



**Chautauqua, Cattaraugus, Allegany & Steuben Counties**

# **Southern Tier Extension Railroad Authority**

Center for Regional Excellence, 4039 Route 219, Suite 200, Salamanca, New York 14779  
TEL (716) 945-5301 FAX (716) 945-5550 TDD (716) 945-5301

**"This institution is an equal opportunity organization"**  
**John Margeson, Chairman**

## **Audit Committee Report On Review of Audit Committee Charter**

**Submitted March 8, 2011**

The Audit Committee Charter is based on the Model Audit Committee Charter provided by the NYS ABO. Accordingly, the general structure and content of the Audit Committee Charter may be assumed to be compliant with New York State expectations for authority audit committee charters. However, certain provisions of the Audit Committee Charter occasionally need to be revised to accommodate changing circumstances, new regulatory requirements, bylaw revisions, and organizational presentation. The Audit Committee proposes that the STERA Board make the following changes to its Charter:

1. Article 1 (Purpose of the Audit Committee) and Article 3 (Composition of Audit Committee and Selection of Members), Section A of the Audit Committee Charter both contain references to the STERA Bylaws, which have been modified since the creation of the Audit Committee Charter. To reflect the modifications of the STERA Bylaws, the language of these articles of the Audit Committee Charter should be changed to reflect that the Article of the Bylaws that covers the Audit Committee is Article 9, not Article 7, as is currently the case in the Audit Committee Charter.
2. Article 4 (Meetings) of the Audit Committee Charter should be revised as follows:
  - The order of listing of current sections C and D of this Article should be flip-flopped, so that they become sections D and C, respectively. This proposed change is just for improving the organizational flow of the charter. The change (a) would place the general meetings provision of the Audit Committee together as the first three sections of Article 4 and (b) would then follow with the provisions of the newly named section D, which specifically pertain to and are limited to meetings of the Audit Committee with the auditor.
  - The newly named sections C and D of Article four should be renamed sections F and G, respectively, to accommodate three new sections to be added (i.e., C, D, and E), to accommodate the next suggestion:
  - Three new sections should be added, as follows:

“C. At all Audit Committee meetings, a majority of the voting members of the Audit Committee shall constitute a quorum for the purpose of transacting business; provided that a smaller number may meet and adjourn to some other time or until the quorum is obtained. For the transaction of any business or the exercise of any power of the Audit Committee, the Audit Committee shall have the power to act by a majority of the whole number of voting members of the Audit Committee. A valid quorum and vote may only be established where such members are physically present at a meeting or are present through the use of videoconferencing.

D. Meetings of the Audit Committee are subject to the New York State Open Meetings Law and must be properly noticed per the Open Meetings Law.

E. Minutes of Audit Committee meetings will be recorded. Agendas and meeting minutes shall be posted to the Authority’s web site.”

These suggestions bring the charter in line with both the bylaws and NYS ABO/PAAA/PARA requirements, NYS Open Meetings Law provisions, and Harris Beach opinion letters.

- Section D (now section G) of this Article should be revised to delete the second and third sentences of this section (i.e., “The Audit Committee will act only on the affirmative vote of a majority of the members at a meeting or by unanimous consent. Minutes of these meetings will be recorded.”). These provisions now would be included in the new sections C and E, with language revised as per the above. This suggestion brings the charter in line with the bylaws.
- Section B should be revised to delete acceptable attendance of Audit Committee members at Audit Committee meetings via telephone. (Harris Beach’s legal opinion states that, “In order for a member to count for quorum and voting purposes, the member must be physically present or participate by videoconference. A member may participate by other means such as teleconference; however, such member would not count for quorum or voting purposes.”) This suggestion also brings the charter in line with the bylaws.

Again, the above changes are proposed (a) to reflect consistency with the STERA Bylaws, (b) to reflect consistency with NYS ABO/PAAA/PARA requirements, (c) to reflect consistency with NYS Open Meetings Law, (d) to reflect consistency with a legal opinion previously provided by Harris Beach, and (e) to promote better flow and readability.

3. Article 5 (Responsibilities of the Audit Committee) section B (Independent Auditors and Financial Statements), third bullet should be amended to read as follows:

“Review and approve the Authority’s audited financial statements, associated management letter, report on internal controls and all other auditor communications; recommend to the Authority Board that it approve the Authority’s audited financial statements, associated management letter, report on internal controls and all other auditor communications; and recommend to the Authority Board that it undertake specific appropriate actions to remedy any deficiencies identified in the Authority’s audited financial statements, associated

management letter, report on internal controls and all other auditor communications.”

