

NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY
Minutes of the 150th Audit and Finance Committee Meeting
Held on June 28, 2022

Pursuant to a notice and agenda dated June 16, 2022, a copy of which is annexed hereto, the one hundred fiftieth (150th) meeting of the Audit and Finance Committee (the “Committee”) of the NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY (the “Authority”) was convened at 10:00 a.m. on Tuesday, June 28, 2022 at the Authority’s Albany Office located at 17 Columbia Circle, Albany, New York and the NY Green Bank (“NYGB”) Office located at 1333 Broadway, Suite 300, New York, New York. The two locations were connected by videoconference.

The following Members of the Committee were present:

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

Sherburne Abbott, attended via videoconference

Sadie McKeown, attended from Albany

Frances Resheske, attended from NYGB

Committee Chair Jay Koh was unable to attend.

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

The Chair of the Authority acted as Committee Chair and called the meeting to order and noted the presence of a quorum. The Chair confirmed that the meeting notice and agenda were forwarded to the Committee on June 16, 2022 and to the press on June 17, 2022.

The Chair indicated that the first item on the agenda concerned the approval of the minutes of the one hundred forty-ninth (149th) meeting held on April 26, 2022.

Whereafter, upon motion duly made and seconded, and by unanimous voice vote of the Committee Members present, the minutes of the one hundred forty-ninth (149th) meeting of the Committee held on April 26, 2022, were approved.

The Chair indicated that the next item on the agenda was the Annual Investment Report of the Authority and the *Investment Guidelines, Operative Policy and Instructions (June 2022)* (“Investment Guidelines”). The Authority’s Chief Financial Officer (“CFO”), Pam Poisson, discussed this item.

CFO Poisson stated that pursuant to requirements of the Public Authorities Law, the Members are requested to adopt a resolution recommending approval of the Annual Investment Report for the year ended March 31, 2022 and to adopt a resolution approving the Investment Guidelines.

With respect to the Annual Investment Report, CFO Poisson reported that the amount of the Authority's total investments increased about \$420.7 million to about \$1.345 billion, and described the primary drivers of the increase as reflected on the Investment Report Summary.

CFO Poisson indicated that the Annual Investment Report summarizes the composition of the investment portfolio as compared to the prior year by investment type and percentage of the total portfolio.

CFO Poisson explained that investment income decreased from \$1.4 million in fiscal year 2020-21 to \$700,000 million for fiscal year 2021-22 primarily due to the inclusion of an unrealized downward adjustment in fair market value as of March 31, 2022. The Authority generally holds investments to maturity, and as a result all investments actually held to maturity should provide for realized income at the interest rate each was purchased. The average annual rate of return excluding the change in fair market value would have been 0.05% compared to 0.09% for the prior year.

CFO Poisson reported that the Authority's independent auditors have issued a report stating that nothing came to their attention to indicate that the Authority was not in compliance with the provisions of the Investment Guidelines.

With respect to the Investment Guidelines, CFO Poisson stated that one ministerial change was being recommended: replacing the title of Treasurer with CFO.

Lastly, CFO Poisson indicated that as the Authority aims to balance fiscal prudence, focus, and a shifting interest rate environment, staff may consider the services of an independent investment advisor to further evaluate these Investment Guidelines and propose any other updates to the Committee.

In response to an inquiry from the Chair, CFO Poisson indicated that the Authority does not view a decline in fair market value as indicative of an impairment, but more as an indicator of the current value to reflect what the situation would be if the Authority were to liquidate before maturity.

In response to an inquiry from the Chair, CFO Poisson explained that the independent investment advisor would provide objective guidance to assist in assessing how to best maintain an appropriately conservative risk posture while minimizing a reduction in the Authority's buying power likely to result from recent inflation.

In response to an inquiry from the Chair, CFO Poisson indicated that the Authority had not yet completed a detailed sensitivity analysis as to the effect of continued increases in interest rates, but intends to do so and will work closely with the investment advisor once they are engaged.

At this time, the Chair noted the arrival of Member Sherburne Abbott.

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

Resolution

RESOLVED, that the “Investment Guidelines, Operative Policy and Instructions (June 2022),” as presented at this June 28, 2022 meeting are hereby recommended for approval by the Board; and

BE IT FURTHER RESOLVED, that the Authority's “2021-2022 Annual Investment Report,” for the year ended March 31, 2022, as presented at this June 28, 2022 meeting, is hereby recommended for approval by the Board to be adopted as the annual investment report of the Authority required by Section 2800 and Section 2925(6) of the Public Authorities Law.

