MINUTES OF THE REGULAR MEETING
OF THE
POWER AUTHORITY OF THE STATE OF NEW YORK

July 30, 2015

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Minutes of the Regular Meeting of the Power Authority of the State of New York held at the Clarence D. Rappleyea Building, White Plains, New York, at approximately 10:10 a.m.

Members of the Board present were:

John R. Koelmel, Chairman
Eugene L. Nicandri, Trustee
Jonathan F. Foster, Trustee
Terrance P. Flynn, Trustee
Anthony Picente, Jr., Trustee
Tracy McKibben, Trustee

Dr. Anne M. Kress, Trustee – Excused

Gil Quiniones	President and Chief Executive Officer
Edward Welz	Chief Operating Officer
Robert Lurie	Executive Vice President and Chief Financial Officer
Justin Driscoll	Executive Vice President and General Counsel
Jill Anderson	Senior Vice President – Public and Regulatory Affairs
Jennifer Faulkner	Senior Vice President – Internal Audit
Paul Tartaglia	Senior Vice President – Energy Resource Management
James Pasquale	Senior Vice President – Economic Development & Energy Efficiency
Kristine Pizzo	Senior Vice President – Human Resources
Rocco Iannarelli	Senior Vice President – Enterprise Shared Services
Karen Delince	Vice President and Corporate Secretary
Keith Hayes	Vice President – Marketing
Joseph Leary	Vice President – Community and Government Relations
Ethan Riegelhaupt	Vice President – Corporate Communications
Andrew Neuman	Assistant General Counsel – Power, Transmission a Regulatory
Robert Hopkins	Director – Budgets
Eric Bowers	Manager – Key Accounts
Maribel Cruz	Manager – Business Power Allocations and Compliance
Steven Gosset	Manager – Media Relations
Gregory Jablonsky	Manager – Network Services – Infrastructure
Egle Travis	Manager – Pricing and Energy Market Analysis
Silvia Louie	Senior Project Manager – Executive Office/Public and Regulatory Affairs
Oksana Karaczewsky	Compliance and Special Projects Manager
Glenn Martinez	Senior Network Analyst – Infrastructure
Lorna Johnson	Associate Corporate Secretary
Sheila Baughman	Assistant Corporate Secretary

Chairman Koelmel presided over the meeting. Corporate Secretary Delince kept the Minutes.

Introduction

Chairman Koelmel welcomed new Trustees, Tracy McKibben and Anthony Picente, fellow Trustees, and staff members who were present at the meeting. He said that the meeting had been duly noticed as required by the Open Meetings Law and called the meeting to order pursuant to the Authority's Bylaws, Article III, Section 3.

1. Adoption of July 30, 2015 Proposed Meeting Agenda

Upon motion made and seconded, the meeting Agenda was adopted.

Conflicts of Interest

Trustee Flynn declared conflicts of interest as indicated below and said he would not participate in the discussions or votes as it relates to those matters.

- ***International Business Machines Corporation and JP Morgan Chase (Item 2b ii);***
- ***Bernier, Carr & Associates, PC; E I Team, Inc.; Solar Liberty Energy Systems, Inc.; Trigyn Technologies, Inc. (Item 2c i)***
- ***O'Connell Electric Company, Inc. (Item 2d iv)***
- ***Bausch & Lomb Incorporated and Thomas Electronics, Inc. (Item 4a)***
- ***Ashland Advanced Materials; RHI Monofrax; Saint Gobain Structural Ceramics (Item 4b)***
- ***The Indium Corporation of America (Lincoln Avenue); ITT Corp. (EDO); Universal Photonics, Inc. (Item 4c)***

Chairman Koelmel and Trustees Nicandri, Foster, Picente, and McKibben declared no conflicts.

2. CONSENT AGENDA:

Upon motion made and seconded, the Consent Agenda was approved.

Trustee Flynn was recused from the votes as they relate to the companies previously indicated.

a. Governance Matters:

i. <u>Approval of the Minutes</u>

The Minutes of the Regular Meeting held on May 19, 2015 were unanimously adopted.

ii. <u>Committee Appointments</u>

The Chairman submitted the following report:

"SUMMARY

The Trustees are requested to approve the committee appointments below, effective immediately, in accordance with Article V the By-Laws of the Power Authority of the State of New York, as amended March 27, 2012 ('By-Laws').

BACKGROUND

The following changes in committee composition are recommended in order to achieve an even distribution of assignments for each Trustee. (Change indicated in bold.)

Audit Committee
Eugene L. Nicandri (Chair), Jonathan F. Foster, Terrance P. Flynn, **Anthony J. Picente, Jr.**

Finance Committee
Tracy B. McKibben (Chair), John R. Koelmel, Terrance P. Flynn, **Jonathan F. Foster**

Governance Committee
Anne M. Kress **(Chair)**, John R. Koelmel, Eugene L. Nicandri, Anthony J. Picente, Jr.

Strategic Planning and Energy Policy Committee
Jonathan F. Foster **(Chair)**, John R. Koelmel, **Anne M. Kress, Tracy B. McKibben**

RECOMMENDATION

The following resolution is recommended for adoption."

The following resolution, as submitted by the Chairman, was unanimously adopted.

RESOLVED, That the members of the Audit Committee shall be: Eugene L. Nicandri (Chair), Jonathan F. Foster, Terrance P. Flynn, Anthony J. Picente, effective immediately; and be it further

RESOLVED, That the members of the Finance Committee shall be: Tracy B. McKibben (Chair), John R. Koelmel, Terrance P. Flynn, Jonathan F. Foster, effective immediately; and be it further

RESOLVED, That the members of the Governance Committee shall be: Anne M. Kress (Chair), John R. Koelmel, Eugene L. Nicandri, Anthony J. Picente, Jr., effective immediately; and be it further

RESOLVED, That the members of the Strategic Planning and Energy Policy Committee shall be: Jonathan F. Foster (Chair), John R. Koelmel, Anne M. Kress, Tracy B. McKibben, effective immediately.

b. Power Allocations:

i. Western New York Hydropower Allocation and Notice of Public Hearing

The President and Chief Executive Officer submitted the following report:

"SUMMARY

The Trustees are requested to approve an allocation of 100 kilowatts ('kW') of Replacement Power ('RP') to Finger Food Products, Inc. ('Finger Food'), which is proposing the construction of a new facility in Niagara County, as further described in Exhibits '2b i-A' and '2b i-A-1.' The allocation would support capital investment of at least $3 million and the creation of 11 jobs in Western New York ('WNY').

The Trustees are also requested to authorize a public hearing pursuant to Public Authorities Law ('PAL') §1009 on the proposed direct sale contract for Finger Food, the current form of which is attached as Exhibit '2b i-B.'

BACKGROUND

Under PAL §1005(13), the Authority may contract to allocate 250 megawatts ('MW') of firm hydroelectric power as EP and up to 445 MW of Replacement Power ('RP') to businesses in the State located within 30 miles of the Niagara Power Project, provided that the amount of power allocated to businesses in Chautauqua County on January 1, 1987 shall continue to be allocated in such county.

Each application for an allocation of EP and RP must be evaluated under criteria that include but need not be limited to, those set forth in PAL §1005(13)(a), which details general eligibility requirements. Among the factors to be considered when evaluating a request for an allocation of hydropower are the number of jobs created as a result of the allocation; the business' long-term commitment to the region as evidenced by the current and/or planned capital investment in the business' facilities in the region; the ratio of the number of jobs to be created to the amount of power requested; the types of jobs to be created, as measured by wage and benefit levels, security and stability of employment, and the type and cost of buildings, equipment and facilities to be constructed, enlarged or installed.

The Authority works closely with business associations, local distribution companies and economic development entities to garner support for the projects to be recommended for allocations of Authority hydropower. Discussions routinely occur with National Grid, Empire State Development ('ESD'), the Buffalo Niagara Enterprise and Niagara County Center for Economic Development ('NCCED') and Erie County Industrial Development Agency ('ECIDA') to coordinate other economic development incentives that may help bring economic development to New York State. Staff confers with these entities to help maximize the value of hydropower to improve the economy of WNY and the State of New York. Each organization has expressed support for today's recommended allocations.

DISCUSSION

Background

At this time, 7,455 kW of unallocated EP and 29,213 kW of unallocated RP is available to be awarded to businesses under the criteria set forth in PAL §1005(13)(a).

Finger Food Products, Inc.

A family business, Finger Food was founded in Niagara Falls in the late 1980s and has been making Original Pizza Logs since 1991. Original Pizza Logs are the official finger food of the Buffalo Bills, Sabres and Bisons as well as the Pittsburgh Pirates.

Finger Food currently employs 18 people and has requested an allocation of 120 kW to help power a new, 30,000-square-foot facility to be built on 5.5 acres in the Vantage International Pointe Business Park in the Town of Wheatfield (Niagara County).

Finger Food currently operates in a 23,000-square-foot facility, but as the company grows and demand increases, the current space has become inefficient for food production.

At least $3 million would be invested in the project: approximately $2,655,000 for machinery; $315,000 toward coolers, fryers, freezers and compressors; and $37,500 to secure the property. Finger Food would start construction on the facility in August 2015 and expects to be completed in June 2016. A total of 11 new employees would be hired over a three-year period.

The project is also being supported by the Niagara County Industrial Development Agency.

The job creation ratio for the proposed allocation of 100 kW is 110 new jobs per MW. This ratio is above the historic average of 29 new jobs per MW based on allocations made during the past five years. The total project investment of at least $3 million would result in a capital investment ratio of $30 million per MW. This ratio is above the five-year historic average of $24.3 million per MW.

Staff recommends an allocation of 100 kW of RP be awarded to Finger Food in support of an investment of at least $3 million and the creation of 11 new jobs at its new facility, as further detailed in Exhibits ‘2b i-A’ and ‘2b i-A-1.’

Contract Information

The Authority is in the process of discussing the proposed hydropower sales contract with Finger Food and anticipates receiving approval of a contract substantially similar to the form attached as Exhibits ‘2b i-B.’ Accordingly, the Trustees are requested to authorize a public hearing, pursuant to PAL §1009, on the contract form attached as Exhibit ‘2b i-B.’

As required by PAL §1009, when the Authority believes it has reached agreement with its prospective co-party on a contract for the sale of EP or RP, it will transmit the proposed form of the contract to the Governor and other elected officials, and hold a public hearing on the contract. At least 30-days’ notice of the hearing must be given by publication once in each week during such period in each of six selected newspapers. Following the public hearing, the form of the contract may be modified, if advisable. Staff will report to the Board of Trustees on the public hearing and the proposed contract at a later time and make additional recommendations regarding the proposed contract.

Upon approval of the final proposed contract by the Authority, the Authority must ‘report’ the proposed contract, along with its recommendations and the public hearing records, to the Governor and other elected officials. Upon approval by the Governor, the Authority may execute the contract.

The general form of the proposed contract is consistent with recently-approved contracts for the sale of EP and RP. Some pertinent provisions of the proposed form of the contract include the provision for direct billing of all production charges (i.e., demand and energy) as well as all New York Independent System Operator, Inc. (‘NYISO’) charges, plus taxes or any other required assessments, as set forth in the Authority’s Service Tariff No. WNY-1. The proposed form of contract would also include (i) commercially reasonable provisions relating to financial security to reflect a direct billing arrangement between the Authority and its EP/RP customers, and (ii) provisions authorizing data transfers and addressing other utility-driven requirements which are necessary for efficient program implementation. Such provisions have been used in other Authority contracts forms, including the Authority's Recharge New York Power Program contracts.

The provision of electric service for all hydropower allocations are subject to enforceable employment and usage commitments. The standard contract form includes annual job reporting requirements and a job compliance threshold of 90%. Should actual jobs reported by any company receiving a hydropower allocation fall below the compliance threshold, the Authority has the right to reduce the allocation on a pro-rata basis as provided for in the contract.

The recommended allocations would be sold pursuant to the Authority's Service Tariff No. WNY-1, which applies to all allocations of EP and RP. Transmission and delivery service would be provided by National Grid or New York State Electric & Gas in accordance with its Public Service Commission-filed service tariffs.

RECOMMENDATION

The Vice President – Marketing, recommends that the Trustees approve an allocation of 100 kW of Replacement Power to Finger Food as further described herein and in Exhibits '2b i-A' and '2b i-A-1.'

For the reasons stated, I recommend the approval of the above-requested action by adoption of the resolution below."

The following resolution, as submitted by the President and Chief Executive Officer, was unanimously adopted.

RESOLVED, That an allocation of 100 kilowatts ("kW") of Replacement Power ("RP") to Finger Food Products, Inc., as detailed in the foregoing report of the President and Chief Executive Officer and Exhibits "2b i-A" and "2b i-A-1," be and hereby is approved; and be it further

RESOLVED, That the Trustees hereby authorize a public hearing pursuant to Public Authorities Law ("PAL") §1009 on the terms of the proposed form of the direct sale contract for the sale of RP finally negotiated with Finger Food Products, Inc. (the "Contract"), the current form of which is attached as Exhibit "2b i-B," subject to rates previously approved by the Trustees; and be it further

RESOLVED, That the Corporate Secretary be, and hereby is, authorized to transmit a copy of the proposed Contracts to the Governor, the Speaker of the Assembly, the Minority Leader of the Assembly, the Chairman of the Assembly Ways and Means Committee, the Temporary President of the Senate, the Minority Leader of the Senate and the Chairman of the Senate Finance Committee pursuant to PAL §1009; and be it further

RESOLVED, That in connection with the proposed Contract, the Corporate Secretary be, and hereby is, authorized to arrange for the publication of a

notice of public hearing in six newspapers throughout the State, in accordance with the provisions of PAL §1009; and be it further

RESOLVED, That the Chairman, the President and Chief Executive Officer, the Chief Operating Officer and all other officers of the Authority are, and each of them hereby is, authorized on behalf of the Authority to do any and all things, take any and all actions and execute and deliver any and all agreements, certificates and other documents to effectuate the foregoing resolution, subject to the approval of the form thereof by the Executive Vice President and General Counsel.

ii. Transfers and Redistribution of Power Allocations

The President and Chief Executive Officer submitted the following report:

"SUMMARY

The Trustees are requested to approve:

1. The transfer of three Western New York hydropower allocations (790 kilowatts ('kW') of Expansion Power ('EP') and two allocations of 31,700 kW and 3,000 kW, respectively, of Replacement Power ('RP')), from E. I. du Pont de Nemours and Company ('Du Pont') to The Chemours Company FC, LLC, in connection with the sale of a business line by Du Pont to The Chemours family of companies.

2. The transfer of a 5,000 kW Recharge New York ('RNY') Hydropower allocation from International Business Machines Corporation ('IBM') to GlobalFoundries U.S. 2 LLC, in connection with the sale of a business line by IBM to GlobalFoundries U.S. 2 LLC.

3. The redistribution of three RNY Power Hydropower allocations totaling 9,333 kW between three JP Morgan Chase ('JPMC') facilities located within the New York City Metropolitan area to accommodate the customer's business objectives.

At its July 27, 2015 meeting, the Economic Development Power Allocation Board ('EDPAB') approved the transfer of the RNY Power allocation described in item #2, and the redistribution of the RNY Power allocation described in item #3 above. EDPAB action is not required for transfer of the Western New York hydropower allocations described in item #1 above.

DISCUSSION

1. Du Pont

Du Pont operates a chemical manufacturing facility in Niagara Falls, Niagara County (the ('NF Facility'), which includes manufacturing that is part of Du Pont's Performance Chemicals business. A power sale agreement between the Authority and Du Pont provides for the sale of three Western New York hydropower allocations, consisting of an Expansion Power allocation in the amount of 790 kilowatts ('kW'), and Replacement Power allocations in the amounts of 31,700 kW and 3,000 kW (collectively, the 'NF Facility Allocations') which were awarded to support Du Pont's business at the NF Facility.

Du Pont has agreed to sell its Performance Chemicals business to The Chemours Company, LLC which has formed The Chemours Company FC, LLC to purchase and operate the NF Facility and the Performance Chemicals business at the NF Facility.

Du Pont and The Chemours companies have indicated that the transfer of the NF Facility Allocations is essential to the economic success of the Performance Chemicals business at the NF Facility.

The Chemours Company FC, LLC has indicated it is amenable to assuming Du Pont's rights and obligations under Du Pont's Power Sale Agreement with the Authority, including Du Pont's job and capital investment commitments. If the transfer is approved, the terms and conditions for the transfer of the NF Facility Allocations would be set forth in a written agreement between the Authority, Du Pont, and The Chemours Company FC, LLC containing terms and conditions determined by the Authority to be appropriate to effectuate the transfer.

2. IBM

IBM has owned and operated a microelectronics business at facilities located at 2070 Route 52, B316, Hopewell Junction, NY (the 'HJ Facility'). IBM is a party to a power sale agreement with the Authority pursuant to which it purchases 5,000 kW of Recharge New York Hydropower (the 'IBM RNY Hydropower Allocation') to support its operations at the HJ Facility.

In connection with a contract entitled 'The Master Transaction Agreement' between IBM and Global Foundries US, Inc. ('GF US, Inc.'), dated as of October 18, 2014, IBM has agreed sell its microelectronics business, including the HJ Facility, to GlobalFoundries U.S. 2 LLC, a wholly-owned subsidiary of GF US, Inc.

IBM and the GlobalFoundries companies have advised NYPA that the microelectronics business conducted at the HJ Facility would be adversely impacted by the loss of the IBM RNY Hydropower Allocation, and therefore the parties have requested that the IBM RNY Hydropower Allocation be transferred to GlobalFoundries U.S. 2 LLC effective upon its purchase of the HJ Facility.

To accommodate transaction planning by the parties, the Authority, IBM and GlobalFoundries U.S. 2 LLC have already entered into a 'Novation, Assignment and Assumption of Agreement for the Sale of Recharge New York Power and Energy' ('Novation Agreement') that would provide for the transfer of the RNY Hydropower allocation from IBM to GlobalFoundries U.S. 2 LLC on terms that are acceptable to the Authority. The effectiveness of the Novation Agreement is expressly contingent upon, among other things, approval of the transfer of the RNY Power Allocation by EDPAB and the Trustees. In addition to other pertinent terms and conditions, the Novation Agreement provides that GlobalFoundries U.S. 2 LLC would assume IBM's rights and obligations under the Power Sale Agreement, including IBM's job and capital investment commitments at the HJ Facility.

3. JPMC

JP Morgan Chase ('JPMC'), an established Authority customer, is one of the oldest financial institutions in the United States and provides a broad range of banking and financial products and services to customers world-wide.

JPMC was awarded three RNY Power allocations on April 24, 2012 for use at three separate campus facilities located in Midtown, Downtown and Brooklyn, in New York City. JPMC decided to purchase the RNY Hydropower portion of the awarded allocations, collectively totaling 9,333 kW (collectively, the 'JPMC RNY Hydropower Allocations'). As a result of a previous redistribution approved by EDPAB and the Trustees in 2014, the JPMC RNY Hydropower Allocations are currently distributed as follows:

- Midtown campus buildings: 5,245 kW
- Brooklyn campus buildings: 3,113 kW
- Downtown campus buildings: 975 kW

JPMC's job and capital investment commitments associated with the JPMC RNY Hydropower Allocations, which are tied to the campus facilities, are as follows:

- Midtown campus buildings: 15,492 jobs committed, and $730,650,350 capital investment commitment
- Brooklyn campus buildings: 4,012 jobs committed, and $296,993,007 capital investment commitment

- Downtown campus buildings: 2,692 jobs committed, and $33,356,643 capital investment commitment

JPMC has requested that the JPMC RNY Allocations be redistributed again as follows in order to more accurately account for current staffing and operational needs and to reflect changes to meter ownership at the Downtown campus:

- Midtown campus buildings: 5,470 kW
- Brooklyn campus buildings: 3,863 kW
- Downtown campus buildings: 0 kW

If the redistribution is approved, JPMC's total facility job and capital investment commitments would not change. JPMC is currently in compliance with its job commitments and will continue to honor in aggregate all job and capital investment commitments provided for in its contracts with the Authority.

RECOMMENDATIONS

Based on the foregoing, the Vice President – Marketing, recommends that the Trustees approve the following:

(1) transfer of the three Niagara Falls Facility Allocations from E. I. du Pont de Nemours and Company to The Chemours Company FC, LLC;

(2) transfer of the International Business Machines Corporation ('IBM') Recharge New York ('RNY') Hydropower Allocation from IBM to GlobalFoundries U.S. 2 LLC, contingent upon the execution of contract documents containing terms and conditions determined by the Authority to be appropriate to effectuate the transfer; and

(3) redistribution of the three JP Morgan Chase RNY Hydropower Allocations as described above.

For the reasons stated, I recommend the approval of the above-requested action by adoption of the resolution below."

The following resolution, as submitted by the President and Chief Executive Officer, was adopted with Trustee Flynn being recused from the vote as it relates to International Business Machines Corporation.

RESOLVED, That the transfer of three allocations of Authority hydropower totaling 35,490 kilowatts ("kW") (790 kW of Expansion Power, and two allocations of 31,700 kW and 3,000 kW, respectively, of Replacement Power), from E. I. du Pont de Nemours and Company to The Chemours Company FC, LLC, as described in the foregoing report of the President and Chief Executive Officer be, and hereby is, approved, contingent upon the execution of contract documents containing terms and conditions determined by the Authority to be appropriate to effectuate the transfer; and be it further

RESOLVED, That the transfer of a 5,000 kW allocation of Recharge New York ("RNY") Hydropower from International Business Machines Corporation to GlobalFoundries U.S. 2 LLC as described in the foregoing report of the President and Chief Executive

Officer be, and hereby is, approved subject to such conditions as are set forth in the foregoing report of the President and Chief Executive Officer and any contract prepared in accordance with this resolution; and be it further

RESOLVED, That the redistribution of three RNY Hydropower allocations totaling 9,333 kW between JP Morgan Chase facilities as described in the foregoing report of the President and Chief Executive Officer be, and hereby is, approved subject to such conditions as are set forth in the foregoing report of the President and Chief Executive Officer and any contract prepared in accordance with this resolution; and be it further

RESOLVED, That the Chairman, the President and Chief Executive Officer, the Chief Operating Officer and all other officers of the Authority are, and each of them hereby is, authorized on behalf of the Authority to do any and all things, take any and all actions and execute and deliver any and all agreements, certificates and other documents to effectuate the foregoing resolution, subject to the approval of the form thereof by the Executive Vice President and General Counsel.

iii. Contracts for the Sale of Western New York Hydropower – Transmittal to the Governor

The President and Chief Executive Officer submitted the following report:

"SUMMARY

The Trustees are requested to:

(1) Approve proposed final contracts ('Contracts') for (i) the sale of Replacement Power ('RP') to Pride Pak Canada Ltd., (ii) the sale of Expansion Power ('EP') to Just Greens, LLC, and (iii) the sale of EP to Cummins Inc. (collectively, the 'Companies'). These matters are described in Exhibit '2b iii-A.'

(2) Authorize transmittal of the Contracts to the Governor for his review and requested authorization for the Authority to execute the Contracts pursuant to Public Authorities Law ('PAL') §1009. The Contracts are attached as Exhibit '2b iii-B-1', '2b iii-B-2' and '2b iii-B-3'.

BACKGROUND

Under PAL §1005(13), the Authority may allocate and sell directly or by sale for resale, 250 megawatts ('MW') of Expansion Power ('EP') and 445 MW of RP to businesses located within 30 miles of the Niagara Power Project, provided that the amount of EP allocated to businesses in Chautauqua County on January 1, 1987 shall continue to be allocated in such county. Under PAL §1005(13), the Authority may allocate and sell directly or by sale for resale, 490 megawatts ('MW') of Preservation Power ('PP') to businesses located in Jefferson, Franklin and St. Lawrence Counties.

At their meeting on March 26, 2015, the Trustees awarded an allocation of 1,000 kilowatts ('kW') of RP to Pride Pak Canada Ltd. as described in Exhibit '2b iii-A.' At their meeting on May 19, 2015, the Trustees awarded an allocation of 1,840 kW of EP to Just Greens, LLC and 700 kW of EP to Cummins Inc., as described in Exhibit '2b iii-A.' At these meetings, the Trustees also authorized public hearings on the Contracts pursuant to PAL §1009.

The Contracts before the Board would provide for the sale of these allocations to the Companies. The sale of these allocations would be made under a direct sale arrangement. Transmission and delivery service would be provided by the company's local utility in accordance with the utility's Public Service Commission-filed delivery service tariff. The following is a summary of some pertinent provisions of the Contracts:

- The Contracts would provide for the direct billing of all production charges (*i.e.* demand and energy) as well as all New York Independent System Operator, Inc. ('NYISO') charges, plus taxes or any other required assessments, as set forth in the Trustee approved Service Tariff WNY-1 ('ST WNY-1') and the Service Tariff-10 ('ST-10').

- The Contracts include each Company's agreed-upon commitments with respect to employment, power utilization and capital investments. The Authority would retain the right to reduce or terminate the allocation if employment, power utilization, or capital investment commitments are not met.

- The Contracts provide for the sale of additional allocations of EP and/or RP to the Companies in appropriate circumstances by incorporating new allocations into Schedule A of the Contracts. The Trustees approved this convention in the 2010 long-term extension contract for hydropower, which simplifies contract administration.

- To accommodate non-payment risk that could result from the direct billing arrangement with the Authority, the Contracts include commercially reasonable provisions concerning, among other things, the ability to require deposits in the event of a customer's failure to make payment for any two monthly bills. This is consistent with recent Authority contracts that incorporate direct billing, including the Authority's Recharge New York sales contracts.

- The Contracts require that the Companies perform an energy efficiency audit at least once within five years at the facility receiving the low-cost power to help ensure the hydropower is utilized as effectively as possible.

The Authority has discussed the Contracts with each of the Companies and in each case has received the Company's consent to its proposed Contract. The Companies have also acknowledged application of the appropriate tariff, discussed above, to its allocation.

As required by PAL §1009, when the Authority has reached agreement with its co-party on such a contract, it is required to transmit the proposed contract to the Governor and other elected officials and hold a public hearing on the proposed contract. At least 30-days' notice of the hearing must be given by publication once in each week during such period in each of six selected newspapers. Following the public hearing, the contract may be modified, if advisable.

Upon approval of the final proposed contract by the Authority, the Authority must 'report' the proposed contract, along with its recommendations and the public hearing record, to the Governor and other elected officials. Upon approval by the Governor, the Authority may execute the contract.

DISCUSSION

As noted above, the Trustees, at their March 26 and May 19, 2015 meetings, awarded the aforementioned allocations to these Companies, and also authorized the Corporate Secretary to schedule a public hearing on the Contracts.

A public hearing for the Contracts was held on July 1, 2015 at the Niagara Power Project's Power Vista Visitors' Center in Lewiston, New York. There were no oral statements made at the public hearing and no written statements were submitted. The official transcript of the public hearing is attached as Exhibit '2b iii-C.'

RECOMMENDATION

The Manager – Business Power Allocations and Compliance recommends that the Trustees approve the Contracts for the sale of Replacement Power to Pride Pak Canada Ltd., the sale of Expansion Power to Just Greens, LLC, and the sale of Expansion Power to Cummins Inc., and authorize the transmittal of the Contracts to the Governor for his review pursuant to PAL §1009.

For the reasons stated, I recommend the approval of the above-requested action by adoption of the resolution below."

The following resolution, as submitted by the President and Chief Executive Officer, was unanimously adopted.

RESOLVED, That the contracts for the sale of (1) Replacement Power to Pride Pak Canada Ltd., (2) Expansion Power to Just Greens, LLC, and (3) Expansion Power to Cummins Inc. (collectively, the

"Contracts") are in the public interest, and in accordance with Public Authorities Law §1009 should be submitted to the Governor for his review, and that copies of the Contracts, along with the record of the public hearing thereon, be forwarded to the Speaker of the Assembly, the Minority Leader of the Assembly, the Chairman of the Assembly Ways and Means Committee, the Temporary President of the Senate, the Minority Leader of the Senate and the Chairman of the Senate Finance Committee; and be it further

RESOLVED, That the Chairman and the Corporate Secretary be authorized and directed to execute such Contracts in the name of and on behalf of the Authority if the Contracts are approved by the Governor; and be it further

RESOLVED, That the Senior Vice President – Economic Development and Energy Efficiency, or his designee, be, and hereby is, authorized, subject to the approval of the form thereof by the Executive Vice President and General Counsel, to negotiate and execute any and all documents necessary or desirable to implement the Contracts with the business as set forth in the foregoing report of the President and Chief Executive Officer; and be it further

RESOLVED, That the Chairman, the President and Chief Executive Officer, the Chief Operating Officer and all other officers of the Authority are, and each of them hereby is, authorized on behalf of the Authority to do any and all things, take any and all actions and execute and deliver any and all agreements, certificates and other documents to effectuate the foregoing resolution, subject to the approval of the form thereof by the Executive Vice President and General Counsel.

iv. Amendment to Net Metering Provisions of Authority's Governmental Customer Service Tariffs – Notice of Adoption

The President and Chief Executive Officer submitted the following report:

"SUMMARY

The Trustees are requested to take final action to approve proposed changes to the current net metering provisions of the Authority's Service Tariff No. 100 applicable to New York City ('NYC') Governmental Customers[*] and Service Tariff No. 200 applicable to Westchester Governmental Customers[†] (collectively, the 'Service Tariffs'). The proposed changes are contained within 'Rider C – Net Metering' of each Service Tariff and are attached as Exhibit '2b iv-A.'

This update to the net metering provisions of the Service Tariffs represents an improvement over the existing net metering production services currently offered as it provides clarity through the following additions: 1) the inclusion of remote net metering solutions, which would permit distribution of excess energy credits from a Customer's host account to its other satellite account(s); 2) added clarity to the billing methodology for Customers with on-site electric net generating equipment; and 3) increased encouragement of the adoption of on-site net generation by Customers.

BACKGROUND

At their February 26, 2015 meeting, the Trustees directed the Corporate Secretary to file a notice of proposed rulemaking ('NOPR') in the New York *State Register* ('*State Register*') to amend the currently effective net metering provisions applicable to Customers serviced under the Service Tariffs. The *State Register* notice was published on March 18, 2015 in accordance with the State Administrative Procedure Act ('SAPA'). The 45-day public comment period closed on May 4, 2015.

As explained in the February 26th memorandum to the Trustees, the Authority proposed the following tariff amendments:

- Inclusion of remote net metering solutions which would permit distribution of excess energy credits from a Customer's host account to its other satellite account(s).

- Added clarity to the billing methodology for Customers with electric on-site net generating equipment to ensure that the Customers realize full financial benefit associated with the credits applicable to Customers participating in remote net metering.

- Inclusion of micro-hydroelectric electric generating equipment to tariff language to ensure consistency with net metering technologies recognized by Consolidated Edison Company of New York, Inc. ('Con Edison') and the New York State Public Service Commission.

- Clarification to the Year-End Process section of the Rider C to identify such year-end processes for all types of net metering accounts, including remote net metering.

