

BYLAWS
Of
THE PENNSYLVANIA ENERGY DEVELOPMENT AUTHORITY

ARTICLE I

Offices

The principal office of the Pennsylvania Energy Development Authority (the “Authority”) shall be in the Rachel Carson Office Building, 15th Floor, 400 Market Street, City of Harrisburg, County of Dauphin, Commonwealth of Pennsylvania.

ARTICLE II

Board of Directors

Section 1. The Authority shall be governed and its corporate powers exercised by a governing body consisting of the Board of Directors of the Authority (the “Board”) established under Section 3(b) of the Pennsylvania Energy Development Authority and Emergency Powers Act, Act of December 14, 1982, P.L. 1213, No. 280, 71 P.S. §720.3(b). The Board may exercise all such powers and do all such things as may be exercised or done by the Authority, by majority vote in accordance with Article III, Section 5.

Section 2. The members of the Board shall not be entitled to compensation for their services as members. The members of the Board shall, however, be entitled to reimbursement for all necessary expenses incurred in connection with their performance as members.

ARTICLE III

Meetings

Section 1. The regular meeting of the Board for the election of officers of the Authority shall be held annually after the first day of January but not later than the last day of March. This meeting shall be known as the annual meeting and shall be held at the office of the Authority, or at such other place as may be specified in the notice of the meeting, which shall be given at least five days before the meeting.

Section 2. The Board shall hold quarterly meetings throughout the year, unless cancelled by the Chairperson.

Section 3. Special meetings of the Board may be called (a) by the Chairperson, (b) by the Executive Director with the approval of the Chairperson or (c) by any three members of the Board. Special meetings of the Board may be held at any time or place. Upon notice by the Chairperson to the Executive Director, the Executive Director shall give notice to each member of the Board of each special meeting by sending a notice by email or regular mail for receipt at least five days before the meeting. Such notice may be waived by any member of the Board and shall be waived by attendance at the meeting. Unless otherwise indicated in the notice thereof, any and all business may be transacted at a special meeting. At any meeting at which every member of the Board is present, even though not all Board members have notice, any business may be transacted.

Section 4. All meetings of the Board shall be conducted, and public notice of such meetings shall be given, in accordance with the provisions of the *Sunshine Act*, 65 Pa. C.S.A. §§701 – 716.

Section 5. A quorum at any meeting shall consist of not less than ten members of the

Board. A quorum need not be present to recess or adjourn. The action of a majority of the directors attending and voting at a meeting of the Board at which a quorum is present shall be the action of the Board, provided, however, that at least six votes shall be required to adopt any action except the approval of financial assistance for any project, and at least nine votes shall be required to approve financial assistance for any project. Board members may participate in any meeting via teleconference.

Section 6. The Board, acting through a vote of at least two-thirds of those present and eligible to vote, shall have the power to remove from the Board any member who shall not have attended the three most recent prior regularly scheduled meetings of the Board, unless adequate reasons were provided to the Chairperson for such absence.

Section 7. Members of the Board may send designees who can both participate in and vote at any Board meeting.

ARTICLE IV

Officers

Section 1. The executive officers of the Authority shall be a Chairperson, a Treasurer, and a Secretary, each of whom shall be a member of the Board. The Chairperson shall be appointed by the Governor in accordance with 71 P.S. 720.3(b) (1). The Secretary and Treasurer shall be elected by the members of the Board as provided in this Article, subject to the provisions for Acting Secretary and Acting Treasurer in Sections 6 and 8, respectively, of this Article.

Section 2. The same persons shall not hold the offices of Chairperson and Secretary, Chairperson and Treasurer, or Secretary and Treasurer.

Section 3. A Secretary and a Treasurer of the Authority shall be elected from the members of the Board at or before its first annual meeting and thereafter at each annual meeting. If any

office becomes vacant during its term, the Board shall fill the same for the unexpired term. In the event that an office is created between annual meetings, the term of each officer shall be for the balance of the year, and, in every case, each officer shall serve until his successor is elected and qualifies for the office.

Section 4. The Chairperson shall set the agenda and preside at all meetings of the Board and shall sign the Energy Development Plan and all rules and regulations of the Authority. In the absence or disability of the Chairperson, whether temporary or otherwise, the Chairperson shall designate from the members of the Board (or, in the absence of any designation, the Board shall elect from its members) an Acting Chairperson to preside at its meetings or take such other action as may be necessary. The Chairperson or Acting Chairperson may delegate such functions as they may choose to the Executive Director of the Authority appointed under this Article.

Section 5. The Secretary shall keep the minutes of all meetings of the Board. The Secretary shall notify all officers of their election. The Secretary shall have charge of the seal of the Authority established under Article X, and shall affix the seal, attested by the Secretary's signature, to such instruments as may require the same. The Secretary shall have charge of the books and records of the Authority and shall perform such other duties as may be conferred from time to time by the Board.

Section 6. The Department of Environmental Protection may designate one or more persons for appointment by the Board as Assistant Secretary, or remove any such individuals with the approval of the Board, if requested by the Chairperson. The Assistant Secretary shall, in the absence or disability of the Secretary or through delegation by the Secretary, whether temporary or otherwise, perform the duties, and exercise the powers of the Secretary and such

other duties, as the Board shall from time to time prescribe.

