

1 NEW YORK STATE BOARD ON ELECTRIC GENERATION
2 SITING AND THE ENVIRONMENT

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3 In the Matter of

4 A Meeting of the NYS Board on Electric
5 Siting and the Environment

6 =====

7 Tuesday, July 10, 2012
8 10:30 a.m.

9 Public Service Commission Boardroom
10 19th Floor, 3 Empire State Plaza
11 Albany, New York

12 STENOGRAPHIC RECORD of proceedings in the
13 above-entitled matter pursuant to notice.

14 COMMISSIONERS PRESENT:

15 GARRY A. BROWN, Chairman of the NYS Public
16 Service Commission and Chairman of the Siting
17 Board

18 LOUIS ALEXANDER, Alternate for Commissioner
19 Joseph Martens, NYS Department of Environmental
20 Conservation

21 KEITH CORNEAU, Alternate for Kenneth Adams,
22 Commissioner of Economic Development and
23 President/CEO of Empire State Development

24 ROBERT CHINERY, Alternate for Nirav Shah,
25 Commissioner NYS Department of Health

FRANCIS J. MURRAY, JR., Acting Chair and
President and CEO of NYSERDA

26 REPORTED BY:

27 BETH S. GOLDMAN, RPR
28 Certified Shorthand Reporter

1 P R O C E E D I N G S

2 CHAIRMAN BROWN: Good morning. I would like
3 to call to order the meeting of the permanent
4 members of the New York State Board on Electric
5 Generation Siting and the Environment.

6 I am Garry Brown, Chairman of the New
7 York State Public Service Commission and Chairman
8 of the Siting Board.

9 To my immediate right is Louis
10 Alexander, alternate for Joe Martens, Commissioner
11 of the New York State Department of Environmental
12 Conservation.

13 To his right is Keith Corneau, alternate
14 for Kenneth Adams, Commissioner of Economic
15 Development, and President and CEO of Empire State
16 Development.

17 To my immediate left is Robert Cheniry,
18 alternate for Nirav Shah, M.D., Commissioner of
19 the New York State Department of Health.

20 And, to his left is Frank Murray, Acting
21 Chairman and President and CEO of the New York
22 State Energy and Research Development Authority.

23 Madam Secretary, are there any changes
24 to the matters noticed for discussion at today's
25 meeting?

1 SECRETARY BRILLING: There are no
2 changes.

3 CHAIRMAN BROWN: Thank you. Today's
4 matter will be presented by Paul Agresta,
5 Assistant Counsel and Managing Attorney in the
6 Department of Public Service.

7 Paul, please begin your presentation.

8 MR. AGRESTA: Thank you, Mr. Chairman,
9 and good morning, members of the Committee.

10 This meeting is for you to consider the
11 final adoption of the regulations you proposed in
12 March to implement Article 10 of the Public
13 Service Law. The process for creating regulations
14 is governed by the state Administrative Procedure
15 Act, otherwise known as SAPA.

16 On April 11th of this year, the Siting
17 Board published in the State Register a Notice of
18 Proposed Rulemaking seeking public comments on the
19 proposed regulations.

20 The public had a minimum of 45 days
21 after the Notice was published to review the draft
22 regulations and to submit written comments for
23 your consideration. Some municipalities were
24 given a brief extension to submit their comments
25 to the committee in order to accommodate their

1 town board calendars. We received 114 sets of
2 written comments constituting 534 pages of
3 material. The comments received have been
4 summarized in the materials before you.

5 I am pleased to report that the comments
6 reflect that the extensive process conducted at
7 the beginning of the year was extremely successful
8 in comprehensively identifying issues that needed
9 to be addressed.

10 We have before you for your
11 consideration today a Memorandum and Resolution
12 with attachments. Ordered by section as laid out
13 in the proposed regulations, the documents include
14 a summary of the filed comments and proposed
15 discussion text explaining the Board's reasoning
16 in addressing what is to be done in response to
17 the comments.

18 The documents also include the full text
19 of the final proposed regulations provided to you
20 in redline format to highlight for you the several
21 modifications recommended by the DPS staff in
22 response to the comments.

23 Finally, the documents include a formal
24 resolution for adopting or promulgating the
25 regulations. Staff recommends that you adopt the

1 Memorandum and Resolution in the manner proposed.

2 By adopting the Memorandum and
3 Resolution you would be taking the last act you
4 need to take as a Board for the regulations to be
5 promulgated. Thereafter, the Secretary will
6 transmit a final, settled version of the documents
7 to the Department of State, and the regulations
8 takes effect upon the publication of the Notice of
9 Adoption in the State Register. The final
10 document will be a clean version, which will
11 include a clean version of the regulations without
12 the redlines and will include an appendix listing
13 all the people who filed comments. And,
14 hopefully, we will have all the typos cleaned up.

15 In closing, I would like to, again,
16 express appreciation for the input we received
17 from the other agencies represented on the Siting
18 Board and acknowledge the work of the DPS staff
19 team assigned to this project that worked
20 efficiently to bring these matters before you
21 today.