[*] The NYC Governmental Customers consist of the City of New York ('NYC' or 'City'), the Metropolitan Transportation Authority ('MTA'), the New York City Housing Authority, the Port Authority of New York and New Jersey, the State of New York Office of General Services and six smaller governmental entities located in the New York City area.

[†] The Westchester Governmental Customers consist of the County of Westchester plus 103 cities, towns, villages, school districts, fire districts and other local government agencies located in the County of Westchester.

DISCUSSION

No formal comments were filed in response to the NOPR during the public comment period. However, Authority staff has further examined these provisions with the goal of ensuring that the terms are technically correct and that net metering benefits under the Service Tariffs will flow to Customers in a way that protects both the interests of the Customers and the Authority. In addition to changes initially proposed at the February 26th meeting, staff recommends additional changes to the 'Rider C – Net Metering' provisions of the Service Tariffs to improve clarity, which include the following:

- Further clarifications to the definitions of 'Net Metering', 'Net Energy' and 'Excess Energy' to agree with industry practice.
- Clarification regarding Customers' designation of excess energy credits to their satellite account(s) in the context of remote net metering.
- Clarification that monetary credits on a Customer's bill are applicable towards production charges, not delivery service charges.
- Clarification that a 'Year-End' process refers to the end of any 12-month cycle.
- Clarification that the limitation of service under 'Rider C – Net Metering' would apply in instances when the Authority is not afforded the appropriate data from Con Edison to enable the Authority to recognize the Customer's on-site generation, or for other technical reasons.

The above changes are minor refinements which further the intent of the original net metering proposal and do not constitute a substantive modification.

The Trustees' approval sought today would make these revised net metering service provisions effective with the August 2015 billing period. As reflected in the Service Tariffs' requirements to be considered for net metering service, implementation of billing that processes net metering credits is contingent upon NYPA's receipt of appropriate metering data from Con Edison, the local transmission provider for NYPA's Governmental Customers, and the completion of the Customer billing infrastructure. To the extent this transfer of data or the technical implementation of billing is delayed, NYPA will work towards an expeditious resolution with Con Edison concerning data issues and with the Customer concerning any end-user or internal process issues. If net metering service for the August 2015 billing period is not feasible due to such technical issues, net metering service will be included in the first practicable billing period thereafter with retroactive implementation from the August 2015 billing period forward.

FISCAL INFORMATION

The adoption of the proposed 'Rider C – Net Metering' Service Tariff amendments is revenue-neutral to the Authority. Energy credits issued to Customer accounts will be offset by reduction of the amounts owed to the New York Independent System Operator, Inc. ('NYISO') by the Authority in regard to the Customers' loads.

RECOMMENDATION

The Director – Marketing Analysis and Administration and the Manager – Pricing and Energy Market Analysis recommend that the Trustees authorize the Corporate Secretary to file a Notice of Adoption for publication in the *State Register* for the purpose of amending the Authority's Service Tariff No. 100 and Service Tariff No. 200, as provided for herein and in Exhibit '2b iv-A.'

It is also recommended that the Senior Vice President – Economic Development and Energy Efficiency, or his designee, be authorized to issue written notice of the Authority's proposed action to affected Customers.

For the reasons stated, I recommend the approval of the above-requested action by adoption of the resolution below."

The following resolution, as submitted by the President and Chief Executive Officer, was unanimously adopted.

RESOLVED, That the Corporate Secretary of the Authority be, and hereby is, directed to file a Notice of Adoption for publication in the New York *State Register* in accordance with the State Administrative Procedure Act to amend the net metering provisions of the Authority's Service Tariff No. 100 and Service Tariff No. 200 applicable to its Governmental Customers, as set forth in the foregoing report of the President and Chief Executive Officer and Exhibit "2b iv-A"; and be it further

RESOLVED, That the Corporate Secretary of the Authority be, and herby is, directed to file such other notice(s) as may be required by statute or regulation concerning the proposed tariff amendments; and be it further

RESOLVED, That the Senior Vice President – Economic Development and Energy Efficiency or his designee be, and hereby is, authorized to take such other and further actions as may be necessary to effectuate the foregoing; and be it further

RESOLVED, That the Chairman, the President and Chief Executive Officer, the Chief Operating Officer and all other officers of the Authority are, and each of them hereby is, authorized on behalf of the Authority to do any and all things and take any and all actions and execute and deliver any and all certificates, agreements and other documents to effectuate the foregoing resolution, subject to the approval of the form thereof by the Executive Vice President and General Counsel.

v. Amendment to 2011 Cost Share Agreement for Shore Power with the City of New York

The President and Chief Executive Officer submitted the following report:

"SUMMARY

The Trustees are requested to approve an amendment to the terms of an existing 2011 agreement ('2011 Agreement') between the City of New York ('City') and the New York Power Authority ('Authority'), relating to cost sharing for shore power service at the Brooklyn Cruise Terminal ('BCT'). The amendment will provide a revision to key terms further defining the collaborative effort to establish shore power capability at the BCT. Copies of the 2011 Agreement and the proposed amendment (entitled 'First Amendment to the Agreement between the City of New York and the Authority') are attached hereto as Exhibits '2b v-A' and '2b v-B,' respectively.

BACKGROUND

Since early 2007, the Authority has been in discussions with the City, the New York City Economic Development Corporation ('NYCEDC') and the Port Authority of New York and New Jersey ('Port Authority') regarding a proposal to install shore power capability at the BCT. On October 26, 2010, the Authority's Trustees authorized the President and Chief Executive Officer, and his designees, to enter into an agreement with the City of New York ('City') whereby the Authority on or about January 31, 2011 entered into the 2011 Agreement with the City.

The 2011 Agreement was designed to facilitate improved air quality in the densely populated community surrounding the BCT by reducing pollutants. Additionally, the region is considered a non-attainment zone for certain emissions. The issue of cruise and container ship shore pollution from on board auxiliary diesel generators has become a national or bi-coastal issue. Identifiable emissions are NOx, SOx, as well as fine particulate (soot). Current and prospective solutions entail: reducing the sulfur content of fuel; installing emission control devices; and accessing a land-based power source, or shore power.

Carnival Corporation, plc ('Carnival'), a global cruise company, had previously agreed to retrofit two ships berthing at the BCT with equipment that would enable these ships to connect to shore power, versus operating diesel powered generators. However, in order to make this investment and to economically justify shutting down the on-board diesel engines, Carnival stated that it required a maximum rate for electricity of 12 cents per kilowatt hour (kWh) that was lower than the applicable standard Authority tariff rate for production and delivery services. An acknowledged obstacle for shore power is its high peak demand and intermittent energy usage.

The 2011 Agreement applied only to usage resulting from the shore power connection of two specific ships at the BCT, the Queen Mary 2 and the Caribbean Princess. The cost sharing between the City and the Authority was determined as 50% of the difference between the maximum 12 cents kWh rate to be charged by NYCEDC to Carnival and the Authority's otherwise applicable tariff rate. The Authority has been advised by the City that the necessary system upgrades to allow for shore power access are near complete and should be operational by the fall of 2015. The 2011 Agreement is set to expire on December 31, 2017.

DISCUSSION

In subsequent discussions between the Authority and the City, the City requested that the 2011 Agreement be amended.

The amendment replaces paragraph 1 of the 2011 Agreement with a new provision. The provision removes references to specific ships and expands the operational conditions of the agreement.

Specifically, it states the Authority and the City will each cover half of the difference between the cost of the electrical power consumed by cruise ships berthed at the BCT and drawing shore power (i) at the Carnival Rate (12 cents per kWh) and (ii) the then applicable Authority rate, not to exceed forty (40) calls per calendar year by the Carnival Corporation Lines or Non-Carnival Shore Power Vessels or four hundred (400) hours, whichever comes first. If the limits described in (ii) are exceeded by Carnival Corporation Lines and Non-Carnival Shore Power Vessels, cumulatively, applicable standard electric rates for electric supply under the Authority's Service Tariff shall be applied. In addition, the City shall provide the Authority the necessary information to track the limits related to usage of shore power at the BCT.

An issue relating to shore power in general, including the BCT operation, is the intermittent power usage. Power usage, as defined by the customer's load factor, is the average load in relation to its peak load. Generally, as the usage and load factor increase, the overall average billed rate (including the Authority's production and Consolidated Edison Company of New York, Inc. delivery services) decrease. The provision of allowing more ships to berth will have the effect of increasing the load factor and producing a lower rate. So, as more calls occur, the difference between the Carnival rate and the average tariff rate are diminished, and correspondingly, the City and the Authority's cost share is reduced as is the overall financial impact.

FISCAL INFORMATION

It is estimated that this cost share agreement will aggregate to approximately $5 million for the Authority over the remainder of the Agreement, terminating on December 31, 2017. This Cost Share Agreement is funded by Operating Revenues.

RECOMMENDATION

The Senior Vice President – Economic Development and Energy Efficiency recommends that the Trustees approve the proposed amendments to the 2011 Agreement between the City and the Authority.

For the reasons stated, I recommend the approval of the above-requested action by adoption of the resolution below."

The following resolution, as submitted by the President and Chief Executive Officer, was unanimously adopted.

WHEREAS, at the request of, and in cooperation with, the City of New York ("City"), the Authority has been requested to amend the Cost Share Agreement with the City for Shore Power at the Brooklyn Cruise Terminal ("BCT"); and

WHEREAS, installation of shore power capability at the BCT will result in utilization of new clean air technology, improved air quality in the region and positive health benefits for the residents in the vicinity of the BCT; and

WHEREAS, provision by the Authority of an amendment to the Cost Share Agreement with the City will allow for additional cruise ships with Shore Power capability to berth at the BCT, while placing limits on the cost share responsibility for the Authority and the City for the term of the Cost Share Agreement;

NOW, THEREFORE, BE IT RESOLVED, That the President and Chief Executive Officer, or his designee, is hereby authorized on behalf of the Authority to execute amended agreements between the Authority and the City, as described in the foregoing report of the President and Chief Executive Officer and any other consents, agreements or other transactions as are necessary or ancillary to such agreement; and be it further

RESOLVED, That the Chairman, the President and Chief Executive Office, the Chief Operating Officer and all other officers of the Authority are, and each of them hereby is, authorized on behalf of the Authority to do any and all things and take any and all actions and execute and deliver any and all agreements, certificates and other documents necessary or advisable to effectuate the foregoing resolution, subject to the approval of the form thereof by the Executive Vice President and General Counsel.

c. Procurement (Services) Contracts

i. Procurement (Services) and Other Contracts – Business Units and Facilities – <u>Awards, Extensions and/or Additional Funding</u>

The President and Chief Executive Officer submitted the following report:

"<u>SUMMARY</u>

The Trustees are requested to approve the award and funding of the multiyear procurement (services) contracts listed in Exhibit '2c i-A,' as well as the continuation and/or funding of the procurement (services) contracts listed in Exhibit '2c i-B,' in support of projects and programs for the Authority's Business Units/Departments and Facilities. Detailed explanations of the recommended awards and extensions, including the nature of such services, the bases for the new awards if other than to the lowest-priced bidders and the intended duration of such contracts, or the reasons for extension and the projected expiration dates, are set forth in the discussion below.

<u>BACKGROUND</u>

Section 2879 of the Public Authorities Law and the Authority's Guidelines for Procurement Contracts require the Trustees' approval for procurement contracts involving services to be rendered for a period in excess of one year.

The Authority's Expenditure Authorization Procedures ('EAPs') require the Trustees' approval for the award of non-personal services, construction, equipment purchase or non-procurement contracts in excess of $3 million, as well as personal services contracts in excess of $1 million if low bidder, or $500,000 if sole-source, single-source or non-low bidder.

The Authority's EAPs also require the Trustees' approval when the cumulative change- order value of a personal services contract exceeds $500,000, or when the cumulative change-order value of a non-personal services, construction, equipment purchase, or non-procurement contract exceeds the greater of $1 million or 25% of the originally approved contract amount not to exceed $3 million.

<u>DISCUSSION</u>

<u>Awards</u>

The terms of these contracts will be more than one year; therefore, the Trustees' approval is required. Except as noted, all of these contracts contain provisions allowing the Authority to terminate the services for the Authority's convenience, without liability other than paying for acceptable services rendered to the effective date of termination. Approval is also requested for funding all contracts, which range in estimated value from $40,350 to $16 million. Except as noted, these contract awards do <u>not</u> obligate the Authority to a specific level of personnel resources or expenditures.

The issuance of multiyear contracts is recommended from both cost and efficiency standpoints. In many cases, reduced prices can be negotiated for these long-term contracts. Since these services are typically required on a continuous basis, it is more efficient to award long-term contracts than to rebid these services annually.

<u>Extensions</u>

Although the firms identified in Exhibit '2c i-B' have provided effective services, the issues or projects requiring these services have not been resolved or completed and the need exists for continuing these contracts. The Trustees' approval is required because the terms of these contracts will exceed one year including the extension, the term of extension of these contracts will exceed one year and/or because the cumulative change-order limits will exceed the levels authorized by the EAPs in forthcoming change orders. The subject contracts contain provisions allowing the Authority to terminate the services at the Authority's convenience, without liability other than paying for acceptable services rendered to the effective date of termination. These contract extensions do not obligate the Authority to a specific level of personnel resources or expenditures.

Extension of the contracts identified in Exhibit '2c i-B' is requested for one or more of the following reasons: (1) additional time is required to complete the current contractual work scope or additional services related to the original work scope; (2) to accommodate an Authority or external regulatory agency schedule change that has delayed, reprioritized or otherwise suspended required services; (3) the original consultant is uniquely qualified to perform services and/or continue its presence and rebidding would not be practical or (4) the contractor provides a proprietary technology or specialized equipment, at reasonable negotiated rates, that the Authority needs to continue until a permanent system is put in place.

The following is a detailed summary of each recommended contract award and extension.

Contract Awards in Support of Business Units/Departments and Facilities:

Economic Development & Energy Efficiency

Customer Energy Solutions and/or Energy Efficiency

As part of the Customer Solutions strategic initiative, and under the auspices of the Customer Energy Solutions Division, the Authority is evaluating its existing energy services, looking for ways to improve them, and developing and launching new energy programs and services. In order to ensure that this is done with as much quality market information as possible and leveraging existing best practices, the Authority requires consulting support to (a) gather and analyze up-to-date information from customers, service providers, and other market participants and stakeholders, and (b) develop new programs and services that meet the needs of customers while supporting State energy policy and recovering costs. To that end, bid documents **(Q15-5865LW)** were developed by staff and were downloaded electronically from the Authority's Procurement website by 249 firms, including those that may have responded to a notice in the New York State *Contract Reporter*. Sixteen proposals were received and evaluated, as further set forth in the Award Recommendation documents. Staff recommends the award of contracts to seven firms, **Buro Happold Consulting Engineers PC, Firefly Energy Consulting LLC, ICF Resources LLC, KEMA Inc., Navigant Consulting Inc., Nexant Inc. and Optimal Energy Inc. (PO#s TBA),** which include the five most highly rated large-size firms, as well as one each of the most highly rated small-size and medium-size firms (as measured by the number of full-time staff) with respect to their technical qualifications, and which are fully compliant with the Authority's bid requirements. The proposed awards to these firms would provide for such on-call consulting services in support of the Authority's Program Strategy and Development ('PS&D') initiatives, as needed. The recommended firms have the experience, qualifications and breadth of expertise to respond quickly, handle multiple tasks at once and cover a range of relevant energy topics, thereby ensuring the Authority of adequate resources during peak periods. The award of contracts to multiple firms would also benefit the Authority by providing more flexibility and cost-effective options, and would allow the Authority to obtain competitive proposals and award tasks to the firm with the requisite expertise, depending on the nature of the situation, schedule and specific requirements. The contracts would become effective on or about August 1, 2015, for an intended term of up to five years, subject to the Trustees' approval, which is hereby requested. Approval is also requested for the aggregate total amount expected to be expended for the term of the contracts, $3 million. Such contracts will be monitored for utilization levels, available approved funding and combined total expenditures.

At the Trustees' meeting of May 19, 2015, staff recommended the award of competitively bid contracts to three firms (**Q14-5789RH)** to provide for all supervision, labor, materials and equipment and perform all actions required to furnish, deliver, install and make operational roof-mounted solar photovoltaic ('PV') systems at certain Energy Efficiency Program participant facilities / sites throughout the state (Phase II). The Trustees approved the award of contracts to two of these firms **(Standard Solar, Inc. and Montante Solar, Inc.)** and an aggregate total amount of $32 million. The proposed award to the remaining firm, **Solar Liberty Energy Systems, Inc. ('Solar Liberty')**, originally included in the aforementioned May Discussion Agenda (Item 6b), was not adopted by the Trustees because they were unable to attain the required number of votes based on conflicts of interest filed by some of the Board members. Such award is now resubmitted for the Board's consideration with the intent of achieving the required quorum for adoption. Approval of this request would enable the Authority to utilize the firm's specialty skills, experience and expertise, as needed. The contract would become effective on or about August 1, 2015 for an intended term of approximately five years (through May 19, 2020, coterminous with the other two previously-approved contract awards), subject to the Trustees' approval, which is hereby requested. Approval is also requested for the $16 million by which the original May request (for $48 million) had been reduced and to authorize the addition of this $16 million to the previously-approved aggregate total of $32 million, resulting in a combined aggregate total of $48 million, to be allocated as needed. Such contracts will be closely monitored for utilization levels, available approved funding and combined total expenditures. It should be noted that all Authority costs, including Authority overheads and the costs of advancing funds, will be recovered as is consistent with other Energy Efficiency Programs.

Due to the need to commence discussions and/or place orders with distributors for lighting equipment needed for implementation of scheduled projects, the contracts with **Aery Lighting ('Aery') (4600002989)**, **Graybar Electric Co., Inc. ('Graybar') (4600002995) and Lumen Light Solutions LLC ('Lumen') (4600003006)** became effective on July 15, 2015, in the aggregate interim award amount (Target Value) of $1.5 million ($500,000 each), subject to the Trustees' ratification and approval as soon as practicable, in accordance with the Authority's Guidelines for Procurement Contracts and EAPs. Such contracts provide for the furnishing and delivery of Light Emitting Diode ('LED') lighting fixtures for the Westchester County Street Lighting Project, as part of the Authority's Energy Efficiency Program. Bid documents (Q15-5862MC) were developed by staff and were downloaded electronically from the Authority's Procurement website by 44 firms, including those that may have responded to a notice in the New York State *Contract Reporter*. Bids were received from seven firms (of which one submitted two proposals) and were evaluated, as further set forth in the Award Recommendation documents. Staff recommends the award of contracts to the three aforementioned firms, which were the lowest-priced evaluated and technically qualified bidders, and which fully meet the Authority's bid requirements. It should be noted that one of the recommended firms has provided lighting equipment / materials to the Authority under a prior contract with satisfactory results. Multiple contracts are recommended based on the anticipated volume, as well as the ability to offer participating customers a choice of equipment and materials. The award of contracts to multiple firms would also benefit the participating customers by providing more flexibility and cost-effective options, and would allow the Authority to obtain competitive proposals and make an award to the firm that best meets the customers' needs and requirements. The intended term of these contracts is up to three years, subject to the Trustees' approval, which is hereby requested. Approval is also requested for the aggregate total amount expected to be expended for the term of the contracts, $7.5 million. Such contracts will be monitored for utilization levels, available approved funding and combined total expenditures. It should be noted that all costs will be recovered by the Authority.

Due to the need to commence services in support of the Five Cities Energy Master Plan, the contracts with **Donia & Associates, LLC ('Donia') (4600002993), Hill International, Inc. ('Hill') (4600002991), L.J. Gonzer Associates ('Gonzer') (4600002990), NPTS, Inc. ('NPTS') (4600002994) and RCM Technologies, Inc. ('RCM') (4600002992)** became effective on July 2, 2015, in the aggregate interim award amount (Target Value) of $1 million ($200,000 each), subject to the Trustees' ratification and approval as soon as practicable, in accordance with the Authority's Guidelines for Procurement Contracts and EAPs. As part of this initiative, the Authority was requested to hire temporary Energy

Managers assigned to the Five Cities program. These contracts will also provide for the services of temporary personnel to support Energy Efficiency and Customer Energy Solutions programs and projects related to the implementation of energy savings projects, in order to meet the Governor's ambitious energy goals of reducing energy consumption by 20% in State-owned facilities by 2020 throughout the state. Such services include, but are not limited to, the following areas: construction management, project management and design and engineering, to be provided within a range of disciplines by construction engineers, schedulers, estimators, conservation engineers, program engineers, mechanical and electrical engineers, etc. To that end, bid documents (Q15-5863SR) were developed by staff and were downloaded electronically from the Authority's Procurement website by 58 firms, including those that may have responded to a notice in the New York State *Contract Reporter*. Six proposals were received and evaluated, as further set forth in the Award Recommendation documents. One proposal was deemed incomplete and was not evaluated further. The remaining five proposals were evaluated in greater detail and were determined to be technically qualified, meet the bid requirements and are reasonably priced. Staff recommends the award of contracts to the five aforementioned firms. It should be noted that several of these firms have provided satisfactory service under prior contracts for such work. The anticipated workload warrants the award of multiple contracts that would ensure the Authority of a larger pool of resources capable of providing such services throughout the state, as needed. The award of contracts to multiple firms would also benefit the Authority by providing more flexibility and cost-effective options, and would allow the Authority to obtain competitive proposals and award tasks to the firms with the requisite expertise, depending on the nature of the situation, schedule and specific requirements. The intended term of these contracts is up to three years, subject to the Trustees' approval, which is hereby requested. Approval is also requested for the aggregate total amount expected to be expended for the term of the contracts, $10 million. Such contracts will be monitored for utilization levels, available approved funding and combined total expenditures. It should also be noted that Donia is both a New York State-certified Minority-owned Business Enterprise ('MBE') and Woman-owned Business Enterprise ('WBE') and NPTS is a NYS-certified MBE.

Enterprise Shared Services

Information Technology ('IT')

In the past three years, the Authority's IT division has undertaken major initiatives involving ERM Business Applications, MAXIMO and SAP. During the next three years, IT will launch new initiatives, such as SharePoint Collaboration Solutions, Enterprise Mobile implementations, NERC CIP Compliance system upgrades and Authority Strategic Initiative systems. IT will also continue to support and maintain the Authority's current investment in its computer and network infrastructure, as well as its existing computer applications portfolio. In order to meet the needs of this plan, the Authority will continue to use contractors to augment its technical staff on a short-term basis, as necessary. The contracts with **22nd Century Technologies, Inc., Artech Information Systems LLC, Carlyle Consulting Services, Inc., ClarusTec, Inc., CMA Consulting Services, Donnelly & Moore Corp., Eclaro International, Inc., Garnet River LLC, Indotronix International Corp., Mindlance, Inc., Neotecra, Inc., Software Guidance & Assistance, Inc., System Edge (USA) LLC, Trigyn Technologies, Inc. and Unique Comp, Inc. (Q15-5806CP; PO#s TBA)** would provide for IT temporary staffing services to support such initiatives, infrastructure and applications. Such positions include, but are not limited to: Business Analyst, Developer Analyst, Application Developer, Data Modeler, Database Administrator, Data Warehouse Architect, Technical Writer, Help Desk Specialist, Hardware/Software Technician, Communications Engineer/Technician, SharePoint Developer/Administrator, Business Process Architect/Analyst, LiveLink Developer, etc.). Bid documents were developed by staff and were downloaded electronically from the Authority's Procurement website by 251 firms / entities, including those that may have responded to a notice in the New York State *Contract Reporter*. Seventy-four proposals were received and evaluated, as further set forth in the Award Recommendation documents. Staff recommends the award of contracts to the 15 aforementioned firms, which met the bid requirements and were determined to be the most technically qualified bidders with reasonable and competitive billing rates, experience in providing qualified programming/contract personnel in the tri-state area, infrastructure for their contract personnel, financial stability, and depth of contract personnel inventory. (It should be noted that several of these firms have provided satisfactory services under prior contracts for such work.) As specific positions are required, the Authority will request résumés of candidates from all the pre-qualified firms. Such competition is expected to provide qualified talent from a variety of sources. The hiring supervisor will review the submitted résumés, interview candidates and select the most qualified individual for the required position at the contractual hourly rate, subject to successful completion of a required background check. Contracts (master outline agreements) will be issued to all firms and will become effective on or about August 1, 2015, for an intended term of up to three years, subject to the Trustees' approval, which is hereby requested. Commitments will be made through individual Purchase Order Releases against the established contracts, as candidates for the required positions are selected. Approval is also requested for the total amount expected to be expended for the term of the contracts, $9 million. Such contracts will be monitored for utilization levels, available approved funding and combined total expenditures. It should be noted that seven of these firms are NYS-certified MBEs and/or WBEs: 22nd Century Technologies, CMA Consulting, Donnelly & Moore, Eclaro, Garnet River, System Edge and Unique Comp.

The contracts with **A-1 Technology, Inc. (4600002996), Ernst & Young LLP (4600002987), GROM Associates, Inc. (4600002997), GyanSys, Inc. (4600003004), Hewlett-Packard Company (4600002998), NTT DATA, Inc. (4600002999), Quintel-MC, Inc. / Quintel Management Consulting, Inc. (4600003000), Sage Group Consulting, Inc. (4600003001), Sierra Infosys, Inc. (4600003002) and U-Tegration, Inc. (4600003003)** would provide for SAP consulting services in four areas: advisory and consulting services, system integration and implementation services, end-to-end consulting services and turnkey solutions, in order to implement or support various SAP-related functional initiatives, which include but are not limited to, ARIBA, SuccessFactors, HANA, Mobile, Persona, IS-U CCS Billing and Fiori. To that end, bid documents **(Q15-5841SR)** were developed by staff and were downloaded electronically from the Authority's Procurement website by 172 firms, including those that may have responded to a notice in the New York State *Contract Reporter*. The overall objective was to identify and qualify a pool of SAP consulting resources in order to support business requirements pertaining to the expansion of the Authority's SAP environment with solutions best-suited to meet goals set by strategic initiatives. Nineteen proposals were received and evaluated, as further set forth in the Award Recommendation documents. Staff recommends the award of contracts to the ten aforementioned firms, which were determined to be the most technically qualified to meet the Authority's requirements, as set forth in the bid documents. The award of contracts to multiple firms would benefit the Authority by providing more flexibility and cost-effective options, and would allow the Authority to obtain competitive proposals and award tasks to the firms with the requisite expertise, depending on the nature of the situation, schedule and specific requirements. The contracts would become effective on or about August 1, 2015, for an intended term of up to three years, subject to the Trustees' approval, which is hereby requested. Approval is also requested for the aggregate total amount expected to be expended for the term of the contracts, $10.5 million. Such contracts will be monitored for utilization levels, available approved funding and combined total expenditures. It should also be noted that A-1 Technology is a NYS-certified MBE and Sierra Infosys is both a NYS-certified MBE and WBE.

Operations / Operations Support Services

Power Generation / Support Services / Transmission

The contract with **ABB, Inc. ('ABB') (PO# TBA)** would provide for emergency repairs and maintenance for SF6 circuit breakers manufactured by ABB that are installed at Authority power plants and substations throughout the state. (Additional breakers will be installed as part of the Transmission Life Extension and Modernization program.) Circuit breakers are a critical component of the transmission system and are used to protect other equipment, limit fault damage and facilitate/maintain plant operation. They are unique to each manufacturer and must be maintained and calibrated by experienced service engineers. (Standard maintenance and certain repairs may be performed by qualified Authority staff at locations where such staff is available.) Since the warranties for many of these circuit breakers have expired, having a contract with the original equipment manufacturer ('OEM') in place would enable the Authority to address emergent repairs with limited delays and return the system to operation with the least amount of downtime. Staff recommends the award of a contract to ABB on a single-source basis, since ABB is the OEM and, as such, is uniquely qualified to perform such work. ABB technicians are factory trained and certified for all service conditions, including preventive maintenance and emergency repairs. The firm possesses extensive knowledge and history regarding circuit breaker issues, enabling them to accurately diagnose the problem and develop a solution to return the breaker to service with minimal outage time. It should be noted that ABB has provided site support and consultation to the Authority in the past, with satisfactory results. The new contract would become effective on or about August 1, 2015, for an intended term of up to five years, subject to the Trustees' approval, which is hereby requested. Approval is also requested for the total amount expected to be expended for the term of the contract, $500,000.

Due to the need to commence services, the contract with **Bernier, Carr & Associates, P.C. ('Bernier Carr') (4500261111)** became effective on July 14, 2015, in the interim award amount of $75,000, subject to the Trustees' ratification and approval as soon as practicable, in accordance with the Authority's Guidelines for Procurement Contracts and EAPs. The contract provides for detailed architectural, engineering and design services for the construction of new Facilities for the Office of Parks, Recreation and Historic Preservation at Robert Moses State Park in Massena, NY. The new Parks Facilities will replace existing temporary buildings, which currently support the Park Police, Park Administration and Park Maintenance. (The original Parks Facilities were destroyed by fire in 2010.) Such design shall be coordinated with the new Nature Center to be located adjacent to the Parks Facilities. Services also include the drawings and specifications required for initial site preparation for the deconstruction of the existing Parks Facilities Buildings and Single Family Residence (for the Park Manager), as well as construction support through project closeout. Bid documents **(Q15-5816FS)** were developed by staff and were downloaded electronically from the Authority's Procurement website by 310 firms, including those that may have responded to a notice in the New York State *Contract Reporter*. Eight proposals were received and evaluated, as further set forth in the Award Recommendation documents. Staff recommends the award of a contract to Bernier Carr, the lowest-priced bidder, which is qualified to perform such services and meets the bid requirements. The intended term of this contract is up to 30 months, subject to the Trustees' ratification and approval, which is hereby requested. Approval is also requested for the total amount expected to be expended for the term of the contract, $364,375.

The contract with **Bio-One, Inc. ('Bio-One') (Q15-5822RH; PO# TBA)** would provide for on-call infectious disease biological clean-up services for Authority offices and facilities throughout the state, with availability and response on a 24/7/365 basis, as may be required and in compliance with all applicable federal, state and local laws, standards and regulations. Such services would be performed by a qualified firm certified and skilled in the cleanup, disinfection and disposal of remediation wastes from infectious diseases including, but not limited to, MRSA, H1N1, Anthrax, Legionellosis and Ebola, as well as crime scene cleanup services, including removing and sanitizing biohazards. To that end, bid documents were developed by staff and were downloaded electronically from the Authority's Procurement website by 12 firms, including those that may have responded to a notice in the New York State *Contract Reporter*. One proposal was received and evaluated, as further set forth in the Award Recommendation documents. Staff recommends the award of a contract to Bio-One, which is qualified to provide such services and meets the bid requirements. Bio-One provides such services to military, police, fire and medical operations and was evaluated as possessing the technical qualifications to perform such work. (Reasons for the lack of other proposals include, but are not limited to, it was not their scope of work or they downloaded the bid documents for information purposes only. Furthermore, this is a very specialized field with a very limited number of qualified firms capable of responding to our service area; it should be noted that the original solicitation for such services resulted in no responses; after canvassing the known marketplace to target such firms, a second solicitation was issued, which resulted in one bid.) The contract would become effective on or about August 1, 2015, for an intended term of up to two years, subject to the Trustees' approval, which is hereby requested. Approval is also requested for the total amount expected to be expended for the term of the contract, $50,000.