Section 7. The Treasurer shall be the custodian of all funds and moneys of the Authority and shall keep full and accurate records of financial transactions of the Authority. The Treasurer shall endorse for collection or deposit to the credit of the Authority all bills, notes, checks and other negotiable instruments of the Authority coming into the Treasurer's hands in such depositories and safe deposits as may be designated by the Board. The Treasurer shall disburse the funds of the Authority as may be ordered by the general or specific instructions of the Board. The Treasurer shall report all receipts and expenditures to the Board quarterly and at such other times as the Board may require. The Treasurer shall annually prepare and submit to the Authority at the close of each fiscal year a full and complete report or statement of all moneys received and expended and of the existing status of the funds and assets of the Authority for such year. The Treasurer's books and records shall be subject to the inspection of the members of the Authority at any time and to examination and audit by the Auditor General of the Commonwealth of Pennsylvania from time to time or by any certified public accountant or accountants selected by the Board. The Treasurer, with the assistance of the Audit Committee, shall coordinate a biennial examination and audit of the Authority's receipts, disbursements, contracts, mortgages, investments and other matters for its finances, operations and affairs, by the Auditor General or those accountants selected by the Board, and shall report the results of such examination and audit to the Board as well as any steps to be taken as recommended or required by the Auditor General. The Executive Director and the Departments of Environmental Protection and Community and Economic Development shall cooperate with the Treasurer and Audit Committee in any such financial statement, examination or audit.

Section 8. The Department of Environmental Protection may designate one or more

persons for appointment by the Board as Assistant Treasurer, or remove such individuals, with the approval of the Board, as requested by the Chairperson. The Assistant Treasurer shall, in the absence or disability of a Treasurer or through delegation by a Treasurer, whether temporary or otherwise, perform the duties, and exercise the powers of the Treasurer and such other duties, as the Board shall from time to time prescribe.

ARTICLE V

Committees

Section 1. The Chairperson may designate standing and ad-hoc committees of the Board of Directors, including an audit committee, and may designate individual Board members for appointment by the Board to each committee under this Article. The provisions of Article VII of these Bylaws, pertaining to conflicts of interest of Board members, shall apply equally to the members of each standing and ad hoc committee with respect to actions of the committee. The Chairperson shall be an ex-officio member of all committees.

Section 2. Executive Committee. The Executive Committee of the Authority shall be the officers and the chairpersons of each committee. The Executive Committee shall have such duties and powers as may be delegated to it by the Chairperson of the Board from time to time.

Section 3. Audit Committee: The Audit Committee shall be charged with responsibility for assisting the Treasurer in coordinating of the Authority's receipts, disbursements, contracts, mortgages, investments and other matters for its finances, operations and affairs, by the Auditor General or those accountants selected by the Board, and reporting the results of such examination and audit to the Board, as well as any steps to be taken as recommended or required by the Auditor General.

Section 4. Standing Committees. The members of standing committees shall be elected

by the vote of the Board and shall have such duties and responsibilities as shall be delegated to them by the Board. The Chairperson of the Board shall appoint a chairperson of each Standing Committee.

Section 5. Ad-Hoc Committees. The members of ad-hoc committees established for particular purposes shall be elected by the Board. The Board shall disband any such committees whenever it deems that the need for such committees does not continue.

ARTICLE VI

Management, Personnel Resources and Responsibilities

Section 1. Staff services, including personnel, for the Authority shall be provided by the Department of Environmental Protection (DEP), which shall also designate an Executive Director for appointment by the Board. The Executive Director shall serve until a successor is designated and appointed. Co-Executive Directors may be so designated and appointed.

Section 2. The Executive Director shall, subject to the orders of the Board, have general supervision and direction of the business affairs of the Authority. The Executive Director shall see that all orders, resolutions, rules and regulations of the Authority are carried into effect, subject, however, to the right of the Board to delegate any powers or duties to any other member of the Board or agent of the Authority.

Section 3. Special or technical experts, legal counsel, consultants or agents as may be required by the Authority to carry out its duties shall be secured, by contract or otherwise, by the Authority or by and through DEP at the Authority's expense.

ARTICLE VII

Conflicts of Interest

Conflicts of interest affecting members of the Board shall be governed by applicable requirements, including the Adverse Interest Act, 71 P.S. §§ 776.1 *et seq.*; the Ethics Act, 65 P.S. §§ 401 *et seq.*; and the Governor's Code of Conduct, 4 Pa. Code §§ 7.151. *et seq.* In addition, any member of the Board who shall have a conflict of interest or adverse interest with any action of the Board, as defined in the relevant law, shall declare to the Chairperson and the Board the potential conflict of interest or adverse interest; shall announce and disclose the nature of his interest as a public record in a written memorandum filed with the person responsible for recording the minutes of the meeting at which the vote is taken; shall recuse himself or herself; and shall abstain from discussions, deliberations and voting whenever that interest arises; provided that whenever the Board would be unable to take action on a matter before it because the number of members of the body required to abstain from voting makes the required vote of approval unattainable, then such members shall be permitted to vote if disclosures are made as otherwise provided herein. Any such declaration shall be made at or before the commencement of a meeting at which any matter for which such conflict or adverse interest is expected to arise and shall be duly noted in the minutes.

