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NEW YORK STATE BOARD ON ELECTRIC
GENERATION SITING AND THE ENVIRONMENT

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In the Matter of the Application of New York Power Authority for a Certificate of
Environmental Compatibility and Public Need to Construct and Operate a Nominal 500
Megawatt Combined Cycle Facility in Astoria, Queens, New York

SUPPLEMENTAL JOINT STIPULATION

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September __, 2002

SUPPLEMENTAL JOINT STIPULATION

New York Power Authority (hereinafter, "Power Authority"), as the Applicant for a Certificate of Environmental Compatibility and Public Need under Article X of the Public Service Law ("Certificate"); the staffs of the New York State Department of Public Service ("NYSDPS"), New York State Department of Environmental Conservation ("NYSDEC"), and New York State Department of Health ("NYSDOH") (together, the "Agencies"); the City of New York ("the "City" and also as an "Intervenor"); the intervening parties New York Public Interest Research Group, Inc. ("NYPIRG"), Natural Resources Defense Council, Inc. ("NRDC"), Citizens Helping to Organize a Kleaner Environment ("CHOKE"), and Queens Borough President (together, the "Intervenors"), agree to the following Supplemental Joint Stipulation ("Stipulation"), submit it to the New York State Board on Electric Generation Siting and the Environment (the "Siting Board"), and request that it be approved.

WHEREAS, the Power Authority submitted to the Siting Board on August 18, 2000 an Application (the "Application") and supplemental information dated October 9, 2000, January 22, 2001 and April 24, 2001, for a Certificate to Construct and Operate A Nominal 500 Megawatt ("MW") Combined Cycle Facility in Astoria, Queens, New York (the "Project"); and

WHEREAS, the Power Authority currently operates an 825 MW fossil fuel steam electric generation plant in Astoria, Queens (the "Existing Poletti facility") located in the vicinity of the Project; and

WHEREAS, included in the Application were applications for permits required from NYSDEC with respect to the Project (the "NYSDEC Permits"); and

WHEREAS, some or all of the Intervenor's requested that the public health effects of the Project's individual and cumulative fine particulate matter (PM_{2.5}) emissions be certified as an issue in the Article X hearings in this case and such issue was denied for adjudication by the Hearing Examiners on July 19, 2001; and

WHEREAS, some or all of the Intervenor's appealed aspects of the Hearing Examiners' July 19, 2001 Article X Issues Ruling to the Siting Board, including the denial for adjudication of the issue of the public health impacts of the Project's individual and cumulative PM_{2.5} emissions; and

WHEREAS, on January 24, 2002, the Siting Board issued an order granting Intervenor's issues appeal in part and directing, inter alia, that an evidentiary hearing be held "on the issue of air quality impacts of PM_{2.5} as it relates to the applicant's proposed facility"; and

WHEREAS, the evidentiary hearings directed by the Siting Board's January 24, 2002 Order were held on April 3-5, 2002; and

WHEREAS, all parties agree that this Stipulation in conjunction with the previously established record creates a sufficient record in this proceeding to resolve the issues raised in the appeal and provides a sufficient basis for the Siting Board to make all findings required by PSL § 168 for the proposed facility; and

WHEREAS, the Power Authority's commitment to the environment as a State chartered energy supplier includes, among other things, taking all reasonable actions to reduce the impact of its existing operations on the air and other natural resources of the State.

NOW, THEREFORE, in consideration of the foregoing and the mutual undertakings set forth herein, the signatories hereto agree as follows:

I. Power Authority's Obligations

1. Upon its acceptance of a Certificate to construct the Project, the Power Authority shall implement the following measures set forth in subparagraphs A-C to reduce air emissions from the Existing Poletti Facility. See Exhibit A for Proposed Certificate Condition.