This generally what is being done, so this suggestion amends the bylaws to specify this functional responsibility.

4. Article 5 (Responsibilities of the Audit Committee) section C (Internal Auditors), should have a fifth bullet added, as follow:

“Report to the Authority Board on any internal audit activities and internal audit reports, and recommend to the Authority Board that it approve any internal audit reports and take specific appropriate actions to remedy any deficiencies identified in any internal audit reports.”

5. Article 5 (Responsibilities of the Audit Committee) section D (Internal Controls, Compliance and Risk Assessment), should have a second bullet added, as follow:

“Report to the Authority Board on the effectiveness of the Authority’s internal controls, and recommend to the Authority Board that it approve any internal audit reports and take specific appropriate actions to remedy any deficiencies identified in any internal audit reports and any deficiencies identified in the report on internal controls by the independent auditor as a part of the financial audit engagement.”

6. Article 5 (Responsibilities of the Audit Committee) section E (Special Investigations), should have a fifth bullet added, as follow:

“Report to the Authority Board on any reports or complaints received under this section, and recommend to the Authority Board that it take specific appropriate actions to respond to issues identified in these reports or complaints.”

7. The words “Authority” and “Authority’s” should replace the words “Corporation” and “Corporation’s” in Article 1, Article 2, and Article 5, Section B of the Charter. This change promotes consistent terminology throughout the charter.

8. Now that the above changes have been reviewed and decided upon, here’s a proposal to reorganize the articles in the charter to promote better organization and flow of the charter.

The provisions of the current Article 2 (Powers of the Audit Committee), Section A should be merged into various sections of the current Article 5 (Responsibilities of the Audit Committee) as appropriate and the resultant article should be renamed Article 4 (Powers and Responsibilities of the Audit Committee).

The provisions of the current Article 2 (Powers of the Audit Committee), Sections B and C should be transferred to a new Article, which would be named Article 5 (Resources of the Audit Committee).

The current Article 3 (Composition of Audit Committee and Selection of Members) should be renamed Article 2 (Composition of The Audit Committee and Selection of Members).

The current Article 4 (Meetings) would be renamed Article 3 (Meetings of the Audit Committee).

Again, these proposed changes are suggested to improve the organization and flow of the Charter; the proposed changes do not affect any substantive content of the Charter. The current Article 2 and Article 5 both deal with various powers and responsibilities; the proposed changes combine them to locate all the provisions related to powers and responsibilities in a single article, the proposed Article 4 (Powers and Responsibilities of the Audit Committee).

9. There are several typos that should be corrected, and several instances of proposed revision of word usage for purposes of consistency and clarification.

Please communicate any additional suggestions for revision of the charter, and I'll see that they are brought forward at the March 8, 2011 Audit Committee meeting.

Attached is a proposed revised Audit Committee Charter that reflects these proposed revisions



**Chautauqua, Cattaraugus, Allegany & Steuben Counties**  
**Southern Tier Extension Railroad Authority**

Center for Regional Excellence, 4039 Route 219, Suite 200, Salamanca, New York 14779  
TEL (716) 945-5301 FAX (716) 945-5550 TDD (716) 945-5301

**"This institution is an equal opportunity organization"**  
**John Margeson, Chairman**

**CHAUTAUQUA, CATTARAUGUS, ALLEGANY AND STEUBEN COUNTIES SOUTHERN TIER  
EXTENSION RAILROAD AUTHORITY**

**AUDIT COMMITTEE CHARTER**

This Audit Committee Charter was adopted by the Board of Directors of the Southern Tier Extension Railroad Authority, a public benefit corporation established under the laws of the State of New York, on June 18, 2007, and amended by the Board of Directors of the Southern Tier Extension Railroad Authority on March 8, 2011.

**1. PURPOSE OF THE AUDIT COMMITTEE**

- A. Consistent with Article 9, Section 5 of the Authority's bylaws, the purpose of the Audit Committee shall be to assist the Authority's Board of Directors by:
- Assuring that the Authority's Board fulfills its responsibilities for the Authority's internal and external audit process, the financial reporting process and the system of risk assessment and internal controls over financial reporting; and
  - Recommending to the Authority's Board the hiring of a specific certified independent accounting firm for the Authority, establishing the compensation to be paid to the accounting firm, and providing direct oversight of the performance of the independent audit performed by the accounting firm hired for such purposes.
  - Providing an avenue of communication between management, the independent auditors, the internal auditors, and the Authority's Board of Directors.

