

CERTIFICATE AS TO MINUTES

The undersigned, Secretary to the New York State Energy Research and Development Authority (“Authority”), hereby certifies that attached hereto is a complete and accurate copy of the minutes of the 258th Meeting of the Authority, duly held on October 3, 2022.

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of the Authority this

25th day of October, 2022.



Peter J. Costello
Secretary



SEAL

NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY
Minutes of the 258th Board Meeting
Held on October 3, 2022

Pursuant to a notice and agenda dated September 26, 2022, of the New York State Energy Research and Development Authority (“Authority”) a meeting was convened on Monday, October 3, 2022, at 2:00 p.m. at the Authority’s Albany Office located at 17 Columbia Circle, Albany, New York, the NY Green Bank (“NYGB”) Office located at 1333 Broadway, Suite 300, New York, New York and Empire State Development (“ESD”) located at 400 Andrews Street, Suite 300, Rochester, New York. The three locations were connected by videoconference.

The following Members of the Authority were present:

Richard Kauffman, *Chair of the Authority* attended from NYGB

Charles Bell, *Vice Chair of the Authority* attended from Albany

Sherburne Abbott attended from NYGB

Arturo Garcia-Costas attended from NYGB

Sadie McKeown attended virtually

Frances Resheske attended from NYGB

Jay Koh attended from NYGB

Justin Driscoll attended from ESD

Basil Seggos attended from Albany

Marie Therese Dominguez attended virtually

Member Rory Christian was unable to attend.

Also present were Doreen Harris, President and CEO; John Williams, Vice President for Policy and Regulatory Affairs; Pam Poisson, Chief Financial Officer; Peter J. Costello, General Counsel and Secretary to the Authority; Sara L. LeCain, Senior Counsel and Secretary to the Committees; and various other staff of the Authority.

The Chair called the meeting to order and confirmed quorum. The Chair noted that Member McKeown was participating by videoconference as per the extraordinary circumstances exception under the New York State Open Meetings Law and the Authority's By-laws. Member McKeown's participation would count for votes, but not be included in quorum. Notice of this meeting was provided to the Members on September 26, 2022 and to the press on September 29, 2022. A revised agenda was provided on October 3, 2022, the day of the meeting.

The Chair indicated that the first item on the discussion agenda was a report from the Authority's President and CEO, Doreen Harris.

President and CEO Harris provided the members with updates on the Authority's recent activities including Climate Week; milestones in recent federal funding; elements of the Inflation Reduction Act ("IRA") such as the incentives New Yorkers will receive through 2050; new federal opportunity announcements; the process to finalize the Climate Action Council ("CAC) Scoping Plan; and highlights of two key New York State Department of Public Service ("DPS") reviews for New Efficiency New York and the Clean Energy Fund.

The Chair noted a revision in the discussion agenda and indicated that the next item on the agenda was to receive a report from the Governance Committee ("GC") and to consider and act upon a resolution approving proposed amendments to the Authority's By-laws. The GC Chair, Arturo Garcia-Costas presented this item.

Member Garcia-Costas stated that the GC had met earlier in the day and a quorum was present throughout the meeting. The GC received a report on the Authority's Diversity, Equity and Inclusion ("DEI") work from DEI Officer, Michelle Andry and DEI Senior Project Manager, Bianca Shaw. The presentation included a discussion of the indicators that the DEI team will use to measure the Authority's progress. The GC was able to ask questions and was pleased with the discussion.

The next item considered by the GC was proposed amendments to the Authority's By-laws and its General Counsel and Secretary to the Authority, Peter Costello presented this item. The

changes include amendments to allow flexibility in scheduling the Board and Committee meetings; renaming the Vice President for Policy and Regulatory Affairs as the Executive Vice President for Policy and Regulatory Affairs; creating a Chief Program Officer; and other ministerial changes.

Member Garcia-Costas indicated that the GC Members discussed making two more changes. The first change is to the language of Article 3, Section 1, allowing the same person to have more than one office to clearly state that the individual should only hold more than one office when there is a temporary vacancy. The second change would make clear that the Chair has the flexibility to schedule meetings in any month not just those that are listed in the By-laws.

The GC unanimously recommended that the Board approve the amendments to the Authority's By-laws.

Whereafter, upon motion duly made and seconded, and by unanimous voice vote of the Members present, the following resolution was adopted.

Resolution No.1675

RESOLVED, that the amendments to the Authority's By-laws as presented at this October 3, 2022 meeting, with such non-substantive, editorial changes and grammatical changes as the President and Chief Executive Officer, in their discretion, may deem necessary or appropriate, are hereby approved and adopted.

