service under the New York Independent System Operator's ("NYISO") Open Access Transmission Tariff. The Company agrees to settle any outstanding transmission charges that may apply prior to September 1, 2007 including any subsequent NYISO true up settlements.”

13) Article G – Notification. In the contact address for the Authority, replace “10 Columbus Circle, New York, NY 10019” with “123 Main Street, White Plains, NY 10601.” In the contact address for the Company, first and second lines, replace “Senior Vice President Electric System Operations and Engineering” with “Dave Kimiecik, Vice President, Energy Supply.” On lines four and five, replace “4500 Vestal Parkway, Binghamton, New York, 13903” with “18 Link Drive, P.O. Box 5224, Binghamton, NY 13902-5224.”

14) Article K - Restoration of Withdrawn Power and/or Energy is deleted in its entirety.

15) Article L – Term of Service, is revised to read as follows:

”Service under this contract shall commence at 12:01 A.M. on January 1, 1990 and shall continue unless cancelled as provided for in the “Withdrawals of Power and/or

Energy” or the “Cancellation or Reduction” provisions until December 31, 2009, subject to earlier termination by the Authority with respect to any or all of the quantities of power and energy provided hereunder on at least thirty (30) days’ prior written notice to the Company.”

- 16) Article M – Availability of Energy – Firm and Firm Peaking Hydroelectric Power Service. In the third paragraph, line 1, starting with the words “In the event that . . .” through “. . . minimize the impact of such reductions” on line 10, replace with the following:

“The Authority will have the right to reduce on a *pro rata* basis the amount of energy provided to the Company under Service Tariff Nos. 41 and 42 if such reductions are necessary due to low-flow (*i.e.*, hydrologic) conditions at the Authority’s Niagara and St. Lawrence-FDR hydroelectric generating stations. In the event that hydrologic conditions require the Authority to reduce the amount of energy provided to the Company, reductions as a percentage of the otherwise required energy deliveries will be the same for all firm Niagara and St. Lawrence-FDR Project customers. The Authority shall be under no obligation to deliver and will not deliver any such curtailed energy to the Company in later billing periods. The offer of Energy for delivery shall fulfill the Authority’s obligations for purposes of this Provision whether or not the Energy is taken by the Company. The Authority shall provide reasonable notice to the Company of any condition or activities that could result, or have resulted, in low-flow conditions consistent with the notice provided to other similarly affected customers.”

- 17) This amendment shall be referred to as the “2008 Amendment to the 1990 Hydropower Contract.”

- 18) Continuation of service under this 2008 Amendment to the 1990 Hydropower Contract shall be subject to ultimate approval by the Governor of the State of New York pursuant to Section 1009 of the Power Authority Act. If the Governor does not approve this amendment, service will cease on the last day of the month following the month during which the Governor disapproved this Contract Extension.

Except as expressly provided in this 2008 Amendment to the 1990 Hydropower Contract, the 1990 Hydropower Contract shall remain unchanged and in full force and effect.

This 2008 Amendment to the 1990 Hydropower Contract shall be governed by and construed in accordance with the laws of the State of New York applicable to contracts to be performed in such state, without regard to conflict-of-laws principles.

This 2008 Amendment to the 1990 Hydropower Contract may be signed in any number of counterparts, each of which shall be an original, with the same effect as if the signature thereto and hereto were upon the same instrument.

April 29, 2008

Upon approval of the Governor of the State of New York pursuant to Section 1009 of the Public Authorities Law, and upon execution by the Chairman of the Authority, this 2008 Amendment shall come into full force and effect, provided however that pending such gubernatorial approval and execution this 2008 Amendment shall take effect upon the expiration of the 2007 Amendment and continue on a month-to-month basis.

If the foregoing changes are acceptable to your organization, please so indicate by executing both copies of this amendment and returning one copy to us.

AGREED:

Power Authority of the State of New York

By: \_\_\_\_\_  
Roger B. Kelley  
President and Chief Executive Officer

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Frank S. McCullough, Jr.  
Chairman

Date: \_\_\_\_\_

New York State Electric & Gas Corporation

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

April 29, 2008

Exhibit "5-C"

### 2008 Amendment to 1990 Hydropower Contract

Rochester Gas & Electric Corporation (the "Company") and the New York Power Authority (the "Authority") are parties to an agreement dated February 22, 1989 under which the Authority sells certain quantities of hydroelectric power and energy from the Authority's Niagara and St. Lawrence Projects to the Company for resale to its rural and residential consumers (the "1990 Hydropower Contract"). The Company and the Authority have previously extended the 1990 Hydropower Contract to June 30, 2008 by letter agreement dated August 29, 2007 (the "2007 Amendment").

The Company and the Authority agree to terminate the 2007 Amendment effective July 1, 2008, and further extend and modify certain terms of the 1990 Hydropower Contract as follows:

- 19) The amount of Firm Hydroelectric Power and Energy allocated to the Company under Service Tariff No. 41 will be reduced from 120 MW to 99 MW. The Firm Peaking Power allocation of 35 MW under Service Tariff No. 42 will remain unchanged.
- 20) Article E – Rates. The current text is deleted in its entirety and is replaced with the following text.

"The rates charged by the Authority under this Agreement shall be established in accordance with this Article.

The Authority shall charge and the Company shall pay the preference power rates adopted by the Authority on April 24, 2007, as such rates may be revised from time to time. The Company waives any and all objections, suits, appeals or other challenges to the preference power rates adopted by the Authority on April 24, 2007, except as otherwise provided for below.

The Company waives any challenges to any of the following methodologies and principles used by the Authority to set future preference power rates, numbers (ii) through (vii) as set forth in the "January 2003 Report on Hydroelectric Production Rates" as modified by the April 2003 "Staff Analysis of Public Comments and Recommendations":

- (i) The principles set forth in the March 5, 1986 Settlement Agreement settling *Auer v. Dyson*, No. 81-124 (Sup. Ct. Oswego Co.), *Auer v. Power Authority*, Index No. 11999-84 (Sup. Ct. N.Y. Co.) and *Delaware County Electric Cooperative, Inc. v. Power Authority*, 82 Civ. 7256 (S.D.N.Y.) (the "Auer Settlement").

- (ii) Recovery of capital costs using Trended Original Cost and Original Cost methodologies.
- (iii) Treatment of sales to third parties, including the New York Independent System Operator.
- (iv) Allocation of Indirect Overheads.
- (vii) Melding of costs of the Niagara Power Project and the St. Lawrence-FDR Power Project for ratemaking.
- (vi) Post-employment benefits other than pensions (*i.e.*, retiree health benefits).
- (ix) Rate Stabilization Reserve (“RSR”) methodology.

In the event the Authority ceases to employ any of the methodologies and principles enumerated above, the Company shall have the right to take any position whatsoever with respect to such methodology or principle, but shall not have the right to challenge any of the remaining methodologies and principles that continue to be employed by the Authority.”

21) Article F – Transmission. The current text is deleted in its entirety and is replaced with the following text.

“In accordance with the terms of the existing transmission service agreement, which by its terms will expire on August 31, 2007, the Company will cease taking transmission service from the Authority and will instead take transmission service under the New York Independent System Operator's ("NYISO") Open Access Transmission Tariff. The Company agrees to settle any outstanding transmission charges that may apply prior to September 1, 2007, including any subsequent NYISO true up settlements.”

22) Article G – Notification. In the contact address for the Authority, replace “10 Columbus Circle, New York, NY 10019” with “123 Main Street, White Plains, NY 10601.” For the Company, delete the current reference in its entirety and replace with the following: “Dave Kimiecik, Vice President, Energy Supply, New York State Electric & Gas Corporation, 18 Link Drive, P.O. Box 5224, Binghamton, NY 13902-5224

23) Article K – Restoration of Withdrawn Power and/or Energy is deleted in its entirety.

24) Article L – Term of Service is revised to read as follows:

”Service under this contract shall commence at 12:01 A.M. on January 1, 1990 and shall continue unless cancelled as provided for in the “Withdrawals of Power and/or Energy” or the “Cancellation or Reduction” provisions until December 31, 2009, subject to earlier termination by the Authority with respect to any or all of the quantities of power and energy provided hereunder on at least thirty (30) days’ prior written notice to the Company.”

- 25) Article M – Availability of Energy – Firm and Firm Peaking Hydroelectric Power Service. In the third paragraph, line 1, starting with the words ”In the event that . . .”through “. . . minimize the impact of such reductions” on line 10, replace with the following:

“The Authority will have the right to reduce on a *pro rata* basis the amount of energy provided to the Company under Service Tariff Nos. 41 and 42 if such reductions are necessary due to low-flow (*i.e.*, hydrologic) conditions at the Authority’s Niagara and St. Lawrence-FDR hydroelectric generating stations. In the event that hydrologic conditions require the Authority to reduce the amount of energy provided to the Company, reductions as a percentage of the otherwise required energy deliveries will be the same for all firm Niagara and St. Lawrence-FDR Project customers. The Authority shall be under no obligation to deliver and will not deliver any such curtailed energy to the Company in later billing periods. The offer of Energy for delivery shall fulfill the Authority’s obligations for purposes of this Provision whether or not the Energy is taken by the Company. The Authority shall provide reasonable notice to the Company of any condition or activities that could result, or have resulted, in low-flow conditions consistent with the notice provided to other similarly affected customers.”