The Authority is required to operate an eel passage facility at the St. Lawrence/FDR Power Project ('Project') pursuant to Articles 405 and 406 of the new Project License issued by FERC and the associated FERC-approved Effectiveness Monitoring Plan and Passage Criteria. These FERC requirements include: (1) estimating the efficiency of the facility by counting tagged eels through the use of a Passive Integrated Transponder ('PIT') tag monitoring system, with PIT tag monitors placed at strategic locations throughout the facility; (2) measuring and monitoring the water flow at critical points in the eel passage facility through the use of flowmeters, including unique software flowmeter communication, software interface and critical alarming functions and (3) estimating the number of eels that pass through the facility each year for updates to regulatory agencies (such as the U.S. Fish and Wildlife Service and the New York State Department of Environmental Conservation) through the use of eel counters, which interface with the eel passage facility computer system. To that end and due to the need to commence services, the contracts with **Biomark, Inc. (4500259576) and Deadline Solutions, Inc. (4500259572)** became effective on June 3, 2015, in the respective interim award amounts of $6,085 for Biomark and $7,740 for Deadline Solutions, subject to the Trustees' ratification and approval as soon as practicable, in accordance with the Authority's Guidelines for Procurement Contracts and EAPs. Such contracts provide for the operation and maintenance of the aforementioned PIT tag monitoring and flowmeter systems, which these firms designed, built and installed for the Authority, respectively. These awards are made on a sole-source basis, since each firm is the original equipment manufacturer/designer of the respective devices/equipment/system and related specialized software and, as such, is uniquely qualified to provide such services. Furthermore, both firms have provided satisfactory service to the Authority under prior contracts for such work and have demonstrated their ability to get the work done safely, correctly, on schedule and at reasonable cost. The intended term of these contracts is up to five years, subject to the Trustees' ratification and approval, which is hereby requested. Approval is also requested for the total amount expected to be expended for the term of the contracts, $40,350 for Biomark, and $131,509 for Deadline Solutions.

At the Trustees' meeting of May 19, 2015, staff recommended the award of competitively bid contracts to ten firms **(Q14-5758FS)** to provide for consulting engineering services to support projects for Power Generation, Transmission and Ancillary Facilities. The Trustees approved the award of contracts to nine of these firms (**Altran Solutions Corp., Genesys Engineering, PC, Greenman-Pedersen, Inc., Haider Engineering, PC, Hatch Associates Consultants, Inc., Kleinschmidt Associates PA, PC, Mott MacDonald LLC, Realtime Utility Engineers, Inc. and RCM Technologies, Inc.)** and an aggregate total amount of $20 million. The proposed award to the remaining firm, **C&S Engineers, Inc. ('C&S')**, originally included in the aforementioned May Consent Agenda (Item 2c-i), was not adopted by the Trustees because they were unable to attain the required number of votes based on conflicts of interest filed by some of the Board members. Such award is now resubmitted for the Board's consideration with the intent of achieving the required quorum for adoption. Approval of this request would enable the Authority to utilize the firm's specialty skills, experience and expertise, as needed. The contract would become effective on or about August 1, 2015 for an intended term of approximately four and one-half years (through December 31, 2019, coterminous with the other nine previously-approved contract awards), subject to the Trustees' approval, which is hereby requested. C&S would share in the previously-approved aggregate total. Funds will be allocated as specific projects or tasks are identified. Such contracts will be closely monitored for utilization levels, available approved funding and combined total expenditures.

The contract with **Daikin Applied Americas, Inc. dba Daikin Applied ('Daikin Applied', formerly McQuay Factory Service) (Q15-5810JT; PO# TBA)** would provide for chiller maintenance services and repairs for 11 centrifugal chillers at the Authority's Small Clean Power Plants (including Brentwood on Long Island) in the Southeastern New York ('SENY') region. Bid documents were developed by staff and were downloaded electronically from the Authority's Procurement website by 35 firms, including those that may have responded to a notice in the New York State *Contract Reporter*. Two proposals were received and evaluated, as further set forth in the Award Recommendation documents. Staff recommends the award of a contract to Daikin Applied, the more technically qualified bidder, which fully meets the bid requirements, demonstrated that it possesses the in-house certifications necessary to meet the Authority's requirements for maintenance and repair, and has provided satisfactory service under the existing contract for such work. Furthermore, based on staff's research, it appears that Daikin Applied is the only authorized factory service group in the metropolitan area, which would ensure immediate and exclusive access to Original Equipment Manufacturer ('OEM') parts and proprietary software utilized on the chillers. The new contract would become effective on or about August 1, 2015, for an intended term of up to five years, subject to the Trustees' approval, which is hereby requested. Approval is also requested for the total amount expected to be expended for the term of the contract, $5 million.

Due to the need to commence services, the contract with **E I Team, Inc. ('E I Team' (4500260904)** became effective on July 7, 2015, in the interim award amount of $200,000, subject to the Trustees' ratification and approval as soon as practicable, in accordance with the Authority's Guidelines for Procurement Contracts and EAPs. The contract provides for architectural, engineering and design services for construction of new Warehouse/Office and Security Buildings at the St. Lawrence/FDR Power Project. Services will include construction support through project closeout. Bid documents **(Q15-5873DK)** were developed by staff and were downloaded electronically from the Authority's Procurement website by 262 firms (including 11 duplicates), including those that may have responded to a notice in the New York State *Contract Reporter*. Ten proposals were received and evaluated, as further set forth in the Award Recommendation documents. Staff recommends the award of a contract to E I Team, the lowest-priced bidder, which is qualified to provide such services and meets the bid requirements. The intended term of this contract is up to three years, subject to the Trustees' ratification and approval, which is hereby requested. Approval is also requested for the total amount expected to be expended for the term of the contract, $1,062,828 (which includes the lump sum amount of $912,828 and additional funding for unforeseen emergent work that may be required, as well as reimbursable expenses). It should be noted that E I Team is a NYS-certified MBE.

The contract with **Fusion Babbitting Co., Inc. ('Fusion') (6000156451; PO# TBA)** would provide for refurbishment of hydroelectric turbine thrust bearing shoes for the St. Lawrence/FDR Power Project. Services include, but are not limited to, conducting inspections, developing applicable procedures, removing the babbitts, performing tinning and rebabbitting of thrust shoes, QA/QC measurements and reporting, as well as transportation to and from the vendor's facility (inclusive of all packing and protection during shipment). Bid documents were developed by staff and were downloaded electronically from the Authority's Procurement website by 33 firms / entities, including those that may have responded to a notice in the New York State *Contract Reporter*. Three proposals were received and evaluated, as further set forth in the Award Recommendation documents. Staff recommends the award of a contract to Fusion, the lowest-priced bidder, which is qualified to perform such services, meets the bid requirements and has provided satisfactory service under the prior contract for such work. The new contract would become effective on or about August 1, 2015, for an intended term of up to three years, subject to the Trustees' approval, which is hereby requested. Approval is also requested for the total amount expected to be expended for the term of the contract, $225,000.

Due to the need to commence services in order to accommodate a scheduled six-month fire inspection at the 500 MW plant, the contract with **Grunau Company, Inc. ('Grunau') (4600002978)** became effective on July 15, 2015, in the interim award amount of $100,000, subject to the Trustees' ratification and approval as soon as practicable, in accordance with the Authority's Guidelines for Procurement Contracts and EAPs. The contract provides for inspection, testing, maintenance and repair services for the fire alarm and protection system at the Authority's power plants in the Southeastern New York ('SENY') Region. Bid documents **(Q15-5809JT)** were developed by staff and were downloaded electronically from the Authority's Procurement website by 36 firms, including those that may have responded to a notice in the New York State *Contract Reporter*. One proposal was received and evaluated, as further set forth in the Award Recommendation documents. Reasons for the lack of other proposals include, but are not limited to, they did not have the required Master Fire Suppression License for fire sprinklers, they were uncertain about the extent of the sprinkler system work and union requirements or they downloaded the bid documents for information purposes only. Staff recommends the award of a contract to Grunau, which is technically qualified to provide such services, meets the bid requirements and has provided satisfactory service under prior contracts for such services. Their technicians are experienced, factory-trained and certified to perform such work. The intended term of this contract is up to five years, subject to the Trustees' ratification and approval, which is hereby requested. Approval is also requested for the total amount expected to be expended for the term of the contract, $3 million.

Due to the need to commence services, the contract with **Ruby Canyon Engineering, Inc. ('Ruby Canyon') (4500259425)** became effective on July 1, 2015, in the interim award amount of $10,000, subject to the Trustees' ratification and approval as soon as practicable, in accordance with the Authority's Guidelines for Procurement Contracts and EAPs. The contract provides for consulting services involving verification of greenhouse gas emissions data reported by the Authority to the Climate Registry ('Registry') for all Authority facilities. The Authority sought the services of a verification body accredited by the American National Standards Institute ('ANSI') and recognized by the Registry, consistent with the Registry's General Verification Protocol and the Electric Power Sector Protocol, as applicable, for 2014 – 2018 data to be reported annually in calendar years 2015 – 2019, respectively. Bid documents **(Q15-5852SG)** were developed by staff and were downloaded electronically from the Authority's Procurement website by 42 firms, including those that may have responded to a notice in the New York State *Contract Reporter*. One proposal was received and evaluated, as further set forth in the Award Recommendation documents. Reasons for the lack of other proposals include, but are not limited to, they do not have the necessary available resources to conduct the verification or they downloaded the bid documents for information purposes only. Staff recommends the award of a contract to Ruby Canyon, the sole responding bidder, which is qualified to perform such services and meets the bid requirements. The intended term of this contract is up to five years, subject to the Trustees' ratification and approval, which is hereby requested. Approval is also requested for the total amount expected to be expended for the term of the contract, $96,304 (which includes additional funding for any unforeseen emergent work that may be required).

The contract with **Summit Security Services, Inc. ('Summit') (Q15-5828SR; PO# TBA)** would provide for pre-employment and contractor background investigation services to support Authority operations at its offices and operating facilities statewide. The pre-employment screening program includes comprehensive background investigations for all new Authority employees, as well as all contractors requiring unescorted access to Authority facilities, with all costs for such services paid for by the Authority, to ensure that the background investigations are performed in accordance with Authority specifications, accurately, consistently, cost-effectively, thoroughly and in a timely manner. Pre-employment screening elements for new Authority employees include: employment history verification, education, criminal history, professional licenses, credit history and verification of identity, address, driver's license and Social Security number, as well as terrorist watch list checks. Contractor screening elements include verification of identity, Social Security number and criminal conviction history, as well as terrorist watch list checks. Services may also include additional pre-employment and contractor screening elements for military service and foreign nationals, where applicable and on a case-by-case basis. The program will also provide services to meet the personal risk assessment criteria for unescorted access, in compliance with the North American Electric Reliability Corporation's security standards for Critical Infrastructure Protection ('NERC CIP'). Bid documents were developed by staff and were downloaded electronically from the Authority's Procurement website by 65 firms, including those that may have responded to a notice in the New York State *Contract Reporter*. Six proposals were received and evaluated, as further set forth in the Award Recommendation documents. Staff determined that four proposals either did not fully meet all the bid requirements or did not demonstrate the ability to support the volume of work required by the Authority. Of the two remaining proposals, staff recommends the award of a contract to Summit, the most technically qualified bidder, which meets and exceeds the bid requirements. In addition to demonstrating industry experience with utilities and large state agencies, Summit's proposal included a number of tools at no additional cost (that are not available from the current provider, but have the potential to improve our program significantly). Additionally, Summit demonstrated the ability to import our current historical database into their platform and would provide the Authority with the most robust technical solution at a reasonable cost, providing the most value to the Authority. The contract would become effective on or about August 1, 2015, for an intended term of up to five years, subject to the Trustees' approval, which is hereby requested. Approval is also requested for the total amount expected to be expended for the term of the contract, $2.5 million.

Contract Extensions and/or Additional Funding:

Economic Development & Energy Efficiency

Customer Energy Solutions

At their meeting of September 24, 2013, the Trustees approved the award of a competitively bid contract to **Talisen Technologies, Inc. (4600002730)** to provide for services and software related to the development and implementation of the Authority's Energy Management Center ('EMC'), for a term of up to five years and an amount of $1.79 million, as part of the Customer Solutions strategic initiative. The EMC (subsequently referred to as New York Energy Manager, 'NYEM') is used to support the implementation of Build Smart NY, Governor Andrew Cuomo's initiative authorized under New York State Executive Order 88 ('EO 88'), requiring all state-owned and managed facilities to achieve 20% energy reduction by April 1, 2020. The Authority serves as the manager and coordinator of activities with all state agencies and authorities to achieve this goal within the seven-year period. As part of the Authority's role, a centralized energy data management platform (the NYEM) was developed to track the energy performance of State public buildings and to provide 'real-time' energy monitoring data and energy management services to its customers. The NYEM serves as the virtual hub for continuous monitoring, analysis, forecasting and management of facility energy (electricity and gas) supply, consumption and costs. It also provides effective measurement and verification tools to help identify operation and maintenance improvements and cost-effective energy efficiency measures for program participants. Eligible customers include all public sector entities (electricity and energy efficiency customers) and businesses that participate in the Authority's economic development programs. Target buildings/facilities include office buildings, university campuses, healthcare facilities (including hospitals), transit facilities, garages and warehouses. The initial $1.79 million was used to establish the base software platform for EO 88 reporting and to connect it to an initial number of customer buildings (approximately 220) in order to explore the benefits of 'real-time' energy monitoring and management. The program has exceeded initial estimates and expectations significantly. Therefore, an additional $446,000 was subsequently authorized in accordance with the Authority's EAPs in order to meet program needs. There are currently 650 customer buildings feeding real-time energy information into the NY Energy Manager system. Staff envisions that program benefits can be expanded to an additional 850 customers (for a total of 1,500 buildings, including approximately 5,000 utility meters). The current contract amount (Target Value) is $2.236 million; based on current costs associated with meter data integration, software licensing fees, special software updates and site integration services, staff anticipates that additional funding in the amount of $5 million will be required to maintain and expand the platform and provide services during the remaining years of the approved contract term. The Trustees are requested to approve the additional funding requested, thereby increasing the total approved contract amount to $7.236 million. (Staff is working on a plan to recover a portion of the costs from program participants through a pay-as-you-go service fee.)

Enterprise Shared Services

Information Technology

At their meeting of July 29, 2014, the Trustees approved the award of competitively bid contracts to six firms, **AvePoint Public Sector, Inc. (4600002834), EMC Corp. (4600002849), Jornata LLC (now BlueMetal Architects, Inc. (4600002850), KMQ Enterprises, Inc. dba Tailwind Associates (4600002851), Stellar Services, Inc. (4600002835) and Summit 7 Systems, Inc. (4600002836)**, to provide for consulting services in connection with the implementation of the SharePoint 2013 platform, including support for various business process improvements and strategic initiatives in one or more of the following areas: content management, development, governance, taxonomy and training. The

Trustees also approved funding in the aggregate total amount of $1.2 million, for a term of up to five years. Expenditures are currently approaching the originally approved total, with significant programs yet to be implemented during the remaining four years of the contract term. These include: significant work as a result of the Authority's strategic initiatives, implementation of Human Capital Management Success Factors, ongoing Enterprise content management requests, and migration of 'out of scope' content from the SharePoint 2007 Powernet environment. Additionally, there have been numerous requests from the Authority's Business Units for process improvements for non-recurring projects and corporate strategic initiatives, which require leveraging the implemented SharePoint platform. These include: Knowledge Management (information architecture implementation and search enhancement), Process Improvement (creating process improvement project sites solution), Compliance Management for Operations management of NERC and FERC regulatory documentation, build-out of Customer Energy Solutions, including NY Energy Manager, and audit results related to Records Management, Project Management et al. In order to accommodate these new requests, staff estimates that additional funding in the aggregate total amount of $8 million will be required. This will enable IT to grow the SharePoint environment into a mature management and proactive data management and analytics hub, capable of handling the myriad projects requested. Based on the foregoing, the Trustees are requested to approve the additional funding requested, thereby increasing the approved aggregate total amount to $9.2 million. Such contracts will continue to be monitored for utilization levels, available approved funding and combined total expenditures. It should be noted that Stellar is a NYS-certified MBE.

Operations / Operations Support Services

Power Generation / Support Services

At their meeting of January 23, 2013, the Trustees approved the award of a competitively bid contract to **ABB, Inc. ('ABB') (4500228543)** to provide for turnkey services in connection with the Generator Step-Up ('GSU') Transformer Replacement Project at the St. Lawrence/FDR Power Project, for a five-year term and funding in the amount of $22.2 million. The Work includes the design, fabrication, testing, delivery and installation of twelve single phase GSU transformers and one spare dual voltage transformer. The original award amount was $22,139,326. Cumulative additional funding in the amount of $2,214,331 was subsequently authorized in accordance with the Authority's EAPs. In accordance with the Authority's technical specifications, ABB performed a Design Impact Assessment ('DIA') to evaluate existing conditions in each transformer bay. The DIA identified unforeseen deficiencies in alarms and protective relaying and modifications required for code compliance in deluge system/fire protection. Additionally, corrective actions to the expansion isophase connections, rails/foundations, and conduits and cables were also recommended by ABB and were accepted by the Authority for implementation. Authority staff explored bidding the additional installation tasks/activities. However, in order to mitigate risk associated with safety and schedule, it is recommended that a Change Order on a lump sum basis be issued to ABB (as the turnkey services contractor) for the additional work activities on Bank 5 and for the remaining GSU Banks (6, 7 and 8), as well as for requested logic changes to the 125VDC breaker isolation and fan control. Additional funding in the amount of $6,262,987 is needed for the implementation of all the corrective actions and recommendations from the DIA, as well as additional scope changes requested by the Authority and lessons learned from the previous GSU bank installation. The Trustees are requested to approve the additional funding requested, thereby increasing the total approved contract amount to $30,616,644 (including $500,000 for any additional unforeseen conditions requiring remediation).

At their meeting of June 29, 2010, the Trustees approved the award of a competitively bid contract to **CARCO Group, Inc. ('CARCO') (4600002319)** to provide for pre-employment and contractor background investigation services to support Authority operations at its offices and operating facilities statewide, for a term of up to five years and funding in the amount of $1.5 million. Additional funding in the cumulative amount of $1 million was subsequently authorized in accordance with the Authority's EAPs. The need for this additional funding was due to an increase in volume, both in the number of contractor investigations and renewals of Authority employees' seven-year cycle personal risk assessments, as required by NERC CIP Standards. The background investigation services have been rebid and a new awardee has been selected to provide such services. In order to facilitate the transition from CARCO to the new firm and to maintain continuity of service, an extension of the subject contract through December 31, 2015 is now requested. The current Target Value of the contract is $2.5 million; staff anticipates that additional funding in the amount of $300,000 may be required for the extended term. The Trustees are requested to approve extension of the subject contract through December 31, 2015, as well as the additional funding requested, thereby increasing the total approved contract amount to $2.8 million.

The competitively bid contract with **Ferguson Electric Construction Co. ('Ferguson') (4500252428)** provides for installation services for the Generator Step-Up Transformer Installation Project at the Robert Moses Niagara Power Plant. The original award became effective on November 20, 2014 for an initial term of less than one year, in the amount of $371,900. Due to numerous issues encountered during the Factory Acceptance Testing of the new transformer (manufactured by another firm under a separate contract), delivery of the new transformer has been delayed; consequently, the outage window to install the transformer in 2015 was missed and installation of the new unit will occur in 2016. An extension of approximately 13 months is therefore requested in order to allow sufficient time to complete the original scope of work. The current contract amount is $371,900; staff anticipates that no additional funding will be required for the extended term. The Trustees are requested to approve extension of the subject contract through December 31, 2016, with no additional funding requested.

At their meeting of July 31, 2012, the Trustees approved the award of a competitively bid contract to **Stieglitz Snyder Architecture ('Stieglitz Snyder') (4500219697)** to provide for architectural/engineering, design and construction support services for the new Nature Center at the Robert Moses State Park in Massena, NY, for a term of up to three years and funding in the amount of $430,993. The original award became effective on August 1, 2012. Additional funding in the amount of $149,763 was subsequently authorized in accordance with the Authority's EAPs. Due to the postponement of the construction phase of the Nature Center until a space needs assessment, location study and conceptual plan for a new facility for the New York State Office of Parks, Recreation and Historic Preservation were completed and a determination regarding the new Parks facility was made, work did not begin as originally scheduled. A two-year extension is therefore requested in order for Stieglitz Snyder to provide construction support services through completion of construction and project closeout. The current contract amount is $580,756; staff anticipates that an additional $50,000 may be required for the extended term. The Trustees are requested to approve extension of the subject contract through July 31, 2017, as well as the additional funding requested.

FISCAL INFORMATION

Funds required to support contract services for various Business Units/Departments and Facilities have been included in the 2015 Approved O&M Budget. Funds for subsequent years, where applicable, will be included in the budget submittals for those years. Payment will be made from the Operating Fund. Funding for the Solar PV contracts will be provided from the proceeds of the Authority's Commercial Paper Notes and/or the Operating Fund. In addition, projects may also be funded, in part, with monies from the Petroleum Overcharge Restitution ('POCR') funds.

Funds required to support contract services for capital projects have been included as part of the approved capital expenditures for those projects and will be disbursed from the Capital Fund in accordance with the project's Capital Expenditure Authorization Request.

RECOMMENDATION

The Senior Vice President – Operations Support Services and Chief Engineer, the Senior Vice President – Power Generation, the Senior Vice President – Internal Audit, the Vice President – Environment, Health & Safety, the Vice President – Project Management, the Vice President – Procurement, the Vice President – Engineering, the Vice President – Transmission, the Vice President – Technical Compliance, the Vice President – Information Technology / Chief Information Officer, the Vice

President – Energy Efficiency, the Vice President – Customer Energy Solutions, the Director – Asset & Maintenance Management, the Regional Manager – Western New York, the Regional Manager – Northern New York, the Regional Manager – Central New York and the Regional Manager – Southeastern New York recommend that the Trustees approve the award of multiyear procurement (services) contracts to the companies listed in Exhibit '2c i-A' and the extension and/or funding of the procurement (services) contracts listed in Exhibit '2c i-B,' for the purposes and in the amounts discussed within the item and/or listed in the respective exhibits.

For the reasons stated, I recommend the approval of the above-requested action by adoption of the resolution below."

The following resolution, as submitted by the President and Chief Executive Officer, was adopted with Trustee Flynn being recused from the vote as it relates to Bernier, Carr & Associates, PC; E I Team, Inc.; Solar Liberty Energy Systems, Inc.; and Trigyn Technologies, Inc.

RESOLVED, That pursuant to the Guidelines for Procurement Contracts adopted by the Authority, the award and funding of the multiyear procurement services contracts set forth in Exhibit "2c i-A," attached hereto, are hereby approved for the period of time indicated, in the amounts and for the purposes listed therein, as recommended in the foregoing report of the President and Chief Executive Officer; and be it further

RESOLVED, That pursuant to the Guidelines for Procurement Contracts adopted by the Authority, the contracts listed in Exhibit "2c i-B," attached hereto, are hereby approved and extended for the period of time indicated, in the amounts and for the purposes listed therein, as recommended in the foregoing report of the President and Chief Executive Officer; and be it further

RESOLVED, That the Chairman, the Vice Chair, the President and Chief Executive Officer, the Chief Operating Officer and all other officers of the Authority are, and each of them hereby is, authorized on behalf of the Authority to do any and all things, take any and all actions and execute and deliver any and all agreements, certificates and other documents to effectuate the foregoing resolution, subject to the approval of the form thereof by the Executive Vice President and General Counsel.

**ii. Procurement (Services) Contract –
Employees' Savings and Deferred
<u>Compensation Plans – Contract Award</u>**

The President and Chief Executive Officer submitted the following report:

"<u>SUMMARY</u>

The Trustees are requested to approve the award of a five-year contract to T. Rowe Price Group, Inc. to provide record-keeper, investment management and trustee services for the Authority's two retirement savings plans, the Employees' Savings ('401(k)') Plan and the Deferred Compensation ('457') Plan (collectively, 'the Plans').

<u>BACKGROUND</u>

In February 1984, the Trustees approved the implementation of the 401(k) Plan. The 401(k) Plan is designed to provide salaried employees with a means of saving through a tax-deferred compensation arrangement. Under the 401(k) Plan, employees may elect to defer receiving a portion of their salary and direct the investment of this deferred compensation in a selection of investments. At present, more than 89% of eligible salaried employees participate in the 401(k) Plan. As of December 31, 2014, the 401(k) Plan assets totaled approximately $283 million.

In March 1989, the Trustees approved the implementation of the 457 Plan. The 457 Plan was established primarily to provide those Authority employees covered by a collective bargaining agreement with a means of saving through a tax-deferred compensation program, although the Plan is also available to salaried employees. Under the 457 Plan, employees may elect to defer receiving a portion of their salary and direct the investment of this deferred compensation in a selection of investments. At present, more than 69% of eligible collective bargaining agreement employees and 23% of eligible salaried employees participate in the 457 Plan. As of December 31, 2014, the 457 Plan assets totaled approximately $95 million.

The Authority's 401(k) Plan and 457 Plan Committees (collectively, 'the Committees') administer the respective Plans and may act on behalf of the Trustees in certain circumstances. The 401(k) Plan Committee is comprised of Justin Driscoll, Executive Vice President and General Counsel; Kristine Pizzo, Senior Vice President - Human Resources; Paul Tartaglia, Senior Vice President - Energy Resource Management; Brenda Verdesi, Manager - Benefits; and Brian McElroy, Treasurer. The 457 Plan Committee is comprised of Tom Concadoro, Vice President and Controller; Paul Grozio, Chief Draftsperson; Eric Firnstein, Facility Labor Relations Manager; Lawrence Hubbard, Electronic and Relay Technician; and Brenda Verdesi, Manager - Benefits. Lori Alesio, a non-voting participant, provides legal counsel.

<u>DISCUSSION</u>

On February 6, 2015, the Authority solicited proposals for firms interested in providing administrative/record-keeper, investment management and trustee services on behalf of the Plans by notice to a number of firms providing such services and advertisement in the New York State *Contract Reporter*. On March 5, 2015, the Authority received responses from the following seven firms:

- Empower Retirement/FASCore, LLC ('FASCore')
- Lincoln Financial Group
- MassMutual Life Insurance Company
- New York State Deferred Compensation Plan
- Prudential Retirement ('Prudential')
- T. Rowe Price Group, Inc. ('T. Rowe Price')
- Voya Institutional Plan Services, LLC

The Committees, with the support of PFM Advisors (‘PFM’), a financial advisory consulting firm, conducted an evaluation of the bids. Based on a scoring and assessment process developed by the Committees and PFM, vendor responses were evaluated and scores applied to each of the following criteria: organizational expertise and experience; account management; conversion of data; plan record-keeping/administrative services; system capabilities; participant services; investment services; and plan sponsor services, fees, expenses, revenue sharing and terms. Based on the evaluation of the vendor responses, the Committees invited the three firms with the highest scoring (FASCore, Prudential and T. Rowe Price) to the White Plains Office on April 29, 2015 for oral interviews. Based on the initial evaluation and in-person interviews, the Committees determined that T. Rowe Price was the most qualified bidder to provide record-keeper, investment management and trustee services for the Authority’s savings Plans.

T. Rowe Price brings a long history of solid fund performance with deep experience in the defined contribution market. They have sound administrative and record-keeping capabilities and have the singular advantage of not having to conduct a conversion of assets and records as they are the current record-keeper for the Plans. T. Rowe Price has provided a high degree of customer service to the Authority over the years, and has a high customer satisfaction rating among the Authority’s employees. The T. Rowe Stable Value Fund will continue to be offered as the capital preservation fund. The company’s overall fees, revenue sharing, and waiver of all loan fees make it the lowest-priced qualified bidder. Recordkeeping and administration fees will be $68 per participant per year which also includes plan communications and trustee fees. It is expected that the participant fee will be offset by revenue generated from the investment funds based on a sharing arrangement with T. Rowe Price. T. Rowe Price will credit the respective Plan 25 basis points on assets invested in T. Rowe Price funds and varied basis points on assets invested in non-T. Rowe Price funds. If the revenue generated is not sufficient to offset the participant fees, the difference will be invoiced to the Authority. Revenue generated in excess of the participant fees (as expected) will be used to cover qualified Plan expenses and as a credit to Plan participants.

<u>FISCAL INFORMATION</u>

Based on revenue sharing projections, it is estimated that participant fees ($68 per participant per year or approximately $172,856) will be offset by revenue generated from the sharing arrangement. If the sharing arrangement does not generate sufficient revenue to offset the participant fees, the difference will be invoiced to the Authority.

<u>RECOMMENDATION</u>

The Senior Vice President – Human Resources recommends that the Trustees approve the award of a five-year contract to T. Rowe Price Group, Inc. to provide record-keeper, investment management and trustee services for the Authority’s Employees’ Savings Plan and Deferred Compensation Plan.

For the reasons stated, I recommend the approval of the above-requested action by adoption of the resolution below.”

The following resolution, as submitted by the President and Chief Executive Officer, was unanimously adopted.

RESOLVED, That an agreement for record-keeping, investment management and trustee services with T. Rowe Price Group, Inc. in connection with the 401(k) and 457 Plans is hereby approved for a period of five years commencing October 1, 2015 as discussed in the foregoing report of the President and Chief Executive Office; and be it further

RESOLVED, That the Chairman, the President and Chief Executive Officer, the Chief Operating Officer, the Executive Vice President and General Counsel, the Executive Vice President and Chief Financial Officer, the Corporate Secretary, the Treasurer and all other officers of the Authority be, and each of them hereby is, authorized and directed, for and in the name and on behalf of the Authority, to do any and all things and take any and all actions and execute and deliver any and all certificates, agreements and other documents that they, or any of them, may deem necessary or advisable to effectuate the foregoing resolution, subject to approval as to the form thereof by the Executive Vice President and General Counsel.

**iii. Procurement (Services) Contract –
Selection of Firm to Provide Financial
Advisory Services for Issuance of Debt –
Contract Award**

The President and Chief Executive Officer presented the following report:

"SUMMARY

The Trustees are requested to approve the award and funding of a procurement contract for a term of up to five years in the amount of $250,000 to Public Financial Management, Inc. to provide financial advisory services in connection with the Authority's issuance of Revenue Bonds, Notes and related financial products.

BACKGROUND

Section 2879 of the Public Authorities Law and the Authority's Guidelines for Procurement Contracts require the Trustees' approval for procurement contracts involving services to be rendered for a period in excess of one year. The terms of the contracts considered herein are for more than one year and, therefore, the Trustees' approval is required.