A. During each of the calendar years 2003 and 2004, the Power Authority shall: (i) limit the use of fuel oil so that at least 66.67 % of the fuel combusted at the Existing Poletti Facility on a heating value basis (mmBtu) shall be natural gas for each such year, and (ii) during the summer period of May 1 through September 31 for each such year, further limit the use of fuel oil so that at least 75% of the fuel combusted at the Existing Poletti Facility on a heating value basis (mmBtu) shall be natural gas for each such summer period;

B. During each of the calendar years 2005, 2006 and 2007, the Power Authority shall: (i) limit the use of fuel oil so that at least 66.67 % of the fuel combusted at the Existing Poletti Facility on a heating value basis (mmBtu) shall be natural gas for each such year, and (ii) during the summer period of May 1 through September 31 of each such year, further limit the use of fuel oil so that at least 80% of the fuel combusted at the Existing Poletti Facility on a heating value basis (mmBtu) shall be natural gas for each such summer period.

C. The requirements set forth in subparagraphs A(ii) and B(ii) above limiting the use of fuel oil at the Existing Poletti Facility during the summer period shall not be computed using any days or hours when the Power Authority burns fuel oil at such Facility because the supply and/or delivery of natural gas to such Facility has been interrupted, curtailed or suspended.

2. Effective February 1, 2008, assuming the Power Authority accepts the Certificate for the Project, and if such Authority does not cease operation of the Existing Poletti Facility on such date pursuant to the provisions of Subdivision 7 of Section I of this Joint Stipulation, the Power Authority shall thereafter limit the use of fuel oil at the Existing Poletti Facility so that at least 90% of the fuel combusted at the Existing Poletti Facility on a heating value basis (mmBtu) shall be natural gas on an annual basis.

See Exhibit A for Proposed Certificate Condition.

3. Effective sixty days after the commencement of commercial operation of the Project, the Power Authority shall operate its Existing Poletti Facility during any calendar year so that it does not exceed an average capacity factor of 30 percent. The Power Authority shall calculate the average capacity factor using a three-year rolling average. However, in no single year shall the Power Authority allow the capacity factor of the Existing Poletti Facility to exceed 35%; except in the event of (i) a temporary or permanent shut down of a 500MW or greater power plant in Southeastern New York for more than 30 days or (ii) the failure or removal from service for more than one week of one of the 345kv transmission lines between New York City and Westchester County. By April 1, 2003, the Power Authority shall submit a compliance filing setting forth the method it will use to compute the capacity factors and reporting such capacity factors to the Siting Board. See Exhibit A for Proposed Certificate Condition.

4. Commencing on February 1, 2003, and on February 1st of each year thereafter, the Power Authority shall provide to the Intervenors a report covering the prior three year period documenting on a monthly basis the fuel use and capacity factors of the Existing Poletti Facility. The Intervenors agree that this information is proprietary and company confidential and shall not

share any information provided by the Power Authority with any third parties, except as required by law. See Exhibit A for Proposed Certificate Condition.

5. Commencing on January 1, 2003, the Power Authority shall increase its base budget for energy efficiency programs to be implemented within New York City by no less than \$10 million annually for each of the following five years (for a total of \$50 million). This \$50 million budget increase shall exclusively fund energy efficiency measures and shall not be used for peak load management programs or other load curtailment programs or other programs that do not result in long-term energy savings. If, at the close of a year during this five year period, any portion of that year's \$10 million increase in energy efficiency funding has not been spent, the remaining unspent amount shall be rolled forward into the following year in addition to that year's \$10 million increase. The Power Authority currently estimates that its base budget for energy efficiency programs in New York City in the year 2003 will be \$40 million. See Exhibit B. By December 1, 2002, on notice to all parties, NYPA will convene a meeting with Intervenors and invite other interested stakeholders, including NYPA's Southeastern New York governmental customers, to discuss and reach agreement upon: 1) the exact base budget for New York City energy efficiency programs for 2003; 2) any institutional or market barriers to full participation in NYPA's energy efficiency loan programs by its governmental customers and strategies to overcome these barriers; 3) how best to achieve maximum energy and peak electric demand reductions in New York City through the additional \$10 million per year increment to NYPA's New York City energy efficiency programs. NYPA shall also, on notice to all parties, convene meetings with Intervenors and other interested stakeholders, including NYPA's Southeastern New York governmental customers, every six months subsequently to review these issues and to report on the energy savings and peak demand reductions achieved by NYPA's New York City energy

efficiency programs and any appropriate modifications to these programs to achieve further savings. See Exhibit A for Proposed Certificate Condition.