- 26) This amendment shall be referred to as the “2008 Amendment to the 1990 Hydropower Contract.”

- 27) Continuation of service under this 2008 Amendment to the 1990 Hydropower Contract shall be subject to ultimate approval by the Governor of the State of New York pursuant to Section 1009 of the Power Authority Act. If the Governor does not approve this amendment, service will cease on the last day of the month following said disapproval.

Except as expressly provided in this 2008 Amendment to the 1990 Hydropower Contract, the 1990 Hydropower Contract shall remain unchanged and in full force and effect.

This 2008 Amendment to the 1990 Hydropower Contract shall be governed by and construed in accordance with the laws of the State of New York applicable to contracts to be performed in such state, without regard to conflict-of-laws principles.

This 2008 Amendment to the 1990 Hydropower Contract may be signed in any number of counterparts, each of which shall be an original, with the same effect as if the signature thereto and hereto were upon the same instrument.

April 29, 2008

Upon approval of the Governor of the State of New York pursuant to Section 1009 of the Public Authorities Law, and upon execution by the Chairman of the Authority, this 2008 Amendment shall come into full force and effect, provided however that pending such gubernatorial approval and execution this 2008 Amendment shall take effect upon the expiration of the 2007 Amendment and continue on a month-to-month basis.

If the foregoing changes are acceptable to your organization, please so indicate by executing both copies of this amendment and returning one copy to us.

AGREED:

Power Authority of the State of New York

By: \_\_\_\_\_

Roger B. Kelley  
President and Chief Executive Officer

Date: \_\_\_\_\_

By: \_\_\_\_\_

Frank S. McCullough, Jr.  
Chairman

Date: \_\_\_\_\_

Rochester Gas & Electric Corporation

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**6. Extension of Contract FD 13 - Brookhaven National Lab**

The President and Chief Executive Officer submitted the following report:

**SUMMARY**

The Trustees are requested to approve an extension of Contract FD 13 to the United States Department of Energy ('DOE') for use by Brookhaven National Laboratory ('Brookhaven') for a period of up to one year (July 1, 2008 through June 30, 2009).

**BACKGROUND**

"The Authority has been serving Brookhaven since November 1982. The current contract covers 60 MW of power. According to Brookhaven, Authority-provided electricity has saved the laboratory in excess of \$247 million over the life of the contract while at the same time giving Brookhaven the ability to attract new, cutting-edge science projects to Long Island. These projects include the Alternate Gradient Synchrotron, the National Synchrotron Light Source ('NSLS') and the Relativistic Heavy Ion Collider ('RHIC'). Future plans also include a potential \$1 billion investment for an upgrade to the NSLS known as NSLS-II. With more than 3,000 employees and a \$500 million annual budget, Brookhaven is a major employer on Long Island, attracting members of the scientific community from New York, other states and around the world.

**DISCUSSION**

"Brookhaven is requesting an extension of the existing contract for up to one year to allow for additional time to evaluate the potential for a longer-term solution for power priced at nationally competitive rates. The current contract expires on June 30, 2008. The contract extension will continue to provide for a flow-through of market prices for all of Brookhaven's electricity requirements. The Authority will continue to offer Brookhaven the economic benefits associated with certain 'grandfathered' transmission rights and other measures agreed to in a separate Memorandum of Understanding concerning the control of Brookhaven's summer peak. Additionally, the Authority, the Long Island Power Authority and Empire State Development Corporation have preliminarily agreed to continue to provide financial incentives to further reduce Brookhaven's electricity rates. The financial incentives were an integral part of the three-year contract extension approved by the Trustees at their meeting on May 25, 2005. Brookhaven advises that its current contract and the associated financial incentives were the only reason that Brookhaven was even considered for the NSLS-II project. The Authority's financial incentive will not exceed \$1.3 million for the term of the proposed up to one extension, which will be an offset to the sale of power at market rates.

"The goal is to offer an effective price of electricity for Brookhaven that is substantially lower than the full market price for electricity on Long Island and that will allow Brookhaven to compete within the National Lab System for world-class science. Brookhaven's continued success is directly tied to its ability to build and operate large, complex, one-of-a-kind scientific facilities that draw researchers from around the world. If Brookhaven is not able to obtain a stable source of power priced at nationally competitive rates for the long term, these research facilities could potentially shut down, or, in the case of the potential \$1 billion NSLS-II project, never be built in New York State.

**FISCAL INFORMATION**

"Brookhaven will pay the full cost of market power provided by the Authority at market rates. The Authority's financial incentive to Brookhaven will not exceed \$1.3 million for the up to one year extension.

**RECOMMENDATION**

"The Manager – Business Marketing and Economic Development recommends that Brookhaven National Laboratory's contract be extended as described herein and the terms of service for the sale of power to Brookhaven be modified in accordance with the foregoing.

April 29, 2008

“The Executive Vice President, General Counsel and Chief of Staff, the Executive Vice President – Energy Marketing and Corporate Affairs, the Senior Vice President – Marketing and Economic Development and I concur in the recommendation.”

*Mr. Michael Huvane presented the highlights of staff’s recommendations to the Trustees. In response to a question from Chairman McCullough, Mr. Huvane said that the \$1.3 million financial incentive had been included in the Authority’s 2008 budget.*

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

**RESOLVED, That the extension of contract FD-13 for a up to one year period from July 1, 2008 through June 30, 2009, be approved on the terms set forth in the foregoing report of the President and Chief Executive Officer; and be it further**

**RESOLVED, That the Senior Vice President – 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 the foregoing, subject to the approval of the form thereof by the Executive Vice President, General Counsel and Chief of Staff; 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, 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, General Counsel and Chief of Staff.**

**7. Procurement (Services) Contracts – Energy  
Marketing and Corporate Affairs – Awards**

The President and Chief Executive Officer submitted the following report:

**SUMMARY**

“The Trustees are requested to approve the award and funding of procurement contracts to: Altran Solutions, Cranbury, NJ; Black & Veatch Corporation, Overland Park, KS; CH2MHill New York, Inc.; Commonwealth Associates, Inc., Jackson, MI; CRA International Inc., Cambridge, MA; Levitan & Associates, Inc., Boston, MA; Navigant Consulting, Inc., Westbury, NY; Power GEM LLC, Niskayuna, NY; Shaw Stone and Webster Management Consultants Inc., Cambridge, MA; Siemens Power Transmission and Distribution Inc., Schenectady, NY; Tetra Tech EC Inc., Boston, MA and Ventryx Energy LLC, Sacramento, CA for the Authority’s newly organized Energy Marketing and Corporate Affairs Business Unit (“EMCA”) for terms of up to three years with options for two one-year extensions. These firms will perform work on: (1) generation project evaluation and analysis; (2) transmission project evaluation and analysis; (3) fuel supply planning, evaluation and analysis; (4) energy policy development and regulatory monitoring and (5) strategy development and business process reengineering. Explanations for the awards, as well as the types of services expected over the contract terms, are set forth in the discussion below. Approval is requested for \$6 million in the aggregate, the total estimated amount expected to be expended through approximately April 2011, to be released as needed, pursuant to the Authority’s Expenditure Authorization Procedures (“EAPs”).

**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.

“The Authority’s EAPs require the Trustees’ approval for the award of personal services contracts in excess of \$1 million if low bidder, or \$500,000 if sole source or non-low bidder.

“Since the terms of these contracts will be for more than one year and/or the requested funding may exceed the dollar thresholds that can be authorized by the President and Chief Executive Officer per the EAPs, the Trustees’ approval is required. These contracts contain provisions allowing the Authority to terminate the services for the Authority’s convenience, without liability other than paying for acceptable services rendered to the effective date of termination. Approval is also requested for the monies to fund these contracts. These contract awards do not obligate the Authority to a specific level of personnel resources or expenditures. The assignment of work and associated funding under each contract will be authorized pursuant to the EAPs.

**DISCUSSION**

“As part of meeting the in-city capacity needs of its New York City Governmental Customers (“NYC Governmental Customers”), the Authority issued a Request for Proposals (“RFP” LTS # 5) to Provide Long-Term Supply of In-City Unforced Capacity and Optional Energy (“Capacity Supply RFP”) on November 8, 2007. This supply is intended to help meet the expected capacity shortfall following the closure of the Charles Poletti Power Project in 2010. To assist with evaluating supply proposals received, and support additional EMCA initiatives, multiple contracts were awarded in January 2008 for an aggregate amount of \$6 million in funding with terms of up to three years. The contracts awarded have two objectives: (1) to assist Authority staff in evaluating the proposals received under the Capacity Supply RFP and (2) to have a broad range of on-call consulting expertise available to support planned EMCA work. Beyond the current Capacity Supply RFP, EMCA is planning various initiatives, including an integrated resource plan, additional supply initiatives for customers and support of New York State energy policy objectives, as requested, including the Governor’s “15 by 15” Plan.