The Authority engages the services of a financial advisor to support its capital markets activities and the issuance of Bonds, Notes and other forms of debt instruments. The financial advisor generally assists the Authority with an independent evaluation of financing alternatives under consideration; advises on rating agency interactions and investor relationships; provides market pricing on bonds of comparable public power issuers; monitors the performance of the underwriting team; and negotiates bond pricing. The financial advisor may also be engaged to assist the Authority on other matters of financial import.

DISCUSSION

On April 28, 2015, Request for Proposal Inquiry ('RFP') No. Q15-5886MR was published in the New York State *Contract Reporter* inviting firms to submit proposals to provide financial advisory services for the issuance of debt to the Authority. On May 21, 2015, the Authority received two proposals, one from Public Financial Management, Inc. ('PFM') and the other from Public Resources Advisory Group ('PRAG').

Authority staff from Finance, Legal and Procurement departments evaluated the written responses based on the following evaluation criteria: quality and clarity of the written proposal; technical ability to provide the requested services; breadth and depth of experience advising clients on debt issuance; experience in representing the Authority and other public power issuers; compensation; and status as, or experience with and willingness to team with, Minority-Owned Business Enterprises and Women-Owned Business Enterprises (collectively, 'MWBE').

Based on staff's evaluation, it is recommended that a contract for a term of up to five years be awarded to PFM to provide the subject financial advisory services. PFM is one of the leading independent municipal financial advisors nationwide and is consistently ranked as the number one financial advisor by the Bond Buyer, a national trade newspaper covering the municipal bond industry. PFM has a proven record of success in advising municipal clients and is the only municipal financial advisor with a dedicated large public power team.

PFM has a proven record of success in advising the Authority in the issuance of over $4.0 billion in debt during the past eighteen years. In 1997, in the wake of deregulation of the electric utility industry, PFM was instrumental in advising the Authority on the defeasance all of its outstanding debt and in developing a less restrictive Bond Resolution more suitable to a deregulated electric market. PFM's proposed compensation schedule is competitive with PRAG's response for the level of service and expertise they can provide. PFM has also proposed a plan to partner with two MWBE firms in providing the financial advisory services to the Authority.

PFM's expertise surrounding the issues affecting the Public Power Industry, combined with a full range of consulting services they can provide to service the Authority, makes them a valuable partner in providing the subject financial advisory services.

FISCAL INFORMATION

Funds required for advisory services provided in connection with the issuance of Authority debt will be paid directly from the proceeds of the debt issuance. Funds required to support non-debt related advisory services will be paid from the Authority's Operating Fund and are not expected to exceed $250,000 over the term of the agreement.

RECOMMENDATION

The Vice President – Procurement and the Treasurer recommends the Trustees' approval of the award of a multiyear service contract for a term of up to five years to Public Financial Management, Inc. to provide financial advisory services in connection with the issuance of Authority debt and related financial matters.

For the reasons stated, I recommend the approval of the above-requested action by adoption of the resolution below."

The following resolution, as submitted by the President and Chief Executive Officer, was unanimously adopted.

RESOLVED, That pursuant to the Guidelines for Procurement Contracts adopted by the Authority and the Authority's Expenditure Authorization Procedures, approval is granted for the award and funding of a multiyear service contract, for a term of up to five years, in an amount of $250,000, to Public Financial Management, Inc. as recommended in the foregoing report of the President and Chief Executive Officer; and be it further

RESOLVED, That the Chairman, the President and Chief Executive Officer, the Chief Operating Officer and all other officers of the Authority are, and each of them hereby is, authorized on behalf of the Authority to do any and all things and take any and all actions and execute and deliver any and all agreements, certificates and other documents to effectuate the foregoing resolution, subject to the approval of the form thereof by the Executive Vice President and General Counsel.

**iv. Procurement (Services) Contract –
Selection of Firm to Provide Independent
<u>Swap Advisory Services – Contract Award</u>**

The President and Chief Executive Officer submitted the following report:

"SUMMARY

The Trustees are requested to approve the award and funding of a procurement contract for a term of up to five years, in the amount of $250,000, to Mohanty Gargiulo LLC ('Mohanty') to provide independent swap advisory services in connection with the execution of the Authority's Interest Rate Exchange Program.

BACKGROUND

Section 2879 of the Public Authorities Law and the Authority's Guidelines for Procurement Contracts require the Trustees' approval for procurement contracts involving services to be rendered for a period in excess of one year. The term of the contract considered herein is for more than one year therefore, the Trustees' approval is required.

The Authority engages the services of a swap advisor when considering the use of financial derivative instruments with the objectives of mitigating the impact of interest rate exposure on its earnings and cash flows and minimizing debt costs. The swap advisor assists the Authority in evaluating the risks and/or benefits associated with a potential derivative transaction; evaluating appropriate market conditions for entering into a transaction; bidding, pricing and awarding of a transaction; and providing an independent evaluation and report concerning the fairness of the price for a particular transaction. The swap advisor may also be called upon to assist the Authority in negotiating master agreements and credit support annexes, and providing effectiveness testing under Governmental Accounting Standards Statement No. 53 (*Accounting and Financial Reporting for Derivative Instruments*). The use of derivative instruments is governed under the 'Policy for the Use of Interest Rate Exchange Agreements' approved by the Board on January 25, 2011.

DISCUSSION

On May 13, 2015, Request for Proposal Inquiry ('RFP') No. Q15-5900MR was published in the New York State *Contract Reporter* inviting firms to submit proposals to provide independent swap advisory services in connection with the management of the Authority's interest rate swap and derivatives program. On June 5, 2015, the Authority received proposals from the following four firms: First Southwest Company LLC; Mohanty Gargiulo LLC ('Mohanty'); PFM Swap Advisors LLC; and Swap Financial Group.

Authority staff from Finance, Energy Commodity & Credit Risk and Procurement departments evaluated the written responses based on the following evaluation criteria: quality and clarity of the written proposal; technical ability to provide the requested services; qualifications and experience of the team assigned to perform the services; demonstrated ability to assist the Authority in negotiating master agreements and related documents; compensation; and status as, or experience with, and willingness to team with, Minority-Owned Business Enterprises and Women-Owned Business Enterprises.

Based on staff's evaluation, it is recommended that a contract for a term of up to five years be awarded to Mohanty to provide the subject swap advisory services. The Mohanty team has over forty years of experience on the dealer side as heads of derivatives desks at major financial institutions. Mohanty has expertise in, and provides a comprehensive array of swap advisory services that will be beneficial to Authority staff in the management of the interest rate swap and derivatives program. The array of services includes: portfolio management and reporting; valuation services via a client web portal; regulatory monitoring and assistance; International Swaps and Derivatives Association ('ISDA') document negotiation; Governmental Accounting Standards Statement No. 53 effectiveness testing; market access and education; advice on commodity hedging; and structuring, pricing and bidding transactions. With many financial institutions consolidating, exiting the interest rate swap business, or having their credit ratings downgraded over the past several years, staff will be utilizing Mohanty's expertise in negotiating new ISDA agreements and credit support annexes with additional counterparties that meet the Authority's credit requirements.

Mohanty has a proven record of success in providing swap advisory services to large sophisticated issuers nationwide including many New York State authorities and agencies. Mohanty is also a New York State certified Minority and Women Business Enterprise.

Staff considers Mohanty to be well qualified with the requisite experience to advise the Authority with the execution of its Interest Rate Exchange program.

FISCAL INFORMATION

Funds required for swap advisory services provided in connection with the issuance of Authority debt will be paid directly from the proceeds of the debt issuance. Funds required to support non-debt related swap advisory services will be paid from the Authority's Operating Fund and are not expected to exceed $250,000 over the term of the agreement.

RECOMMENDATION

The Vice President – Procurement and the Treasurer recommend the Trustees' approval of the award of a multiyear service contract for a term of up to five years to Mohanty Gargiulo LLC to provide swap advisory services in connection with the execution of the Authority's Interest Rate Exchange Program.

For the reasons stated, I recommend the approval of the above-requested action by adoption of the resolution below."

The following resolution, as submitted by the President and Chief Executive Officer, was unanimously adopted.

RESOLVED, That pursuant to the Guidelines for Procurement Contracts adopted by the Authority and the Authority's Expenditure Authorization Procedures, approval is granted for the award and funding of a contract, for a term of up to five years, in an amount of up to $250,000, to Mohanty Gargiulo LLC as recommended in the foregoing report of the President and Chief Executive Officer; and be it further

RESOLVED, That the Chairman, the President and Chief Executive Officer, the Chief Operating Officer and all other officers of the Authority are, and each of them hereby is, authorized on behalf of the Authority to do any and all things and take any and all actions and execute and deliver any and all agreements, certificates and other documents to effectuate the foregoing resolution, subject to the approval of the form thereof by the Executive Vice President and General Counsel.

NIAGARA

v. Procurement (Services) Contract –
Niagara Power Project – Transmission Life Extension and Modernization Program –
Niagara Switchyard Upgrades – Contact Award

The President and Chief Executive Officer submitted the following report:

"SUMMARY

The Trustees are requested to approve the award of a three-year contract in the amount of $12,633,300 to Ferguson Electric Construction Co. Inc. ('Ferguson') of Buffalo, NY for the demolition of existing equipment; installation of new equipment; and disposal of contaminated oil-filled equipment at the Niagara Power Project switchyard. This work is part of the ongoing Transmission Life Extension and Modernization Program ('T-LEM' or 'Program') and is included in Phase 1 of the Niagara Switchyard LEM.

BACKGROUND

Section 2879 of the Public Authorities Law and the Authority's Guidelines for Procurement Contracts requires the Trustees' approval for construction contracts involving services to be rendered for a period in excess of one year. Also, the Authority's Expenditure Authorization Procedures (**'**EAPs**'**) require the Trustees' approval for the award of construction contracts in excess of $3 million.

The T-LEM is a multiyear program to upgrade the Authority's existing transmission system in order to maintain availability, increase reliability and ensure regulatory compliance. The Program encompasses NYPA's transmission assets in the Central, Northern, and Western regions and has been divided into several projects. The Program is estimated to cost $726 million and includes:

- Upgrades, refurbishments, and replacements of switchyards and substations

- Upgrades, refurbishments, and replacements of transmission line structures, towers and associated hardware, including tower painting

- Replacement of the submarine cable on PV-20

- Work along rights-of-way, including access roads

The Niagara Switchyard LEM ('Project') is a multiyear project within the Program and includes upgrades to the 115 kV, 230 kV and 345 kV switchyards. It is estimated to cost $267 million and is phased as follows:

- Phase 1 is estimated to cost $154 million and includes engineering, procurement and construction to support upgrades in the 115 kV and 230 kV switchyards.

  On May 22, 2014, the Trustees approved Phase 1 funding in the amount of $154 million.

  - Phase 2 is estimated to cost $113 million to continue upgrades in the 115 kV and 230 kV switchyards in addition to engineering, procurement and construction in the 345 kV switchyard.

DISCUSSION

The Project has been sequenced so that equipment replacements are aligned with relay upgrades that are currently in progress to take advantage of outages, internal resource availability and external utility upgrades. The Niagara Switchyard LEM is scheduled to be completed in 2025. This contract addresses components of Phase 1 of the Project scheduled for the period July 30, 2015 through March 20, 2017 which consists of demolition and replacement of the equipment listed below and includes, pulling and terminating cables, installing access platforms to new equipment, installing aerial cable, and equipment connections:

- 4 115 kV Circuit Breakers
- 5 230 kV Circuit Breakers
- 1 Autotransformer
- 8 Motor Operated Disconnects
- 40 Manual Disconnect Switches
- 21 Instrument Transformers
- 115 kV East Bus
- 115 kV West Bus

In response to the Authority's Request for Proposal (Q15-5876JM) advertised in the New York State *Contract Reporter* on April 15, 2015, seventy-three (73) firms downloaded the bid document. Many of the firms that downloaded the bid document indicated that after reviewing the bid document the scope-of-work was not within their portfolio and/or they did not have the resources to execute the scope-of-work. Two firms participated in the bid walk downs; one proposal was received on May 27, 2015 as noted below:

Bidder	Base Price	Evaluated Price
Ferguson Electric Construction Co. Inc. Buffalo, NY	$11,700,000	$12,633,300

Bid addendums were issued providing technical clarification and revising quantities resulting in modification to the base price. Additionally, optional pricing was requested for the disposal of contaminated equipment. The optional amount totaling $1.3 million will be exercised based on the outcome of testing of the oil-filled equipment.

Ferguson's base price is within the accuracy of the Authority's Fair Cost Estimate of $9,648,290. Ferguson's experience, safety record, resources and capabilities were evaluated as sufficient to perform this work. The firm has met all of the requirements of the Bidding Document and performed satisfactorily on previous NYPA Projects. It is recommended that a contract award in the amount of $12,633,300 for the demolition and installation of the equipment noted above be made to Ferguson, the lowest-priced, technically qualified bidder. Included in this amount is an additional $1.3 million for the disposal of contaminated oil-filled equipment.

FISCAL INFORMATION

Payment associated with this project will be made from the Authority's Capital Fund.

RECOMMENDATION

The Senior Vice President and Chief Engineer – Operations Support Services, the Vice President – Project Management, the Vice President – Engineering, the Vice President – Transmission, the

Regional Manager – Niagara, the Vice President – Procurement, and the Project Manager recommend that the Trustees approve the award of a three-year contract to Ferguson Electric Construction Co. Inc. of Buffalo, NY in the amount of $12,633,300 for the demolition of existing equipment; installation of new equipment; and disposal of contaminated oil-filled equipment at the Niagara Power Project switchyard as part of the Niagara Switchyard Life Extension and Modernization Project.

For the reasons stated, I recommend the approval of the above-requested action by adoption of the resolution below."

The following resolution, as submitted by the President and Chief Executive Officer, was unanimously adopted.

RESOLVED, That pursuant to the Guidelines for Procurement Contracts adopted by the Authority and the Authority's Expenditure Authorization Procedures, a contract award in the amount of $12,633,300 to Ferguson Electric Construction Company, is hereby authorized for the demolition of existing equipment; installation of new equipment; and disposal of contaminated oil-filled equipment at the Niagara Power Project switchyard, as part of the Niagara Switchyard Life Extension and Modernization Project, as recommended in the foregoing report of the President and Chief Executive Officer;

Contractor	**Contract Approval**
Ferguson Electric Construction Co Buffalo, NY	**$12,633,300**
(Q15-5786JM)	

AND BE IT FURTHER RESOLVED, That the Chairman, the President and Chief Executive Officer, the Chief Operating Officer and all other officers of the Authority are, and each of them hereby is, authorized on behalf of the Authority to do any and all things and take any and all actions and execute and deliver any and all agreements, certificates and other documents to effectuate the foregoing resolution, subject to the approval of the form thereof by the Executive Vice President and General Counsel.

d. Capital Expenditure Authorization Request:

**i. Richard M Flynn Power Plant –
2015 Major Outage – Capital
<u>Expenditure Authorization Request</u>**

The President and Chief Executive Officer submitted the following report:

"<u>SUMMARY</u>

The Trustees are requested to authorize a Capital Expenditure Authorization Request ('CEAR') in the amount of $10, 521,800 for the replacement and/or upgrade of critical parts for the Richard M Flynn Power Plant's ('Plant') gas turbine and controls during the 2015 Major Outage ('Project'). Funding in the amount of $2,473,800 was previously authorized by the President and Chief Executive Officer in 2013 for long lead time components of the Project.

<u>BACKGROUND</u>

In accordance with the Authority's Expenditure Authorization Procedures ('EAPs'), capital expenditures in excess of $3 million require the Trustees' approval.

The Plant has been in service since May 1994 and is now considered a merchant plant. The Plant consists of one gas turbine and one steam turbine. The timing of major overhauls and large projects at the Plant is based on the recommended maintenance cycles of the Siemens V84.2 gas turbine. Siemens recommends that the gas turbine be completely overhauled and upgraded approximately every 33,000 operating hours, which, with typical operating parameters, equates to once every four years. When the Plant is offline (outage) other maintenance projects which cannot be done while in-service, are completed. The last major outage at the Plant was in 2011. In keeping with the four-year schedule, the next outage is due to start in October 2015. The repairs and upgrades described below are critical to the safe, reliable and efficient operation of the Plant.

<u>DISCUSSION</u>

Following the 2011 Major Outage, critical gas turbine parts that were salvageable were sent out for refurbishment and upgrade. Components that were not repairable needed to be replaced. These purchased and/or refurbishment components have long lead times and need to be procured well in advance of the Plant's next outage in order to maintain operational schedules and prevent an extended outage. Examples of these critical components are: HR3 gas burners, compressor inner diffuser, turbine blades/vanes, mixing elbows, controls and the turbine inner case. The costs associated with the purchase and refurbishment of these components and the balance of the activities associated with the Project are incorporated in the following table.

Category	Total Authorization Request
Preliminary Engineering	$ 38,100
Engineering Design	$ 126,000
Procurement	$ 9,643,700
Construction Installation	$ 138,000
NYPA Indirect Expense	$ 501,000

NYPA Direct Expense	$ 75,000
Total All Categories	$10,521,800

FISCAL INFORMATION

Payment associated with this Project will be made from the Authority's Capital Fund. At this time, staff is requesting authorization of the remaining balance of $8,048,000 for implementation of the Project during the 2015 Major Outage.

RECOMMENDATION

The Senior Vice President – Power Generation, the Vice President – Procurement, the Regional Manager – Southeastern New York and the Director – Operations, RM Flynn Power Plant, recommend that the Trustees authorize capital expenditures in the amount of $8,048,000 for the replacement and/or upgrade of critical components for the gas turbine and controls and the balance of activities during the Richard M Flynn Power Plant's 2015 Major Outage.

For the reasons stated, I recommend the approval of the above-requested action by adoption of the resolution below."

The following resolution, as submitted by the President and Chief Executive Officer, was unanimously adopted.

RESOLVED, that pursuant to the Authority's Expenditure Authorization Procedures, capital expenditures are hereby approved in the amount of $8,048,000 for the upgrade and purchase of critical components for the gas turbine and controls and the balance of activities during the 2015 Richard M Flynn Power Plant's Major Outage as recommended in the foregoing report of the President and Chief Executive Officer:

Capital	**Expenditure Authorization**
RM Flynn Power Plant – 2015 Major Outage	
Previous Authorization	**$ 2,473,800**
Current Request	**8,048,000**
Total Amount Authorized	**$ 10,521,800**

AND BE IT FURTHER RESOLVED, That the Chairman, the President and Chief Executive Officer, the Chief Operating Officer and all other officers of the Authority are, and each of them hereby is, authorized on behalf of the Authority to do any and all things and take any and all actions and execute and deliver any and all agreements, certificates and other documents to effectuate the foregoing resolution, subject to the approval of the form thereof by the Executive Vice President and General Counsel.

ii. Moses-Adirondack and Moses-Plattsburgh –
Structure Replacements – Phase II –
<u>Capital Expenditure Authorization Request</u>

The President and Chief Executive Officer submitted the following report:

"SUMMARY

The Trustees are requested to authorize a Capital Expenditure Authorization Request ('CEAR') in the amount of $17.747 million for the replacement of approximately two hundred 230 kV H-frame wood pole structures on the Moses-Adirondack ('M-A') 1&2 transmission lines and the Moses-Plattsburgh ('M-P') 1&2 transmission lines over the next five years.

This project is Phase II of the current wood structure replacement program which goal is to safely, effectively, and reliably operate and maintain the existing M-A and M-P transmission lines. It is not part of the larger, overall transmission upgrade/replacement project of the M-A lines and structures. This is an interim measure to increase transmission reliability and availability during normal operations, and more so, to reinforce the lines to withstand major weather events such as the 1998 Ice Storm.

BACKGROUND

In accordance with the Authority's Expenditure Authorization Procedures ('EAPs'), capital expenditures in excess of $3 million require the Trustees' approval.

The wood pole structures on the M-A 1&2 transmission lines and the M-P 1&2 transmission lines are approaching the end of their useful life.

The M-A transmission lines consist of two, 230 kV lines originating at the Moses Switchyard at the St. Lawrence-FDR Power Project and terminate at the Authority's Adirondack Substation, a distance of approximately 85 miles or 170 circuit miles. The original wood pole section of the line was constructed in 1942 and operated at 115 kV. NYPA later took ownership and completed construction of the new lines in three segments: North Extension, Rehabilitated Massena-Taylorville Lines, and South End Relocation to Adirondack. The new lines were energized in 1958 and operated at 230 kV.

The M-P transmission lines are two, 230 kV transmission lines operating between the Moses Switchyard at the St. Lawrence-FDR Power Project and Authority-owned substations at Willis, Ryan, Patnode, Duley, and Plattsburgh. This line represents a total distance of approximately 75 miles or 150 circuit miles. The first circuit was placed in service in 1958 and the second circuit was placed in service in 1979, concurrent with the Willis Substation.

This CEAR was developed based on field inspections and is for the replacement of approximately two hundred deteriorated wood poles during the period of 2016 to 2020.

DISCUSSION

The M-A transmission lines are an integral component of the New York Independent System Operator's System Restoration Plan, and both the M-A and M-P transmission lines are critical outlets for renewable energy. The conductors that comprise these transmission lines are secured using wood pole structures, many of which are approaching the end of their useful life.

Inspections and risk assessments of the Authority's transmission assets are performed on a routine basis in order to protect the integrity and reliability of the system. Given the age and criticality of the M-A and M-P transmission lines, these inspections are more frequent and reveal degradation of the H-frame wood pole structures. Based on the inspections performed, the Authority anticipates replacing approximately forty structures annually for a five-year period from 2016 to 2020.

The total project cost over the five-year period is estimated at $17.747 million, as follows:

Engineering	$ 125,500
Procurement	$ 7,222,500
Construction/Installation	$ 9,451,200
Authority Direct Expenses	$ 102,700
Authority Indirect Expenses	$ 845,100
TOTAL	$17,747,000

FISCAL INFORMATION

Payment associated with this Project will be made from the Authority's Capital Fund.

RECOMMENDATION

The Senior Vice President – Operations Support Services and Chief Engineer, the Vice President – Transmission and the Vice President – Engineering recommend that the Trustees authorize capital expenditures in the amount of $17.747 million for the replacement of the 230 kV wood pole structures on the Moses-Adirondack 1&2 and the Moses-Plattsburgh 1&2 Transmission Lines.

For the reasons stated, I recommend the approval of the above-requested action by adoption of the resolution below."

The following resolution, as submitted by the President and Chief Executive Officer, was unanimously adopted.

RESOLVED, That in accordance with the Authority's Expenditure Authorization Procedures, capital expenditures are hereby approved in the amount of $17.747 million for the replacement of approximately two hundred 230 kV H-Frame wood pole structures on the Moses-Adirondack ("M-A") 1&2 and the Moses-Plattsburgh ("M-P") 1&2 Transmission Lines:

Capital	**Expenditure Authorization**
Moses-Adirondack and Moses-Plattsburgh Structure Replacements Phase II	**$17.747 million**

AND BE IT FURTHER RESOLVED, That the Chairman, the President and Chief Executive Officer, the Chief Operating Officer and all other officers of the Authority are, and each of them hereby is, authorized on behalf of the Authority to do any and all things and take any and all actions and execute and deliver any and all agreements, certificates and other documents to effectuate the foregoing resolution, subject to the approval of the form thereof by the Executive Vice President and General Counsel.

iii. Robert Moses Niagara Power Project – Visitors Center Upgrade – Increase in Capital Expenditure and Contract Authorizations

The President and Chief Executive Officer submitted the following report:

"SUMMARY

The Trustees are requested to approve an increase in the capital expenditure authorization limit for the Robert Moses Niagara Power Project Power Vista Visitors Center ('Niagara Visitors Center') Upgrade from the previously authorized amount of $8.925 million to $14.270 million. This additional $5.345 million is required to implement an enhanced vision of the upgrades to the Niagara Visitors Center.

The Trustees are also requested to approve an increase in the contract awarded to Hadley Exhibits, Inc. ('Hadley') of Buffalo, NY from the previous amount of approximately $9.0 million to $11.6 million to fund this enhanced vision of the Niagara Visitors Center.

BACKGROUND

In accordance with the Authority's Expenditure Authorization Procedures, capital expenditures in excess of $3 million require the Trustees' approval. Also, in accordance with the Guidelines for Procurement Contracts adopted by the Authority, additional funding that exceeds 25 percent of the originally-approved contract amount requires the Trustees' approval.

At their May 22, 2014 meeting, the Trustees approved the Capital Expenditure Authorization Request ('CEAR') for the Niagara Visitors Center Upgrade Project, estimated at $8.664 million, and the award of a five-year contract to Hadley to upgrade the displays and exhibits and replace the existing chair lift system with a new, modern elevator and Americans with Disabilities Act ('ADA') accessible ramp.

DISCUSSION

Many of the exhibits at the Niagara Visitors Center are no longer functional, displaying signs of wear, irrelevant to present-day topics and programs, or cannot be easily updated and maintained. As this Visitors Center is open to the public, the exhibits need to be upgraded to include present-day technologies and represent the Authority's current programs and customers. Additionally, the Visitors Center is a significant component in fulfilling the Authority's Federal Energy Regulatory Commission ('FERC') obligation to provide public recreational opportunities at its licensed hydroelectric power plants, included in the site's FERC-approved Recreation Plan.

In May 2014, Hadley initiated the conceptual design work for the Niagara Visitors Center. In the fall of 2014, it was determined that additional funding would be required to implement the Authority's enhanced vision for the upgrade of the Niagara Visitors Center. The scope-of-work has been enhanced to include additional interactive and sophisticated displays and exhibits such as a Multitaction touch table, a simulator theater, and numerous additional touch-screen interactive monitors; a retail space; and the addition of State Historic Preservation Office and Engineering required enhancements to the elevator and ADA ramp designs.

In order to maintain the current project schedule to complete the upgrade of the Niagara Visitors Center by mid-2016, a Change Order will be issued to increase Hadley's contract to $10,857,886.50 to incorporate the enhanced vision and to remove the detailed design and construction of the St. Lawrence and Blenheim-Gilboa ('B-G') Visitors Centers from its contract. Also, in order to allow sufficient funding, should the detailed engineering design and field work require further modifications to the exhibits or elevator, an additional $750,000 above the revised contract value is requested. The cost for any additional work will only be released to Hadley if the need arises and will not be reflected in the amended

Purchase Order. Hadley will complete the conceptual plans to enable the final design and construction of the displays and exhibits at St. Lawrence and B-G. The detailed design and construction phases for St. Lawrence and B-G will be reissued for bid in 2016 with additional funding requested for each. As a result, project completion for St. Lawrence and B-G will be delayed by approximately one year until 2018.

This project strategy will enable lessons learned at the Niagara Visitors Center to be incorporated in the upgrade of the St. Lawrence and B-G Visitors Centers. Updates to these CEARs will be addressed at the time of bid for the final design and construction for these facilities.

ENGINEERING, PROCUREMENT, CONSTRUCTION, DIRECT and INDIRECT COSTS

The Trustees are requested to approve additional capital expenditures for construction and Authority direct and indirect costs to continue the design and implementation of the work for the Niagara Visitors Center as follows:

	Previous Estimate ($000)	Current Request ($000)	Current Total Estimate ($000)
Preliminary Engineering/Licensing	50.0	0.0	50.0
Engineering and Design	725.1	0.0	725.1
Procurement/Materials	0.0	0.0	0.0
Construction	7356.0	5088.2	12444.2
Authority Direct/Indirect	793.9	256.8	1050.7
	8925.0	5345.0	14270.0

Future-year funding for design and construction will be included in the Capital Budget request for that year.

FISCAL INFORMATION

Payment associated with this project will be made from the Authority's Capital Fund.

RECOMMENDATION

The Senior Vice President and Chief Engineer – Operations Support Services, the Senior Vice President – Public Affairs and Business Development, the Vice President – Project Management, the Vice President – Procurement, the Project Manager and the Regional Manager of Western NY recommend that the Trustees approve additional capital expenditures in the amount of $5.345 million, and a $2.6 million increase in the contract with Hadley Exhibits, Inc. of Buffalo, NY for the Robert Moses Niagara Power Project Power Vista Visitors Center Upgrades.

For the reasons stated, I recommend the approval of the above-requested action by adoption of the resolution below."

The following resolution, as submitted by the President and Chief Executive Officer, was unanimously adopted.

RESOLVED, That pursuant to the Authority's Expenditure Authorization Procedures, additional capital expenditures in the amount of $5.345 million are hereby approved for the Robert Moses Niagara Power Project Power Vista Visitors Center ("Niagara Visitors Center") Upgrade, as recommended in the foregoing report of the President and Chief Executive Officer;

Capital	**Expenditure Authorization**
Niagara Power Project Power Vista Visitors Center	
Previous Authorization	**$ 8.925 million**
Additional Request	**$ 5.345 million**
Total Authorization	**$ 14.270 million**

AND BE IT FURTHER RESOLVED, That in pursuant to the Guidelines for Procurement Contracts adopted by the Authority, an increase in the contract with Hadley Exhibits, Inc. of Buffalo, NY in the amount of $2.6 million is hereby approved for the Niagara Visitors Center Upgrade Project, as recommended in the foregoing report of the President and Chief Executive Officer;

Contractor	**Contract Authorization**
Hadley Exhibits, Inc. Buffalo, NY	
Previous Authorization	**$ 9.0 million**
Additional Request	**$ 2.6 million**
Total Authorization	**$ 11.0 million**

AND BE IT FURTHER RESOLVED, That the Chairman, the President and Chief Executive Officer, the Chief Operating Officer and all other officers of the Authority are, and each of them hereby is, authorized on behalf of the Authority to do any and all things and take any and all actions and execute and deliver any and all agreements, certificates and other documents to effectuate the foregoing resolution, subject to the approval of the form thereof by the Executive Vice President and General Counsel.

iv. St. Lawrence/FDR Power Project – Massena Substation Auto-Transformer Replacement Project – Increase in Authorized Funding and Contract Authorization

The President and Chief Executive Officer submitted the following report:

"SUMMARY

The Trustees are requested to increase the Capital Expenditure Authorization Request ('CEAR') for the removal of the existing Massena Substation Auto-Transformers and for site preparation for the new SMIT 765 kV Auto-Transformers (Banks 1 & 2) from the previously authorized amount of $27.3 million to $32.4 million. This $5.1 million increase is required for additional work for engineering and construction services.

The Trustees are also requested to approve an increase of $1.65 million in the contract authorization for O'Connell Electric Company, Inc. ('OCE') of Victor, NY to $7.766 million to fund improvements to the Massena Substation Auto-Transformer Replacement Project.

BACKGROUND

In accordance with the Authority's Expenditure Authorization Procedures, capital expenditures in excess of $3 million require the Trustees' approval. Also, in accordance with the Authority's Expenditure Authorization Procedures, additional funding that exceeds 25 percent of the originally approved contract amount requires the Trustees' approval.

At their meeting on December 18, 2012, the Trustees approved a Capital Expenditure Authorization Request and approved an award of a competitively bid contract to SMIT Transformers (PO# 4500226810) to provide six 765 kV/230 kV auto-transformers.