6. As of January 1, 2003, the Power Authority will establish an account in the amount of \$2 million, which shall be made available for community-based programs for air pollution reduction programs to improve air quality and public health in Northwestern Queens. Requests for funding will be decided with the unanimous agreement of the members of a Steering Committee consisting of representatives of the Power Authority, NRDC, NYPIRG, NYSDEC, Queens Borough President's Office and Northeast States Clean Air Foundation/Northeast States for Coordinated Air Use Management (NESCAF/NESCAUM), following, to the extent reasonable, the procedures established by Clean Air Communities for reviewing community proposals and awarding funds for such programs. See Exhibit A for Proposed Certificate Condition.

7. Unless the Power Authority fails to construct or commence operation of the Project and provides notice to the Siting Board and all Parties by February 1, 2006 that it is voiding its Certificate for the Project, the Power Authority shall:

A. Cease operation of its Existing Poletti Facility permanently as of February 1, 2008 and agree not to restart such plant after such date, unless it provides the notice set forth in subparagraph C below by June 1, 2006.

B. Seek, on notice to all parties, by February 1, 2006, a written determination from the New York Independent System Operator ("NYISO"), or any successor Regional Transmission Organization ("RTO") expressly determining whether closure of the Existing Poletti Facility as of February 1, 2008, will cause the aggregate in-City electrical generating

capacity (exclusive of the Existing Poletti Facility), as such aggregate capacity is determined by the NYISO or any successor entity, to be less than 80% of the total in-City projected peak demand, as determined by such NYISO or any successor entity, for the summer of 2008; provided, however, that if the NYISO or its successor RTO does not then employ a Locational Installed Capacity methodology to determine electrical generating capacity and instead employs a different methodology that does not result in a measure of installed capacity, then the threshold shall be the equivalent aggregate in-City electrical generating capacity to that described above expressed using the current NYISO or RTO methodology.

C. If, by June 1, 2006, the Power Authority provides notice to all parties enclosing a written determination from the NYISO finding that closure of the Existing Poletti Facility on February 1, 2008 will cause the aggregate in-City electrical generating capacity (exclusive of the Existing Poletti Facility) to be less than 80% of the total in-City projected peak demand, as determined by NYISO or any successor entity, for the summer of 2008 (or will cause the aggregate in-City electrical generating capacity to fall below any alternative threshold that may be established in the future pursuant to subparagraph B), then the Power Authority's obligation pursuant to subparagraph A to cease operation of the Existing Poletti Facility shall be deferred until February 1, 2009. The Power Authority shall then, by July 1, 2007, on notice to all parties, seek another written determinations from the NYISO meeting the requirements of subparagraph

B. If, within three months after seeking such notice, the Power Authority provides notice to all parties enclosing a written determination from the NYISO finding that closure of the Existing Poletti Facility on February 1, 2009 will cause the aggregate in-City electrical generating capacity (exclusive of the Existing Poletti Facility) to be less than 80% of the total in-City projected peak demand, as determined by NYISO or any successor entity, for the summer of

2009 (or will cause the aggregate in-City electrical generating capacity to fall below any alternative threshold that may be established in the future pursuant to subparagraph B), then the Power Authority's obligation to cease operation and decommission the Existing Poletti Facility pursuant to Subparagraph A shall be deferred until January 31, 2010. The Power Authority shall then take any necessary remaining steps to the extent it deems it necessary to construct and operate the new natural gas-fired facility to replace the Existing Poletti Facility, referenced in subparagraph D below. In any event, the Power Authority shall cease operation of the Existing Poletti Facility permanently by January 1, 2010, and agree not to operate such facility thereafter.

D. By July 1, 2005, the Power Authority shall file an application for a Certificate under Article X of the Public Service Law ("Article X"), or any successor Article to such law, for permission to construct and operate an additional natural gas-fired, combined cycle power plant to replace the Existing Poletti Facility at the same site ("Additional Plant"), unless the Power Authority provides notice by January 1, 2005 that construction of such Additional Plant is not necessary to serve its governmental customers or for reliability purposes.

See Exhibit A for Proposed Permit Condition.