“The contracts awarded in January focused on developing energy supply and planning for the NYC Governmental Customers. As EMCA will be pursuing energy initiatives and planning throughout New York State, it is necessary to obtain the services of consulting firms with a broad range of expertise to

provide on-call assistance for future initiatives, activities and planning throughout the State. These consultants will provide technical assistance to EMCA in meeting energy supply needs and supporting New York State economic development and energy policy initiatives. The consultants will provide experts with relevant experience in technical, economic, siting, environmental and licensing aspects of power system development including generation, transmission and fuel supply. The consultants will also provide expertise and technical support services in energy policy development and regulatory affairs as well as strategy development and business process reengineering.

### **BID EVALUATION AND SELECTION**

“An RFP for Feasibility Analyses, Cost Estimates and System Studies for Generation, Transmission and Fuel Supplies for Energy Policy and Regulatory Affairs Support and for Strategy Development and Business Process Reengineering was advertised in the New York State Contract Reporter and was downloaded by 37 firms. A total of 12 firms responded with proposals that were reviewed by managers and staff from EMCA, Procurement and Real Estate, Power Generation, Transmission, Engineering and Fuel Planning and Operation.

“Ten firms provided proposals for generation project work. Each firm demonstrated experience and expertise in some or all of the areas necessary to assist in the design, review, evaluation, licensing and construction of generation projects, including upgrading or repowering existing facilities. Proposals from larger engineering firms confirmed their experience in these areas as well as knowledge of, and experience in, developing generation facilities in New York State and surrounding regions. While other firms did not demonstrate this broad spectrum of services, they demonstrated experience in the review of generation studies, financial and economic evaluations and risk management assessments. Based on this evaluation, Altran Solutions, Black & Veatch Inc., CH2MHill New York Inc., CRA International Inc., Levitan & Associates Inc., Navigant Consulting Inc., Shaw Stone and Webster Management Consultants Inc., Siemens Power Transmission and Distribution Inc., Tetra Tech EC Inc. and Ventryx Energy LLC had sufficient expertise and experience to provide the requested services.

“Ten firms provided proposals for transmission project work. As with generation projects, each firm had experience and expertise in some or all of the areas needed to support initiatives for transmission projects, including new facilities and upgrades of existing facilities. The larger engineering firms demonstrated experience and expertise with design, procurement and construction of small- and large-scale transmission projects, as well as environmental assessments and permitting, including projects in New York State. The other firms demonstrated substantial experience in system studies, financial and economic evaluations and risk assessment, particularly for projects in New York State. Based on this evaluation, Altran Solutions, Black & Veatch Inc., Commonwealth Associates, Inc., CRA International Inc., Levitan & Associates Inc., Navigant Consulting Inc., Power GEM LLC, Siemens Power Transmission and Distribution Inc., Tetra Tech EC Inc. and Ventryx Energy LLC had sufficient expertise and experience to provide the requested services.

“Seven firms proposed services related to fuel supply planning and infrastructure. These proposals established these firms’ experience in review, planning and evaluation of fuels supply, as well as their experience in design, environmental assessment, licensing and construction of new and upgraded fuel-supply infrastructure. The proposals demonstrated substantial relevant experience with similar work for other utility industry clients, including clients in New York State. Based on this evaluation, Altran Solutions, Black & Veatch Inc., CRA International Inc., Levitan & Associates Inc., Navigant Consulting, Inc., Tetra Tech EC Inc. and Ventryx Energy LLC had sufficient expertise and experience to provide the requested services.

“Eight bidders submitted proposals related to both energy policy and business process reengineering. Their proposals, résumés of team members and previous work reflect the knowledge and background needed to support future projects related to energy policy efforts and business process reengineering, depending on the specific project. Based on this evaluation, Black & Veatch Inc., Commonwealth Associates, Inc., CRA International Inc., Levitan & Associates Inc., Navigant Consulting Inc., Shaw Stone and Webster Management Consultants Inc., Siemens Power Transmission and Distribution Inc. and Ventryx Energy LLC had sufficient expertise and experience to provide the requested services.

## AUTHORIZATION AND APPROVAL

“The Trustees are requested to approve the award of contracts to: Altran Solutions, Black & Veatch Inc., CH2MHill New York Inc., Commonwealth Associates Inc., CRA International Inc., Levitan & Associates Inc., Navigant Consulting Inc., Power GEM LLC, Shaw Stone and Webster Management Consultants Inc., Siemens Power Transmission and Distribution Inc., Tetra Tech EC Inc. and Ventryx Energy LLC. Contracts with these firms will provide the Authority with a suite of consultants/engineers to support upcoming EMCA initiatives in areas of power systems development, as well as in energy policy review and business process reengineering. Given the current high demand for consultants/engineering firms working for the utility industry, this group of firms should preclude the possibility that one or two firms cannot respond in a timely manner when the Authority needs to pursue a project. This group of firms will also allow the Authority to assign work to the firm with the most experience and expertise in a specific technological, geographic or policy area and to firms that can be most cost effective. The Trustees are requested to approve the award of these contracts for an intended term of up to three years with the option to extend contracts for two one-year periods.

“The Trustees are requested to authorize a total aggregate amount of \$6 million to provide the services for generation projects, transmission projects, fuel-supply projects, energy policy and regulatory affairs and strategy development and business process reengineering with funds to be allocated, as needed, to each of these contracts pursuant to the EAPs. Funds will be assigned to specific contracts and released as work is assigned.

## FISCAL INFORMATION

“Funds required to support services for these contracts will be included in the annual EMCA budget. To the extent work is in support of supply for specific customers, the Authority will seek to recover the costs from those customers either through a direct surcharge or as part of their cost-of-service rates.

## RECOMMENDATION

“The Vice President – Project Management, the Director – Power Resource Planning and Acquisition and the Executive Director – Licensing, Implementation and Compliance recommend the Trustees’ approval of the award of procurement contracts to Altran Solutions, Black & Veatch Inc., CH2MHill New York Inc., Commonwealth Associates Inc., CRA International Inc., Levitan & Associates Inc., Navigant Consulting Inc., Power GEM LLC, Shaw Stone and Webster Management Consultants Inc., Siemens Power Transmission and Distribution Inc., Tetra Tech EC Inc. and Ventryx Energy LLC for the purposes and in the amounts set forth above.

“The Executive Vice President, General Counsel and Chief of Staff, the Executive Vice President and Chief Financial Officer, the Executive Vice President – Corporate Services and Administration, the Executive Vice President – Energy Marketing and Corporate Affairs, the Executive Vice President and Chief Engineer – Power Generation, the Vice President – Procurement and Real Estate and I concur in the recommendation.”

*Mr. John Suloway presented the highlights of staff’s recommendations to the Trustees. In response to a question from Chairman McCullough, Mr. Suloway said that staff would not be bringing any of the individual contracts authorized by this item back to the Trustees for their approval unless the dollar amount for such a contract exceeded the authorization level of the President and Chief Executive Officer.*

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 and the Authority’s Expenditure Authorization Procedures, the award and funding of the procurement services contracts to Altran Solutions, Black & Veatch Inc., CH2MHill New York Inc., Commonwealth**

April 29, 2008

**Associates Inc., CRA International Inc., Levitan & Associates Inc., Navigant Consulting Inc., Power GEM LLC, Shaw Stone and Webster Management Consultants Inc., Siemens Power Transmission and Distribution Inc., Tetra Tech EC Inc. and Ventryx Energy LLC are hereby approved for the periods of time indicated, in the amounts and for the purposes listed therein, as recommended in the foregoing report of the President and Chief Executive Officer; 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 certificates and other documents to effectuate the foregoing resolution, subject to the approval of the form thereof by the Executive Vice President, General Counsel and Chief of Staff.**

**8. Authorization of Memorandum of Understanding Permitting Authority to Assist Long Island Power Authority in its Purchase of Electricity in Canada**

The President and Chief Executive Officer submitted the following report:

**SUMMARY**

“The Trustees are requested to authorize the Authority to enter into a Memorandum of Understanding (‘MOU’) with the Long Island Power Authority (‘LIPA’) to assist LIPA in purchasing electric energy from existing resources located in Canada. Under the Public Authorities Law (‘PAL’), LIPA is not permitted to directly obtain energy from Canada but is permitted to enter into an agreement with the Authority for the purchase of such energy. LIPA has identified hydroelectric resources in Canada to meet its renewable energy needs starting in summer 2008.

“Under the proposed MOU (Exhibit ‘8-A’), the Authority agrees to execute agreements on LIPA’s behalf for the purchase of electricity in Canada. The Authority will be held harmless under this MOU, as all seller invoices will be paid directly by LIPA, and LIPA will reimburse the Authority for any other costs incurred (e.g., salaries, equipment, taxes and other costs) in carrying out the MOU.

**BACKGROUND**

“LIPA has embarked on its own renewable portfolios standards program consistent with the New York State program applicable to investor-owned utilities. In order to meet its needs under this program, LIPA seeks to begin deliveries of Canadian hydroelectric energy in July 2008.