At their meeting on May 22, 2014, the Trustees approved the award of a two-year contract to OCE (4500245184) in the amount of $5,190,480 for demolition and removal of existing utilities and structures in anticipation of receiving the new 765/230 kV auto-transformers at Massena Substation. A Change Order to OCE's contract in the amount $927,421 was issued in December 2014 for the cost of additional protection and controls for the auto-transformers and the preparation of temporary storage pads, secondary containment and temporary power for extended storage of the auto-transformers due to deferred construction start as a result of the New York Independent System Operator's ('NYISO') denial of the initial outage request.

DISCUSSION

The Massena Auto-Transformer Banks No. 1 and No. 2 consist of seven single-phase auto-transformers, three for each bank and one designated as a spare, to be put into service in the event of a failure. On July 8, 2008, Transformer 2A from Auto-Transformer Bank No. 2 failed and was replaced with the existing spare transformer. A replacement auto-transformer was ordered in 2012 from SMIT. In March 2012, auto-transformer 1X failed which left the Massena substation with only one autotransformer bank in service and the MM2 line out of service. This event left the Massena Substation without a spare to handle a contingency failure in either of the Auto-Transformer Banks and severely restricted operational conditions.

The Authority's Engineering department attributed both failures to a common mode occurrence of which the remaining auto-transformers are at risk. The auto-transformers are critical long lead time electrical components required for successful operation and function of the substation. A future failure of a single auto-transformer may result in a heavily restricted operational condition of the 765 kV transmission system with both MMS lines out of service. As a result, all six auto-transformers at the Massena Substation are being replaced.

TRC was engaged to develop a civil, electrical substation installation package for the new auto-transformers. During the engineering phase, the existing civil condition of the transformer pads and surrounding containment bays was assessed to determine if the pedestals could accept the new transformers. After completion of the initial design and development of estimates, additional improvements were identified including the installation of a containment liner system, relocation of the Marshalling Cabinets to increase operational and maintenance efficiency, installation of new trenches and cable tray systems, and modifications to SCADA systems and alarm schemes.

The additional construction and engineering includes demolition of the existing marshalling cabinets, design for the three new marshalling cabinets to include 480V system and wiring diagrams for the ATS system, a new design for the tertiary equipment stands and bus supports and a new protection and control engineering package for the alarms, annunciation and SCADA control. The new civil design for the existing transformer pedestals required reinforcement with concrete infill along with leveling transformer foundations to accept the new SMT auto-transformers. Additionally, in order to take advantage of the existing outages and resource availability, aspects of the Switchyard Life Extension and Modernization were incorporated into this project.

In order to maintain the current project schedule and complete the additional improvements by early 2016, Change Orders in the amount of $1.65 million will be issued to OCE increasing the contract value to $ 7.766 million. This amount includes $600,000 for the removal of contaminated stone from the containment pit, if deemed necessary, and will only be released to OCE if the need arises and will not be reflected in the amended Purchase Order.

Summary of project funding is as follows:

	Change Order ($000)	Contract Totals (Rounded) ($000)
Original Contract Award		5,190
Change Order #1	927	
Current Change Order Approval Request	1,648	
Cumulative Change Orders		2,575
Total OCE Contract		7,766
% above authorized		49.6%

ENGINEERING, PROCUREMENT, CONSTRUCTION, DIRECT and INDIRECT COSTS

The Trustees are requested to approve additional Capital Expenditures for construction and Authority Direct and Indirect costs to continue the design and construction of the Massena Substation as follows:

	Previous Estimate ($000)	Current Request ($000)	Current Total Estimate ($000)
Preliminary Engineering/Licensing	250		250
Engineering/Design	330	2,200	2,530
Procurement	18,060		18,060
Construction/Installation	6,480	2,680	9,160
Authority Direct/Indirect	2,130	250	2,380
	27,250	5,130	32,380

The construction cost includes funds for an increase in contract award to OCE. Future-year funding for design and construction will be included in the Capital Budget request for that year.

FISCAL INFORMATION

Payment associated with this project will be made from the Authority's Capital Fund.

RECOMMENDATION

The Senior Vice President and Chief Engineer – Operations Support Services, the Vice President – Project Management, the Vice President – Engineering, the Vice President – Transmission, the Regional Manager – Northern NY, the Vice President – Procurement and the Project Manager recommend that the Trustees authorize an increase of $5.1 million in Capital Expenditures and an increase in O'Connell Electric Company, Inc.'s contract value to $7.766 million be approved for the Massena Substation Auto-Transformer Replacement Project as indicated above.

For the reasons stated, I recommend the approval of the above-requested action by adoption of the resolution below."

The following resolution, as submitted by the President and Chief Executive Officer, was adopted with Trustee Flynn being recused from the vote.

RESOLVED, That pursuant to the Guidelines for Procurement Contracts adopted by the Authority and the Authority's Expenditure Authorization Procedures, $5.1 million is hereby authorized for increased engineering and construction support for the Massena Substation Auto-Transformer Replacement Project;

Capital	**Expenditure Authorization**
St. Lawrence/FDR Power Project – Massena Substation Auto-Transformer Replacement Project	
Previous Authorization	**$ 27.3 million**
Additional Request	**$ 5.1 million**
Total Authorization	**$ 32.4 million**

AND BE IT FURTHER RESOLVED, That an increase in O'Connell Electric Company, Inc.'s contract value to $7.766 million to fund improvements to the Massena Substation Auto-Transformer Replacement Project as recommended in the foregoing report of the President and Chief Executive Officer is hereby approved;

Contractor	**Contract Authorization**
O'Connell Electric Company, Inc. Victor, NY (4500245184)	
Total Authorization	**$ 7.766 million**

AND BE IT FURTHER RESOLVED, That the Chairman, the President and Chief Executive Officer, the Chief Operating Officer and all other officers of the Authority are, and each of them hereby is, authorized on behalf of the Authority to do any and all things and take any and all actions and execute and deliver any and all agreements, certificates and other documents to effectuate the foregoing resolution, subject to the approval of the form thereof by the Executive Vice President and General Counsel.

e. Real Estate:

i. Niagara Power Project – Transfer of Real Property to Erie Canal Harbor Development Corporation – County of Erie – Map No. 2516, Parcel No. 3285

The President and Chief Executive Officer submitted the following report:

"SUMMARY

The Trustees are requested to approve the conveyance of approximately 14.25 acres of real property located in the City of Buffalo, Erie County, and commonly known as the First Buffalo Marina ('Marina'), as shown on the attached Exhibit '2e i-A,' with the improvements thereon, to the Erie Canal Harbor Development Corporation ('ECHDC'), a subsidiary of the Empire State Development Corporation, the state's chief economic development agency. It is proposed that the consideration for this transfer be $1.00 and that the consideration be waived.

BACKGROUND

The Authority's Expenditure Authorization Procedures require Trustee approval of acquisitions or dispositions of fee or easement interests in real property where the per-parcel value exceeds $10,000.00.

Title 5-A of Article 9 of the Public Authorities Law (the 'Act') and the Authority's Guidelines for the Disposal of Real Property (the 'Guidelines') allow the Authority, with the approval of the Trustees, to dispose of Authority property by negotiation and for less than fair market value when the transferee is a government or other public entity, and the terms and conditions of the transfer require that the ownership and use of the asset will remain with the government or any other public entity. The deed for the contemplated transfer of title to ECHDC will include language to this effect.

DISCUSSION

At their June 29, 2010 meeting, the Trustees approved the purchase of the Marina property, comprising approximately 15 acres, for $4.4 million. The property was acquired to serve as the mooring and work area for the Authority's barge, tugboats and ice-breaking vessel, which are used to install, maintain, and remove the Lake Erie Ice Boom. The Authority took title to the property on October 10, 2010.

The Authority's operations on the property involve the mooring of three vessels during the winter season in support of ice boom operations. The site is also utilized as a recreational marina, operated by a private entity under contract with the Authority. The Authority plans to relocate its winter mooring facilities from their present location to the extreme northerly end of the property and will retain ownership of approximately one acre, as generally shown on Exhibit '2e i-A.' Staff has determined that the remaining 14.25 acres of the property are not required for Authority operations and are surplus.

The property will be conveyed 'as-is,' with all improvements, including floating docks, security fencing, an abandoned grain elevator and a concrete block marina building. The site has 2021+/- feet of frontage on the City Ship Canal and the Buffalo River. Based on an independently-appraised value of $252,459.00 per acre, the value of the 14.25 acres to be conveyed to ECHDC is $3,597,540.75.

This transfer is in keeping with the Authority's ongoing support of Western New York's economic development. ECHDC was created to spearhead the City of Buffalo's waterfront redevelopment efforts. Transfer of the Marina site, located in a prime location along the waterfront, will bolster ECHDC's ongoing efforts to revitalize and transform the Inner and Outer harbors and to spur future development. Projects under active discussion by ECHDC and involving the Marina site include the lighting of the Connecting Terminal Grain Elevators and a proposed bicycle-pedestrian ferry.

In light of the significant public benefit anticipated as a result of ECHDC's redevelopment efforts, it is proposed that the consideration for this transfer be $1.00 and that the payment be waived.

FISCAL INFORMATION

In accordance with the foregoing, the Authority will transfer title to approximately 14.25 acres of real property located in the City of Buffalo to the Erie Canal Harbor Development Cooperation, with the improvements thereon, without payment to the Authority.

RECOMMENDATION

The Vice President – Procurement and the Director – Site Purchasing, Materials Management and Real Estate, recommend that the Trustees approve the transfer of title to approximately 14.25 acres of real property located in the City of Buffalo, Erie County, and commonly known as the First Buffalo Marina, to the Erie Canal Harbor Development Corporation, for a consideration of $1.00 and consideration be waived, in accordance with the foregoing and with Exhibit '2e i-A' attached hereto.

For the reasons stated, I recommend the approval of the above-requested action by adoption of the resolution below."

The following resolution, as submitted by the President and Chief Executive Officer, was unanimously adopted.

RESOLVED, That in accordance with the Authority's Expenditure Authorization Procedures, Title 5-A of Article 9 of the Public Authorities Law (the "Act") and the Authority's Guidelines for the Disposal of Real Property (the "Guidelines") the Trustees hereby approve conveyance of approximately 14.25 acres of real property, as shown on the map attached hereto as Exhibit "2e i-A," located in the City of Buffalo, Erie County, and commonly known as the First Buffalo Marina, to the Erie Canal Harbor Development Corporation ("ECHDC"), for a consideration of $1.00 and which the consideration is waived; and be it further

RESOLVED, That the Vice President – Procurement or the Director of Site Purchasing, Materials Management and Real Estate is hereby authorized and directed to execute any and all other agreements, papers or instruments on behalf of the Authority that may be deemed necessary or desirable to carry out the foregoing, subject to the approval by the Executive Vice President and General Counsel; and be it further

RESOLVED, that the Chairman, the President and Chief Executive Officer, the Chief Operating Officer, the Executive Vice President and Chief Financial Officer and all other officers of the Authority are, and each of them hereby is, authorized on behalf of the Authority to do any and all things and take any and all actions and

execute and deliver any and all agreements, certificates and other documents to effectuate the foregoing resolution subject to the approval of the form thereof by the Executive Vice President and General Counsel.

ii. Transfer of Real Property to New York State Office of Parks, Recreation and Historic Preservation

The President and Chief Executive Officer submitted the following report:

"SUMMARY

The Trustees are requested to approve the conveyance of approximately 1.5 acres of real property, as shown on the attached Exhibit '2e ii-A,' located in the City of Niagara Falls, Niagara County, ('Site'), to the New York State Office of Parks, Recreation and Historic Preservation ('OPRHP') for a consideration of $1.00, said payment to be waived.

BACKGROUND

The Authority's Real Property Expenditure Authorization Procedures require the Trustees' approval of any disposition of real property where the appraised value is in excess of $10,000.00.

Title 5-A of Article 9 of the Public Authorities Law (the 'Act') and the Authority's Guidelines for the Disposal of Real Property (the 'Guidelines') allow the Authority, with the approval of the Trustees, to dispose of Authority property by negotiation and for less than fair market value when the transferee is a government or other public entity, and the terms and conditions of the transfer require that the ownership and use of the asset will remain with the government or any other public entity. The deed for the contemplated transfer of title to OPRHP will include language to this effect.

DISCUSSION

As part of the relicensing of the Niagara Power Project ('NPP'), the Authority entered into an agreement with local municipalities, including the City of Niagara Falls, titled the 'Host Community Relicensing Agreement' ('Agreement'). This Agreement, among other things, called for the transfer of ownership of certain surplus lands to various local governmental and private entities. Among the properties to be transferred was a 1.2 acre parcel located along the Robert Moses Parkway in the City of Niagara Falls and identified as Map No. 331C, Parcel No. 3275. Pursuant to the Agreement, the Authority agreed to transfer this property to the City of Niagara Falls for consideration of $1.00.

At its meeting of May 22, 2007, the Authority's Board of Trustees authorized acceptance of the new Federal Energy Regulatory Commission ('FERC') license for the NPP and the conveyance of the surplus properties identified in the Agreement.

Subsequently, OPRHP identified the property as a potential location for its new police barracks. In order to facilitate this use by OPRHP, the City of Niagara Falls, by resolution of its City Council dated July 21, 2014, declined the Authority's offer to convey the subject property.

During preliminary discussions with OPRHP, it was determined that the inclusion of an additional 0.30 acres of property, immediately adjacent to the original surplus land, would provide greater access to the Robert Moses Parkway and would thus be beneficial to OPRHP's project. This additional parcel has been determined by the Licensing Group and the Regional Manager, Western New York, to be surplus. Unlike the original parcel, which was purchased by the Authority in fee, this additional parcel was acquired by appropriation and its conveyance requires prior approval by the Department of Law. Also, as the additional parcel is 'project land' (within the NPP's FERC license boundary), prior to any conveyance, the Authority is required to consult with federal and state fish and wildlife or recreation agencies as well as the State Historic Preservation Officer, and to notify FERC.

Relocation of OPRHP's police barracks to the Site will be of significant public benefit and is in keeping with the Authority's obligations to the community and Western New York economic development.

Based on an independently-appraised value of $225,000.00 per acre, the value of the 1.50 acres to be conveyed is $337,500.00. In light of the significant public benefit anticipated as a result of OPRHP's police barracks project, it is proposed that the consideration for this transfer be $1.00 and that said consideration be waived.

FISCAL INFORMATION

In accordance with the foregoing, the Authority will transfer title to approximately 1.5 acres of real property located in the City of Niagara Falls to the New York State Office of Parks, Recreation and Historic Preservation without payment to the Authority.

RECOMMENDATION

The Vice President – Procurement and the Director – Site Purchasing, Materials Management and Real Estate, recommend that the Trustees approve the transfer of title of approximately 1.5 acres of real property, located in the City of Niagara Falls, Niagara County, to the New York State Office of Parks, Recreation and Historic Preservation ('OPRHP') for a consideration of $1.00, said payment to be waived, in accordance with the foregoing and with Exhibit '2e ii-A' attached hereto.

For the reasons stated, I recommend the approval of the above-requested action by adoption of the resolution below."

The following resolution, as submitted by the President and Chief Executive Officer, was unanimously adopted.

RESOLVED, that the President and Chief Executive Officer, the Vice President – Procurement, and the Director of Site Purchasing, Materials Management and Real Estate be, and hereby are, authorized to transfer title to approximately 1.5 acres of real property located in the City of Niagara Falls, Niagara County, to the Office of Parks, Recreation and Historic Preservation ("OPRHP"), for a consideration of $1.00, said payment to be waived; and be it further

RESOLVED, That the Vice President – Procurement or the Director of Site Purchasing, Materials Management and Real Estate is hereby authorized to execute any and all other agreements, papers or instruments on behalf of the Authority that may be deemed necessary or desirable to carry out the foregoing, subject to the approval by the Executive Vice President and General Counsel; and be it further

RESOLVED, that the Chairman, the President and Chief Executive Officer, the Chief Operating Officer, the Executive Vice President and Chief Financial Officer and all other officers of the Authority are, and each of them hereby is, authorized on behalf of the Authority to do any and all things and take any and all actions and execute and deliver any and all agreements, certificates and other documents to effectuate the foregoing resolution subject to the approval of the form thereof by the Executive Vice President and General Counsel.

f. Finance

i. <u>Contributions of Funds to the State Treasury</u>

The President and Chief Executive Officer submitted the following report:

"SUMMARY

The Trustees are requested to authorize the release of $25 million in funds to the Empire State Development Corporation ('ESD') in furtherance of ESD's Statewide economic development initiatives, as authorized by legislation approving the 2015-16 Budget of the State of New York (Chapter 60 of the Laws of 2015).

BACKGROUND

The Authority is requested, from time to time, to make financial contributions and transfers of funds to the State or to otherwise provide financial support for various State programs. Any such contribution or transfer of funds must (1) be authorized by the law; (2) be approved by the Trustees 'as feasible and advisable;' and (3) satisfy the requirements of the Authority's General Resolution Authorizing Revenue Obligations dated February 24, 1998, as amended and supplemented ('Bond Resolution'). In addition, as set forth in the Trustees' Policy Statement dated May 24, 2011, a debt service coverage ratio of 2.0 is to be used as a reference point in considering any such payments or transfers.

The Bond Resolution's requirements to withdraw monies 'free and clear of the lien and pledge created by the [Bond] Resolution' are such that (a) withdrawals must be for a 'lawful corporate purpose as determined by the Authority,' and (b) the Authority must determine, taking into account among other considerations anticipated future receipt of revenues or other moneys constituting part of the Trust Estate, that the funds to be so withdrawn are not needed for (i) payment of reasonable and necessary operating expenses, (ii) an Operating Fund reserve for working capital, emergency repairs or replacements, major renewals or for retirement from service, decommissioning or disposal of facilities, (iii) payment of, or accumulation of a reserve for payment of, interest and principal on senior debt or (iv) payment of interest and principal on subordinate debt.

DISCUSSION

Section 19 of Part I of Chapter 60 of the Laws of 2015 which is part of the State's Enacted Budget for State fiscal year ('SFY') 2015-16 ('Chapter 60') authorizes the Authority as deemed 'feasible and advisable by its trustees' to provide up to $90 million in contributions to the State's general fund, or as otherwise directed in writing by the State's director of the budget, whereupon such funds 'will be utilized to support energy-related initiatives of the state or for economic development purposes.' In addition, Chapter 60 specifies that up to $25 million is to be considered for payment by June 30, 2015 and the remainder of any such contribution considered for payment by March 31, 2016. The legislation specifies that such economic development purposes may include, but shall not be limited to, efforts to attract and expand business investment and job creation in New York state through the Open for Business program, as well as expenses associated with Global NY and trade missions, domestic and international, promoting New York businesses; provided that in the event any contributed funds are used by a state agency or public authority for the purpose of advertising and promoting the benefits of the START-UP NY program, no more than sixty percent of the contributed funds used for such purpose shall be used for advertising and promotion outside the state of New York. Subsequent to enactment of Chapter 60, the Authority and the New York State Division of the Budget mutually agreed that the amount up to $25 million payable by June 30, 2015 will not be considered for payment until July 30, 2015.

In accordance with Chapter 60, the State's Director of the Budget has formally requested that the Authority transfer on July 30, 2015 the sum of $25 million to the credit of ESD in furtherance of ESD's

Statewide economic development initiatives. With regard to the remaining amount contemplated in the SFY 2015-16 Budget ($65 million), staff is not recommending any action at this time, but will return to the Board with a recommendation as to that amount based on the financial circumstances of the Authority at the time such contribution is to be considered for payment.

In the first quarter of 2015, the Trustees approved and the Authority released contributions totaling $65 million, pursuant to the last year's SFY 2014-15 Budget legislation. Last fiscal year's $65 million amount, together with the $25 million considered herein, totals to $90 million for the Authority's calendar year 2015 operations, which is the amount the Authority budgeted for in its 2015 Operating Budget.

The low-cost power and other benefits the Authority makes available under its various programs are valuable economic development tools that the Authority desires to promote, and there exists significant amounts of unallocated power and other benefits available under these programs that can support economic development in the State. Accordingly, the Authority has an interest in promoting the effectiveness of ESD's Statewide economic development initiatives, thereby increasing the number and quality of businesses that apply for available benefits under the Authority's Programs.

Staff has reviewed the effects of the release of $25 million in State contributions at this time on the Authority's expected financial position and reserve requirements. In addition, in accordance with the Board's Policy Statement, staff calculated the impact of these transfer amounts on the Authority's debt service coverage ratio and determined it would not fall below the 2.0 reference point level. Given the current financial condition of the Authority, its estimated future revenues, operating expenses, debt service and reserve requirements, staff is of the view that it will be feasible for the Authority to release $25 million at this time.

FISCAL INFORMATION

Staff has determined that sufficient funds are available in the Operating Fund to transfer $25 million in contributions at this time and that such Authority funds are not needed for any of the purposes specified in Section 503(1)(a)-(c) of the Authority's Bond Resolution. Such transfer pursuant to the SFY 2015-16 Budget legislation was anticipated and is within the amount reflected in the Power Authority's 2015 Operating Budget approved by the Trustees at their December 16, 2014 meeting.

RECOMMENDATION

The Treasurer recommends that the Trustees affirm that the transfer of $25 million to the ESD is feasible and advisable and authorize such payment.

For the reasons stated, I recommend the approval of the above-requested action by adoption of the resolution below."

The following resolution, as submitted by the President and Chief Executive Officer, was unanimously adopted.

RESOLVED, That the Trustees hereby authorize a payment to the Empire State Development Corporation ("ESD") in the amount of $25 million from the Operating Fund as authorized by Chapter 60 of the Laws of 2015 as discussed in the foregoing report of the President and Chief Executive Officer; and be it further

RESOLVED, That the amount of $25 million authorized to be paid to ESD as described in the foregoing resolution is not needed for any of the purposes specified in Section 503(1)(a)-(c) of the Authority's General Resolution Authorizing Revenue Obligations, as amended and supplemented; and be it further

RESOLVED, That as a condition to making the payment specified in the foregoing resolution, on the day of such payment, the Treasurer or the Deputy Treasurer shall certify that such monies are not then needed for any of the purposes specified in Section 503(1)(a)-(c) of the Authority's General Resolution Authorizing Revenue Obligations, as amended and supplemented; and be it further

RESOLVED, That the Chairman, the President and Chief Executive Officer, the Chief Operating Officer, the Executive Vice President and General Counsel, the Executive Vice President and Chief Financial Officer, the Corporate Secretary, the Treasurer and all other officers of the Authority be, and each of them hereby is, authorized and directed, for and in the name and on behalf of the Authority, to do any and all things and take any and all actions and execute and deliver any and all certificates, agreements and other documents that they, or any of them, may deem necessary or advisable to effectuate the foregoing resolution, subject to approval as to the form thereof by the Executive Vice President and General Counsel.

DISCUSSION AGENDA:

3. <u>Staff Reports</u>

a. <u>Report of the President and Chief Executive Officer</u>

President Quiniones welcomed the new Trustees to the Authority. He then provided the following report on the Authority's performance for April 2015 (Exhibit "3a-A"):

"<u>Performance Scorecard</u>

NYPA's balanced scorecard reflects our corporate performance measures and identifies the targets that we aspire to achieve. As of mid-year, six of the nine performance measures have met or exceeded their targets.

NYPA's financial performance continues to be strong. The Debt Coverage Ratio and the O&M Budget measures continue to perform better than target. In addition, our Transmission, Energy Efficiency and Environmental Incidents monthly measures all exceeded their targets for June.

As reported on a quarterly basis, the Workforce Management measure has significantly exceeded its year-to-date target. This measure captures "touch-points" with employees such as the number of students in the NYPA Executive MBA program, the number of mentors and mentees, and the number of attendees at NYPA-provided professional development and continuing education training programs.

Three measures did not meet their targets as of mid-year:

Generation Market Readiness has been impacted year-to-date by several factors including an unexpected repair at the Astoria 500 MW Combined Cycle Plant, ice conditions at the St. Lawrence Power Plant, the Small Clean Power Plant at Pouch Terminal generator rotor rebuild and the Blenheim-Gilboa Pumped Storage Hydro Plant Unit 1 exchanger tube failure. We are looking closely at our performance and working with Enterprise Risk group to do a deeper dive into the Generating Availability Data System ('GADS') data for potential trends; however, the 2015 target of 99.40% will not be met by year-end.

The Energy Efficiency Investment in State Facilities performance measure did not meet its year-to-date target as of June. This is primarily due to timing. In the beginning of the year we

exceeded our target but with construction activities there are ebbs and flows, and we expect this to pick up as the year progresses. We are confident we will meet our target by year-end.

The DART rate, our safety performance measure, is above target. Year-to-date, there have been ten injuries that are classified as meeting the DART criteria. We see a decline in reportable incidents in the second quarter, one occurring in April, one in May and none in June. We continue to work towards meeting our target, focusing on leading indicators and proactive management to enhance our performance in our safety measure."

In response to a question from Chairman Koelmel, President Quiniones said even if there is improvement in the Authority's Generation Market Readiness, it is unlikely that this target will be met at the end of the year. However, it is expected that Energy Efficiency will meet or exceed its target by the end of the year. With regard to the safety measures, the Authority continues its endeavors to meet this performance target and for the past three months it has been trending well.

In response to further questioning from Chairman Koelmel, President Quiniones said the Generation Market Readiness performance measure is NYPA's stretch goal and there will be no system implication on the grid or NYPA's system.

"<u>Strategic Planning – Implementation and Alignment</u>

The Strategy Management Committee ('SMC'), a key part of our wider strategy governance, is now meeting on a monthly basis. The role of The Committee is to ensure that the six initiatives in our strategic plan and other related activities are being carried out in a way that reflects NYPA's overall strategic intent. To date, they have focused their attentions on gauging initiative implementation progress, addressing risks and barriers to strategic success and managing the specific scope of those initiatives. Next month the strategic initiative teams will present their proposed plans for 2016 and use the SMC to justify proposed activities, budget and resource requests.

We have two foundational elements of a successful strategic transformation in place. First, a strategic plan that continues to hold up to scrutiny in light of changes in the business environment. Secondly, we have six strategic initiatives at the core of that plan that are making

good implementation progress. However, we must also take the time to ensure that support functions such as IT, R&TD and Finance are organized in a way that aligns to our overall business strategy and provides the internal resources the businesses need to deliver the expected benefits. The strategy team has been working closely with the shared services staff over the last few months to help them develop their own departmental vision and targets and to help them understand how their organizations need to change in light of our new strategic direction.

As we move into 2016, we will be looking to make some continued enhancements to our strategic planning cycle. In 2015 we included concepts such as the strategic plan health check and SWOT (strengths, weaknesses, opportunities, threats) analysis. Next year, we will look to integrate some key Enterprise Risk concepts such as Scenario Planning. The addition of Scenario Planning will allow us to continue to test the robustness of our strategic plan in light of likely changes in the market and in technology. Given some of the recent unexpected changes in the market (such as Reforming Energy Vision ('REV'), low gas prices, environmental regulations) we see this Scenario Planning as an integral part of strategic and long range operational planning, going forward.

As we move into the second half of the year, the strategy team will focus more on preparing for 2016. This will include:

1. ***Building out a new set of corporate metrics and initiative targets that reflect our long term strategic vision – this is going to be critical to start to measure whether the business is moving in the right direction and at the right pace.***
2. ***Revamping our approach to capital investment planning to ensure that our investment portfolio is more closely aligned to our strategic aims.***
3. ***Undertaking a business intelligence gathering exercise to ensure that we have the necessary information to conduct the 2016 Annual Strategy Plan refresh workshop planned for January next year.***

Risk Management Status Report

In the area of risk management, I am very pleased to report that our new Chief Risk Officer, Soubhagya Parija, started work on July 1. He is working closely with Jennifer Faulkner, the head of Internal Audits, Bob Lurie the CFO and head of Strategy, and the rest of our executive team to build on the momentum our risk management activities have generated over the past few months.

Output from that process, began last year, has included a draft NYPA risk appetite statement that can provide overall guidance to management on the risk we will and will not consider taking. Following on that, drafting of a risk tolerance statement is underway, defining both in words and numbers the boundaries within which we expect our managers to operate. As you would expect, that tolerance will be specific to each business line (Generation & Transmission operations, Energy Supply group, customer services), and will also make clear that we have no appetite or tolerance for certain risks (such as regulatory compliance).

Also, in the last few months we have developed an initial list of strategic enterprise risks with the executive team, with the help and collaboration of our strategic planning and enterprise risk teams, which will be reviewed and finalized by the CRO and his staff. They have also begun the process of assessing our existing controls of strategic risks, and rating or prioritizing those risks to help guide the attention of management and the board. The product of that work will include a completed enterprise risk dashboard that we hope to share with you at the September Board meeting.

In the meantime, IT, Internal Audit, and Enterprise Risk have been working with Operations and others to do a "deep dive" into cyber security, and a comprehensive plan is nearing completion, with early implementation underway.

Finally, as reported to you in the last meeting, we are utilizing and refining our hedging strategies and systems to reduce our exposure to energy market price movements in the future.

Transmission Formula Rate Filing at Federal Energy Regulatory Commission

On July 2nd we filed with the Federal Energy Regulatory Commission ("FERC") for a formula rate revenue requirement increase to recover increased costs to our transmission system. Unlike the Authority's production rates which need to be approved by the Trustees,

NYPA's recovery of transmission costs is under the jurisdiction of the Federal Energy Regulatory Commission ('FERC'). This jurisdiction was established when NYPA became part of the New York Independent System Operator ('NYISO') during the electric utility restructuring in the late 1990s.

With significant capital spending for the Transmission Life Extension and Modernization, the Marcy-South Series Compensation Project and SMART Transmission investments and our plans to update our Moses-Adirondack line, NYPA's filing asks FERC to allow our cost recovery to take place through a formula rate process.

Acceptance of the formula rate process essentially means that NYPA will have the capability of collecting increased costs to its transmission system by simply updating annually, its cost calculations according to agreed-upon data provision, calculations and protocols. It will eliminate the need to do time-consuming and expensive discrete, periodic cost recovery filings.

In the investment mode we are currently in, the lack of a formula rate would necessitate multiple filings over the next ten years and the outcomes could be very unpredictable and potentially adverse. A formula rate provides recovery certainty and better cash flow.

The current filing for the formula rate will likely evolve into a negotiated settlement amongst NYPA, the FERC and market participants. It will likely be a six to nine months settlement process before the formula and its protocols are finalized.

The filing calls for an immediate increase in cost recovery over the amount NYPA is currently allowed to recover. The proposed increase would be spread among all energy consumers across the NYISO jurisdiction. The average increase would be in the order of 1/10th of 1% on consumer bills. When NYPA's transmission investments are nearing completion a decade or so from now, the likely annual impact on total electric charges to consumers would be only about 1% greater than they are now. Keep in mind that the Authority's transmission investments will help reduce congestion charges on the NYS grid and as a result reduce energy charges and costs. These are not easy to quantify at this point, but we are confident that they will happen. The goals of our transmission investments are increased reliability, overall reduction in consumer electric costs and the facilitation and integration of more intermittent of renewable sources such as wind and solar."