**2. COMPOSITION OF THE AUDIT COMMITTEE AND SELECTION OF MEMBERS**

- A. The Audit Committee shall be established as set forth in and pursuant to Article 9, Sections 1 and 5 of the Authority's bylaws. The Audit Committee shall consist of at least three independent members of the Authority's Board of Directors. The Authority's Board of Directors determines the number of members of the Audit Committee. The Authority's Board Chairman shall appoint the Audit Committee members and the Audit Committee Chairperson. Members of the Audit Committee shall serve at the discretion of the Board of Directors, provided that the members of the Audit Committee shall

serve until their resignation, retirement, removal by the Board or until their successors shall be appointed and qualified. When feasible, the immediate past Audit Committee Chair will continue serving as a member of the Audit Committee for at least one year to ensure an orderly transition.

- B. Audit Committee members shall be prohibited from being an employee of the Authority or an immediate family member of an employee of the Authority. In addition, Audit Committee members shall not engage in any private business transactions with the Authority or receive compensation from any private entity that has material business relationships with the Authority, or be an immediate family member of an individual that engages in private business transactions with the Authority or receives compensation from an entity that has material business relationships with the Authority.
- C. Ideally, all members of the Audit Committee shall possess or obtain a basic understanding of governmental financial reporting and auditing.

### **3. MEETINGS OF THE AUDIT COMMITTEE**

- A. The Audit Committee shall meet a minimum of twice a year, with the expectation that additional meetings may be required to adequately fulfill all the obligations and duties outlined in this Charter.
- B. Members of the Audit Committee are expected to attend each Committee meeting, in person or via videoconference. The Audit Committee may invite other individuals, such as members of management, auditors, counsel, financial experts, or other technical experts to attend meetings and provide pertinent information, as necessary.
- C. At all Audit Committee meetings, a majority of the voting members of the Audit Committee shall constitute a quorum for the purpose of transacting business; provided that a smaller number may meet and adjourn to some other time or until the quorum is obtained. For the transaction of any business or the exercise of any power of the Audit Committee, the Audit Committee shall have the power to act by a majority of the whole number of voting members of the Audit Committee. A valid quorum and vote may only be established where such members are physically present at a meeting or are present through the use of videoconferencing.
- D. Meetings of the Audit Committee are subject to the New York State Open Meetings Law and must be properly noticed per the Open Meetings Law.
- E. Minutes of Audit Committee meetings will be recorded. Agendas and meeting minutes shall be posted to the Authority's web site.
- F. Meeting agendas will be prepared for every meeting and provided to the Audit

Committee members along with briefing materials a minimum of 2 business days before the scheduled Audit Committee meeting.

- G. The Audit Committee will meet with the Authority's independent auditor at least annually to discuss the financial statements of the Authority.

#### **4. POWERS AND RESPONSIBILITIES OF THE AUDIT COMMITTEE**

##### **A. General Provisions**

The Audit Committee shall have responsibilities related to: (a) the independent auditor and annual financial statements; (b) the Authority's internal auditors; (c) oversight of management's internal controls, compliance and risk assessment practices; (d) special investigations and whistleblower policies; and (e) miscellaneous issues related to the financial practices of the Authority. These responsibilities are outlined in the remaining sections of this Article. To carry out these responsibilities, the Audit Committee shall:

- Conduct or authorize investigations into any matters within its scope of responsibility.
- Seek any information it requires from Authority employees or contract staff, all of whom should be directed by the Board to cooperate with Audit Committee requests.
- Meet with Authority employees or contract staff, independent auditors, financial experts, or outside counsel, as necessary.

##### **B. Independent Auditors and Audited Financial Statements**

The Audit Committee shall:

- Recommend to the Authority's Board the hiring of a specific certified independent accounting firm for the Authority, establish the compensation to be paid to the accounting firm, provide direct oversight of the performance of the independent audit performed by the accounting firm hired for such purposes, and pre-approve all audit services provided by the independent auditor.
- Establish procedures for the engagement of the independent auditor to provide permitted audit services. The Authority's independent auditor shall be prohibited from providing non-audit services unless having received previous written approval from the Audit Committee. Non-audit services include tasks that directly support the Authority's operations, such as bookkeeping or other services related to the accounting records or financial statements of the Authority, financial information systems design and implementation, appraisal or valuation services, actuarial services, investment banking services, and other tasks that may involve performing management functions or making management decisions.