“Due to the restrictions set forth in the PAL, LIPA is prohibited from entering into agreements for obtaining power directly from entities located within Canada. PAL §1020-f(r). However, that same section contemplates an Authority role in assisting LIPA in the purchase of Canadian resources because it specifically allows LIPA to enter into an agreement with the Authority for the purchase of such resources. In late 2007, LIPA executives approached the Authority for assistance in obtaining electricity from Canada.

**DISCUSSION**

“The proposed MOU is satisfactory because it holds the Authority harmless from any costs associated with carrying out its activities on behalf of LIPA. Under the MOU, the Authority will act as an independent contractor and agent to LIPA authorized to negotiate, execute and administer agreements on LIPA’s behalf for the purchase of electricity in Canada from existing resources. The Authority will not be responsible for any invoices arising under such agreements, as the MOU specifies that LIPA will be directly responsible for the payment of all invoices issued by the seller. In addition, the MOU imposes no fiduciary responsibilities on the Authority, and LIPA is bound by the Authority’s exercise of discretion in carrying out the MOU provided that the Authority acts in a commercially reasonable manner.

“In executing and negotiating all power purchase agreements, the Authority will follow LIPA’s instructions, which is consistent with the parties’ mutual understanding (as expressed in the MOU) that LIPA has the ‘ultimate responsibility and liability for all decisions relating to potential power purchase agreements’ that result from the MOU. In fact, LIPA has already informed the Authority (as well as the public) of two transactions for energy and associated renewable energy credits (‘RECs’) from a Canadian firm for which LIPA seeks to commence delivery on July 1, 2008 and July 1, 2009. Authority staff expects to work cooperatively with LIPA in executing the purchase agreements with the Canadian firm.

“In addition, the Authority may bill LIPA for any other costs the Authority incurs in carrying out its responsibilities under the MOU. Such costs would include all salaries, benefits, capital costs, fees, taxes and other expenses attributable to the Authority’s activities under the MOU. The term of the MOU is 15 years, and would continue thereafter unless terminated by either party on two months’ notice.

“Consistent with LIPA’s statutory requirements, the MOU states that it cannot become effective until it is approved by the New York State Comptroller.

FISCAL INFORMATION

“Authorization of the proposed MOU will have no financial impact on the Authority. Any and all costs incurred by the Authority in carrying out purchased power agreements on behalf of LIPA will be fully reimbursed by LIPA.

RECOMMENDATION

“The Senior Vice President – Energy Resource Management and Strategic Planning recommends that the Trustees authorize the Memorandum of Understanding between the Authority and the Long Island Power Authority discussed herein.

“The Executive Vice President, General Counsel and Chief of Staff, the Executive Vice President – Energy Marketing and Corporate Affairs, the Senior Vice President – Marketing and Economic Development and I concur in the recommendation.”

*Mr. William Nadeau presented the highlights of staff’s recommendations to the Trustees. In response to a question from Trustee Besha, Mr. Nadeau said that this Memorandum of Understanding (“MOU”) would not show up on the Authority’s balance sheets since it was basically a pass-through agreement. Responding to a question from Chairman McCullough, Mr. Nadeau said that the Authority would be fully indemnified under the MOU. Mr. Thomas Kelly added that the Public Authorities Law specifically allows the Authority to provide this assistance to the Long Island Power Authority (“LIPA”). In response to a question from Trustee Moses, Mr. Nadeau said that to his knowledge, this is the first time that the Authority has implemented such an MOU with LIPA. Responding to a question from Trustee Thomas Scozzafava, Mr. Kelly said that the MOU is different from other contractual arrangements in that it calls for the Authority to act as LIPA’s agent. Vice Chairman Townsend pointed out the language in the draft MOU that indemnifies and limits the liability of the Authority. Mr. Nadeau added that all administrative and appropriate overhead costs related to the MOU would be recovered by the Authority from LIPA, with a 30-day turnaround time for payment of the invoices for such costs.*

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

**RESOLVED, That the Senior Vice President – Energy Resource Management and Strategic Planning is authorized to execute the Memorandum of Understanding negotiated between the Authority and the Long Island Power Authority to assist the latter in purchasing electricity from Canadian resources; and be it further**

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**RESOLVED, That the Senior Vice President – Energy Resource Management and Strategic Planning or his designees be, and hereby are, authorized to take such other and further actions as may be necessary to effectuate the Memorandum of Understanding; 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, 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, General Counsel and Chief of Staff.**

**April 29, 2008**

**Exhibit 8-A**

3/26/08 DRAFT

MEMORANDUM OF UNDERSTANDING

Between

LONG ISLAND POWER AUTHORITY

and

POWER AUTHORITY OF THE STATE OF NEW YORK

April\_\_\_\_, 2008

April 29, 2008

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding ("MOU") is dated as of April \_\_, 2008 and is between the POWER AUTHORITY OF THE STATE OF NEW YORK, a corporate municipal instrumentality and political subdivision of the State of New York ("NYPA") created by Chapter 772 of the Laws of 1931, as amended ("NYPA Act"), and the LONG ISLAND POWER AUTHORITY, a corporate municipal instrumentality and a body corporate and politic and political subdivision of the State of New York ("LIPA") created by Chapter 517 of the Laws of 1986, as amended ("LIPA Act"). NYPA and LIPA are referred to herein collectively as "Parties" and individually as a "Party".

WITNESSETH:

WHEREAS, LIPA is authorized to make and execute agreements, contracts, memoranda of understanding and other instruments with any person, firm, corporation, municipality, state agency or other entities which LIPA determines necessary or convenient in the exercise of its powers and functions under the LIPA Act;

WHEREAS, pursuant to Public Authorities Law, section 1020-f(h), all state agencies, including NYPA, are authorized to do all things necessary to assist LIPA in its endeavors;

WHEREAS, LIPA is desirous of obtaining power and / or energy from time to time from entities located in the Dominion of Canada;

WHEREAS, pursuant to the Public Authorities Law, Section 1020-f(r), LIPA does not have the power to enter into any agreement or any negotiation for the purchase of power from the Dominion of Canada, or any political subdivision, public authority or private corporation therein, but, may enter into, an agreement with NYPA for the purchase of such power,

WHEREAS, LIPA requires NYPA to act on its behalf in connection with power purchase agreements for the purchase of power and/or energy from entities located in the Dominion of Canada; and

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WHEREAS, Public Authorities Law, section 1005 grants NYPA a broad range of powers to obtain and maintain a continuous and adequate supply of dependable electric power and energy, particularly in the southeastern part of the State;

NOW, THEREFORE, the Parties agree as follows:

## ARTICLE I

### Definition of Terms

The following terms, when used in this MOU, shall have the meanings indicated below:

1.1 "Assistance" shall include, without limitation, the exercise by NYPA of any of its statutory powers and its powers pursuant to Public Authorities Law, Section 1020-f(h) in furtherance of this MOU.

1.2 "NYPA" means the Power Authority of the State of New York. For all purposes of this MOU, the NYPA Senior Vice President, Energy Resource Management & Strategic Planning, shall be the authorized designee of NYPA.

1.3 "LIPA" means the Long Island Power Authority. For all purposes of this MOU, the President & Chief Executive Officer or the Senior Vice President & Chief Financial Officer of LIPA shall be its authorized designee.

1.4 "NYPA Employees" means such employees of NYPA as may from time to time be assigned to provide the Services or Assistance for the benefit of LIPA pursuant to this MOU.

1.5 "Services" shall include negotiating, executing and administering power purchase agreements as LIPA's agent (as defined in Section 2.1) with entities selected by LIPA in the Dominion of Canada on behalf of and at the direction of LIPA and assisting in the scheduling of energy purchased under such agreements.

1.6 "Tax" or "Taxes" includes, without limitation, any federal, state, local, license, payroll, employment, severance, stamp, occupation, withholding, social security (or similar, including FICA), unemployment, disability, real property, personal property, sales, use, transfer, registration, value added, alternative or add-on minimum, estimated, or other tax of any kind whatsoever, including any interest, penalty, or addition thereto, whether disputed or not.

ARTICLE II

Relationship of the Parties

2.1 Independent Contractor and Agent. NYPA shall be an independent contractor to LIPA and is hereby authorized by LIPA to act as its agent in the negotiation, execution and administration of power purchase agreement(s) with entities in the Dominion of Canada on LIPA's behalf and at LIPA's direction. LIPA hereby appoints NYPA as its agent, to take all actions and execute all documents on behalf of LIPA as are reasonable and necessary to allow NYPA to carry out its responsibilities under this MOU. As agent for LIPA, LIPA agrees to be bound by NYPA's exercise of discretion in taking all actions in furtherance of this MOU, provided that such discretion is exercised in a manner that is both commercially reasonable and consistent with the terms of this MOU. Nothing in this MOU imposes upon NYPA the role of a fiduciary.

ARTICLE III

Scope of NYPA Services and Assistance

3.1 General. NYPA agrees to provide such Services and Assistance as may be requested by LIPA in accordance with the Parties' mutual understanding that ultimate responsibility and liability for all decisions relating to the potential power purchase agreements resulting from this MOU shall be retained and reserved exclusively to LIPA. NYPA agrees to use commercially reasonable efforts to provide Services and Assistance to LIPA to facilitate the negotiation, execution and administration of power purchase agreement(s) with entities in the Dominion of Canada as selected by LIPA. In negotiating Power Purchase Agreement(s), NYPA shall follow instructions provided by LIPA and will employ the negotiating strategy directed by LIPA. NYPA shall execute power purchase agreements under this MOU as authorized in writing by LIPA.