In response to a question from Trustee McKibben, President Quiniones said, depending on its actual costs on an annual basis, the Authority will benefit from the new rate formula because it will be able to recover its costs on an annual basis without having to file a new rate case. However, it does, for example, per-determine the Authority's regulated return on equity.

Chairman Koelmel suggested that, going forward, a report from the Chief Risk Officer be included in the staff reports.

b. Report of the Chief Operating Officer

Mr. Paul Tartaglia, Senior Vice President of Energy Resource Management, provided highlights of the Chief Operating Officer's report to the Trustees (Exhibit "3b-A").

Generation Market Readiness

Mr. Tartaglia said Generation Market Readiness is a calculated measure of the Authority's generating assets and operational availability rated against the markets the systems' needs.

The Authority's generation market readiness did not meet its target for the month of June – Actual 98.62% vs. target 99.4%. This was due to:

- ***The Small Clean Power Plant's ("SCPP") Pouch facility on Staten Island need for some repairs to its generator. This was returned to service June 20.***

- ***The St. Lawrence facility being de-rated due to lower water levels than anticipated.***

Year-to -date the generation market performance has improved with the annual number up from 98.16% to 98.37%. However, the Authority will not be able to make the target of 99.4% this year. Four major outages affected this goal, namely:

1. ***B-G Units 1 and 2 failure***
2. ***SCPP Pouch generator manufacturing defect***
3. ***Astoria 500 MW Unit failed generator***
4. ***STL Facility – impacts due to weather conditions***

Transmission Reliability

- ***Performed above target for June – achieving 98.84% vs. target of 98.6%***

- ***Annual performance remains on track and is expected to exceed expectations with 97.28% vs target of 96.15%.***

Environmental Incidents

- ***Met the June target and on track to meet the annual goal.***

Safety

- ***No DART (Days Away, Restricted or Transferred) incidents for June were reported and the Authority is currently above the annual target. The Dart rate has come down from 1.71% to 1.23%. This is attributed to the safety measures undertaken this year.***

- ***Conducted a Safety "All Hands" meeting for Operations staff at the WPO and Sites. Motivational speaker, Chuck Evans, was invited to share his story of a devastating injury (double amputation) he suffered from a material handling accident and the impacts it had on his family, friends, co-workers, union and the organization he worked with. Chuck Evans' story is consistent with the message to the Authority's employees regarding safety and the impacts of the resultant injuries.***

c. Report of the Chief Financial Officer

Mr. Robert Lurie presented highlights of the Chief Financial Officer's report to the Trustees (Exhibit "3c-A").

For the benefit of the new Trustees, Mr. Lurie highlighted the Authority's operations from a financial and risk perspective which is divided into three areas, namely:

1) Contracted – Generation that the Authority sells directly to customers (municipal, corporate, governmental customers) under contract. Cash flows from that business are extremely stable and very predictable. It tends to cover most or all of the Authority's operating and debt service expenses and provides for that base cost coverage and cost recovery for the Authority. It does not, however, provide for any of the Authority's profit over and above its costs;

2) Merchant – The merchant business, which is any excess power generated over and above what the Authority sells in the first category, is sold into the wholesale market at market price. The merchant business represents about fifteen percent of the Authority's total revenue and almost one hundred percent of its profit; and

3) Energy Services – Energy Services is a fee-based business and the Authority tries to recover its costs for that business. The Authority is making big investments in this area and will realize some net investment over the next couple of years.

In response to a question from Trustee Foster, Mr. Lurie said the FERC rate filing previously mentioned by President Quiniones is an example of the Authority's attempt to adjust the rates upward to cover, not only its construction expenses, but also the cost of its capital, including equity cost of capital.

Financial Summary

Net Income

During the month of June, the Authority had a net income of $11.1 million, which is $12.8 million less than the budgeted $23.9 million. This is primarily due to a lower net margin on sales, partially offset by lower operating expenses. The reduced net margin on sales was largely due to the extremely low energy prices on the wholesale markets.

Net income for the year-to-date was $27.8 million, which was $89.5 million lower than budgeted, due to lower hydro production and lower energy prices on market sales. Hydro production is starting to pick up, but the Authority is still feeling the effects, year-to-date, of the occurrences in the earlier months. Lower operating and maintenance expenses and other expenses offset these effects, to some degree, and reflected timing differences in areas such as industrial incentive awards, the Western New York Utility of the Future Workforce Development Center, and customer and energy solutions.

Hydro Generation and Energy Price Forecast

The actual hydro generation results for June are higher than the last forecast reported because of the heavy rains. The Authority is expecting positive results, going forward.

Energy prices continue to be extremely lower than forecasted and the forecast is predicting that they will continue to stay low throughout the year; the Authority does not foresee any major factors that are likely to change that prediction.

Year-End Net Income Projection & Debt Service Coverage

Total Net Income for the year is projected to be approximately $61 million which is $145 million lower than the budget. This is due primarily to the effects of the hydro production and lower energy prices. Energy margins are predicted to be ten percent lower than previously anticipated because of those low prices. The Authority's debt service coverage and cash flow continues to be very strong. The debt ratios are in the range appropriate for the Authority's AA rating.

In response to a question from Chairman Koelmel, Mr. Lurie said the water levels are higher now and the Authority expects that next year hydro generation will be well above the long-term average.

In terms of energy prices, staff does not foresee 2016 prices to be different from this year. As a result, the Authority will be budgeting at a lower amount for next year. This will be reflected in the budget presentation at the meeting in December.

In response to a question from Trustee McKibben, Mr. Tartaglia explained that the forecast deviated from the "actual" forecast because forecasts are very weather-dependent and, as mentioned earlier, the first three months of the year were exceptionally cold; this inhibited the delivery of the water from the upper Great Lakes to the lower Great Lakes. The freezing blocked the channels, stopped the "run-off" from coming down, and slowed down the movement of the water. Looking at the seven months after the forecast, again, based on weather data, they were the second driest in one hundred and twenty years of Great Lakes weather data that the Authority has. The Authority was hit with two weather conditions that statistically had a less than one percent chance of occurring. This caused the deviation for the forecast. Typically, about 75 percent of the time, the Authority's forecasts come in under what the actual generation would be and this is the lowest it has ever been. This is actually a weather-driven anomaly. Authority staff is working on modeling with the National Oceanographic Atmospheric Administration ("NOAA") and other stakeholders and are also in the very early stages of re-inventing the modeling software that is used in conjunction with all of the Great Lakes stakeholders. Therefore, in the next couple of years, the Authority will have some better modeling tools. Mr. Lurie added that, from a financial perspective, Authority staff is reviewing its budgeting practices to ensure that the budgets presented to the Board are adequately conservative when it comes to the forecasts.

Responding to comments from Chairman Koelmel, Mr. Lurie said the Authority is looking forward to 2016, incorporating the new energy price forecast which is approximately what it is today on the forward markets. In addition to the new modeling that Mr. Tartaglia mentioned, the Authority will be trying to "raise the bar" for its financial forecasting as well. The Authority certainly expects 2016 will be better from a financial perspective than the "actuals" this year because it expects volume to increase. The Authority is not expecting any energy price increase such as what it saw a couple years ago when capacity prices spiked up.

4. Power Allocations and Proceeds

a. Recharge New York Power Allocations

The President and Chief Executive Officer submitted the following report:

"SUMMARY

The Trustees are requested to:

1. award allocations of Recharge New York ('RNY') Power available for **'**retention**'** purposes to the businesses listed in Exhibit '4a-A' in the amounts indicated on Exhibit '4a-A'; and

2. award allocations of RNY Power available for 'expansion' purposes to the businesses listed in Exhibit '4a-B' in the amounts indicated on Exhibit '4a-B.'

These actions have been recommended by the Economic Development Power Allocation Board ('EDPAB') at its July 27, 2015 meeting.

BACKGROUND

On April 14, 2011, Governor Andrew M. Cuomo signed into law the RNY Power Program as part of Chapter 60 (Part CC) of the Laws of 2011 ('Chapter 60'). The program makes available 910 megawatts ('MW') of 'RNY Power,' 50% of which will be provided by the Authority's hydropower resources and 50% of which will be procured by the Authority from other sources. RNY Power contracts can be for a term of up to seven years in exchange for job and capital investment commitments.

RNY Power is available to businesses and not-for-profit corporations for job retention and business expansion and attraction purposes. Specifically, Chapter 60 provides that at least 350 MW of RNY Power shall be dedicated to facilities in the service territories served by the New York State Electric and Gas, National Grid and Rochester Gas and Electric utility companies; at least 200 MW of RNY Power shall be dedicated to the purpose of attracting new businesses and encouraging expansion of existing businesses statewide; and up to 100 MW shall be dedicated for eligible not-for-profit corporations and eligible small businesses statewide.

Under the statute, 'eligible applicant' is defined to mean an eligible business, eligible small business, or eligible not-for-profit corporation, however, an eligible applicant shall not include retail businesses as defined by EDPAB, including, without limitation, sports venues, gaming or entertainment-related establishments or places of overnight accommodations. At its meeting on April 24, 2012, EDPAB defined a retail business as a business that is primarily used in making retail sales of goods or services to customers who personally visit such facilities to obtain goods or services, consistent with the rules previously promulgated by EDPAB for implementation of the Authority's Economic Development Power program.

Prior to entering into a contract with an eligible applicant for the sale of RNY Power, and prior to the provision of electric service relating to a RNY Power allocation, the Authority must offer each eligible applicant that has received an award of RNY Power the option to decline to purchase the RNY Market Power component of such award. If the applicant declines to purchase the RNY Market Power component from the Authority, the Authority has no responsibility for supplying RNY Market Power component of the award.

RNY, as the new economic development power program unrelated to the previous Power for Jobs ('PFJ') and Energy Cost Savings Benefit ('ECSB') programs, required customers participating in such programs on its sunset date on June 30, 2012, to apply for RNY in order to be considered for a RNY

Power allocation. All RNY applications are considered solely on their merits under the criteria established by the RNY legislation.

PFJ and ECSB customers who submitted applications prior to June 30, 2012 and who did not receive a RNY Power allocation were considered for the transitional electricity discount ('TED'). Pursuant to section 188-a of the economic development law, the Authority is authorized, as deemed feasible and advisable by the Trustees, to provide such TED as recommended by EDPAB. The amount of the TED for the period of July 1, 2012 through June 30, 2014 shall be equivalent to 66% of the unit (per kilowatt-hour) value of the savings received by the applicant under the PFJ or ECSB during the 12 months ending on December 31, 2010. The amount of the TED for the period July 1, 2014 through June 30, 2016 shall be equivalent to 33% of the unit (per kilowatt-hour) value of the savings received by the applicant under the PFJ or ECSB during the 12 months ending on December 31, 2010.

As part of Governor Andrew M. Cuomo's initiative to foster business activity and streamline economic development, applications for all statewide economic development programs, including the RNY Power Program, have been incorporated into a single on-line Consolidated Funding Application ('CFA') marking a fundamental shift in how State economic development resources are marketed and allocated. Beginning in September 2011, the CFA was available to applicants. The CFA continues to serve as an efficient and effective tool to streamline and expedite the State's efforts to generate sustainable economic growth and employment opportunities. All applications that are considered for an RNY Power allocation are submitted through the CFA process.

Applications for RNY Power are subject to a competitive evaluation process and are evaluated based on the following criteria set forth in the statutes providing for the RNY Power Program (the 'RNY Statutes'):

'(i) the significance of the cost of electricity to the applicant's overall cost of doing business, and the impact that a recharge New York power allocation will have on the applicant's operating costs;

(ii) the extent to which a recharge New York power allocation will result in new capital investment in the state by the applicant;

(iii) the extent to which a recharge New York power allocation is consistent with any regional economic development council strategies and priorities;

(iv) the type and cost of buildings, equipment and facilities to be constructed, enlarged or installed if the applicant were to receive an allocation;

(v) the applicant's payroll, salaries, benefits and number of jobs at the facility for which a recharge New York power allocation is requested;

(vi) the number of jobs that will be created or retained within the state in relation to the requested recharge New York power allocation, and the extent to which the applicant will agree to commit to creating or retaining such jobs as a condition to receiving a recharge New York power allocation;

(vii) whether the applicant, due to the cost of electricity, is at risk of closing or curtailing facilities or operations in the state, relocating facilities or operations out of the state, or losing a significant number of jobs in the state, in the absence of a recharge New York power allocation;

(viii) the significance of the applicant's facility that would receive the recharge New York power allocation to the economy of the area in which such facility is located;

(ix) the extent to which the applicant has invested in energy efficiency measures, will agree to participate in or perform energy audits of its facilities, will agree to participate in energy efficiency programs of the authority, or will commit to implement or otherwise make tangible investments in energy efficiency measures as a condition to receiving a recharge New York power allocation;

(x) whether the applicant receives a hydroelectric power allocation or benefits supported by the sale of hydroelectric power under another program administered in whole or in part by the authority;

(xi) the extent to which a recharge New York power allocation will result in an advantage for an applicant in relation to the applicant's competitors within the state; and

(xii) in addition to the foregoing criteria, in the case of a not-for-profit corporation, whether the applicant provides critical services or substantial benefits to the local community in which the facility for which the allocation is requested is located.'

Based on the evaluation of these criteria, the applications were scored and ranked. Evaluations also considered scores provided by the relevant Regional Economic Development Council under the third and eighth criteria.

In arriving at recommendations for RNY Power for EDPAB's consideration, staff, among other things, attempted to maximize the economic benefits of low cost NYPA hydropower, the critical state asset at the core of the RNY Power Program, while attempting to ensure that each recipient receives a meaningful RNY Power allocation.

Business applicants with relatively high scores were recommended for allocations of retention RNY Power of 50% of the requested amount or average historic demand, whichever was lower. These allocations were capped at 10 MW for any recommended allocation. Not-for-profit corporation applicants that scored relatively high were recommended for allocations of 33% of the requested amount or average historic demand, whichever was lower. These allocations were capped at 5 MW. Applicants currently receiving hydropower allocations under other Authority power programs were recommended for allocations of RNY Power of 25% of the requested amount, subject to the caps as stated above.

RNY Power allocations have been awarded by the Trustees on eleven prior occasions spanning from April 2012 through March 2015. Of the 200 MW block of RNY Power made available pursuant to Chapter 60 for business 'expansion' purposes, 105.1 MW remain unallocated. Of the 100 MW of RNY Power that was set aside for not-for-profit corporations and small businesses pursuant to Chapter 60, 0.7 MW remain unallocated. Of the remaining RNY Power made available pursuant to Chapter 60, 36.6 MW remain unallocated.

These figures reflect Trustee actions on RNY Power applications taken prior to any actions the Trustees take today.

DISCUSSION

1. Retention-Based RNY Power Allocations – Action Item

The Trustees are asked to address applications submitted via the CFA process for RNY Power retention-based allocations. Consistent with the evaluation process as described above, EDPAB recommended at its July 27, 2015 meeting that RNY Power retention allocations be awarded to the businesses listed in Exhibit '4a-A.' Each business has committed to create or retain jobs in New York State and to make capital investments in exchange for the recommended RNY Power allocations.

The RNY Power 'retention' allocations identified in Exhibit '4a-A' are each recommended for a term of seven years unless otherwise indicated. An allocation recommended by EDPAB qualifies the subject applicant to enter into a contract with the Authority for the purchase of the RNY Power. The Authority's standard RNY Power contract template, approved by the Trustees at their March 27, 2012 meeting, contains provisions addressing such things as effective periodic audits of the recipient of an allocation for the purpose of determining contract and program compliance, and for the partial or complete withdrawal of an allocation if the recipient fails to maintain mutually agreed upon commitments, relating to among other things, employment levels, power utilization, and capital investments. In addition, there is a requirement that a recipient of an allocation perform an energy efficiency audit at its facility not less than once during the first five years of the term of the allocation.

As noted in Exhibit '4a-A,' some of these applicants are also being recommended for an expansion-based allocation, having satisfied the criteria for both components of the RNY Power Program.

2. Expansion-Based RNY Power Allocations – Action Item

The Trustees are also asked to address applications submitted for RNY Power expansion-based allocations via the CFA process which request allocations from the 200 MW block of RNY Power dedicated by statute for **'**for-profit**'** businesses that propose to expand existing businesses or create new business in the State. These applications sought a RNY Power allocation for either (i) expansion only, in the case of a new business or facility, or (ii) expansion *and* retention, in the case of an existing business. EDPAB recommended at its July 27, 2015 meeting that RNY Power expansion-based allocations be made to the businesses listed in Exhibit '4a-B.' Each such allocation would be for a term of seven years unless otherwise indicated.

As with the evaluation process used for the retention recommendations described above, applications for the expansion-based RNY Power were scored based on the statutory criteria, albeit with a focus on information regarding each applicants' specific project to expand or create their new facility or business (*e.g.*, the expansion project's cost, associated job creation, and new electric load due to the expansion).

The respective amounts of the expansion-related allocations listed in Exhibit '4a-B' are largely intended to provide approximately 70% of the individual expansion projects' estimated new electric load. Because these projects have estimated new electric load amounts, and to ensure that an applicant's overestimation of the amount needed would not cause that applicant to receive a higher proportion of RNY Power to new load, the allocations in Exhibit '4a-B' are recommended based on an 'up to' amount basis. Each of these applicants would be required to, among other commitments, add the new electric load as stated in its application, and would be allowed to use up to the amount of their RNY Power allocation in the same proportion of the RNY Power allocation to requested load as stated in Exhibit '4a-B.' The contracts for these allocations would also contain the standard provisions previously summarized in the last paragraph of Section 1 above.

3. Ineligibility Determination – Informational Item

In the process of reviewing the current round of applications for RNY Power, EDPAB determined that the applicant listed on Exhibit '4a-'C' seeks RNY Power for a project that is ineligible to receive RNY Power for the reasons explained in Exhibit '4a-C.' No action by the Trustees is required on this application.

4. Applications Not Considered or Not Recommended – Informational Item

As indicated on Exhibit '4a-D,' EDPAB determined as of the date of its meeting not to consider the ten pending applications for RNY Power allocations. The applications were not considered for one or more of the following reasons: (i) the application was withdrawn; (ii) the applicant does not have a demand meter; (iii) the applicant was not responsive to outreach, leaving the application currently incomplete; and/or (iv) the applicant submitted an application for a project that is premature.

RECOMMENDATION

The Manager – Business Power Allocations and Compliance recommends that the Trustees: (1) award the allocations of Recharge New York ('RNY') Power for retention purposes to the businesses listed in Exhibit '4a-A' as indicated therein; and (2) award the allocations of RNY Power for expansion purposes to the businesses listed in Exhibit '4a-B' as indicated therein.

For the reasons stated, I recommend the approval of the above-requested action by adoption of the resolution below."

The following resolution, as submitted by the President and Chief Executive Officer, was adopted with Trustee Flynn being recused from the vote as it relates to Bausch & Lomb Incorporated and Thomas Electronics, Inc.

WHEREAS, the Economic Development Power Allocation Board ("EDPAB") has recommended that the Authority award Recharge New York ("RNY") Power allocations for retention purposes to the applicants listed in Exhibit "4a-A" in the amounts indicated; and

WHEREAS, EDPAB has recommended that the Authority award RNY Power allocations for expansion purposes to the applicants listed in Exhibit "4a-B" in the amounts indicated;

NOW THEREFORE BE IT RESOLVED, That upon considering the foregoing report of the President and Chief Executive Officer and the accompanying exhibits, the Authority hereby awards allocations of RNY Power for retention purposes to the applicants listed on Exhibit "4a-A" in the amounts indicated; and be it further

RESOLVED, That upon considering the foregoing report of the President and Chief Executive Officer and the accompanying exhibits, the Authority hereby awards the allocations of RNY Power for expansion purposes to the applicants listed on Exhibit "4a-B" in the amounts indicated; and be it further

RESOLVED, That the Chairman, the President and Chief Executive Officer, the Chief Operating Officer and all other officers of the Authority are, and each of them hereby is, authorized on behalf of the Authority to do any and all things, take any and all actions and execute and deliver any and all agreements, certificates and other documents to effectuate the foregoing resolution, subject to the approval of the form thereof by the Executive Vice President and General Counsel.

b. Annual Compliance Review – Expansion Power, Replacement Power and Preservation Power Programs

The President and Chief Executive Officer submitted the following report:

"SUMMARY

Authority Staff has conducted annual compliance review of customers in Western New York receiving hydropower under the Expansion Power ('EP') and Replacement Power ('RP') Programs in Western New York, and customers in Northern New York receiving Preservation Power ('PP') (collectively, 'Hydropower'), covering the reporting period of January 2014 through December 2014 (the 'Reporting Period'). The compliance review examined contract compliance in three areas: (1) job retention; (2) power utilization; and (3) capital investment. As provided for in each customer's contract, these customers began submitting their compliance reports to the Authority in February 2015.

The purpose of this memorandum is to inform the Trustees of the results of the compliance review. In addition, the Trustees are asked to authorize the reduction of hydropower allocations for specific customers who have failed to meet job retention, capital investment, or power utilization commitments. As detailed below, the underlying Hydropower contracts require customers to achieve at least a 90% compliance rate in the three commitment areas noted. At this time, Authority Staff is recommending enforcement of the contract commitments for specific customers that have an allocation of greater than 100 kilowatts ('kW') of Hydropower who have failed to achieve at least a 75% compliance level for job retention commitments, capital investment commitments, power utilization commitments, or a combination of these commitments. Additionally, in view of potential impacts on such customers from Hydropower allocation reductions, Staff recommends that the compliance rate of these customers be temporarily adjusted to a 75% threshold. As discussed below, this approach is consistent with (i) the sort of enforcement discretion the Authority has exercised in the past, and (ii) the approach Empire State Development ('ESD') has used for analogous economic development programs.

In summary:

(1) As described in Exhibit '4b-A,' the compliance level of each of the 8 Hydropower customers listed fell below 75% of the relevant contractual commitment for jobs for the Reporting Period. Staff recommends that the contract demands and Hydropower allocations for each such customer be reduced to the amounts indicated on Exhibit '4b-A.' In addition, Staff recommends that the Authority be authorized to adjust the job commitments for these customers as indicated on Exhibit '4b-A' to reflect the reduced contract demands and Hydropower allocations.

(2) As described in Exhibit '4b-B,' the compliance level of each of the 7 Hydropower customers listed on fell below 75% of the relevant power utilization commitment. Staff recommends that the contract demands and Hydropower allocations for each such customer be reduced to the amounts indicated on Exhibit '4b-B.' In addition, Staff recommends that the Authority be authorized to adjust job commitments and capital investment commitments for these customers as indicated on Exhibit '4b-B' to reflect the reduced contract demands and Hydropower allocations.

(3) As described in Exhibit '4b-C,' the compliance level of each of the 4 Hydropower customers listed fell below 75% of the relevant contractual commitment for capital investment. Staff recommends that the contract demands and Hydropower allocations for these customers be reduced to the amounts indicated on Exhibit '4b-C.' In addition, Staff recommends that the Authority be authorized to adjust the job and/or capital investment commitments for these customers as indicated on Exhibit '4b-C' to reflect the reduced contract demands and Hydropower allocations.

Staff may return to the Board at a later time for additional compliance reporting and recommendations regarding these and other Hydropower customers.

BACKGROUND

In addition to the basic requirement to pay for electric service, Hydropower contracts typically provide for several 'supplemental' commitments by the customer relating to (1) job creation and/or retention, (2) capital investment, and/or (3) power utilization (collectively, 'Supplemental Commitments').

Each year Staff performs a review of all in-service Hydropower allocation contracts for compliance with Supplemental Commitments. In or around 2013, most RP and EP allocations began service under new contracts that were negotiated and approved by the Trustees in 2010, which require, among other commitments, annual capital investment commitments.

To facilitate compliance review and contract enforcement, nearly all Hydropower contracts require customers to report information on the Supplemental Commitments. Customers are required to report pertinent information no later than February 28 of each year for the prior 12-month reporting period from January through December.

As more specifically detailed in the Hydropower contracts, if a customer's report indicates that any of its Supplemental Commitments for the reporting period is below the compliance threshold of 90%, the Authority may take action against the customer, which may include reducing the customer's power allocation on a pro rata basis. Pro-rata reductions taken are rounded up to the nearest 50 kilowatts.

Compliance reviews in past years have focused primarily on employment levels. With the addition of capital investment commitments to Hydropower contracts, Staff has taken a more holistic approach to compliance review for the current Reporting Period. For example, if a customer is modestly deficient in one compliance area, but well above its commitment level in another, Staff will consider this factor, among others, when considering recommendations for possible enforcement action. As has always been the case, customers are given the opportunity to explain any extenuating circumstances they believe may have caused a compliance shortfall during the reporting year. Accordingly, Staff's analysis and the recommendations contained herein do not represent a 'black and white' analysis, Rather, Staff has taken a 'big picture' approach that includes, where reasonable, appropriate consideration of individual or unique circumstances affecting customers. Staff is also focusing more carefully on power utilization by Hydropower customers. Authority Hydropower is a valuable asset. A customer's failure to make use of an allocation as provided for in the Hydropower Contract can result in 'idle' Hydropower being unavailable for sale to other businesses that are willing to make job, capital investment and other commitments in exchange for the opportunity to receive Hydropower. Finally, consistent with established practice, Staff considers the condition of the economy when considering whether to take compliance action and the approach that will be recommended.

DISCUSSION

1. Background

In 2014, the Authority had 125 Hydropower customers who collectively were receiving a total of 215 Hydropower allocations under the RP, EP, and PP programs. Of these, a total of 115 customers holding 199 allocations were required to report compliance levels for 2014. Of this number, the Authority received reports from 111 customers covering 191 Hydropower allocations. The contracts reviewed by Staff represent total power allocations of 1,085 megawatts and total employment commitments of 30,930 jobs. In the aggregate, these customers reported actual employment of 34,176 jobs. This represents 110% of the total job commitment for Hydropower customers reporting in 2014.

In addition, the reported aggregate capital investment spending during the Reporting Period totaled $376 million out of a total commitment level of $143 million. The results showed a majority of companies have met or exceeded their 90% compliance threshold for capital investments during this Reporting Period.

A total of 69 companies reviewed were found to be compliant in all three Supplemental Commitments. However, 42 companies were found not compliant for at least one Supplemental Commitment. The Authority did not receive compliance data from 4 companies, which include 2 companies that have closed.

Many of the non-compliant customers cited business/financial-related challenges, including the lingering effects of the 2008-2009 economic downturn, the loss of business due to a depressed industry/economy, and/or increased global competition. Some customers continue to indicate lingering effects of the recession created severe market disruption for businesses, as many producers scrambled for the lowest cost sourcing to remain viable. Businesses that placed a premium on manufacturing high quality products began losing to low cost competitors typically from China. Some companies have chosen to relocate operations.

Based on the Hydropower contract, the applicable tariff, and the Authority's regulations, the Authority has a number of options available to respond to a customer that is in breach of contractual obligations, including, for example, termination of the contract, suspension of electric service, and reduction of the amount of a customer's Hydropower allocation and contract demand.

As noted, the underlying Hydropower contracts require customers to achieve at least a 90% compliance rate with respect to the three Supplemental Commitment areas noted. At this time, Staff is recommending enforcement of the contract commitments for virtually all Hydropower customers who have failed to achieve at least a 75% compliance level for job retention commitments, capital investment commitments, power utilization commitments, or a combination of these commitments. (Where a customer was non-compliant in job commitments and one or more other commitments, Staff uniformly used the customer's job numbers to calculate recommended reductions in contract demands and allocations.) Staff is also recommending that the Authority be authorized to adjust job commitments and/or capital investment commitments proportionately as discussed below to reflect reduced Hydropower allocations and contract demands. Information relating to these matters is provided in Exhibits '4b-A', '4b-B', and '4b-C'.

For reasons discussed below, Staff is not recommending that compliance action be taken regarding the 3 Hydropower customers listed on Exhibit '4b-D' whose reported data indicated that the customers failed to achieve at least a 75% percent compliance rate for the Supplemental Commitment indicated.

Staff intends to suspend electric service for the two customers listed on Exhibit '4b-E' who have each failed to file compliance reports for the Reporting Period.

Finally, for reasons discussed below, Staff is not recommending that compliance action be taken at this time regarding the one Hydropower customer listed on Exhibit '4b-F' whose reported data indicated that the customer failed to achieve at least a 75% percent compliance rate for the Supplemental Commitment indicated. Staff will return to the Board with a recommendation in September and final resolution by no later than year end.

A summary of all customers discussed on Exhibits '4b-A' through '4b-F' appears on the accompanying spread sheet designated as Exhibit '4b-G.'

Staff intends to continue to monitor the compliance status of Hydropower customers falling between 90% and 75% compliance levels, and may return to the Board at a later time to report on and make recommendations concerning these customers or the customers who are the subject of the current compliance initiative.

Staff's decision to not recommend compliance action for the current compliance period against customers who fell below a 90% compliance level, but who have met at least a 75% compliance level reflects the view that the State's economy is on the mend, and therefore customers should be provided with additional time to meet their compliance obligations, and a reduction in the contract demand of such customers at this time could serve to impede their recovery. The Authority has exercised such enforcement discretion in the past in response to economic conditions. For example:

- Compliance action was suspended from 2001 through 2002 due to the events and impacts of the 9/11 attacks, when it was determined that businesses across the state were in severe financial distress.
- Compliance action was suspended from 2008 through 2010 as a direct result of the recession in the U.S. economy.
- Compliance action was suspended from 2012 through 2014 due to the impacts and economic recovery efforts relating to Tropical Storm Irene and Super storm Sandy.

The recommended approach is also consistent with the approach ESD has used for analogous economic development programs.

2. Failure to Meet Supplemental Commitments – Action Requested

This section discusses specific compliance information concerning the Supplemental Commitments described. Some customers failed to achieve 75% compliance for more than one Supplemental Commitments. These customers are identified in more than one exhibit, but the recommended action for such customers in each instance takes account of multiple compliance violations.

a) Job Commitments

In total, 89 customers reviewed were found to be compliant, and 21 were found to be not compliant, for their respective employment commitment based on the 90% performance threshold in the Hydropower contract. Most of the customers that reported employment levels below the 90% commitment threshold offered an explanation and supporting information describing reasons for their non-compliance. Of these 21, each of the 8 customers listed on Exhibit "4b-A" failed to achieve at least 75% compliance of its job commitment. The individual company circumstances vary, but generally customers indicated that changes in business models, market landscape, and/or competitive challenges have made it unlikely that the customers will meet employment commitments going forward.

Accordingly, Staff recommends that the Trustees approve reductions in the contract demands and Hydropower allocations for the 8 customers identified in Exhibit '4b-A' who fell below a 75% compliance rate for their job, to the amounts indicated on Exhibit '4b-A'. In addition, Staff recommends that the Trustees authorize the Authority to make reductions in the job commitments for these 8 customers to the amounts indicated on Exhibit '4b-A' to reflect the reduction in the Hydropower allocations.

b) Power Utilization Commitments

Also referred to as the 'use-it-or-lose-it' provision, Hydropower contracts require that the six highest monthly peak demands during the reporting year average at least 90% of the allocation. A total of 18 companies did not meet the power utilization commitment based on a 90% threshold, with many of these not using the full allocation for several years. Of this number, 7 customers listed on Exhibit '4b-B' failed to meet at least 75% compliance with its power utilization commitment.