The Chair indicated that the next item on the agenda was the Annual Investment Report for the NYSERDA OPEB (Other Post-Employment Benefits) Trust and the *Investment Policy Statement for the NYSERDA OPEB Trust (June 2022)*.

CFO Poisson explained that the OPEB Investment Report summarizes the contributions, investment income, benefit payments, and administrative expenses for the fiscal year ended March 31, 2022 and reports the balance of investments in total and by asset category in comparison to the target levels established in the Investment Policy Statement.

CFO Poisson reported that the market value of the OPEB Trust’s investments as of March 31, 2022 was approximately \$69.5 million, a reduction of about \$227,000 from the prior fiscal year end, primarily as a result of a market decline over the last quarter of the fiscal year. As of the most recent actuarial valuation, the OPEB Trust was 114% funded compared to its OPEB liability. The total return on the Trust’s investments was -0.07% for the year, reflecting a decline in the last quarter of the year but higher than the benchmark indices of -1.7%.

CFO Poisson indicated that the lifetime average annual return on the OPEB Trust is approximately 7.2%. This is above the actuarially estimated long-term expected return of the OPEB Trust of 6.0%, which is based on the actuary’s projections for long-term expected returns for the weighted average indices. This long-term rate has been included in the financial statement footnote disclosures and has been reviewed and deemed reasonable by the independent auditors.

With respect to the Investment Policy Statement, CFO Poisson indicated one ministerial change is being recommended to replace the title of Treasurer with CFO.

In response to an inquiry from the Chair, CFO Poisson explained that the Authority has taken the initial steps and investigated doing a more fulsome analysis in partnering with both advisors and similar organizations to ensure that its practices are optimized with respect to the management of assets and liabilities.

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

Resolution

RESOLVED, that the “NYSERDA OPEB Trust Investment Report” for the year ended March 31, 2022, as presented at this June 28, 2022 meeting is hereby recommended for approval by the Board as the annual investment report of the NYSERDA OPEB Trust required by Section 2800 and Section 2925(6) of the Public Authorities Law; and

BE IT FURTHER RESOLVED, that the “Policy Statement for the NYSERDA OPEB Trust (Retiree Health Insurance Benefits Trust)” as presented at this June 28, 2022 meeting, is hereby recommended for approval by the Board.

The Chair indicated that the next item on the agenda concerned the financial statements of the Authority and NY Green Bank (“NYGB”) for fiscal year 2021-2022 and asked the Authority’s Controller and Assistant Treasurer, Peter Mahar, to discuss this item.

Controller and Assistant Treasurer Mahar indicated that the Committee was being asked to adopt a resolution approving the annual audited financial statements for the fiscal year ending March 31, 2022 for the Authority and NYGB. Both financial statements include a clean opinion from the Authority’s independent auditors, KPMG, LLP (“KPMG”), which noted no instance of non-compliance or material weakness or uncorrected misstatements. KPMG saw no need to offer a management letter, which would customarily be provided to address control weaknesses or improvements if noted by the auditors.

Next, Controller and Assistant Treasurer Mahar highlighted a few significant fluctuations and changes. The Authority's restricted net-position increased from \$260 million to \$1.69 billion due to greater than expected Regional Greenhouse Gas Initiative ("RGGI") proceeds; the receipt of alternative compliance payments with the Clean Energy Standard ("CES") Program; and the final NYGB capital. The unrestricted net-position increased from \$346,000 to \$5.7 million due to lower capital asset purchases.

Controller and Assistant Treasurer Mahar indicated that total assets increased from \$320 million to \$2.1 billion due to an increase in changes in cash and investments related to the final capitalization of NYGB; the receipt of alternative compliance payments under the CES; and from RGGI allowance proceeds. These inflows were offset in part by a net decrease in loans and financing receivables principally from the sale of receivables under NYGB and Green Jobs – Green New York ("GJGNY") programs. Total liabilities increased from \$22 million to \$406 million due to the timing of payments on certain year-end liabilities, offset in part by a decrease in the net pension and OPEB liabilities, as well as, decreases in bonds payable outstanding, which is based on scheduled principal payments.

Controller and Assistant Treasurer Mahar stated that total revenues of \$1.67 billion were \$180 million more than budgeted due to RGGI auction proceeds being significantly higher than budget; higher utility surcharge assessment revenues; and from the advanced receipt of third-party transportation funds which was not anticipated in the budget.