3.2 Services and Assistance. (1) As part of the Services, NYPA shall provide such Employees as necessary to provide the services contemplated by this MOU.

(2) Subject to the normal vacation and leave policies of NYPA, NYPA Employees will generally work on an as-needed basis in the performance of Services for LIPA hereunder.

(3) During the term of this MOU, NYPA shall be responsible for providing NYPA Employees with their full-time compensation and benefits, and shall further be solely responsible for proper reporting of all compensation paid and for issuing Internal Revenue Service Form W-2 or Form 1099, as appropriate for NYPA Employees and for all Taxes, workers' compensation, social security, unemployment, and other contributions or benefits measured by salary payable to NYPA Employees, subject to LIPA's agreement to reimburse NYPA for such compensation, benefits, Taxes and contributions in accordance with Article IV hereof.

3.3 Payment of Invoices Under Power Purchase Agreements. Any power purchase agreements executed by NYPA as agent for LIPA under this MOU shall indicate that invoices for energy provided thereunder shall be submitted to LIPA. LIPA shall be responsible for the payment of such invoices directly to party that issues the invoice.

#### ARTICLE IV

##### Cost Reimbursement

4.1 Services and Assistance Costs. All of the Services and Assistance provided by NYPA pursuant to Article III of this MOU shall be charged to LIPA at cost. NYPA's reimbursable costs shall include, among other things, necessary and reasonable fees, disbursements, Taxes, salaries, benefits, travel, living and other expenses, and all other charges, fees, disbursements, payments and costs associated with the performance of such Services and Assistance during the term of this MOU. A portion of NYPA's reimbursable costs may include a charge (*e.g.*, a carrying charge) designed to recover the capital costs associated with the Services and Assistance provided under this MOU, provided NYPA presents to LIPA documentation in support of LIPA's cost responsibility for such capital costs.

4.2 Invoicing and Payment. NYPA will prepare and submit to LIPA as soon as practical after the first business day of each calendar month, invoices for the costs to be reimbursed pursuant to Section 4.1 that were incurred during the preceding calendar month, and each invoice shall be itemized and shall be supported by such documentation as LIPA may reasonably require. Payments of such reimbursable costs shall be made by LIPA within thirty (30) days after receipt of any invoice, subject to LIPA's right to withhold payment of any such invoiced amounts that are subject to a good faith dispute. In no event shall NYPA have any obligation to continue

to provide Services or Assistance under this MOU if the amount of outstanding and unreimbursed costs for such Services or Assistance shall exceed two hundred fifty thousand dollars (\$250,000).

4.3 Books and Records. NYPA shall keep records and books of account showing reimbursable costs invoiced pursuant to this MOU. NYPA will make such books and records available for inspection by LIPA to enable LIPA to verify the accuracy of costs invoiced pursuant to this MOU at reasonable and mutually agreeable times during the term of this MOU and for a period of six years from termination or expiration of this MOU.

## ARTICLE V

### Conflicts of Interest

5.1 Waiver. LIPA waives, to the greatest extent permitted by law, any claim of conflict of interest arising solely because of NYPA Employees' continued employment by or contract with NYPA. In addition to the indemnity provided herein, LIPA further agrees to indemnify, defend and hold harmless NYPA Employees from and against any such claimed breach of duty resulting solely from the dual status of NYPA Employees performing services or assistance for LIPA while retaining an employment, consultancy and/or officer position with NYPA.

## ARTICLE VI

### Term, Renewal and Withdrawal

6.1 Term and Renewal. Unless sooner terminated or extended as provided herein, the obligations of the Parties under this MOU shall commence upon approval of this MOU by the Office of the Comptroller of the State of New York and shall continue for a period of fifteen (15) years and shall continue thereafter, unless terminated by either Party upon 2 months written notice. The Parties agree that no power purchase agreement under this MOU shall be entered into whose term exceeds the Term of this MOU unless the Parties first agree to revise this MOU so that the Term extends for at least the duration of power purchase agreement in question.

6.2 Withdrawal Because of Governmental or Judicial Acts. If any term or provision of this MOU should be declared invalid by a court of competent jurisdiction or by other governmental or regulatory action or policy or if performance hereof by either Party is prohibited or substantially impaired by an order of a regulatory or

governmental body having jurisdiction, the Parties agree that, to the extent practical, they will enter into a new MOU in good faith to permit this MOU to be performed on terms as close as possible to the original intent in a manner that will be consistent with applicable laws, regulations, and court or regulatory agency rulings. However, if such a new MOU is not possible or practical, or the Parties cannot reach agreement on the terms of the revised MOU, either Party may immediately withdraw from this MOU by written notice to the other party to the extent necessary to comply with the order of the judicial, regulatory or governmental body having jurisdiction over the withdrawing Party.

6.3 Effect of Withdrawal. In the event either Party withdraws from this MOU, NYPA shall immediately be reimbursed for all reimbursable expenses incurred pursuant to Article II in performing Services or Assistance hereunder prior to the date of withdrawal. It is further agreed that withdrawal of any party from this MOU for any reason shall not relieve either party of its commitments arising out of its compliance with this MOU, including, without limitation, obligations of indemnity and releases in connection with Services and Assistance performed prior to withdrawal, and all such obligations shall survive any such expiration or withdrawal.

## ARTICLE VII

### Limitations on Liability; Indemnification

7.1 Limitation of Liability; Waiver. NYPA shall have no liability to and shall not by virtue of this MOU be deemed to have assumed any liability to any creditors of or holders of claims against LIPA further expressly agrees and acknowledges that NYPA's officers, Trustees or employees shall not be liable to LIPA for any monetary damages arising out of the performance of this MOU. Further, in no case shall NYPA, or any of its officers, Trustees or employees be liable to LIPA for any indirect, special or consequential damages, economic losses or lost profits even if NYPA has been notified of the possibility of such damages or losses and regardless of whether such damages or losses are based upon NYPA's, or its officers', Trustees' or employees' negligence, breach of warranty, tort, strict liability or any other legal theory.

7.2 Indemnity. Without limiting any other remedies to which NYPA and NYPA's officers, Trustees or employees may be entitled, LIPA hereby agrees to indemnify and hold harmless such NYPA officers, Trustees or

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employees from any and all expenses (including reasonable attorneys' fees), losses, liabilities or damages of any kind whatsoever, and regardless of whether based upon NYPA's or any NYPA officer, Trustee or Employee negligence, breach of warranty, tort, strict liability or any other legal theory in connection with or related to any claim brought by any third party (including without limitation, any employees of LIPA) in connection with Services or Assistance provided by or through NYPA pursuant to this MOU; provided, however, that the indemnity obligation of LIPA shall not apply to:

(a) any failure of NYPA to make appropriate federal and state withholding and contributions with respect to NYPA Employees as required herein;

(b) any failure of NYPA to provide insurance or employment benefits with respect to NYPA Employees required by this Memorandum of Understanding; or

(c) any claims for personal injuries suffered by NYPA Employees.

7.3 Survival. The provisions of this Article VII shall specifically survive the expiration or termination of this MOU for any reason.

## ARTICLE VII

### Miscellaneous

8.1 Governing Law. This MOU shall be governed and construed in accordance with the laws of the State of New York.

8.2 Notices. All notices required to be given pursuant to this MOU shall be in writing and shall be deemed to have been delivered when delivered by hand or by facsimile (followed by mail). Mailing addresses and persons designated to receive notices pursuant to this MOU are as follows:

TO: LIPA  
General Counsel  
333 Earle Ovington Blvd., Suite 403  
Uniondale, New York 11553

TO: NYPA  
Senior Vice President, Energy Resource Management & Strategic Planning  
123 Main Street  
White Plains, New York 10601

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8.3 Amendments. No amendment, modification or waiver of any term or provision of this MOU shall be effective unless in writing and signed on behalf of both Parties by their authorized representatives, and approved by the New York State Comptroller.

8.4 Headings. Headings used in this MOU are for convenience only and shall not be considered a part of the terms and conditions of this MOU.

8.5 Non-Waiver. The failure of either Party to insist upon or enforce in any instance, performance by the other Party of any of the terms of this MOU or to exercise any rights conferred herein shall not be construed as a waiver or relinquishment of its rights to assert or rely upon such terms or rights on any future occasion.

8.6 Relationship. This MOU is not intended to create a partnership or joint venture agreement or a lease. Nothing in this MOU shall be deemed to constitute either Party a partner or joint venture of the other.

8.7 Comptroller Approval. In accordance with Section 112 of the State Finance Law, the parties agree that this MOU shall have no force or effect unless approved by the New York State Comptroller and filed in his office.

8.8 Entire Understanding. This MOU contains the entire understanding between the parties with respect to the subject matter hereof and supersedes all prior agreements or understandings with respect to the subject matter hereof.