Accordingly, Staff recommends that the Trustees approve reductions in the contract demands and Hydropower allocations for the 7 customers identified in Exhibit '4b-B' who are below a 75%

compliance rate for their power utilization commitment to the amounts indicated on Exhibit '4b-B.' In addition, Staff recommends that the Trustees authorize the Authority to make reductions in the job commitments for these customers to the amounts indicated on Exhibit '4b-B' to reflect the reduction in the Hydropower allocations.

c) Capital Investment Commitments

Each of the customers listed in Exhibit '4b-C' committed to make a capital investment in the facility that is receiving the Hydropower allocation, but did not meet its commitment. The compliance review showed that all but eight companies met or exceeded their 90% compliance threshold. Of this number, the four customers listed on Exhibit '4b-C' failed to achieve a 75% compliance rate for their capital investment commitment.

Accordingly, Staff recommends that the Trustees approve reductions in the contract demands and Hydropower allocations for the customers identified in Exhibit '4b-C' to the amounts indicated on Exhibit '4b-C.' In addition, Staff recommends that the Trustees authorize the Authority to make reductions in the job and capital investment commitments for these customers as proposed in Exhibit '4b-C' to reflect proposed reductions to their respective Hydropower allocations.

3. Other Compliance Activities – No Action Requested

The data reported by the first customer listed on Exhibit '4b-D,' Tops Supermarkets, LLC, indicated that the customer failed to achieve at least a 75% compliance rate for power utilization. However, based on information received from the customer and its local utility, Staff has learned that accurate usage data may not have been collected due to a problem with the customer's meter. Staff is expecting receipt of new data in the near future that may demonstrate that the customer is in compliance with its power utilization commitment. Accordingly, Staff is not recommending any compliance action against this customer at this time.

The second customer listed on Exhibit '4b-D,' Cliffstar, LLC, was deemed to be non-compliant for its capital investment commitment based on its reported information. However, because non-compliance fell just below the 75% compliance rate, the methodology used to calculate reduction of contract demand and allocation does not support in a reduction in this customer's contract demand and allocation at this time.

The third customer listed in on Exhibit '4b-D,' Confer Plastics, Inc., was initially determined to be non-compliant for its capital investment commitment based on reported information. However, subsequent discussions with the customer are suggesting that an error may have been made with respect to the obligations listed in the customer's contract. Staff is still reviewing the matter and expects to renegotiate contract terms for this customer if an error is confirmed. Accordingly, Staff is not recommending compliance action at this time.

The two Hydropower customers identified in Exhibit '4b-E' did not file a compliance report as required by their RNY Power contract. These companies were notified on numerous occasions of their obligation to file the report, but still failed to file the required report. Staff intends to suspend electric service for these customers. No action by the Trustees is required for this matter.

4. Ongoing Compliance Activities

The data reported by the customer listed on Exhibit '4b-F,' Globe Metallurgical, Inc., indicated that this customer has failed to achieve at least a 75% compliance rate for job commitments. Staff is not recommending compliance action as to this customer at this time. Staff has completed its analysis of this customer's situation and is currently working with other State agencies and key stakeholders to address impacts. Staff will come back to the Board with a recommendation in September and final resolution by no later than year end.

<u>RECOMMENDATION</u>

The Vice President – Marketing recommends that the Trustees:

(1) Authorize a reduction of the contract demands and Hydropower allocations for each of the customers identified in Exhibit '4b-A' to the amount indicated on Exhibit '4b-A,' and authorize the Authority to adjust job commitments and/or capital investment commitments for these customers as indicated on Exhibit '4b-A' to reflect the reductions in the respective Hydropower allocations.

(2) Authorize a reduction of the contract demands and Hydropower allocations for each of the customers identified in Exhibit '4b-B' to the amount indicated on Exhibit '4b-B,' and authorize the Authority to adjust job commitments and/or capital investment commitments for these customers as indicated on Exhibit '4b-B' to reflect the reductions in the respective Hydropower allocations.

(3) Authorize a reduction of the contract demands and Hydropower allocations for each of the customers identified in Exhibit '4b-C' to the amount indicated on Exhibit '4b-C,' and authorize the Authority to adjust job commitments and/or capital investment commitments for these customers as indicated on Exhibit '4b-C' to reflect the reductions in the respective Hydropower allocations.

For the reasons stated, I recommend the approval of the above-requested action by adoption of the resolution below."

The following resolution, as submitted by the President and Chief Executive Officer, was adopted with Trustee Flynn being recused from the vote as it relates to Ashland Advanced Materials; RHI Monofrax; and Saint Gobain Structural Ceramics.

RESOLVED, That the Trustees hereby accept and approve the recommendations regarding the Annual Compliance Review for the Expansion Power, Replacement Power, and/or Preservation Power programs (collectively, "Hydropower") which began in February 2015 for the compliance period beginning in January 2014 and ending in December 2014; and be it further

RESOLVED, That the Trustees hereby approve the reduction of Hydropower allocations and contract demands for each of the customers identified in Exhibit "4b-A" to the amount indicated therein, and authorize the Authority to adjust job commitments and/or capital investment commitments for these customers proportionately as indicated on Exhibit "4b-A" to reflect the reductions in the Hydropower allocations, as described in the foregoing report of the President and Chief Executive Officer; and be it further

RESOLVED, That the Trustees hereby approve the reduction of Hydropower allocations and contract demands for each of the customers identified in Exhibit "4b-B" to the amount indicated therein, and authorize the Authority to adjust job commitments and/or capital investment commitments for these customers

proportionately as indicated on Exhibit "4b-B" to reflect the reductions in the Hydropower allocations, as described in the foregoing report of the President and Chief Executive Officer; and be it further

RESOLVED, That the Trustees hereby approve the reduction of Hydropower allocations and contract demands for each of the customers identified in Exhibit "4b-C" to the amount indicated therein, and authorize the Authority to adjust job commitments and/or capital investment commitments for these customers proportionately as indicated on Exhibit "4b-C" to reflect the reductions in the Hydropower allocations, as described in the foregoing report of the President and Chief Executive Officer; and be it further

RESOLVED, That the Chairman, the President and Chief Executive Officer, the Chief Operating Officer and all other officers of the Authority are, and each of them hereby is, authorized on behalf of the Authority to do any and all things and take any and all actions and execute and deliver any and all agreements, certificates and other documents to effectuate the foregoing resolution, subject to the approval of the form thereof by the Executive Vice President and General Counsel.

c. Annual Compliance Review – Recharge New York Power Program

The President and Chief Executive Officer submitted the following report:

"SUMMARY

Authority Staff has conducted its second annual compliance review of customers receiving power allocations under the Recharge New York ('RNY') Power Program for the reporting period from July 1, 2013 through June 30, 2014 (the 'Reporting Period'). The compliance review examined RNY Power customer contract compliance in 3 areas: (1) job retention;[‡] (2) capital investment; and (3) power utilization. As provided for in each customer's contract, these customers began submitting their compliance reports to the Authority in July 2014.

The purpose of this memorandum is to inform the Trustees of the results of the compliance review. In addition, the Trustees are asked to authorize the reduction of RNY Power allocations for specific RNY Customers who have failed to meet job retention and capital investment commitments. As detailed below, the underlying RNY Power contract requires customers to achieve at least a 90% compliance rate in applicable commitment areas. At this time, Authority Staff is recommending enforcement of the contract commitments for specific customers who have failed to achieve at least a 75% compliance level for job retention commitments, capital investment commitments, or both. Additionally, in view of potential impacts on such customers from RNY allocation reductions, Staff recommends that the compliance rate of these customers be temporarily adjusted to a 75% threshold. As discussed below, this approach is consistent with (i) the sort of enforcement discretion the Authority has exercised in the past, and (ii) the approach Empire State Development ('ESD') has used for analogous economic development programs.

In summary:

(1) As described in Exhibit '4c-A,' the compliance level of each of the 13 RNY Power customers listed fell below 75% of the relevant contractual commitment for job retention for the Reporting Period. Staff recommends that the RNY Power allocations and contract demands for each such customer be reduced to the amounts indicated in Exhibit '4c-A.' In addition, Staff recommends that the Authority be authorized to adjust job commitments for these customers as indicated in Exhibit '4c-A' to reflect the reductions in the amount of the RNY Power allocations and contracts demands.

(2) As described in Exhibit '4c-B,' the compliance level for each of the two customers listed fell below 75% of its contractual one-year capital investment commitment. Staff recommends that the RNY Power allocations and contract demands for these customers be reduced to the amounts indicated in Exhibit '4c-B.' In addition, Staff recommends that the Authority be authorized to adjust the job commitment for this customer as indicated in Exhibit '4c-B' to reflect the reduction in the amount of the RNY Power allocations and contract demands.

Staff may return to the Board at a later time for additional compliance recommendations regarding these and other RNY Power customers.

[‡] Some RNY contracts contain a job creation commitment, requiring the customer to create a specified number of jobs at the facility using the RNY Power allocation and to retain the jobs for the term of the allocation. Customers are typically given three years to reach this commitment number. Given that power allocations under the RNY Power Program did not commence until approximately July 2012, Staff has determined this commitment is not yet ripe for compliance review.

BACKGROUND

On April 14, 2011, Governor Andrew M. Cuomo signed into law Chapter 60 (Part CC) of the Laws of 2011 which, among other things, created the RNY Power program. The program makes available 910 megawatts ('MW') of 'RNY Power,' 50% of which will be provided by the Authority's hydropower resources and 50% of which will be procured by the Authority from other sources. RNY Power contracts are for a specified term corresponding to a customer's allocation.

RNY Power is made available to businesses and not-for-profit corporations for job retention and business expansion and attraction purposes. Applications for RNY Power are subject to a competitive evaluation process and are evaluated based on statutory criteria, including (1) the number of jobs created and/or retained and the extent to which the applicant will agree to commit to creating or retaining such jobs as a condition to receiving a RNY Power allocation; and (2) the extent to which a RNY Power allocation will result in new capital investment in the state by the applicant.

Successful applicants are awarded RNY Power allocations and offered a contract with the Authority for the purchase of the RNY Power. In addition to the basic requirement to pay for electric service, the contact provides for several 'supplemental' customer commitments relating to such matters as (1) job creation or retention, (2) capital investment, and (3) power utilization (the 'Supplemental Commitments'). With respect to jobs, the RNY Power contract may contain commitments to create and retain jobs, or simply to retain jobs. On capital investment, the contract may provide for a one-year capital investment commitment, or as is more often the case, an aggregate capital investment commitments over a five-year period.

To facilitate compliance review and contract enforcement, the RNY contract requires customers to report on the Supplemental Commitments. Customers are required to report pertinent information on the first three Supplemental Commitments no later than August 31 of each year for the prior 12-month reporting period from July through June.

As more specifically detailed in the RNY contract, if a customer's report indicates that its average monthly employment for the reporting period is below the compliance threshold of 90% of the customer's employment commitment, the Authority may take action against the customer which includes reducing the customer's power allocation on a pro rata basis. Customers are also required to report monthly power utilization in kilowatts ('kW') to ensure that the power allocations are being used during the reporting period. If reported average monthly kW utilization is below the compliance threshold of 90% of the allocation amount, the Authority may reduce that customer's power allocation. The RNY contract further provides that the Authority may, among other things, reduce a customer's RNY Power allocation on a pro rata basis where the customer's capital spending is below a 90% compliance threshold. Finally, consistent with established practice, Staff considers the condition of the economy when considering whether to take compliance action and the approach that will be recommended.

DISCUSSION

1. Background

Staff has completed its second annual compliance review of all in-service RNY Power allocation contracts for compliance with Supplemental Commitments.[§] The Authority had 538 customers that received at least one month of RNY Power during the Reporting Period (July 1, 2013 through June 30, 2014), of which 521 reported data for the compliance review. Of the 538 customers noted above, a total

[§] In addition to this compliance review, each year an independent auditor, along with the Authority's Internal Audit ('IA') group, randomly selects customers whose annual compliance report is reviewed for accuracy. This year, a job reporting audit was performed by the auditing firm Dannible & McKee, and a capital investment spending audit was performed by the IA. The audits are designed to help Staff validate reported information. Audited customers will receive feedback on the audit results, including guidance for future submittals.

of 483 customers began receiving RNY Power on or before July 2013. Staff reviewed the data reported by all 521 customers for this compliance period. Of those reporting, the 483 customers mentioned have been receiving RNY Power for the entire 12-month period and are in a position to be evaluated for compliance with the Supplemental Commitments.

In total, 481 of the 483 customers appropriately reported compliance data, representing power allocations totaling 566 MW and existing employment commitments totaling 314,717 jobs. In aggregate, these customers reported actual employment of 358,248 jobs. This represents 114% of the total of job commitments for all RNY customers reporting for the full year. Three customers failed to file compliance reports. In total for this reporting period, Staff determined that 58 customers did not meet the required compliance level for one or more of the Supplemental Commitments based on a 90% compliance threshold provided for in the RNY Power Contract.

Based on the contract terms, the applicable tariff and the Authority's regulations, the Authority has a number of options available to respond to a customer that is in breach of contractual obligations, including, for example, termination of the contract, suspension of electric service, and reduction of the amount of a customer's RNY Power allocation.

As discussed in more detail below, at this time, Staff is recommending compliance action for virtually all RNY Power customers who have failed to achieve at least a 75% compliance rate with respect to Supplemental Commitments for job retention, and capital investments, or both. (Where a customer was non-compliant in job and capital investment commitments, Staff uniformly used the customer's job numbers to calculate recommended reductions in contract demands and allocations.) Staff is also recommending the Authority be authorized to adjust job commitments and/or capital investment commitments as indicated in Exhibits '4c-A' and '4c-B' to reflect reduced contract demands and RNY Power allocations.

For reasons discussed below, Staff is not recommending that compliance action be taken regarding the 3 RNY customers listed on Exhibit '4c-C,' whose reported data indicates that the customers failed to achieve at least a 75% percent compliance rate for the Supplemental Commitment indicated.

Finally, Staff intends to suspend electric service for 2 RNY Power Customers who have failed to file compliance reports as required by their RNY Power contracts.

A summary of all customers discussed on Exhibits '4c-A' through '4c-D' appears on the accompanying spread sheet designated as Exhibit '4c-E'.

Staff will continue to monitor the compliance status of RNY Power customers falling between 90% and 75% compliance threshold, and may return to the Board at a later time to report on and make recommendations concerning such customers or the customers that are the subject of the current compliance initiative.

Staff's decision to not recommend compliance action for the current compliance period against customers who fell below a 90% compliance level, but who have met at least a 75% compliance level reflects the view that the State's economy is on the mend, and therefore customers should be provided with additional time to meet their compliance obligations, and a reduction in the contract demand of such customers at this time could serve to impede their recovery. The Authority has exercised such enforcement discretion in the past in response to economic conditions. For example:

- Compliance action was suspended from 2001 through 2002 due to the events and impacts of the 9/11 attacks, when it was determined that businesses across the state were in severe financial distress.
- Compliance action was suspended from 2008 through 2010 as a direct result of the recession in the U.S. economy.

- Compliance action was suspended from 2012 through 2014 due to the impacts and economic recovery efforts relating to Tropical Storm Irene and Super storm Sandy.

The recommended approach is also consistent with the approach ESD has used for analogous economic development programs.

2. Failure to Meet Supplemental Commitments – Action Requested

This section discusses specific compliance information concerning the specific Supplemental Commitments described. Some customers failed to achieve 75% compliance for more than one Supplemental Commitments. These customers are identified in more than one exhibit, but the recommended action for such customers in each instance takes account of multiple compliance violations.

a) Job Commitments

A total of 431 of the 481 RNY Power customers reviewed were found to be compliant with their Supplemental Commitment for job retention. Thirty-seven (37) of the remaining 50 customers were found to be below the 90% compliance rate, and 13 customers were determined to be below a 75% compliance rate of their job retention commitment.

Staff recommends that the Trustees approve reductions in the RNY Power allocations and contract demands for the 13 customers identified in Exhibit '4c-A' who fell below a 75% compliance rate for their job retention commitments to the amounts indicated in Exhibit '4c-A.' In addition, staff recommends that the Trustees authorize the Authority to make reductions in the job commitments for these 13 customers to the amounts indicated in Exhibit '4c-A' to reflect the reductions in the amount of the RNY Power allocations.

b) Capital Investment Commitments

RNY Power customers can be divided into two groups for purposes of capital investment compliance review: (1) customers with an aggregate capital investment commitment over a five-year period; and (2) customers with a one-year capital investment commitment.[**]

It is not possible to evaluate compliance capital investment compliance for the first group of customers at this time, because the RNY Power allocations for such customers have not yet been in service for five years. Nevertheless, the compliance review revealed some facts about capital investment. To date, these customers have reported cumulative spending totaling of $5.1 billion out of an aggregate commitment of $23 billion. One hundred fifteen (115) companies in this customer group have already met or exceeded their 90% compliance threshold as of this Reporting Period.

Thirty-two customers have one-year capital investment commitments. The cumulative spending for this group totaled $86.5 million out of an aggregate commitment level of $71.9 million.

Twenty-nine (29) of the 32 customers in the second group met or exceeded the 90% compliance threshold. The two customers listed in Exhibit '4c-B' failed to meet at least a 75% compliance rate for their respective capital investment commitment.

Accordingly, Staff recommends that the Trustees authorize a reduction in the RNY Power allocations and contract demands for the two customers identified in in Exhibit '4c-B' to the amounts listed in Exhibit '4c-B.' In addition, Staff recommends that the Trustees authorize the Authority to make reductions in the job commitments and capital investment commitments for these customers to the

[**] Twenty-six (26) RNY Power customers do not have a Supplemental Commitment for capital investment.

amounts indicated in Exhibit '4c-B' to reflect proposed reductions to their respective contract demands and RNY Power allocations.

3. Other Compliance Activities – No Action Requested

a) Capital Investment

The first RNY customer listed in Exhibit '4c-C,' Dab-O-Matic Corporation, reported data indicating it had failed to achieve at least a 75% compliance rating for its capital investment commitment. The company is poised to make additional capital investments which are expected to quickly bring it into compliance with its capital investment commitment. Accordingly, staff is not recommending any compliance action regarding this customer at this time.

b) Power Utilization

Staff determined that 7 customers were underutilizing their RNY Power allocations on average over the Reporting Period and as a result did not meet the 90% compliance threshold. Five of these customers had initially misallocated the RNY allocation to a single account or a small percentage of the allocation per meter, which did not allow the customers to fully utilize their allocations. Staff worked with each customer to distribute its allocation amongst its various accounts. During the last six months, each company has been able to satisfy its power utilization compliance threshold of 90%.

The second and third customers listed in Exhibit '4c-C,' Alken Industries, Inc. and Huron Real Estate Associates, LLC, respectively, fell below a 75% power utilization threshold for the Reporting Period. In the course of its compliance review, Staff discovered that these customers were not allocating their RNY Power allocations in a manner that allowed them to more fully utilize their allocations. Staff is in the process of working with these customers to improve their power utilization levels. Accordingly, Staff is not recommending any action with respect to these two customers at this time.

c) Compliance Reporting

The 2 RNY Power customers identified in Exhibit '4c-D' did not file a compliance report as required by their RNY Power contract. These companies were notified of their obligation to file the report, but still failed to file the report. Staff intends to suspend the RNY Power allocations for the two customers that failed to file a compliance report. No action by the Trustees is requested for this matter.

RECOMMENDATION

The Vice President – Marketing recommends that the Trustees:

(1) Authorize a reduction of the Recharge New York ('RNY') Power allocations and contract demands for each of the customers identified in Exhibit '4c-A' to the amounts indicated in Exhibit '4c-A,' and authorize the Authority to adjust job commitments and/or capital investment commitments for these customers as indicated in Exhibit '4c-A' to reflect the reductions in the respective RNY power allocations and contract demands.

(2) Authorize a reduction of the RNY Power allocations and contract demands for each of the customers identified in Exhibit '4c-B' to the amounts indicated in Exhibit '4c-B,' and authorize the Authority to adjust job commitments and/or capital investment commitments for these customers as indicated in Exhibit '4c-B' to reflect the reductions in the respective RNY power allocations and contract demands.

For the reasons stated, I recommend the approval of the above-requested action by adoption of the resolution below."

Mr. Keith Hayes provided highlights of staff's recommendations to the Trustees.

In response to a question from Chairman Koelmel, Mr. Hayes said a total of twenty-nine companies will be impacted, losing power allocations, for not being in compliance with their job retention and capital investment commitments. Also, two companies in each program did not fill out compliance reports and therefore their allocations will be suspended.

In response to further questioning from Chairman Koelmel, Mr. Hayes said the contractual agreements require customers to fill out annual compliance reports, which include threshold information, and submit to the Authority. Therefore, these customers are aware that they are not in compliance. In addition, staff has open dialogues with the customers regarding their non-compliance and also with other state agencies such as Empire State Development Corporation if they are negotiating other credits for them. This is an ongoing process and is well-documented by Authority staff in its Customer Relationship Management database.

In response to still further questioning from Chairman Koelmel, Mr. Hayes said staff is agreeable with the temporary adjustment of 75% in the compliance threshold level for the companies as recommended in the report. However, staff will be utilizing the 90% threshold going forward.

Responding to another question from Chairman Koelmel, Mr. Hayes said with regard to the company that is still a "work-in-progress," staff is working with ESD and other agencies to effect a resolution expects to come back to the Board with a recommendation and final resolution for that company in September.

In response to a question from Trustee Flynn, Mr. Hayes said the Company that staff is asking them to hold-off on making a decision until September has a job commitment of 500 jobs for 40 megawatts of power. That was predicated on an expansion of their business for a new line of materials, and that has not materialized. Their current job reporting number is 105 jobs, so they are well below their compliance threshold at this time. Responding to further questioning from Trustee Flynn, Mr. Hayes agreed that the Empire State Development has asked the Authority for some time to work with the company to try to address this issue.

In response to comments made by Trustee Flynn, Mr. Hayes said that by the September meeting of the Board staff will provide a recommendation to the Board on this issue.

In response to a question from Trustee Foster, Mr. Hayes said the company was allocated this power for incremental jobs, and to date they have not created any jobs; they retained the 105 jobs. In response to further questioning from Trustee Foster, Mr. Hayes said the company received the new allocation of power in 2009.

The following resolution, as submitted by the President and Chief Executive Officer, was adopted with Trustee Flynn being recused from the vote as it relates to The Indium Corporation of America (Lincoln Avenue); ITT Corp. (EDO); and Universal Photonics, Inc.

RESOLVED, That the Trustees hereby accept and approve the recommendations regarding the Annual Compliance Review for the Recharge New York ("RNY") Power Program which began in July of 2014 for the compliance period beginning in July 2013 and ending in June 2014; and be it further

RESOLVED, That the Trustees hereby approve the reduction of RNY Power allocations and contract demands for each of the customers identified in Exhibit "4c-A" to the amounts indicated therein, and authorize the Authority to adjust job commitments and/or capital investment commitments for these customers as indicated in Exhibit "4c-A" to reflect the reductions in the RNY Power allocations and contract demands, as described in the foregoing report of the President and Chief Executive Officer; and be it further

RESOLVED, That the Trustees hereby approve the reduction of RNY Power allocations and contract demands for each of the customers identified in Exhibit "4c-B" to the amounts indicated therein, and authorize the Authority to adjust job commitments and/or capital investment commitments for these customers as indicated in Exhibit "4c-B" to reflect the reductions in the RNY Power allocations and contract demands, as described in the foregoing report of the President and Chief Executive Officer; and be it further

RESOLVED, That the Chairman, the President and Chief Executive Officer, the Chief Operating Officer and all other officers of the Authority are, and each of them hereby is, authorized on behalf of the Authority to do any and all things and take any and all actions and execute and deliver any and all agreements, certificates and other documents to effectuate the foregoing resolution, subject to the approval of the form thereof by the Executive Vice President and General Counsel.

d. Awards of Fund Benefits from the Western New York Economic Development Fund Recommended by the <u>Western New York Power Proceeds Allocation Board</u>

The President and Chief Executive Officer submitted the following report:

"<u>SUMMARY</u>

The Trustees are requested to accept the recommendation of the Western New York Power Proceeds Allocation Board ('WNYPPAB') and make an award of Fund Benefits from the Western New York Economic Development Fund to the eligible applicant listed in Exhibit '4d-A' as discussed in more detail below, and authorize the other actions described herein with respect to such applicant and recommended award.

<u>BACKGROUND</u>

1. <u>Western New York Power Proceeds Allocation Act</u>

On March 30, 2012, Governor Cuomo signed into law the Western New York Power Proceeds Allocation Act (the 'Act'). The Act provides for the creation, by the Authority, of the Western New York Economic Development Fund. The Fund consists of the aggregate excess of revenues received by the Authority from the sale of Expansion Power ('EP') and Replacement Power ('RP') produced at the Niagara Power Project that was sold in the wholesale energy market over what revenues would have been received had such energy been sold on a firm basis to an eligible EP or RP customer under the applicable tariff or contract.

Under the Act, an 'eligible applicant' is a private business, including a not-for-profit corporation. 'Eligible projects' is defined to mean 'economic development projects by eligible applicants that are physically located within the State of New York within a thirty-mile radius of the Niagara power project located in Lewiston, New York that will support the growth of business in the state and thereby lead to the creation or maintenance of jobs and tax revenues for the state and local governments.' Eligible projects include, for example, capital investments in buildings, equipment, and associated infrastructure owned by an eligible applicant for fund benefits; transportation projects under state or federally approved plans; the acquisition of land needed for infrastructure; research and development where the results of such research and development will directly benefit New York state; support for tourism and marketing and advertising efforts for western New York state tourism and business; and energy-related projects.

Eligible projects do not include public interest advertising or advocacy; lobbying; the support or opposition of any candidate for public office; the support or opposition to any public issue; legal fees related to litigation of any kind; expenses related to administrative proceedings before state or local agencies; or retail businesses as defined by the board, including without limitation, sports venues, gaming and gambling or entertainment-related establishments, residential properties, or places of overnight accommodation.

Fund Benefits have been provided to successful eligible applicants in the form of grants. Generally, Fund Benefits are disbursed as reimbursement for expenses incurred by an Eligible Applicant for an Eligible Project. Occasionally, Fund Benefits are disbursed in advance for proposed eligible expenditures to be incurred by the Eligible Applicant for an Eligible Project when NYPA determines this approach is appropriate for a project, NYPA has authorized the approach in advance, and proposed expenses can be appropriately documented.

At least 15% percent of Fund Benefits must be dedicated to eligible projects which are 'energy-related projects, programs and services,' which is 'energy efficiency projects and services, clean energy technology projects and services, and high performance and sustainable building programs and services, and the construction, installation and/or operation of facilities or equipment done in connection with any such projects, programs or services.'

Allocations of Fund Benefits may only be made on the basis of moneys that have been deposited in the Fund. No award may encumber future funds that have been received but not deposited in the Fund.

2. Western New York Power Proceeds Allocation Board

Under the Act, the WNYPPAB is charged with soliciting applications for Fund Benefits, reviewing applications, making eligibility determinations, and evaluating the merits of applications for Fund Benefits. WNYPPAB uses the criteria applicable to EP, RP and PP, and for revitalization of industry as provided in Public Authorities Law §1005. Additionally, WNYPPAB is authorized to consider the extent to which an award of Fund Benefits is consistent with the strategies and priorities of the Regional Economic Development Council having responsibility for the region in which an eligible project is proposed. A copy of these criteria (collectively, 'Program Criteria'), adapted from WNYPPAB's 'Procedures for the Review of Applications for Fund Benefits,' is attached as Exhibit '4d-B'.

The WNYPPAB met on March 4, 2013 and, in accordance with the Act, adopted by-laws, operating procedures, guidelines related to the application, and a form of application. At that time, WNYPPAB defined 'retail business' to mean a business that is primarily used in making retail sales of goods or services to customers who personally visit such facilities to obtain goods or services.

WNYPPAB also designated the Western New York Regional Director of Empire State Development Corporation ('ESD') to be its designee ('Designee') to act on its behalf on all administrative matters. Among other things, the Designee was authorized to preform analyses of the applications for Fund Benefits and make recommendations to WNYPPAB on the applications.

Under the Act, a recommendation for Fund Benefits by WNYPPAB is a prerequisite to an award of Fund Benefits by the Authority, and the Act authorizes the Authority to award Fund Benefits to an applicant upon a recommendation of the WNYPPAB. Upon a showing of good cause, the Authority has discretion as to whether to adopt the WNYPPAB's recommendation, or to award benefits in a different amount or on different terms and conditions than proposed by the WNYPPAB. In addition, the Authority is authorized to include within the contract covering an award ('Award Contract') such other terms and conditions the Authority deems appropriate.

3. Application Process

In an effort to provide for the efficient review of applications and disbursement of Fund Benefits, the WNYPPAB established a schedule of dates through the end of 2015 on which the WNYPPAB would meet to consider applications. At this time, applications are being accepted on a rolling basis. In addition, the application process was promoted through a media release and with assistance from state and local entities, including the Western New York and Finger Lakes Regional Economic Development Councils, the Empire State Development Corporation and other local and regional economic development organizations within the State. A webpage was created that is hosted on WWW.NYPA.GOV/WNYPPAB with application instructions, a link to the approved application form and other program details including a contact phone number and email address staffed by the Western New York Empire State Development regional office.

DISCUSSION

At its July 8, 2015 meeting, the WNYPPAB considered an application from Borderworx Logistics, LLC ('Borderworx') seeking $300,000 in Fund Benefits. WNYPPAB's staff analyzed the application and made recommendations to the WNYPPAB based on eligibility requirements and Program Criteria. A copy of the recommendation memorandum provided to WNYPPAB for Borderworx is attached as Exhibit

'4d-C.' The associated application has also been made available to the Trustees for review. WNYPPAB recommended that this applicant receive an award in the amount indicated on Exhibit '4d-A.'

Based on information provided in the application before the Trustees, the proposed project would directly create or retain approximately 11 jobs in Western New York. The total to be expended on the proposed project is expected to be approximately $3 million.

Given the nascent stage of the proposed project, it was not possible at this time to identify all of the terms and conditions that would be applicable to the award and memorialized in an Award Contract. With the Trustees' authorization, it is anticipated that the Authority, in consultation with ESD, will negotiate final terms and conditions with the successful applicant after receipt of more detailed information concerning the project and proposed schedules. The Award Contract may include scheduled payments keyed to commitment milestones, such as employment creation and retention. In addition, staff anticipates that an Award Contract will contain provisions for periodic audits of the successful applicants for the purpose of determining contract and program compliance and, where appropriate, terms providing for the partial or complete recapture of Fund Benefits disbursements if an applicant fails to maintain agreed-upon commitments, relating to, among other things, employment levels and/or project element due dates.