In addition, Controller and Assistant Treasurer Mahar indicated that total expenses of \$1.4 billion were \$63 million or 4.3% less than budget. Program expenditures were \$57 million or 4.1% below budget due to construction; permitting; and interconnection delays experienced within the Energy Storage and Tier-One CES programs, and from the issuance of a lower number of Tier-Two awards than was anticipated in the budget. This variance to budget was offset in part by higher incentive payments made under the NY-Sun Megawatt Block Program and from higher levels of participation and accelerated project payments for project deliverables under the Clean Energy Fund ("CEF") EmPower, Real Time Energy Management, High Performance Grid, and New Construction programs.

Controller and Assistant Treasurer Mahar noted that the meeting materials included separate stand-alone financial statements for NYGB and shared highlights of those. NYGB ended the fiscal year with \$1.0 billion in total assets. Cash and Investments increased by \$65 million due to additional capital received as a result of selling a portion of NYGB's Loan and Financing Receivables portfolio, offset by capital deployed for new and existing transactions in the portfolio.

Controller and Assistant Treasurer Mahar indicated that NYGB loans and financing receivables decreased by \$21 million. The decrease was due to the aforementioned sale of a portion of the loan portfolio offset in part by new loan activity net of principal repayments.

Controller and Assistant Treasurer Mahar explained that as part of a planned initiative to monetize existing assets, NYGB coordinated a sale of NYGB's interest in Loans and Financing Receivables in July 2021. This transaction resulted in an upfront collection of \$314 million in cash plus rights to any residual payments initially valued at \$64.5 million. Fees and related closing costs incurred for the transaction totaled approximately \$7.8 million. As a result of loan pre-payments, an increased discount rate, and other factors, an unrealized loss of \$5.7 million was recorded at fiscal year-end.

With respect to NYGB Loans and Financing Receivables, Controller and Assistant Treasurer Mahar indicated that management continues to use a specific identification method for asset impairment. As reported to the committee last year, one loan with a principal balance of about \$20.1 million was on non-accrual status and was intended to be sold. Through a competitive process NY Green Bank was negotiating the sale of this asset. Based on many factors including certain contract covenants, recent changes in residential solar standards, and current replacement and maintenance costs of the assets within the loan, the sale price may ultimately be lower than the current value of \$20.1 million. In consultation with KPMG, a \$5.2 million provision for losses on loans and financing receivables was thus recorded with respect to this one loan. All portfolio loans and financing receivables have been assessed and recorded at their appropriate carrying value and no other loans currently in portfolio were identified as requiring a loan loss provision.

Controller and Assistant Treasurer Mahar stated that NYGB operating revenues of \$10.7 million were lower than budgeted resulting in a net operating loss of \$2.9 million. This was due to transaction fees, the unrealized loss associated with the sale of the loans to a third party, lower loan interest income resulting from lower outstanding loans balances due to the sale of loans, and from the impairment loss provision.

Despite lower operating revenues, Controller and Assistant Treasurer Mahar indicated that the planned sale of Loans and Financing Receivables was necessary for NYGB to address its capital and liquidity needs due to their strong commitment base and robust pipeline of projects. NYGB's cumulative net revenue from inception is \$55.9 million dollars.

In closing, Controller and Assistant Treasurer Mahar focused on the Authority in aggregate, reporting that the Authority continues its long track record of receiving clean audit opinions and operating within its approved budget.

In response to an inquiry from the Chair, Controller and Assistant Treasurer Mahar indicated that supply chain delays; COVID-19 work slowdowns and pauses; and construction delays continue to affect budgets. The Authority will propose budget updates as necessary to address dynamic external factors. CFO Poisson added that whether the expenditures are tracking to the desired outcomes will also affect the rate of spending.

In response to an inquiry from the Chair, Controller and Assistant Treasurer Mahar explained that the effects of COVID-19 and supply chain backlogs have made it challenging to forecast program expenses and confirmed that the Authority will continue to mitigate those variances.

In response to an inquiry from the Chair, Controller and Assistant Treasurer Mahar stated that aggregate program expenditures are important, however, it is equally important to look at the individual funds to ensure that the Authority's goals are being met at the fund level.

In response to an inquiry from Member Abbott, Vice President for Policy and Regulatory Affairs Williams advised that staff will be looking at the number of expenditures being delivered to underserved communities from the Authority's own portfolio for its reporting. For purposes of the Climate Leadership and Community Protection Act, which is looking at investments for disadvantaged communities on a statewide basis, the Authority will also be aggregating that data across various agencies and showing the relative investments by agency.