8. The Power Authority shall not sell, lease or otherwise divest or transfer ownership, title, control or management of the Existing Poletti Facility without obtaining a written acceptance by such subsequent owner, lessee, transferee or manager agreeing to fully comply with each and every provision regarding the Existing Poletti Facility set forth in Section I of this Joint Stipulation. NYPA shall provide a copy of such written acceptance to each signatory of the Joint Stipulation. The Power Authority shall comply with the provisions of Section I of this Joint Stipulation even if it sells, leases or otherwise divests or transfers

ownership, title, control or management of the Project and its Certificate. See Exhibit A for Proposed Permit Condition.

II. Power Authority and the City

1. By signing this Stipulation, the Power Authority reserves and does not waive its status as a corporate municipal instrumentality of the state of New York as set forth in the Power Authority Act and does not subject itself to the jurisdiction of the City of New York or the New York City Department of Environmental Protection ("DEP"). However, for the sole purpose of expediting the Authority's pending Public Service Law Article X application for a Certificate to construct the Project and with out waiving any of the foregoing rights, the Authority agrees as follows in paragraph II. 2.

2. Within 90 days of issuance of a final Certificate, the Power Authority will provide to the Siting Board a cumulative air impact analysis that substantially complies with the City of New York's Environmental Quality Review Technical Manual, October of 2001. This analysis may be substantially based upon the cumulative air impact analysis recently provided to DEP by Berrins 1 Gas Turbine Power, LLC in connection with that company's construction of a simple cycle gas turbine at a site immediately adjacent to the Power Authority's Project. The permanent members of the Siting Board shall have continuing jurisdiction for a period of 60 days following submission of such analysis to require the Power Authority to address any material issue raised by such analysis.

III. PSL § 168 Findings

The Intervenor(s) agree that this Stipulation confirms that they have no objection to the Siting Board making findings with respect to the Project under § 168 of the Public Service Law, including in particular, findings pursuant to PSL § 168(2)(c)(ii), taking into account the factors set forth in PSL § 168(2)(b); and supports the incorporation into the Certificate for the Project by the Siting Board conditions to reflect the commitments set forth in Section I hereof. The parties to this Stipulation, other than the Intervenor(s), agree that the terms and conditions of the Certificate, as such terms and conditions reflect this Stipulation, adequately address the concerns raised in the Issues Appeals, and permit the Siting Board to make the findings required by PSL § 168 that the Project will be compatible with public health and safety.

IV. Release by Intervenor(s)

1. (a) Each of the Intervenor(s) hereby releases and discharges the Power Authority and its successors and assigns from any and all actions, claims, petitions, demands, suits, and proceedings, whether arising in equity or in law, or under any statute or regulation, with respect to any and all claims, matters or issues they raised or could have raised in proceedings before the NYSDEC with respect to all the NYSDEC permits for the Project, including the Prevention of Significant Deterioration permit approved by the NYSDEC Commissioner's Decision in this matter on May 22, 2002. In the event any of the Intervenor(s) have appealed the NYSDEC Commissioner's Decision of May 22, 2002, then upon the execution of this Agreement the Intervenor(s) shall withdraw, with prejudice, any such appeal;

(b) Each of the Intervenor(s) hereby releases and discharges Power Authority and its successors and assigns from any and all actions, claims, petitions, demands, suits, and

proceedings, whether arising in equity or in law, or under any statute or regulation, with respect to any and all claims, matters or issues that they either have raised or could have raised in this Article X proceeding for the Project (Proceeding F-99-1627);

(c) Each of the Intervenors agrees to waive its right to object to the proposed Clean Air Act Title V operating permit issued by NYSDEC on December 19, 2001, for the Existing Poletti Facility;

(d) This release shall not constitute a waiver by Intervenors of any rights they may have:

i. to participate in, comment on, and/or challenge any permit or approval required in connection with a modification or operational change to the Existing Poletti Facility or the Project, subsequent to the date hereof; provided, however, that the Intervenors shall not assert in such proceedings that current air emission permit conditions from the Poletti facility, in combination with the Project: (a) violate any law or regulation in effect on the date of this Stipulation or (b) are inconsistent with the finding required by PSL § 168(2)(c)(ii);

ii. to enforce compliance with the terms and conditions of the Certificate, NYSDEC permits, and/or permits from any other agency in accordance with relevant provisions of law; or

iii. to participate in any administrative process held in connection with any revision proposed by the NYSDEC or the United States Environmental Protection Agency ("USEPA") to the New York State Implementation Plan under the Clean Air Act.