8.9 Counterparts. This MOU may be executed in counterparts, each of which is an original and all of which constitute one and the same instrument.

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IN WITNESS WHEREOF, NYPA and LIPA have entered into this Memorandum of Understanding as of the date first mentioned above.

LONG ISLAND POWER AUTHORITY

POWER AUTHORITY OF THE STATE OF NEW YORK

BY: \_\_\_\_\_

BY: \_\_\_\_\_

Title: President & Chief Executive Officer

Title: Senior Vice President, Energy Resource Management & Strategic Planning

DATE: \_\_\_\_\_

APPROVED BY: \_\_\_\_\_

Office of the Comptroller  
of the State of New York

APPROVED AS TO FORM: \_\_\_\_\_

Office of the Attorney General  
of the State of New York

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

*“Mr. Chairman, I move that the Authority conduct an executive session to discuss matters leading to the award of contracts to particular corporations, potential administrative litigation relating to particular persons and corporations and ongoing investigations.”* Upon motion made and seconded, an Executive Session was held.

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

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

**11. Authorization to Enter into a Long-Term Supply Agreement for the New York City Governmental Customers**

The President and Chief Executive Officer submitted the following report:

**SUMMARY**

“The Trustees are requested to authorize the execution of a long-term supply agreement (‘Supply Agreement’) with Astoria Energy LLC (‘Astoria Energy’), pending successful completion of contract negotiations and appropriate customer approvals. Astoria Energy has been identified as the leading bidder in response to the Authority’s Request for Proposals ‘RFP LTS # 5 to Provide Long-Term Supply of In-City Unforced Capacity and Optional Energy’ issued November 8, 2007 (‘RFP # 5’). RFP # 5 solicited proposals for up to approximately 500 MW of unforced capacity (‘UCAP’) and associated energy located in In-City (Zone J), and/or qualifying transmission to Zone J from an upstate New York location or an adjacent Control Area, for a term of as long as 20 years, commencing as early as the summer of 2010, but no later than mid-2012. RFP # 5 was a joint initiative between the Authority and its governmental customers in New York City (‘NYC Governmental Customers’ or ‘Customers’), intended to help serve the long-term capacity requirements of such Customers.

“Astoria Energy’s proposal to provide 500 MW of capacity and energy from a new combined cycle plant in Astoria is recommended for approval because it received the highest score of all evaluated bids. Its favorable permit status indicates a high probability of commercial operation by the summer of 2011. Therefore, it is recommended that the Authority pursue a final negotiated Supply Agreement with Astoria Energy.

**BACKGROUND**

“The Authority has served the NYC Governmental Customers since the mid-1970s. In 2005, the Authority and each Customer executed an agreement governing the supply of electricity (‘2005 Agreement’) to continue this supply relationship through 2017. The Authority uses its own generation resources plus market purchases to supply these Customers. At present, and until the scheduled retirement of the 885 MW Charles Poletti Power Project (‘Poletti’), the In-City UCAP requirements for the NYC Governmental Customers will be primarily met using Authority-owned assets (including the 500 MW combined-cycle facility in Astoria completed in December 2005). The closure of Poletti is estimated to increase electricity costs of the NYC Governmental Customers by about \$100 million annually.

“Due to the pending Poletti closure, the Authority identified a need to acquire capacity for the NYC Governmental Customers starting as early as the retirement of Poletti in order to meet the New York Independent System Operator’s (‘NYISO’) In-City locational capacity requirements for Zone J. In November 2006, as a result of the previous long-term supply RFP, the Authority selected a new transmission project from New Jersey to West 49<sup>th</sup> Street in Manhattan to be built by Hudson Transmission Partners, LLC (‘HTP’) along with UCAP from FPL Energy, LLC (‘FPLE’) associated with FPLE’s ownership of capacity produced at the existing Red Oak power plant in Sayreville, New Jersey, on the neighboring PJM system. The HTP transmission cable will provide up to 660 MW of capacity. The current estimated in-service date of the HTP transmission cable is in the 2011 timeframe.

“At their meeting of November 28, 2006, the Trustees authorized Authority staff to enter into negotiations with HTP. Transmission-related upgrade costs required by the PJM Interconnection System (‘PJM’) were originally projected at \$40-50 million. Thereafter, subsequent PJM interconnection study estimates for these costs grew to nearly 10 times that amount. The Authority and HTP continue to work with PJM in an effort to reduce these transmission-related upgrade costs.

“Even with the HTP project, there is a need for additional capacity in addition to the HTP-FPLE purchases. Accordingly, the Authority issued RFP # 5 on November 8, 2007. RFP # 5 requested proposals for up to approximately 500 MW of UCAP and optional energy located in Zone J and/or qualifying transmission to Zone J from upstate New York or an adjacent Control Area, commencing as early as summer 2010 for a period of up to 20 years. The RFP specified that only UCAP from new or repowered facilities would be considered; bids from existing

In-City sources would not be accepted. Furthermore, RFP # 5 specified that project proposals offered need to be far enough along in the siting, engineering, procurement and permitting processes to have a strong likelihood of being in service in the 2010-12 timeframe.

## DISCUSSION

“The Authority conducted the RFP process, including evaluation of the bids, in coordination with several of its major NYC Governmental Customers (the City of New York, the Metropolitan Transportation Authority, the Port Authority of New York and New Jersey, the New York State Office of General Services and the New York City Housing Authority). This joint planning process is required under the 2005 Agreements with those Customers

“On the RFP # 5 due date of December 20, 2007, the Authority received proposals from nine prospective suppliers containing more than 30 separate bid options, including transmission from neighboring markets to Zone J, the purchase of capacity only, the purchase of capacity with must-take energy and capacity with optional energy under tolling arrangements. Proposed generation sources were from both In-City and neighboring markets.

“In addition, the Authority’s Licensing Group was tasked with developing a Benchmark Plant Feasibility Study. Study results were used to compare the private developer bids to a hypothetical power plant on the site of the Authority’s 500 MW combined-cycle facility in Astoria. The engineering firm of CH2M Hill was engaged to assist in developing that study.

### Evaluation Process

“The decision to recommend the Astoria Energy proposal was reached based on the results of a structured selection process using the RFP criteria, input from subject matter experts and the evaluation by the NYC Governmental Customers, as well as Authority staff and senior management with relevant expertise.

“In the exercise of due diligence, the Authority and the Customers were assisted by an economic consultant along with outside counsel and engineering consultants who reviewed the proposals.

“Economic evaluation of the bids was done by Levitan & Associates (‘LAI’). LAI’s analysis took into account the potential value of optional energy purchases sold into the Zone J market, as well the potential risks of certain significant regulatory changes in the New York energy market. As part of its work, LAI conducted economic modeling and evaluation to assess and compare the expected costs of the bidders’ proposals. Additionally, LAI’s work compared the bids against the Authority Benchmark Plant and the HTP project, as well as the range of economic outcomes associated with proposed NYISO market rule changes.

“The Authority engaged the law firm of Carter Ledyard & Milburn to assess proposal viability from environmental and permitting perspectives; the law firm of Dickstein Shapiro provided regulatory counsel; the law firm of Holland & Knight was retained as transaction counsel and the law firm of Hawkins Delafield & Wood was consulted for tax advice.

“Siemens PTI and Black & Veatch were engaged to assess technical engineering issues, as well as the effect of proposed market rule changes on the proposed projects. Black & Veatch performed independent evaluations of leading proposals, evaluating the reasonableness of capital and operation and maintenance costs, viability of the technology proposed, site constructability, schedule risk, proposed plant layout and contractor experience, among other factors.

“In addition, the NYC Governmental Customers exercised their own due diligence by retaining consultants to work jointly with the Authority in this selection process.

### Selection Process

“RFP bid evaluation criteria, determined at the onset of the RFP process, included project economics, schedule risk, overall project completion risk, permitting and licensing factors, financing risks and other factors, including the diversification of the region’s energy supply. The nine proposals received were initially screened based on minimum requirements of the RFP criteria.

“Of the nine, only Astoria Energy’s and the next highest bidder’s proposals merited a more detailed evaluation and scoring process. The two finalist proposals are both capacity bids with optional energy from new gas-fired generation. The Astoria Energy proposal is for 500 MW of capacity and energy from a combined cycle plant to be built in Astoria on a site adjacent to Astoria Energy’s existing 500 MW facility (the output of the adjacent facility is already under contract to Con Edison).

“In the evaluation and scoring process, each of the review criteria was given a percentage weight. The two finalist proposals were evaluated and scored based on reports of the subject matter experts, as well as the technical expertise and judgment of Authority staff, the Customers’ consultants, the Customers’ representatives and Authority management participating in the decision process. The proposal from Astoria Energy scored the highest and was considered as best meeting the current objectives of the Authority and the Customers. The evaluation matrix used in this scoring process has been provided separately to the Trustees for their review.

### Conclusion

“Based on its analyses, Authority staff and the NYC Governmental Customers believe that Astoria Energy’s proposal will be able to provide new, cost-effective, long-term In-City capacity and energy supply commencing in the 2011-12 timeframe. If approved by the Trustees, the Authority-Astoria Energy Supply Agreement would meet a portion of the capacity shortfall created by the closing of Poletti scheduled for January 31, 2010.