The Chair stated that the next item on the discussion agenda was a report from the Program Planning Committee ("PPC") and consideration of revisions to the Authority's Fiscal Year 2022-2023 Budget. The PPC Chair, Sherburne Abbott presented this item.

Member Abbott stated that the PPC met prior to this meeting. The PPC received a report on the development of the Strategic Outlook from the Authority's President and CEO, Doreen Harris; Director of Performance Management, Jennifer Meissner; Vice President for Clean and Resilient Buildings, Susanne DesRoches; Vice President for Distributed Energy Resources Technology, David Sandbank; Vice President for Innovation, John Lochner; and Vice President for Large Scale Renewables, Georges Sassine. The report included a discussion of the

Authority's mission outcomes and focus areas. The PPC was able to ask questions and was pleased with the discussion.

The next item considered by the PPC was proposed revisions to the Authority's Fiscal Year 2022-2023 Budget ("2022-2023 Budget") from the Authority's Chief Financial Officer, Pam Poisson. These changes reflected material updates resulting from new business developments. Adjustments were made to the beginning of the year net position based upon strong Regional Greenhouse Gas Initiative ("RGGI") auction outcomes from the prior fiscal year. In addition, the revenue budget has increased by \$40.1 million due to additional Off-Shore Wind Port Infrastructure State budget appropriations and additional expected utility surcharge assessments. Lastly, two adjustments were made with respect to "salaries and benefits." This year's State Budget included two cost-of-living increases for employees rather than the one included in the Authority's original 2022-2023 Budget and the revised 2022-2023 Budget also included a placeholder for adjustments that may be warranted as a result of the Authority's pay equity and job study.

The PPC unanimously recommends that the Members approve the revisions to the 2022-2023 Budget.

Whereafter, upon motion duly made and seconded and by unanimous voice vote of the Members present, the following resolution was adopted.

Resolution No. 1676

RESOLVED, that the Fiscal Year 2022-2023 Budget and Financial Plan (Revised October 2022) submitted to the Members for consideration at this meeting, with such non-material, editorial changes and supplementary schedules as the President and CEO, in their discretion, may deem necessary or appropriate, be and it hereby is approved.

The Chair indicated that the next item on the discussion agenda was a report from the Waste and Facilities Management Committee ("W&FMC") from its Chair, Charles Bell.

Vice Chair Bell stated that the W&FMC received an update on West Valley from Program Managers Brad Frank and Andrea Mellon. This was followed by a report on nuclear coordination from Senior Advisor for Policy and Regulatory Affairs, Alyse Peterson. The W&FMC was able to ask questions and was satisfied with the discussion.

Next, the Chair turned to the consent agenda and indicated that the only resolution to be considered was for the approval of the Periodic Contracts Report.

With respect to the resolution approving the Periodic Contracts Report, the Chair indicated that Counsel's Office compared the lists provided by Members of entities with which each Member is associated that they believe may enter into contracts with the Authority to the lists of contracts in the Periodic Contracts Report. Counsel's Office reported that there was one potential conflict: Cadmus Group LLC, identified by Jay Koh.

Member Koh confirmed the recusal from voting on that specific agreement.

Whereafter, upon motion duly made and seconded, and by unanimous voice vote of the Members, the following resolutions were adopted.

Resolution No. 1677

RESOLVED, that the Periodic Contracts Report, covering the period May 16, 2022 through August 15, 2022, as presented at this meeting, including but not limited to the contracts identified therein which have been, or are expected to be, executed and which do have, or are expected to have, a period of performance in excess of one year, is hereby approved in accordance with Public Authorities Law Section 2879.

The Chair returned to the discussion agenda and indicated that the next item on the agenda was a report on the Advanced Building Codes, Appliance and Equipment Efficiency Standards Act of 2022 ("Standards Act") including consideration of a Negative Declaration under the State Environmental Quality Review Act ("SEQRA").

At this time, Commissioner Seggos recused himself from the discussion and left the room.

Codes, Products and Standards Program Manager, Chris Corcoran explained the Standards Act authorizes the Authority, in consultation with the New York State Department of State (“DOS”), to develop state appliance standards and to build a compliance framework to support them. Under the Standards Act, NYSERDA will establish minimum efficiency standards, test procedures and a compliance program for products and appliances that are sold, rented, leased, and installed in New York State. The NYS Department of Environmental Conservation (“DEC”) is required to review and approve/waive all water-related appliance standards.