2. Intervenors agree not to bring any action or proceeding concerning the Existing Poletti Facility or the Project against the USEPA, the NYSDEC, or the New York City

Department of Environmental Protection that they could not bring directly against the Power Authority pursuant to the release set forth in paragraph 1, or any action or proceeding precluded by the release in which the Power Authority would be considered a necessary party.

3. Intervenor agree not to bring any action or proceeding concerning any NYSDEC or USEPA permits for the Existing Poletti Facility, other than such actions or proceedings to enforce compliance with the provisions of such permits.

V. Dispute Resolution

In the event of any dispute or controversy between the Power Authority and any of the Intervenor arising out of or relating to Section I of this Stipulation, such parties agree to first meet at their earliest mutual convenience to attempt to resolve the dispute through negotiations.

VI. Cooperation of the Parties

The Parties recognize that certain provisions of this Stipulation require that actions be taken in the future to fully effectuate their agreements. Accordingly, the Parties agree to cooperate with each other in good faith in taking such actions. Without limiting the foregoing, no Party shall: (i) object to the issuance of the Certificate by the Siting Board with the provisions set forth in Section I hereof and the proposed Certificate Conditions attached as Exhibit A; (ii) with respect to matters covered by this Stipulation, submit any statement to the Siting Board that is inconsistent with this Stipulation; or (iii) commence any action or proceeding challenging the validity of the Certificate or the NYSDEC Permits for the Project. The Power Authority shall, upon the reasonable request of any Party, from time to time meet for the purpose of exchanging readily available non-confidential information for the purpose of implementing this Stipulation.

In further effectuation of this Agreement, the Intervenor agree to submit a statement in support of the Power Authority's Article X application for the Additional Plant discussed herein, so long as such Plant is a new natural gas-fired, combined cycle power plant of up to 750 MW with limited backup capabilities, so long as such Additional Plant is for the purpose of replacing the Existing Poletti Facility at the same site, once such application is filed with the Siting Board. Intervenor reserve, however, all rights to participate in the Siting Board and NYSDEC permitting proceedings with respect to such application to ensure that applicable federal and state permitting requirements are met. To further improve air quality in Northwestern Queens, the Power Authority shall ensure that the off-road construction equipment used to construct the Project shall utilize low-sulfur fuel and particulate control technologies such as diesel oxidation catalysts or particulate traps.

VII. Miscellaneous

1. The Parties have negotiated and accepted this Stipulation in toto with each provision in consideration for, in support of, and dependent on the others. If the Siting Board does not approve this Stipulation in its entirety, without modification, including the proposed Permit Conditions, any Party may withdraw its acceptance of this Stipulation by serving written notice within thirty (30) days on the other Parties, and shall be free to pursue its position in this proceeding without prejudice. If the Siting Board approves this Stipulation or modifies it in a manner acceptable to the Parties, the Parties intend that this Stipulation thereafter be implemented in accordance with its terms. If a material modification is thereafter authorized or required by the Siting Board that is unacceptable to any Party to this Stipulation or a Party is adversely affected by such modification, then, in addition to any other remedies a Party may

have, such Party may withdraw from this Stipulation and will not be bound thereafter to its provisions.

2. None of the terms or provisions of this Stipulation and none of the positions taken therein by any Party may be referred to, cited, or relied upon by any other Party in any fashion as precedent or otherwise in any other proceeding before the Siting Board or any other regulatory agency or before any court of law for any purpose, except in furtherance of ensuring the effectuation of this Stipulation.

3. This Stipulation may be executed in counterpart originals, and shall be binding on each Signatory Party when the counterparts have been executed.