ARTICLE VIII

Indemnification, Insurance and Fidelity Bonds

Section 1. Indemnification. Employees, officers and Board members enjoy sovereign immunity, and are entitled to a defense provided by the Commonwealth, pursuant to 42 Pa. C.S.A §§ 8501 – 8526. The Attorney General will defend employees, officers and Board members acting within the scope of their duties. In addition, the Commonwealth will provide a

defense on behalf of employees, officers and Board members when they are sued individually for alleged negligence or other unintentional misconduct occurring while in the scope of conducting duties of the Authority. Employees, officers and Board members must follow the procedures established by the Commonwealth to avail of these benefits.

Section 2. Insurance. The Authority shall have the power to purchase and maintain insurance on behalf of any person who is, was, or shall be an employee, officer or Board member of the Authority, against any liability asserted against him or her in any capacity, or arising out of his or her status as such, whether or not the Commonwealth would have the power to indemnify him or her against such liability under applicable law.

Section 3. Fidelity Bonds. The Board may acquire at Authority expense fidelity bonds or similar insurance upon Board Members, officers, employees and agents of the Authority, regarding the faithful performance of their duties, in such amounts and by such surety or other companies as the Board may determine. Any bonds so furnished shall be in the custody of the Chairperson.

ARTICLE IX

Liability of Employees, Officers and Directors

An employee, officer or Board member of the Authority shall not be personally liable to the Authority for monetary damages as a result of any action taken in good faith and in a manner he or she reasonably believes to be in the best interests of the Authority and with such care, including reasonable inquiry, skill and diligence, as a person of ordinary prudence would use under similar circumstances, unless the breach or failure to perform constitutes self-dealing, willful misconduct or recklessness; this exemption from liability shall not apply to the responsibility or liability of an employee, officer or Board member pursuant to any criminal

statute or the liability of an employee, officer or Board member for the payment of taxes pursuant to local, state or federal law.

ARTICLE X

Seal

The corporate seal of the Authority shall be circular in form and shall have inscribed thereon the name of the Authority and the year of its organization. Said seal may be used by causing it or a facsimile thereof to be impressed on, affixed to or otherwise reproduced on any document, instrument or other writing.

ARTICLE XI

Miscellaneous

Section 1. The fiscal year of the Authority shall commence on the first day of July of each year and shall end on the next thirtieth day of June.

Section 2. All bills, notes, checks or other instruments for the payment of money shall be signed or countersigned by such officers and in such manner as from time to time may be prescribed by resolution, whether general or special, of the Board.

Section 3. All contracts and obligations of the Authority shall be signed by the Chairperson and shall be attested by the Secretary or an Assistant Secretary under the seal of the Authority.

Section 4. Whenever, under the provisions of these bylaws, notice is required to be given to any member of the Board, unless otherwise specifically stated, it shall not be construed to mean personal notice, but such notice may be given in writing by mail, postage prepaid, addressed to such member at such address as appears on the books of the Authority, or in default of such address, to such member at his official office, or in the case of a member appointed to the

Authority, at his residence or usual place of business, and such notice shall be deemed to be given at the time when the same shall be thus mailed.

Section 5. Any notice required to be given under these bylaws may be waived by attendance at the meeting or in writing, if signed by the person or persons entitled to said notice, whether before or after the time stated therein.

Section 6. Any or all meetings by or of the Board may be telephone meetings, in which a conference phone conversation takes place from the established site of the Board meeting in question and is heard (a) by all participating Board members and (b) by all members of the public at the meeting site. Participation by a Board member in this fashion is deemed to be full participation for purposes of a quorum.

Section 7. Decisions by the Board, made after appropriate motions which are seconded and favorably voted on by the Board, shall become effective immediately after the favorable vote is counted and acknowledged by the Chairperson or Acting Chairperson unless otherwise stated within the motion.

ARTICLE XII

Parliamentary Authority

The rules contained in the current edition of Robert's Rules of Order Newly Revised (Scott, Foresman & Co.) shall govern the Authority in all cases to which they are applicable and in which they are not inconsistent with the laws of the Commonwealth of Pennsylvania, these bylaws, and any special rules of order the Authority may adopt.

ARTICLE XIII

Amendments

The Board shall have power to make, add, alter, amend, delete, cancel, suspend and repeal the bylaws of the Authority by a vote of not less than three-fourths of the members at any regular or special meeting of the Board without previous notice of such purpose. Two-thirds of the full membership of the Board shall have power to make, add, alter, amend, delete, cancel, suspend or repeal the bylaws of the Authority at any regular or special meeting of the Board provided at least two (2) days' notice of the purpose to make, amend, alter, suspend or repeal the bylaws in whole or in part at such meeting and of the substance of the proposed action shall have been previously given to each member.