“As required by decision-making provision of the 2005 Agreement, the Authority has received preliminary approval from the NYC Governmental Customers to select Astoria Energy as the winning bidder, subject to the final negotiation of a Supply Agreement with Astoria Energy and approval of the Supply Agreement by the Customers. Accordingly, if approved by the Trustees, the Authority will continue negotiations with Astoria Energy (in collaboration with the Customers) to further refine the detailed products and services to be purchased. A final Supply Agreement with Astoria Energy would not be executed until approved by the Customers as evidenced by execution of Authority-Customer Agreements (described in further detail below).

### Authority-Customer Agreement

“In accordance with the 2005 Agreement, the Authority’s major NYC Governmental Customers were full participants in the development and issuance of RFP # 5, as well as the bid evaluation process. The 2005 Agreements with the NYC Governmental Customers terminate on December 31, 2017, while the proposed Supply Agreement between the Authority and Astoria Energy would be for a 20-year term commencing in or about 2011 (the commercial operation date of the Astoria Energy Plant). Accordingly, the gap between the end of the term of the 2005 Agreement and the end of the term of the Supply Agreement in 2031 needed to be addressed.

“The Authority and the Customers are finalizing the form of an agreement (‘Authority-Customer Agreement’) wherein each affected Customer will agree to purchase from the Authority its pro-rata portion of the new supply through the end of the term of the Supply Agreement, as well as to all terms of the Supply Agreement. In addition, under such Authority-Customer Agreements, the Customers will agree to pay the costs of the Supply Agreement beginning with the commercial operation date of the Astoria Energy Plant through the 20-year term of the Supply Agreement. More specifically, costs include, but are not limited to, all costs related to the purchase of the products under the Supply Agreement, such as fuel costs, NYISO costs, administrative fees, hedging costs, risk premium costs and costs to cover contingencies. Until 2017, or termination of the 2005 Agreement, whichever is earlier, the Customers will pay such costs in accordance with the terms of the 2005 Agreements. For the period after the 2005 Agreement, all costs associated with their pro-rata share of the Supply Contract will be paid to the

Authority by the Customers. The Authority-Customer Agreements will be executed before the Authority becomes legally bound by the terms of the Supply Agreement.

#### ENVIRONMENTAL DISCUSSION

“Astoria Energy has received prior approval (Certificate of Environmental Compatibility and Public Need, Case 99-F-1191) under Public Service Law Article X (‘Article X’) to construct 1,000 MW of generating capacity at its 23-acre Astoria site. It also has the necessary environmental permits to construct this capacity. Astoria Energy elected to construct this 1,000 MW capacity in two 500 MW blocks. The first 500 MW block was constructed and began operating in May 2006. The Trustees are requested to authorize payments, pursuant to the Supply Agreement, to Astoria Energy to exercise its existing Article X authorization and attendant environmental permits. This Trustee action will enable Astoria Energy to construct the second 500 MW block of generating capacity. The authorization of this funding to purchase power from a proposed facility that has been fully permitted under Article X is a State Environmental Quality Review Act Type II action. No further environmental review by the Authority is required.

#### FISCAL INFORMATION (CONFIDENTIAL)

“Subject to final negotiations, the expected total payments to Astoria Energy under the 20-year term of the Supply Agreement is approximately [redacted] to [redacted.] From an overall NYC Governmental Customer cost-of-service perspective, the contract is anticipated to save about \$1.3 billion over the same period compared to relying on the purchase of a like quantity of capacity supply at market prices.

“The costs related to this Supply Agreement will be paid by the Customers as described above. In addition, in an effort to ensure full cost recovery during the term of the Supply Agreement, the Authority will: (1) work with the NYC Governmental Customers on a multiyear energy laddering strategy, and (2) continue to review the Authority’s risk management function with an aim towards improving the processes, personnel training and systems in the Authority’s Energy Resource Management and Energy Risk Assessment and Control groups. Further, in an effort to ensure full cost recovery of all Authority costs for all Authority services to the NYC Governmental Customers, the Authority will undertake good faith efforts to renegotiate the 2005 Agreement. If this objective is not achieved by the end of February 2009, the Authority will apply appropriate risk premiums and contingencies so that it will recover its costs.

“Although still subject to subsequent negotiations, credit protection provisions in the proposed agreements conform to the requirements recommended for this transaction by the Vice President and Chief Risk Officer – Energy Risk Assessment and Control.

“Bid prices and a separate term sheet with salient terms of the Supply Agreement have been provided to the Trustees under separate cover.

#### RECOMMENDATION

It is recommended that the Trustees authorize the President and Chief Executive Officer to execute a Supply Agreement with Astoria Energy for the purchase of capacity, associated energy and necessary products and services for the benefit of the NYC Governmental Customers pending final negotiations and final approval by the NYC Governmental Customers on the terms outlined above.

The Executive Vice President, General Counsel and Chief of Staff, the Executive Vice President and Chief Financial Officer, the Executive Vice President – Energy Marketing and Corporate Affairs, the Executive Vice President and Chief Engineer – Power Generation, the Senior Vice President – Marketing and Economic Development, the Senior Vice President – Energy Resource Management and Strategic Planning, the Vice President and Chief Risk Officer – Energy Risk Assessment and Control, the Director – Power Resource Planning and Acquisition and I concur in the recommendation.”

*Mr. Jordan Brandeis presented the highlights of staff's written recommendations to the Trustees, which were contained within each Trustee's briefing book. Chairman McCullough complimented Mr. Brandeis and his staff overall for their outreach, which provided both written and oral information to the Trustees regarding this item. He said that staff had undertaken extensive efforts to brief the Trustees and answer their questions about the item, which had been of great assistance to the Trustees in their consideration of the item.*

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

**WHEREAS, the Authority has contractual obligations to serve various NYC Governmental Customers; and**

**WHEREAS, the source of capacity to serve the needs of these customers includes the Charles Poletti Power Project and such unit is scheduled to close no later than January 31, 2010; and**

**WHEREAS, the NYC Governmental Customers will require In-City (Zone J) Capacity to meet their further supply needs; and**

**WHEREAS, the NYC Governmental Customers and the Authority entered into a collaborative effort to solicit proposals for approximately 500 MW of new In-City capacity to commence service between 2010 and 2012 ('RFP #5'); and**

**WHEREAS, as a result of an analysis of the proposals received from RFP # 5, the NYC Governmental Customers and the Authority selected Astoria Energy LLC's proposal as the winning proposal for 500 MW of capacity and associated energy;**

**NOW, THEREFORE, BE IT RESOLVED, That the President and Chief Executive Officer is hereby authorized on behalf of the Authority to execute agreements between the Authority and Astoria Energy LLC, as described in the foregoing report of the President and Chief Executive Officer, including, but not limited to: (a) Supply Agreement(s) with Astoria Energy including tolling provisions, operations guidelines and agreements related thereto, Firm Transmission Capacity Purchase Agreements ('FTCPAs'), Master Power Purchase and Sale Agreements ('MPPSAs'), ISDA Master Agreements and any transactions, schedules or confirmations related to such agreements, and an Authority-Customer Agreement; (b) any transactions, schedules, amendments or confirmations related to any existing Supply Agreement, the 2005 Agreement, FTCPAs, MPPSAs or ISDA Master Agreements between the Authority and Astoria Energy or between the Authority and the NYC Governmental Customers; (c) as required, memoranda of understanding relating to the State Environmental Quality Review Act ('SEQRA'), or (d) any other alternative form of agreement ('Other Alternative Agreements') with any of the above-described entities, having such terms and conditions as are consistent with the aforementioned agreements, discussed in the foregoing report of the President and Chief**

Executive Officer, and as are deemed necessary or advisable by the President and Chief Executive Officer to effectuate the long-term arrangements to provide capacity and supplies for the Authority as discussed in the foregoing report of the President and Chief Executive Officer, *provided that* as a condition precedent to the execution of such Supply Agreement, FTCPAs, MPPSAs, ISDA Master Agreements, agreements, transactions, amendments, schedules, memoranda of understanding and confirmations and Other Alternative Agreements, the President and Chief Executive Officer shall first be satisfied that the NYC Customers have concurred with such execution by entering into appropriate Authority-Customer Agreements as outlined in the foregoing report of the President and Chief Executive Officer and further described in the following paragraph; and be it further

**RESOLVED**, That the Executive Vice President – Energy Marketing and Corporate Affairs and the Senior Vice President – Marketing and Economic Development be authorized to execute Authority-Customer Agreements with the NYC Governmental Customers with respect to the Authority’s purchase of capacity, associated energy and any other necessary products and services under the Supply Agreement and the recovery of the associated costs incurred by the Authority for the periods covering the 2005 Agreement and after the expiration or termination of the 2005 Agreement through the end of the term of the Supply Agreement; and be it further

**RESOLVED**, That the Executive Vice President – Energy Marketing and Corporate Affairs and the Senior Vice President – Marketing and Economic Development be authorized to commence good faith efforts to renegotiate the 2005 Agreement with the NYC Governmental Customers to ensure full cost recovery of all Authority costs related to serving those Customers; provided that if such negotiation does not achieve such objective, the Authority shall include in the NYC Governmental Customer cost-of-service appropriate risk premium and contingencies so as to fully recover the Authority’s costs; and be it further

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

**12. Contributions to the State Treasury**

The President and Chief Executive Officer submitted the following report:

**SUMMARY**

“The Trustees are requested to approve the Authority’s contribution of \$60 million to New York State’s general fund, as authorized in the State Fiscal Year (‘SFY’) 2008-09 Budget.