22 This concludes my very brief
23 presentation, and I am available to answer
24 questions.

25 CHAIRMAN BROWN: Are there questions or

1 comments?

2 MR. MURRAY: I actually have a question.
3 Paul, I am supportive of the regulations. But,
4 when I was over at G.E., they had a big
5 announcement at their battery manufacturing
6 facility. And, I was asked a question that
7 actually related to this and I didn't have the
8 answer to it. And, maybe you would know off the
9 top of your head. I know there is one project out
10 there in Never Never Land, an inter-storage
11 project. So, it really goes to the whole issue of
12 some of these innovative technologies not under
13 the traditional generating facilities, even some
14 of the renewable energy facilities. In the case
15 of something like an energy storage facility --
16 this is beyond the threshold of megawatts we're
17 talking about here -- would those regulations
18 apply to them? And, is there flexibility enough
19 in the siting regulations to allow the Board to
20 react differently depending on the type of
21 technology? And, the reason I happen to mention
22 storage, it may raise some environmental issues
23 that may not be raised as part of the traditional
24 environmental issues that are raised by a lot of
25 other generating facilities.

1 MR. AGRESTA: My initial take on that --
2 and I haven't looked into this -- is that if it's
3 pure energy storage it would not be covered; it
4 would be exempt and not actually be a generation
5 facility. I'm not sure that same thing could be
6 said about flywheel type installation where there
7 is actually generation going on at the facility.
8 The only way to settle it for sure would be for
9 someone to identify exactly what it is they want
10 to do and ask for a declaratory ruling.

11 MR. MURRAY: Great. That's helpful.
12 Thank you, Paul.

13 CHAIRMAN BROWN: Any other comments or
14 questions?

15 (None noted)

16 CHAIRMAN BROWN: Well, before we want to
17 vote, on behalf of the Board I want to thank the
18 hundreds of individuals and organizations that
19 submitted comments as part of this proposed
20 regulation process. But, as Paul pointed out,
21 they were especially useful in that they confirmed
22 that we had done, I think, the proper legwork
23 previous to the formal process by having a fairly
24 extensive state outreach process that really got
25 us a lot of the information before we even

1 promulgated the final set of regulations for CANA.
2 So, I think we managed, as a result of these
3 recommendations, to develop a streamlined Article
4 10 process with the legal parties and the public
5 to effectively engage in the siting process. So,
6 I look forward to doing that.

7 Paul, I would also just like to take one
8 moment to individually thank you for the hard
9 work, and the rest of the team, Kim Harriman and
10 the gang that did it, but even they all point to
11 you and say: Paul was the Guy that put this all
12 together. So, thank you publicly on behalf of the
13 Board for the work that you did on this.

14 MR. AGRESTA: Thank you, sir.

15 CHAIRMAN BROWN: Now, I would like to
16 take this to a vote. The vote is to approve the
17 Memorandum of Resolution to promulgate new
18 regulations to implement Article 10 of the Public
19 Service Law as described by Paul.

20 All those in favor of the Resolution,
21 please signify by saying "Aye."

22 (Vote taken: Ayes noted)

23 CHAIRMAN BROWN: Opposed?

24 (Vote taken: None noted)

25 CHAIRMAN BROWN: Hearing none, the

1 Regulations are adopted.

2 Madam Secretary, is there anything
3 further to come before the Board today?

4 SECRETARY BRILLING: There is nothing
5 further for today. Thank you very much.

6 CHAIRMAN BROWN: Thanks very much. I
7 guess the next time we meet there will be a real
8 Article 10 application before us. So, the meeting
9 is hereby adjourned.

10 Thank you.

11 (The proceeding in the above-entitled
12 matter was concluded at approximately
13 10:43 a.m.)

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COUNTY OF ALBANY)

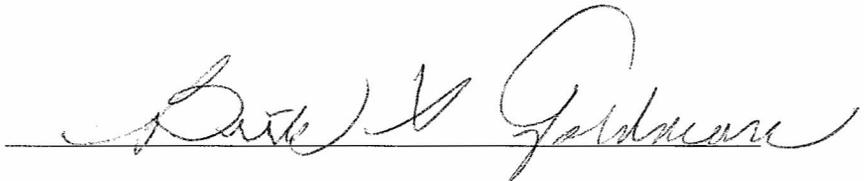
SS:

I, BETH S. GOLDMAN, Certified Shorthand Reporter, Registered Professional Reporter and Notary Public in and for the County of Albany and the State of New York, hereby certify that the proceedings recorded hereinabove were recorded stenographically by me and reduced to computer-generated transcription.

I FURTHER CERTIFY the foregoing transcript of said proceedings to be a true and correct transcript stenographically recorded at the time and place specified hereinbefore.

I FURTHER CERTIFY that I am not a relative or employee, attorney or counsel of any of the parties, nor a relative or employee of such attorney or counsel, or financially interested either directly or indirectly in this action.

IN WITNESS WHEREOF, I have hereunto set my hand.



BETH S. GOLDMAN
Certified Shorthand Reporter
Registered Professional Reporter
Notary Public

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