4. Notices, letters and reports submitted by the Power Authority pursuant to Section I hereof shall be submitted to:

FOR POWER AUTHORITY :

Gerald C. Goldstein, Esq.
Edgar K. Byham, Esq.
James D. Lyons, Esq.
New York Power Authority
123 Main Street
White Plains, New York 01601

FOR CITY OF NEW YORK :

FOR NYPIRG:

Lisa Garcia, Esq.
New York Public Interest Research Group
9 Murray Street
Third Floor
New York, New York 10007

FOR NRDC:

Katherine Kennedy, Esq.
Natural Resources Defense Council
40 W. 20th St.
New York, New York 10011

FOR CHOKE:

Anthony J. Gigantiello, Jr.
33-60 21st St.
Long Island City, New York 11106

FOR QUEENS BOROUGH PRESIDENT:

Hugh B. Weinberg, Esq.
Office of the Borough President of Queens
120-55 Queens Boulevard
Kew Gardens, NY 11424

IN WITNESS WHEREOF, the Parties have executed this Agreement.

NEW YORK POWER AUTHORITY

By: _____

Its: _____

Dated: _____

NEW YORK STATE DEPARTMENT OF
PUBLIC SERVICE

By: _____

Its: _____

Dated: _____

CITY OF NEW YORK

By: _____

Its: _____

Dated: _____

NEW YORK PUBLIC INTEREST
RESEARCH GROUP, INC.

By: _____

Its: _____

Dated: _____

NEW YORK STATE DEPARTMENT OF
ENVIRONMENTAL CONSERVATION

By: _____

Its: _____

Dated: _____

CITIZENS HELPING TO ORGANIZE
A KLEANER ENVIRONMENT

By: _____

Its: _____

Dated: _____

NATURAL RESOURCES DEFENSE
COUNCIL, INC.

By: _____

Its: _____

Dated: _____

NEW YORK DEPARTMENT OF
HEALTH

By: _____

Its: _____

Dated: _____

EXHIBIT A

PROPOSED CERTIFICATE CONDITIONS

1. The New York Power Authority ("Power Authority") shall implement the measures to reduce air emissions from the existing 825 megawatt Charles Poletti Electric Generating Facility ("Existing Poletti Facility") in Astoria, Queens, New York, identified in the Supplemental Joint Stipulation dated September __, 2002 ("Joint Stipulation") and set forth in subparagraphs A-C, as follows.

A. During each of the calendar years 2003 and 2004 (i) limit the use of fuel oil so that at least 66.67 % of the fuel combusted at the Existing Poletti Facility on a heating value basis (mmBtu) shall be natural gas for each such year, and (ii) during the summer period of May 1 through September 31 for each such year, further limit the use of fuel oil so that at least 75% of the fuel combusted at the Existing Poletti Facility on a heating value basis (mmBtu) shall be natural gas for each such summer period;

B. During each of the calendar years 2005, 2006 and 2007 (i) limit the use of fuel oil so that at least 66.67 % of the fuel combusted at the Existing Poletti Facility on a heating value basis (mmBtu) shall be natural gas for each such year, and (ii) during the summer period of May 1 through September 31 of each such year, further limit the use of fuel oil so that at least 80% of the fuel combusted at the Existing Poletti Facility on a heating value basis (mmBtu) shall be natural gas for each such summer period.

C. The requirements set forth in subparagraphs A(ii) and B(ii) above limiting the use of fuel oil at the Existing Poletti Facility during the summer period shall not be computed using any days or hours when the Power Authority or Poletti owner burns fuel oil at such Facility because the supply and/or delivery of natural gas to such Facility has been interrupted, curtailed or suspended.

2. Effective February 1, 2008, if the Power Authority does not cease operation of the Existing Poletti Facility on such date pursuant to the provisions of Subdivision 7 of Section I of the Joint Stipulation, the Power Authority shall thereafter limit the use of fuel oil at the Existing Poletti Facility so that at least 90% of the fuel combusted at the Existing Poletti Facility on a heating value basis (mmBtu) shall be natural gas on an annual basis.