**BACKGROUND**

“On April 9, 2009, the New York State Legislature approved and the Governor has signed, or will soon sign, the SFY 2008-09 Budget Bill (‘Budget’), which, among other things, authorized the Authority, if deemed ‘feasible and advisable’ by its Trustees, to (i) make certain contributions to the State’s general fund; and (ii) extends for another year, until June 30, 2009, the Power for Jobs (‘PFJ’) and Energy Cost Savings Benefit (‘ECSB’) programs, with the attendant costs expected to be borne by the Authority, if deemed feasible and advisable by its Trustees.

“With respect to the general fund contributions, the Budget for the first time specifically authorizes two distinct contributions by the Authority to the general fund; one in the amount of \$60 million for SFY 2008-09, with not less than \$50 million to be paid within 30 days of enactment of the Budget, and the other in the amount of \$25 million in connection with the one- year extension of the PFJ program. The Budget also authorizes additional contributions to the general fund of \$35 million each in SFY 2009-10 and SFY 2010-11. Staff is not recommending any action related to these latter authorizations at this time, and will return to the Trustees with recommendations based on the financial circumstances of the Authority at the time such contributions are to be considered for payment.

“In considering the contribution contemplated by the Budget and by way of background, the Trustees are reminded that the Authority has been providing financial support for the PFJ program since the first voluntary contribution was made in 2002. Financial support is provided in two forms: voluntary contributions to the general fund of the State and rebates paid directly to eligible customers, each as authorized by the PFJ legislation and as deemed feasible and advisable by the Trustees. The Trustees’ most recent action with respect to the PFJ voluntary contributions was at their meeting of December 18, 2007, when the Trustees determined that it was feasible for the Authority to make the additional voluntary contributions totaling \$205 million authorized by previous PFJ Program legislation for three State fiscal years. Accordingly, the Authority transferred \$175 million to the State’s general fund in December 2007, representing the voluntary contributions associated with SFY 2005-06 and SFY 2006-07 and in March 2008 an additional \$30 million voluntary contribution associated with SFY 2007-08 was made. Rebates are brought before the Trustees for their consideration each month.

“Through March 2008, the Authority’s Trustees have authorized \$424 million in PFJ voluntary contributions and \$115 million in PFJ rebates for a total of \$539 million since the inception of the Program. In extending the PFJ Program for one more year, the Budget calls upon the Authority to make a PFJ voluntary contribution (separate and distinct from the general fund contributions discussed above) of \$25 million for SFY 2008-09. In addition, it is presently estimated that the cost of the one-year extension of the PFJ Program rebates from July 2008 through June 2009 will be approximately \$50 million. Staff anticipates coming to the Trustees at a later date with specific recommendations on funding the extension of this program.

“The ECSB Program, first authorized by legislation in 2005, allowed the Authority to sell up to 70 megawatts (‘MW’) of relinquished Replacement Power (‘RP’) into the wholesale market and to use the net earnings, along with other funds of the Authority, as deemed feasible and advisable by the Authority’s Trustees, for the purpose of providing ECSBs. From the inception of the ECSB Program through the end of 2007, no ECSBs have been paid by the Authority from internal funds, as opposed to funds derived from the sale of hydropower. It is estimated, however, that due to additional customers becoming eligible for the ECSB Program near the end of 2007 and anticipated new allocations of RP from the 70 MW, this hydropower will be insufficient to cover the cost of the benefits going forward and the Authority will need to pay from internal funds to cover the costs of the program as now extended through June 2009. It is presently estimated that the costs placed on Authority internal funds from the

one-year extension of the ECSB Program from July 2008 through June 2009 will be approximately \$45 million. Staff anticipates coming to the Trustees at a later date with specific recommendations on funding the extension of this program.

#### DISCUSSION

“In preparing its annual budget for 2008, the Authority anticipated for planning purposes that there would be extensions of both the PFJ and ECSB Programs and those costs are accordingly reflected. The additional general fund contribution of \$60 million was not anticipated and thus has not been reflected in the Authority’s budget.

“Given the current financial condition of the Authority, its estimated revenues, operating expenses, debt service and reserve requirements, staff is of the view that it is feasible for the Authority to make the voluntary contribution of \$60 million authorized by the Budget and to pay the anticipated added costs associated with the extension of the PFJ and ECSB programs through June 30, 2009 without compromising its financial integrity.

#### FISCAL INFORMATION

“Staff has determined that the funds are available to make voluntary contributions totaling \$60 million to the State’s general fund at this time and that such Authority funds are not needed for any of the purposes specified in Section 503(1)(a)-(c) of the Authority’s General Resolution Authorizing Revenue Obligations, as amended and supplemented. The \$60 million will be booked as an expense against 2008 net revenues over the remainder of the calendar year.

#### RECOMMENDATION

“The Vice President – Finance recommends that the Trustees determine that the payment to the State Treasury of \$60 million for State Fiscal Year 2008-09 is feasible and advisable and authorize such payment, in accordance with the provisions of the State Fiscal Year 2008-09 Budget Bill.

“The Executive Vice President, General Counsel and Chief of Staff, the Executive Vice President and Chief Financial Officer and I concur in the recommendation.”

*Mr. Donald Russak presented the highlights of staff’s recommendations to the Trustees. In response to Chairman McCullough asking if any of the Trustees had any questions or wanted to make any statements concerning this item, Trustee Besha said that he wanted to make a statement and that his focus was on the voluntary portion of the contributions. He said that due to the future challenges and costs of bringing renewables to New York State, he thought it would be prudent to consider those costs and needs as the Authority goes forward in the future before the Trustees make any future commitment to more voluntary contributions. Trustee Besha stated that he thought the focus of the voluntary contributions should be for specific facilities that benefit the State’s citizens’ energy needs, specifically with regard to the focus on renewables. He said that renewables as a source of energy would benefit the State’s citizens as well as the State itself in the long term by stabilizing their energy costs. Trustee Besha added that he thought any contributions the Authority makes ought to be focused on that need, whether the Authority directly builds those facilities or not. He said that for that reason, he was not going to be voting in favor of this resolution. Trustee Scozzafava and Vice Chairman*

*Townsend said that they agreed 100% with Trustee Besha's views on this. Upon motion duly made and seconded, and in response to a request from Trustee D. Patrick Curley, Chairman McCullough took a roll-call vote on the item, as follows: Trustee Besha – No; Trustee Curley – Yes; Trustee Cusack – No; Trustee Moses – No; Trustee Scozzafava – Yes; Vice Chairman Townsend – Yes; and Chairman McCullough – Yes. Chairman McCullough said that the outcome of the vote was 4 votes for the item and 3 votes against it. He then added that he also agreed with Trustee Besha's recommendation for future voluntary contributions made by the Authority to the State's general fund.*

The following resolution, as submitted by the President and Chief Executive Officer, was adopted by a vote of 4 to 3, with Trustees Besha, Cusack and Moses voting against the motion.

**RESOLVED, That the Trustees hereby authorize a payment to the State Treasury of \$60 million from the Authority's Operating Fund pursuant to the enacted Budget for State Fiscal Year 2008-09 as recommended in the foregoing report of the President and Chief Executive Officer, and be it further**

**RESOLVED, That the amount of \$60 million to be used for the payment to the State Treasury described in the foregoing resolution is not needed for any of the purposes specified in Section 503(1)(a)-(c) of the Authority's General Resolution Authorizing Revenue Obligations, as amended and supplemented; and be it further**

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

**RESOLVED, That the Chairman, the Vice Chairman, the President and Chief Executive Officer, the Executive Vice President, General Counsel and Chief of Staff, the Executive Vice President and Chief Financial Officer, the Vice President – Controller, the Vice President – Finance, the Corporate Secretary, the Treasurer and all other officers of the Authority are, and each of them hereby is, authorized and directed, for and in the name and on behalf of the Authority, to do any and all things and take any and all actions and execute and deliver any and all certificates, agreements and other documents, which they, or any of them, may deem necessary or advisable in order to effectuate the foregoing resolutions, subject to the approval as to the form thereof by the Executive Vice President, General Counsel and Chief of Staff.**

April 29, 2008

13. **Next Meeting**

The next Regular Meeting of the Trustees will be held on **Tuesday, May 20, 2008, at 11:00 a.m., at the Blenheim-Gilboa Power Project, Gilboa, New York**, unless otherwise designated by the Chairman with the concurrence of the Trustees.

April 29, 2008

**Closing**

On motion duly made and seconded, the meeting was adjourned by the Chairman at approximately 1:40 p.m.

A handwritten signature in blue ink, appearing to read "ABCahill".

Anne B. Cahill  
Corporate Secretary