Program Manager Corcoran stated that SEQRA applies to the proposed rulemaking because it is an action directly undertaken by the Authority. Since the Standards Act requires that DEC review and approve or waive all water-related appliance standards which amounts to 4 of the 21 product categories included in the proposed rulemaking, DEC is considered an “Involved Agency” under SEQRA. Therefore, the Authority has undertaken a coordinated SEQRA review, and with the concurrence of DEC, has been established as the SEQRA Lead Agency. SEQRA requires the Authority make a “determination of significance” upon being established as the Lead Agency. This requires a determination as to whether the action may result in a significant adverse environmental impact. The SEQRA Environmental Assessment Forms (“EAF”) are also used to come to this conclusion.

Based on the nature of the proposed action, the Authority has issued a Negative Declaration for the action, to be confirmed by the Board. A Negative Declaration is a finding that there will not be an adverse environmental impact from the action and that an environmental impact statement need not be prepared. The Negative Declaration satisfies the SEQRA requirement for a written, reasoned elaboration setting forth an agency’s determination of significance by addressing each of the criteria for determining significance set forth in the SEQRA regulations. The Negative Declaration contains a description of the action, the reasons supporting the determination, and a point-by-point analysis of the required criteria. Based on the nature of the action, no significant adverse environmental impacts were identified. It is recommended that the SEQRA Negative Declaration issued by the Authority be approved by the Board.

In response to an inquiry from the Chair, Program Manager Corcoran confirmed that up to 70% of the market already consists of the products that are within the standards being set and advised that the worst performing products are being cut out.

In response to an inquiry from Member Garcia-Costas, Program Manager Corcoran advised that next year the Authority will work towards putting forward another set of regulations.

In response to an inquiry from Member Abbott, Program Manager Corcoran confirmed that telephones lines include both wired and wireless lines.

At this time, the Chair noted Commissioner Dominguez's attendance. The Chair noted that Commissioner Dominguez was participating by videoconference as per the extraordinary circumstances exception under the New York State Open Meetings Law and the Authority's By-laws. Commissioner Dominguez's participation would count for votes, but not be included in quorum.

Whereafter, upon motion duly made and seconded, and by unanimous voice vote of the Members present, the following resolution was adopted.

Resolution No. 1678

RESOLVED, that the issuance of a Negative Declaration under the State Environmental Quality Review Act for the development of the specified 21 categories of regulations establishing appliance and efficiency standards pursuant to the recently enacted Advanced Building Codes, Appliance and Equipment Efficiency Standards Act of 2022 is hereby approved

The Chair noted that Commissioner Seggos returned to the meeting.

The Chair indicated that the next item on the agenda was a resolution to meet in executive session for the purpose of discussing the employment history of particular persons and the financial history of a particular corporation.

Whereafter, upon motion duly made and seconded, and by unanimous voice vote of the Members present, the following resolution was adopted.

Resolution No. 1679

RESOLVED, that pursuant to Section 105 of the Public Officers Law, the Members shall convene in executive session on October 3, 2022 for the purpose of discussion the employment history of a particular person and the financial history of a particular corporation.

Following the executive session, The Chair reconvened the meeting in open session and confirmed that no formal action was taken during the executive session.

The Chair indicated that the next item on the discussion agenda was to receive a report on NY Green Bank's ("NYGB") activities and asked its President, Andrew Kessler to present this item.

NYGB President Kessler provided an update on the recent activities of NYGB including recent transaction closings; its work in underserved communities; the formation of the Community Decarbonization Fund ("CDF") that will launch in early 2023; the development of an elevated profile campaign that will enhance NYGB's communication strategy and increase the organization's offerings; the launch of Request for Proposals 21 in June of 2022 to solicit eligible purchasers of NYGB loans which received twelve applications resulting in eleven approved parties; and the formation of an internal working group to evaluate and pursue federal funds through sustainable infrastructure through the IRA.

In response to an inquiry from Member McKeown, NYGB President Kessler stated that NYGB does plan to file an application with the Environmental Protection Agency, but does not qualify for the \$7 billion portion. Instead, NYGB is working closely with other parties to file an application through an accelerator program.

The Chair indicated that the last item on the consent agenda was other business. The Chair indicated that the Members would receive the 2023 Board and Committee meeting schedule and asked that they each mark the dates on their calendars.

There being no other matters, the Chair called for a motion to adjourn.

Whereafter, upon motion duly made and seconded, and by unanimous voice vote of the Members present, the meeting was adjourned.