3. Effective sixty days after the commencement of commercial operation of the Project, the Power Authority shall operate its Existing Poletti Facility during any calendar year so that it does not exceed an average capacity factor of 30 percent. The Power Authority shall calculate the average capacity factor using a three-year rolling average. However, in no single year shall the Power Authority allow the capacity factor of the Existing Poletti Facility to exceed 35%; except in the event of (i) a temporary or permanent shut down of a 500MW or greater power plant in Southeastern New York for more than 30 days or (ii) the failure or removal from service for more than one week of one of the 345kv transmission lines between New York City and Westchester County. By April 1, 2003, the Power Authority shall submit a compliance filing setting forth the method it will use to compute the capacity factors and reporting such capacity factors to the Siting Board.

4. Commencing on February 1, 2003, and on February 1st of each year thereafter, the Power Authority shall provide to the New York Public Interest Research Group, Inc. ("NYPIRG"), the Natural Resources Defense Council ("NRDC"), Citizens Helping to Organize a Kleaner Environment ("CHOKE"), and the Queens Borough President (together, the "Intervenors"), a report covering the prior three year period documenting on a monthly basis the fuel use and capacity factors of the Existing Poletti Facility.

5. Commencing on January 1, 2003, the Power Authority shall increase its base budget for energy efficiency programs to be implemented within New York City by no less than \$10 million annually for each of the following five years (for a total of \$50 million). This \$50 million budget increase shall exclusively fund energy efficiency measures and shall not be used for peak load management programs or other load curtailment programs or other programs that do not result in long-term energy savings. If, at the close of a year during this five year period, any portion of that year's \$10 million increase in energy efficiency funding has not been spent, the remaining unspent amount shall be rolled forward into the following year in addition to that year's \$10 million increase. By December 1, 2002, on notice to all parties, Power Authority will convene a meeting with Intervenors and invite other interested stakeholders, including the Power Authority's Southeastern New York governmental customers, to discuss and reach agreement upon: 1) the exact base budget for New York City energy efficiency programs for 2003; 2) any institutional or market barriers to full participation in the Power Authority's energy efficiency loan programs by its governmental customers and strategies to overcome these barriers; 3) how best to achieve maximum energy and peak electric demand reductions in New York City through the additional \$10 million per year increment to the Power Authority's New York City energy efficiency programs. The Power Authority shall also, on notice to all parties, convene meetings

with Intervenor and other interested stakeholders, including the Power Authority's Southeastern New York governmental customers, every six months subsequently to review these issues and to report on the energy savings and peak demand reductions achieved by the Power Authority's New York City energy efficiency programs and any appropriate modifications to these programs to achieve further savings.

6. As of January 1, 2003, the Power Authority shall establish an account in the amount of \$2 million, which shall be made available for community-based programs for air pollution reduction programs to improve air quality and public health in Northwestern Queens. Requests for funding will be decided with the unanimous agreement of the members of a Steering Committee consisting of representatives of the Power Authority, NRDC, NYPIRG, New York State Department of Environmental Conservation ("NYSDEC"), Queens Borough President's Office and Northeast States Clean Air Foundation/Northeast States for Coordinated Air Use Management (NESCAF/NESCAUM), following, to the extent reasonable, the procedures established by Clean Air Communities for reviewing community proposals and awarding funds for such programs.

7. Unless the Power Authority fails to construct or commence operation of the Project and provides notice to the Siting Board and all Parties by February 1, 2006 that it is voiding this Certificate, the Power Authority shall:

A. Cease operation of its Existing Poletti Facility permanently as of February 1, 2008 and agree not to restart such plant after such date, unless it provides the notice set forth in subparagraph C below by June 1, 2006.

B. The Power Authority shall seek, on notice to all parties, by February 1, 2006, a written determination from the New York Independent System Operator ("NYISO"), or any successor Regional Transmission Organization ("RTO") expressly determining whether closure of the Existing Poletti Facility as of February 1, 2008, will cause the aggregate in-City electrical generating capacity (exclusive of the Existing Poletti Facility), as such aggregate capacity is determined by the NYISO or any successor entity, to be less than 80% of the total in-City projected peak demand, as determined by such NYISO or any successor entity, for the summer of 2008; provided, however, that if the NYISO or its successor RTO does not then employ a Locational Installed Capacity methodology to determine electrical generating capacity and instead employs a different methodology that does not result in a measure of installed capacity, then the threshold shall be the equivalent aggregate in-City electrical generating capacity to that described above expressed using the current NYISO or RTO methodology.