- Review and approve the Authority's audited financial statements, associated management letter, report on internal controls and all other auditor communications; recommend to the Authority Board that it approve the Authority's audited financial statements, associated management letter, report on internal controls and all other auditor communications; and recommend to the Authority Board that it undertake specific appropriate actions to remedy any deficiencies identified in the Authority's audited financial statements, associated management letter, report on internal controls and all other auditor communications.
- Review significant accounting and reporting issues, including complex or unusual transactions and management decisions, and recent professional and regulatory pronouncements, and understand their impact on the financial statements.
- Meet with the independent audit firm as needed to discuss any significant issues that may have surfaced during the course of the audit.
- Review and discuss any significant risks reported in the independent audit findings and recommendations and assess the responsiveness and timeliness of management's follow-up activities pertaining to the same.

### **C. Internal Auditors**

The Audit Committee shall:

- Review with management and the internal audit director, the charter, activities, staffing and organizational structure of the internal audit function. The Audit Committee shall have authority over the appointment, dismissal, compensation and performance reviews of the internal audit director.
- Ensure that the internal audit function is organizationally independent from Authority operations.
- Review the reports of internal auditors, and have authority to review and approve the annual internal audit plan.
- Review the results of internal audits and approve procedures for implementing accepted recommendations of the internal auditor.
- Report to the Authority Board on any internal audit activities and internal audit reports, and recommend to the Authority Board that it approve any internal audit reports and take specific appropriate actions to remedy any deficiencies identified in any internal audit reports.

### **D. Internal Controls, Compliance and Risk Assessment**

The Audit Committee shall:

- Review management's assessment of the effectiveness of the Authority's internal controls and review the report on internal controls by the independent auditor as a

part of the financial audit engagement.

- Report to the Authority Board on the effectiveness of the Authority's internal controls, and recommend to the Authority Board that it approve any internal audit reports and take specific appropriate actions to remedy any deficiencies identified in any internal audit reports and any deficiencies identified in the report on internal controls by the independent auditor as a part of the financial audit engagement.

#### **E. Special Investigations**

The Audit Committee shall:

- Ensure that the Authority has an appropriate confidential mechanism for individuals to report suspected fraudulent activities, allegations of corruption, fraud, criminal activity, conflicts of interest or abuse by the Directors, officers, or employees of the Authority or any persons having business dealings with the Authority or breaches of internal control.
- Develop procedures for the receipt, retention, investigation and/or referral of complaints concerning accounting, internal controls and auditing to the appropriate body.
- Request and oversee special investigations as needed and/or refer specific issues to the appropriate body for further investigation (for example, issues may be referred to the State Inspector General or, other investigatory organization.).
- Review all reports delivered to it by the Inspector General and serve as a point of contact with the Inspector General.
- Report to the Authority Board on any reports or complaints received under this section, and recommend to the Authority Board that it take specific appropriate actions to respond to issues identified in these reports or complaints.

#### **F. Other Responsibilities of the Audit Committee**

The Audit Committee shall:

- Present annually to the Authority's Board a written report of how it has discharged its duties and met its responsibilities as outlined in the charter.
- Obtain any information and training needed to enhance the Committee members' understanding of the role of internal audits and the independent auditor, the risk management process, internal controls and a certain level of familiarity in financial reporting standards and processes.
- Review the Committee's charter annually, reassess its adequacy, and recommend any proposed changes to the Board of the Authority. The Audit Committee charter will be updated as applicable laws, regulations, accounting and auditing standards change.

- Conduct an annual self-evaluation of its performance, including its effectiveness and compliance with the charter and request the Board approval for proposed changes.

**5. RESOURCES OF THE AUDIT COMMITTEE**

- A. The Authority’s Board of Directors shall ensure that the Audit Committee has sufficient resources to carry out its duties.
- B. The Audit Committee shall have access to the services of at least one financial expert; whose name shall be disclosed in the annual report of the Authority. The Audit Committee’s financial expert should have:
- An understanding of generally accepted accounting principles and financial statements; and
  - Experience in preparing or auditing financial statements of comparable entities; and
  - Experience in applying such principles in connection with the accounting for estimates, accruals and reserves; and
  - Experience with internal accounting controls; and,
  - An understanding of Audit Committee functions.
- C. The Audit Committee shall have the authority to retain, at the Authority’s expense, such outside counsel, financial experts, and other technical advisors, as the Audit Committee may deem appropriate.

**Originally Approved by the Board of Directors of the Chautauqua, Cattaraugus, Allegany, and Steuben Southern Tier Extension Railroad Authority on June 18, 2007**

**Amended by the Board of Directors of the Chautauqua, Cattaraugus, Allegany, and Steuben Southern Tier Extension Railroad Authority on March 8, 2011**

<b>Name</b>
<b>Title</b>