The Chair stated that a motion for approving the financial statements would be considered after the Committee met with the independent auditors, KPMG, in executive session.

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

Resolution

RESOLVED, that pursuant to Section 105 of the Public Officers Law, the Members of the Audit and Finance Committee of the New York State Energy Research and Development Authority shall convene in executive session on June 28, 2022 for the purpose of reviewing the financial condition of the Authority.

The Committee then met in executive session with the independent auditors for the purpose of discussing the Authority's financial condition.

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

The Chair indicated the next item on the agenda was a resolution recommending the approval of the financial statements of the Authority and NYGB for fiscal year 2021-2022.

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

Resolution

RESOLVED, that the Financial Statements of the Authority and the Financial Statements of NYGB as of March 31, 2022, as presented at this June 28, 2022 meeting is hereby recommended for approval by the Board as the financial reports required by Sections 1867(1) and 2800 of the Public Authorities Law.

The Chair indicated the next item on the agenda was to consider the appointment of KPMG as the Authority's independent auditors for the fiscal year 2022-2023.

CFO Poisson stated that the Committee is requested to approve a resolution appointing KPMG as the independent auditors of the Authority for the fiscal year ending March 31, 2023. In 2021, the Authority issued a Request for Proposals RFP seeking proposals from public accounting firms to provide independent audit services for a term of up to five years and KPMG was selected. KPMG will perform a financial statement audit and deliver an opinion regarding the Authority's consolidated financial statements, and separate stand-alone financial statements for NYGB. In addition, the Authority is in the last year of the five-year audit partner rotation requirement and KPMG will be assigning a new partner to handle this work.

CFO Poisson indicated that KPMG's fees and expenses for these services will not exceed \$129,000.

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

Resolution

RESOLVED, the Audit and Finance Committee recommends approval of a resolution authorizing the President and CEO to retain the firm of KPMG, LLP as independent auditors for the Authority and for NYGB for the fiscal year ending March 31, 2023.

The Chair indicated that the next item on the agenda was the Annual Bond Sales Report and asked CFO Poisson to discuss this item.

CFO Poisson stated that pursuant to requirements of the Public Authorities Law, the Members are requested to adopt a resolution approving submission of the Annual Bond Sales Report. The Annual Bond Sales Report indicates that during the year, the Authority completed no new issuances, conversions, or refundings. The schedule of Authority bonds outstanding provides a detailed listing of the Authority's bonds issued and outstanding as of March 31, 2022, totaling approximately \$1.6 billion.

In response to an inquiry from the Chair, CFO Poisson confirmed that this year's bond transactions are completely aligned with the Authority's expectations.

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

Resolution No.

RESOLVED, that the Authority's Annual Bond Sales Report for the fiscal year April 1, 2021 through March 31, 2021, and the information contained therein, as presented at this June 28, 2022 meeting is hereby recommended for approval by the Board for submission pursuant to Section 2800 of the Public Authorities Law.

The Chair indicated the next item on the agenda was to consider a resolution recommending the approval of the Audit and Finance Committee Charter. General Counsel and Secretary to the Authority, Peter Costello, discussed this item.

General Counsel Costello stated that pursuant to the Public Authorities Accountability Act of 2005, each of the Authority's Committees adopted Charters setting forth each Committee's responsibilities. One of those responsibilities is to periodically review its Charter and determine what, if any, amendments need to be made. These recommendations are then presented to the full Board for consideration and approval. A copy of the current Committee Charter was included in the meeting package. Counsel's Office continually monitors relevant guidance from the Authority's Budget Office, the Comptroller's Office, legislation and other authority practices to determine whether to recommend any modifications. Other authorities reviewed include: the New York Power Authority, the Long Island Power Authority, the New York State Dormitory

Authority, and the New York State Environmental Facilities Corporation. Management is not recommending any changes to the Audit and Finance Committee Charter at this time.

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

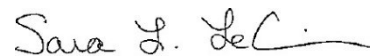
Resolution No.

RESOLVED, amendments to the Authority's Audit and Finance Committee Charter as presented for consideration at this June 28, 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, is recommended for adoption and approval by the Board.

The Chair indicated that the last item on the agenda was other business. There being no other business, The Chair called for a motion to adjourn.

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

Respectfully Submitted,



Sara L. LeCain
Secretary to the Committee