C. If, by June 1, 2006, the Power Authority provides notice to all parties enclosing a written determination from the NYISO finding that closure of the Existing Poletti Facility on February 1, 2008 will cause the aggregate in-City electrical generating capacity (exclusive of the Existing Poletti Facility) to be less than 80% of the total in-City projected peak demand, as determined by NYISO or any successor entity, for the summer of 2008 (or will cause the aggregate in-City electrical generating capacity to fall below any alternative threshold that may be established in the future pursuant to subparagraph B), then the Power Authority's obligation pursuant to subparagraph A to cease operation of the Existing Poletti Facility shall be deferred until February 1, 2009. The Power Authority shall then, by July 1, 2007, on notice to all parties, seek another written determination from the NYISO meeting the requirements of subparagraph B. If, within three months after seeking such notice, the Power Authority provides notice to all

parties enclosing a written determination from the NYISO finding that closure of the Existing Poletti Facility on February 1, 2009 will cause the aggregate in-City electrical generating capacity (exclusive of the Existing Poletti Facility) to be less than 80% of the total in-City projected peak demand, as determined by NYISO or any successor entity, for the summer of 2009 (or will cause the aggregate in-City electrical generating capacity to fall below any alternative threshold that may be established in the future pursuant to subparagraph B), then the Power Authority's obligation to cease operation and decommission the Existing Poletti Facility pursuant to Subparagraph A shall be deferred until January 31, 2010. The Power Authority shall then take any necessary remaining steps to the extent it deems it necessary to construct and operate the new natural gas-fired facility to replace the Existing Poletti Facility, referenced in subparagraph D below. In any event, the Power Authority shall cease operation of the Existing Poletti Facility permanently by January 1, 2010, and agree not to operate such facility thereafter.

D. By July 1, 2005, the Power Authority shall file an application for a Certificate under Article X of the Public Service Law ("Article X"), or any successor Article to such law, for permission to construct and operate an additional natural gas-fired, combined cycle power plant to replace the Existing Poletti Facility at the same site ("Additional Plant"), unless the Power Authority provides notice by January 1, 2005 that construction of such Additional Plant is not necessary to serve its governmental customers or for reliability purposes.

8. The Power Authority shall not sell, lease or otherwise divest or transfer ownership, title, control or management of the Existing Poletti Facility without obtaining a written acceptance by such subsequent owner, lessee, transferee or manager agreeing to fully comply with each and every provision regarding the Existing Poletti Facility set forth in Section I of this Joint Stipulation. NYPA shall provide a copy of such written acceptance to each

signatory of the Joint Stipulation. The Power Authority shall comply with the provisions of Section I of this Joint Stipulation even if it sells, leases or otherwise divests or transfers ownership, title, control or management of the Project and its Certificate.

9. By signing this Stipulation, the Power Authority:

A. Reserves and does not waive its status as a corporate municipal instrumentality of the state of New York as set forth in the Power Authority Act and does not subject itself to the jurisdiction of the City of New York or the New York City Department of Environmental Protection ("DEP"). However, for the sole purpose of expediting the Authority's pending Public Service Law Article X application for a Certificate to construct the Project and with out waiving any of the foregoing rights, the Authority agrees as follows in paragraph 9. B.

B. Within 90 days of issuance of a final Certificate, the Power Authority will provide to the Siting Board a cumulative air impact analysis that substantially complies with the City of New York's Environmental Quality Review Technical Manual, October of 2001. This analysis may be substantially based upon the cumulative air impact analysis recently provided to DEP by Berrins 1 Gas Turbine Power, LLC in connection with that company's construction of a simple cycle gas turbine at a site immediately adjacent to the Power Authority's Project. The permanent members of the Siting Board shall have continuing jurisdiction for a period of 60 days following submission of such analysis to require the Power Authority to address any material issue raised by such analysis.

EXHIBIT B

Statement of Base Budget For NYPA Energy Efficiency Programs

The Power Authority's budget for energy efficiency programs beginning in the year 2003 for the five boroughs of the City of New York is approximately \$40 million per year.