RECOMMENDATION

The Vice President – Marketing recommends that:

(1) the Trustees accept the recommendation of the Western New York Power Proceeds Allocation Board ('WNYPPAB') and make an award of Fund Benefits to the applicant and in the amount identified in Exhibit '4d-A,' conditioned upon an agreement to be negotiated with the applicant on the final terms and conditions that would be applicable to the award to be contained in an Award Contract approved by the President and Chief Executive Officer and approved by the Executive Vice President and General Counsel as to form;

(2) the Senior Vice President – Economic Development and Energy Efficiency, or his designee(s), in consultation with Empire State Development Corporation ('ESD'), be authorized to negotiate with the applicant concerning such final terms and conditions that will be applicable to the award;

(3) the Senior Vice President – Economic Development and Energy Efficiency, or his designee, be authorized to execute on behalf of the Authority an Award Contract for the award listed on Exhibit '4d-A' subject to the forgoing conditions.

For the reasons stated, I recommend the approval of the above-requested actions by adoption the resolution below."

Mr. Keith Hayes provided highlights of staff's recommendation to the Trustees.

In response to a question from Chairman Koelmel, President Quiniones said the Authority is planning to embark on a campaign to meet with the various business groups – business partnerships; from the Chamber of Commerce; local development organizations – in the Western New York region in order to market and educate the various stakeholders in the area regarding the opportunity for power proceeds allocations.

In response to a question from Trustee Nicandri, President Quiniones said the passing of the legislation for the Northern New York Power Allocation Board will enable opportunities in Northern York; the Authority is waiting for the Governor to make his appointments and the state legislature to make their recommendations to the Governor for the five-person board for the Northern New York proceeds and the Authority is hopeful that this will happen in the near future.

The following resolution, as submitted by the President and Chief Executive Officer, was unanimously adopted.

WHEREAS, the Western New York Power Proceeds Allocation Board ("WNYPPAB") has recommended that the Authority make an award of Fund Benefits from the Western New York Economic Development Fund ("Fund") to the eligible applicant listed in Exhibit "4d-A" in the amount indicated;

NOW THEREFORE BE IT RESOLVED, That the Authority hereby accepts the recommendation of the WNYPPAB and authorizes the award of Fund Benefits to the applicant and in the amount listed in Exhibit "4d-A," conditioned upon an agreement between the Authority and the applicant on the final terms and conditions that would be applicable to the award and set forth in a written award contract ("Award Contract") between the Authority and the applicant approved by the President and Chief Executive Officer and approved by the Executive Vice President and General Counsel as to form; and be it further

RESOLVED, That the Senior Vice President – Economic Development and Energy Efficiency, or his designee, in consultation with the Empire State Development Corporation, is authorized to negotiate with the applicant concerning such final terms and conditions that will be applicable to the award; and be it further

RESOLVED, That the Senior Vice President – Economic Development and Energy Efficiency, or his designee, is authorized to execute on behalf of the Authority an Award Contract for the award listed on Exhibit "4d-A" subject to the forgoing conditions; and be it further

RESOLVED, That the Chairman, the President and Chief Executive Officer, the Chief Operating Officer and all other officers of the Authority are, and each of them hereby is, authorized on behalf of the Authority to do any and all things, take any and all actions and

execute and deliver any and all agreements, certificates and other documents to effectuate the foregoing resolution, subject to the approval of the form thereof by the Executive Vice President and General Counsel.

5. **Motion to Conduct an Executive Session**

Mr. Chairman, I move that the Authority conduct an executive session pursuant to the Public Officers Law of the State of New York section §105 to discuss an ongoing investigation, contract negotiations, labor negotiations, and matters leading to the promotion or demotion of a particular person. Upon motion made and seconded an Executive Session was held.

6. Motion to Resume Meeting in Open Session

Mr. Chairman, I move to resume the meeting in Open Session. Upon motion made and seconded, the meeting resumed in Open Session.

7. Next Meeting

The next meeting of the Trustees will be held on **September 29, 2015 at the Clarence D. Rappleyea Building, White Plains, New York,** unless otherwise designated by the Chairman with the concurrence of the Trustees.

Closing

Upon motion made and seconded, the meeting was adjourned by the Chairman at approximately 12:05 p.m.

Karen Delince
Corporate Secretary

EXHIBITS

For

July 30, 2015

Regular Meeting

Minutes

New York Power Authority
Recommendation for Western New York Hydropower Allocation

Exhibit "A"
July 30, 2015

Exhibit Number	Company Name	Program	City	County	Base Jobs [1]	New Jobs	Estimated Capital Investment	New Jobs Avg. Wage & Benefits	Power Requested (kW)	Power Recommended (kW)	Contract Term
A-1	Finger Food Products, Inc.	EP	Wheatfield	Niagara	18	11	$3,007,500	$39,363	120	**100**	7 Years
	Totals					**11**	**$3,007,500**			**100**	

(1) Represents employment at time of application or, in the case of existing customer, the higher of existing employment or the highest contract employment commitment

July 30, 2015
Exhibit "A-1"

APPLICATION SUMMARY
Replacement Power

Company:	Finger Food Products, Inc.
Project Location:	Town of Wheatfield
County:	Niagara
IOU:	National Grid
Business Activity:	Manufacturer of Original Pizza Logs
Project Description:	Finger Food Products, Inc. ("Finger Food") is proposing to build a 30,000-square-foot facility on 5 acres in the Vantage International Pointe Business Park to produce, process and package Original Pizza Logs.
Existing Allocation(s):	None
Power Request:	120 kilowatts ("kW")
Power Recommended:	100 kW
Job Commitment:	
Current:	18 jobs
New:	11 jobs
New Jobs/Power Ratio:	110 jobs/per megawatt ("MW")
New Jobs - Avg. Wage and Benefits:	$39,363
Capital Investment:	A minimum of $3 million
Capital Investment/MW:	$30 M/per MW
Other ED Incentives:	Support from the Niagara County Industrial Development Agency
Summary:	A family-owned and operated company, Finger Food is looking to move from an inefficient and inadequate facility into a new, larger facility in Niagara County, invest a minimum of $3 million in the facility, and nearly double its payroll to meet increased demand for its product.

Exhibit B
July 30, 2015

POWER AUTHORITY

OF THE

STATE OF NEW YORK

30 South Pearl Street
10th Floor
Albany, New York 12207-3425

AGREEMENT FOR THE SALE
OF EXPANSION POWER AND/OR REPLACEMENT POWER
to
FINGER FOOD PRODUCTS, INC.

The POWER AUTHORITY OF THE STATE OF NEW YORK ("Authority"), created pursuant to Chapter 772 of the New York Laws of 1931 and existing under Title I of Article V of the New York Public Authorities Law ("PAL"), having its office and principal place of business at 30 South Pearl Street, 10th Floor, Albany, New York 12207-3425, hereby enters into this Agreement for the Sale of Expansion Power and/or Replacement Power ("Agreement") with Finger Food Products, Inc. ("Customer") with offices at 2045 Niagara Falls Blvd., Niagara Falls, New York, 14304. The Authority and the Customer are from time to time referred to in this Agreement as "Party" or collectively as "Parties" and agree follows:

RECITALS

WHEREAS, the Authority is authorized to sell hydroelectric power produced by the Niagara Power Project, Federal Energy Regulatory Commission ("FERC") Project No. 2216, known as "Expansion Power" (or "EP"), as further defined in this Agreement, to qualified businesses in New York State in accordance with PAL § 1005(5) and (13);

WHEREAS, the Authority is authorized to sell hydroelectric power produced by the Niagara Power Project, FERC Project No. 2216, known as "Replacement Power" (or "RP"), as further defined in this Agreement, to qualified businesses in New York State in accordance with PAL § 1005(5) and (13);

WHEREAS, EP consists of 250 megawatts ("MW") of firm hydroelectric power and associated firm energy produced by the Niagara Power Project;

WHEREAS, RP consists of 445 MW of firm hydroelectric power and associated firm energy produced by the Niagara Power Project;

WHEREAS, the Authority is authorized pursuant to PAL § 1005(13)(a) to award EP and/or RP based on, among other things, the criteria listed in the PAL, including but not limited to an applicant's long-term commitment to the region as evidenced by the current and planned capital investment; the type and number of jobs supported or created by the allocation; and the state, regional and local economic development strategies and priorities supported by local units of governments in the area in which the recipient's facilities are located;

WHEREAS, the Customer applied to the Authority for an allocation of hydropower to support operations at a new and/or expanded facility to be constructed and operated by the Customer (defined in Section I of this Agreement as the "Facility");

WHEREAS, on July 30, 2015, the Authority's Board of Trustees ("Trustees") approved a 100 kilowatt ("kW") allocation of RP to the Customer for a seven (7) year term (defined in Section I of this Agreement as the "Allocation") in connection with the construction and operation of the Facility as further described in this Agreement;

WHEREAS, on July 30, 2015, the Trustees authorized the Authority to, among other things, take any and all actions and execute and deliver any and all agreements and other documents necessary to effectuate its approval of the Allocation;

WHEREAS, the provision of Electric Service associated with the Allocation is an

unbundled service separate from the transmission and delivery of power and energy to the Customer, and delivery service will be performed by the Customer's local electric utility in accordance with the Utility Tariff;

WHEREAS, the Parties have reached an agreement on the sale of the Allocation to the Customer on the terms and conditions provided for in this Agreement;

WHEREAS, the Authority has complied with requirements of PAL § 1009 which specifies the approval process for certain contracts negotiated by the Authority; and

WHEREAS, the Governor of the State of New York has approved the terms of this Agreement pursuant to PAL § 1009(3).

NOW THEREFORE, in consideration of the mutual covenants herein, the Authority and the Customer agree as follows:

NOW THEREFORE, the Parties hereto agree as follows:

I. Definitions

A. **Agreement** means this Agreement.

B. **Allocation** refers to the allocation of EP and/or RP awarded to the Customer as specified in Schedule A.

C. **Contract Demand** is as defined in Service Tariff No. WNY-1.

D. **Electric Service** is the Firm Power and Firm Energy associated with the Allocation and sold by the Authority to the Customer in accordance with this Agreement, Service Tariff No. WNY-1 and the Rules.

E. **Expansion Power** (or **EP**) is 250 MW of Firm Power and associated Firm Energy from the Project eligible to be allocated by the Authority for sale to businesses pursuant to PAL § 1005(5) and (13).

F. **Facility** means the Customer's facilities as described in Schedule A to this Agreement.

G. **Firm Power** is as defined in Service Tariff No. WNY-1.

H. **Firm Energy** is as defined in Service Tariff No. WNY-1.

I. **FERC** means the Federal Energy Regulatory Commission (or any successor organization).

J. **FERC License** means the first new license issued by FERC to the Authority for the continued operation and maintenance of the Project, pursuant to Section 15 of the Federal Power Act, which became effective September 1, 2007 after expiration of the Project's original license which became effective in 1957.

K. **Hydro Projects** is a collective reference to the Project and the Authority's St. Lawrence-FDR Project, FERC Project No. 2000.

L. **Load Serving Entity** (or **LSE**) means an entity designated by a retail electricity customer (including the Customer) to provide capacity, energy and ancillary services to serve such customer, in compliance with NYISO Tariffs, rules, manuals and procedures.

M. **NYISO** means the New York Independent System Operator or any successor organization.

N. **NYISO Tariffs** means the NYISO's Open Access Transmission Tariff or the NYISO's Market Administration and Control Area Services Tariff, as applicable, as such tariffs are modified from time to time, or any successor to such tariffs.

O. **Project** means the Niagara Power Project, FERC Project No. 2216.

P. **Replacement Power** (or **RP**) is445 MW of Firm Power and associated Firm Energy from the Project eligible to be allocated by the Authority for sale to businesses pursuant to PAL § 1005(5) and (13).

Q. **Rules** are the applicable provisions of Authority's rules and regulations (Chapter X of Title 21 of the Official Compilation of Codes, Rules and Regulations of the State of New York), as may be modified from time to time by the Authority.

R. **Service Tariff No. WNY-1** means the Authority's Service Tariff No. WNY-1, as may be modified from time to time by the Authority, which contains, among other things, the rate schedule establishing rates and other commercial terms for sale of Electric Service to Customer under this Agreement.

S. **Schedule A** refers to the Schedule A entitled "Expansion Power and/or Replacement Power Allocations" which is attached to and made part of this Agreement.

T. **Schedule B** refers to the Schedule B entitled "Expansion Power and/or Replacement Power Commitments" which is attached to and made part of this Agreement.

U. **Schedule C** refers to the Schedule C entitled "Takedown Schedule" which is attached to and made part of this Agreement.

V. **Substitute Energy** means energy that the Authority provides at the request of the Customer to replace hydroelectricity that would otherwise have been supplied to the Customer under this Agreement. Unless otherwise agreed upon by the Parties, Substitute Energy refers to energy purchased by the Authority for the Customer from markets administered by the NYISO.

W. **Taxes** is as defined in Service Tariff No. WNY-1

X. **Unforced Capacity (or "UCAP")** means the electric capacity required to be provided by LSEs to serve electric load as defined by the NYISO Tariffs, rules, manuals and procedures.

Y. **Utility Tariff** means the retail tariff(s) of the Customer's local electric utility filed and approved by the PSC applicable to the delivery of EP and/or RP.

II. Electric Service

A. The Authority shall make available Electric Service to enable the Customer to receive the Allocation in accordance with this Agreement, Service Tariff No. WNY-1 and the Rules. The Customer shall not be entitled to receive Electric Service under this Agreement for any EP and/or RP allocation unless such EP and/or RP allocation is identified on Schedule A.

B. The Authority will provide, and the Customer shall pay for, Electric Service with respect to the Allocation specified on Schedule A. If Schedule C specifies a Takedown Schedule for the Allocation, the Authority will provide, and the Customer shall take and pay for, Electric Service with respect to the Allocation in accordance with such Takedown Schedule.

C. The Authority shall provide UCAP in amounts necessary to meet the Customer's NYISO UCAP requirements associated with the Allocation in accordance with the NYISO Tariffs. The Customer shall be responsible to pay the Authority for such UCAP in accordance with Service Tariff No. WNY-1.

D. The Customer acknowledges and agrees that Customer's local electric utility shall be responsible for delivering the Allocation to the Facility specified in Schedule A, and that the Authority has no responsibility for delivering the Allocation to the Customer.

E. The Contract Demand for the Customer's Allocation may be modified by the Authority if the amount of Firm Power and Firm Energy available for sale as EP or RP from the Project is modified as required to comply with any ruling, order, or decision of any regulatory or judicial body having jurisdiction, including but not limited to FERC. Any such modification will be made on a pro rata basis to all EP and RP customers, as applicable, based on the terms of such ruling, order, or decision.

F. The Contract Demand may not exceed the Allocation.

III. Rates, Terms and Conditions

A. Electric Service shall be sold to the Customer based on the rates, terms and conditions provided for in this Agreement, Service Tariff No. WNY-1 and the Rules.

B. Notwithstanding any provision of this Agreement to the contrary, the power and energy rates for Electric Service shall be subject to increase by Authority at any time upon 30 days prior written notice to Customer if, after consideration by Authority of its legal obligations, the marketability of the output or use of the Project and Authority's

competitive position with respect to other suppliers, Authority determines in its discretion that increases in rates obtainable from any other Authority customers will not provide revenues, together with other available Authority funds not needed for operation and maintenance expenses, capital expenses, and reserves, sufficient to meet all requirements specified in Authority's bond and note resolutions and covenants with the holders of its financial obligations. Authority shall use its best efforts to inform Customer at the earliest practicable date of its intent to increase the power and energy rates pursuant to this provision. Any rate increase to Customer under this subsection shall be on a non-discriminatory basis as compared to other Authority customers after giving consideration to the factors set forth in the first sentence of this subsection. With respect to any such increase, Authority shall forward to Customer with the notice of increase, an explanation of all reasons for the increase, and shall also identify the sources from which Authority will obtain the total of increased revenues and the bases upon which Authority will allocate the increased revenue requirements among its customers. Any such increase in rates shall remain in effect only so long as Authority determines such increase is necessary to provide revenues for the purposes stated in the preceding sentences.

IV. Expansion Power and/or Replacement Power Commitments

A. Schedule B sets forth the Customer's specific "Expansion Power and/or Replacement Power Commitments." The commitments agreed to in Schedule B are in addition to any other rights and obligations of the Parties provided for in the Agreement.

B. The Authority's obligation to provide Electric Service under this Agreement, and the Customer's obligation to take and pay for such Electric Service, are expressly conditioned upon the Customer's timely completion of the commitments described in Schedule B.

C. In the event of partial completion of the Facility which has resulted in such Facility being partly operational and the partial attainment of the Base Employment Level, the Authority may, upon the Customer's request, provide Electric Service to the Customer in an amount determined by the Authority to fairly correspond to the completed portion of the Facility, provided that the Customer demonstrates that the amount of requested Electric Service is needed to support the operations of the partially completed Facility.

D. The Customer shall give the Authority not less than ninety (90) days' advance notice in writing of the anticipated date of partial or full completion of the Facility. The Authority will inspect the Facility for the purpose of verifying the completion status of the Facility and notify Customer of the results of the inspection. The Authority will thereafter commence Electric Service within a reasonable time after verification based on applicable operating procedures of the Authority, the Customer's local electric utility and the NYISO.

E. In the event the Customer fails to complete the Facility by July 30, 2018 (*i.e.*, within three (3) years of the Authority's award of the Allocation), the Allocation, at the option and discretion of the Authority, may be canceled or reduced by the total amount of kilowatts determined by the Authority to fairly correspond to the uncompleted portion of the Facility, provided that in such event, and upon request of the Customer, such date may be extended by the Authority in its sole discretion.

V. Rules and Service Tariff

Service Tariff No. WNY-1, as may be modified or superseded from time to time by the Authority, is hereby incorporated into this Agreement with the same force and effect as if set forth herein at length. In the event of any inconsistencies, conflicts, or differences between the provisions of Service Tariff No.WNY-1 and the Rules, the provisions of Service Tariff No. WNY-1 shall govern. In the event of any inconsistencies, conflicts or differences between the provisions of this Agreement and Service Tariff No. WNY-1, the provisions of this Agreement shall govern.

VI. Transmission and Delivery of Firm Power and Firm Energy; Responsibility for Charges

A. The Customer shall be responsible complying with all requirements of its local electric utility that are necessary to enable the Customer to receive delivery service for the Allocation. Delivery of the Allocation shall be subject to the Utility Tariff.

B. The Customer shall be solely responsible for paying its local electric utility for delivery service associated with the Allocation in accordance with the Utility Tariff. Should the Authority incur any charges associated with such delivery service, the Customer shall reimburse the Authority for all such charges.

C. The Customer understands and acknowledges that delivery of the Allocation will be made over transmission facilities under the control of the NYISO. The Authority will act as the LSE with respect to the NYISO, or arrange for another entity to do so on the Authority's behalf. The Customer agrees and understands that it shall be responsible to the Authority for all costs incurred by the Authority with respect to the Allocation for the services established in the NYISO Tariff, or other applicable tariff ("NYISO Charges"), as set forth in Service Tariff No. WNY-1 or any successor service tariff, regardless of whether such NYISO Charges are transmission-related. Such NYISO Charges shall be in addition to the charges for power and energy.

D. By entering into this Agreement, the Customer consents to the exchange of information between the Authority and the Customer's local electric utility pertaining to the Customer that the Authority and the local electric utility determine is necessary to provide for the Allocation, sale and delivery of EP and/or RP to the Customer, the proper and efficient implementation of the EP and/or RP programs, billing related to EP and/or RP, and/or the performance of such parties' obligations under any contracts or other arrangements between them relating to such matters.

E. The provision of Electric Service by the Authority shall be dependent upon the existence of a written agreement or other form of understanding between the Authority and the Customer's local electric utility on terms and conditions that are acceptable to the Authority.

F. The Customer understands and acknowledges that the Authority may from time to time require the Customer to complete forms, provide documentation, execute consents and provide other information (collectively, "Information") which the Authority determines is necessary for the provision of Electric Service, the delivery of EP and/or RP, billing

related to the EP and/or RP program, the effective and proper administration of the EP and/or RP program, and/or the performance of contracts or other arrangements between the Authority and the Customer's local electric utility. The Customer's failure to provide such Information shall be grounds for the Authority in its sole discretion to withhold or suspend Electric Service to the Customer.

VII. Billing and Billing Methodology

A. The billing methodology for the Allocation shall be determined on a "load factor sharing" basis in a manner consistent with the Utility Tariff and any agreement between the Authority and the Customer's local electric utility. An alternative basis for billing may be used provided the Parties agree in writing and the local electric utility provides its consent if such consent is deemed necessary.

B. The Authority will render bills by the 10^{th} business day of the month for charges due for the previous month. Such bills shall include charges for Electric Service, NYISO Charges associated with the Allocation (subject to adjustment consistent with any later NYISO re-billings to the Authority), and other applicable charges.

C. The Authority may render bills to the Customer electronically.

D. The Authority and the Customer may agree in writing to an alternative method for the rendering of bills and for the payment of bills, including but not limited to the use of an Authority-established customer self-service web portal.

E. The Authority will charge and collect from the Customer all Taxes (including local, state and federal taxes) the Authority determines are applicable, unless the Customer furnishes the Authority with proof satisfactory to the Authority that (i) the Customer is exempt from the payment of any such Taxes, and/or (ii) the Authority is not obligated to collect such Taxes from the Customer. If the Authority is not collecting Taxes from the Customer based on the circumstances described in (i) or (ii) above, the Customer shall immediately inform the Authority of any change in circumstances relating to its tax status that would require the Authority to charge and collect such Taxes from the Customer.

F. Unless otherwise agreed to by the Authority and the Customer in writing, if the Customer fails to pay any bill when due, an interest charge of two percent (2%) of the amount unpaid shall be added thereto as liquidated damages, and thereafter, as further liquidated damages, an additional interest charge of one and one-half percent (1 1/2%) of the sum unpaid shall be added on the first day of each succeeding billing period until the amount due, including interest, is paid in full.

G. Unless otherwise agreed to by the Authority and the Customer in writing, in the event the Customer disputes any item of any bill rendered by Authority, the Customer shall pay such bill in full within the time provided for by this Agreement, and adjustments, if appropriate, will be made thereafter.

H. If at any time after commencement of Electric Service the Customer fails to make complete and timely payment of any two (2) bills for Electric Service, the Authority shall

have the right to require the Customer to deposit with the Authority a sum of money in an amount equal to all charges that would be due under this Agreement for Electric Service for two (2) consecutive calendar months as estimated by the Authority. Such deposit shall be deemed security for the payment of unpaid bills and/or other claims of the Authority against the Customer upon termination of Electric Service. If the Customer fails or refuses to provide the deposit within thirty (30) days of a request for such deposit, the Authority may, in its sole discretion, suspend Electric Service to the Customer or terminate this Agreement.

I. All other provisions with respect to billing are set forth in Service Tariff No. WNY-1 and the Rules.

J. The rights and remedies provided to the Authority in this Article are in addition to any and all other rights and remedies available to Authority at law or in equity.

VIII. Hydropower Curtailments and Substitute Energy

A. If, as a result of reduced water flows caused by hydrologic conditions, there is insufficient energy from the Hydro Projects to supply the full power and energy requirements of the Authority's firm power customers served by the Authority from the Hydro Projects, curtailments (*i.e.* reductions) in the amount of Firm Power and Firm Energy associated with the Allocation to which the Customer is entitled shall be applied on a *pro rata* basis to all firm power and energy customers served from the Hydro Projects, consistent with Service Tariff No. WNY-1 as applicable.

B. The Authority shall provide reasonable notice to Customer of any curtailments referenced in Section VIII.A of this Agreement that could impact Customer's Electric Service under this Agreement. Upon written request by the Customer, the Authority will provide Substitute Energy to the Customer to replace the Firm Power and Firm Energy that would otherwise have been supplied pursuant to this Agreement.

C. For each kilowatt-hour of Substitute Energy supplied by the Authority, the Customer will pay the Authority directly during the billing month: (1) the difference between the market cost of the Substitute Energy and the charge for firm energy as provided for in this Agreement; and (2) any NYISO charges and taxes the Authority incurs in connection with the provision of such Substitute Energy. Billing and payment for Substitute Energy shall be governed by the Billing and Payments provision of the Authority's Rules (Section 454.6) and shall apply directly to the Substitute Energy service supplied to the Customer.

D. The Parties may enter into a separate agreement to facilitate the provision of Substitute Energy, provided, however, that the provisions of this Agreement shall remain in effect notwithstanding any such separate agreement. The provision of Substitute Energy may be terminated by the Authority or the Customer on fifteen (15) days' prior written notice.

IX. Effectiveness, Term and Termination

A. This Agreement shall become effective and legally binding on the Parties upon execution of this Agreement by the Authority and the Customer.

B. Once commenced, Electric Service under the Agreement shall continue until the earliest of: (1) termination by the Customer with respect to its Allocation upon ninety (90) days prior written notice to the Authority; (2) termination by the Authority pursuant to this Agreement, Service Tariff No. WNY-1, or the Rules; or (3) expiration of the Allocation by its own term as specified in Schedule A.

C. The Customer may exercise a partial termination of the Allocation upon at least thirty (30) days' notice prior written notice to the Authority. The termination shall be effective commencing with the first billing period as defined in Service Tariff No. WNY-1.

D. The Authority may cancel service under this Agreement or modify the quantities of Firm Power and Firm Energy associated with the Allocation: (1) if such cancellation or modification is required to comply with any final ruling, order or decision of any regulatory or judicial body of competent jurisdiction (including any licensing or re-licensing order or orders of the FERC or its successor agency); or (2) as otherwise provided in this Agreement, Service Tariff No. WNY-1, or the Rules.

X. Additional Allocations

A. Upon proper application by the Customer, the Authority may in its discretion award additional allocations of EP or RP to the Customer at such rates and on such terms and conditions as the Authority establishes. If the Customer agrees to purchase Electric Service associated with any such additional allocation, the Authority will (i) incorporate any such additional allocations into Schedule A, or in its discretion will produce a supplemental schedule, to reflect any such additional allocations, and (ii) produce a modified Appendix to Schedule B, as the Authority determines to be appropriate. The Authority will furnish the Customer with any such modified Schedule A, supplemental schedule, and/or a modified Appendix to Schedule B, within a reasonable time after commencement of Electric Service for any such additional allocation.

B. In addition to any requirements imposed by law, the Customer hereby agrees to furnish such documentation and other information as the Authority requests to enable the Authority to evaluate any requests for additional allocations and consider the terms and conditions that should be applicable of any additional allocations.

XI. Notification

A. Correspondence involving the administration of this Agreement shall be addressed as follows:

To: The Authority

New York Power Authority

123 Main Street
White Plains, New York 10601
Email:
Facsimile: ______
Attention: Manager – Business Power Allocations and Compliance

To: The Customer

Finger Food Products, Inc.
2045 Niagara Falls Blvd.
Niagara Falls, New York 14304
Email:
Facsimile:
Attention:

The foregoing notice/notification information pertaining to either Party may be changed by such Party upon notification to the other Party pursuant to Section XI.B of this Agreement.

B. Except where otherwise herein specifically provided, any notice, communication or request required or authorized by this Agreement by either Party to the other shall be deemed properly given: (1) if sent by U.S. First Class mail addressed to the Party at the address set forth above; (2) if sent by a nationally recognized overnight delivery service, two (2) calendar days after being deposited for delivery to the appropriate address set forth above; (3) if delivered by hand, with written confirmation of receipt; (4) if sent by facsimile to the appropriate fax number as set forth above, with written confirmation of receipt; or (5) if sent by electronic mail to the appropriate address as set forth above, with written confirmation of receipt. Either Party may change the addressee and/or address for correspondence sent to it by giving written notice in accordance with the foregoing.

XII. Applicable Law

This Agreement shall be governed by and construed in accordance with the laws of the State of New York to the extent that such laws are not inconsistent with the FERC License and the Niagara Redevelopment Act (16 USC §§836, 836a).

XIII. Venue

Each Party consents to the exclusive jurisdiction and venue of any state or federal court within or for Albany County, New York, with subject matter jurisdiction for adjudication of any claim, suit, action or any other proceeding in law or equity arising under, or in any way relating to this Agreement.

XIV. Successors and Assigns; Resale of Hydropower

A. The Customer may not assign or otherwise transfer an interest in this Agreement.

B. The Customer may not resell or allow any other person to use any quantity of EP and/or RP it has purchased from the Authority under this Agreement.

C. Electric Service sold to the Customer pursuant to this Agreement may only be used by the Customer at the Facility specified in Schedule A.

XV. Previous Agreements and Communications

A. This Agreement shall constitute the sole and complete agreement of the Parties hereto with respect to the subject matter hereof, and supersedes all prior negotiations, representations, warranties, commitments, offers, contracts and writings, written or oral, with respect to the subject matter hereof.

B. Except as otherwise provided in this Agreement, no modification of this Agreement shall be binding upon the Parties hereto or either of them unless such modification is in writing and is signed by a duly authorized officer of each of them.

XVI. Severability and Voidability

A. If any term or provision of this Agreement shall be invalidated, declared unlawful or ineffective in whole or in part by an order of the FERC or a court of competent jurisdiction, such order shall not be deemed to invalidate the remaining terms or provisions hereof.

B. Notwithstanding the preceding paragraph, if any provision of this Agreement is rendered void or unenforceable or otherwise modified by a court or agency of competent jurisdiction, the entire Agreement shall, at the option of either Party and only in such circumstances in which such Party's interests are materially and adversely impacted by any such action, be rendered void and unenforceable by such affected Party.

XVII. Waiver

A. Any waiver at any time by either the Authority or the Customer of their rights with respect to a default or of any other matter arising out of this Agreement shall not be deemed to be a waiver with respect to any other default or matter.

B. No waiver by either Party of any rights with respect to any matter arising in connection with this Agreement shall be effective unless made in writing and signed by the Party making the waiver.

XVIII. Execution

To facilitate execution, this Agreement may be executed in as many counterparts as may be required, and it shall not be necessary that the signatures of, or on behalf of, each Party, or that the signatures of all persons required to bind any Party, appear on each counterpart; but it shall be sufficient that the signature of, or on behalf of, each Party, or that the signatures of the persons required to bind any Party, appear on one or more of the counterparts. All counterparts shall collectively constitute a single agreement. It shall

not be necessary in making proof of this Agreement to produce or account for more than a number of counterparts containing the respective signatures of, or on behalf of, all of the Parties hereto. The delivery of an executed counterpart of this Agreement by email as a PDF file shall be legal and binding and shall have the same full force and effect as if an original executed counterpart of this Agreement had been delivered.

[SIGNATURES FOLLOW ON NEXT PAGE]

AGREED:

FINGER FOOD PRODUCTS, INC.

By: ____

Title: ____

Date: ____

AGREED:

POWER AUTHORITY OF THE STATE OF NEW YORK

By: ____
John R. Koelmel, Chairman

Date: ____

SCHEDULE A TO AGREEMENT FOR THE SALE OF EXPANSION POWER AND/OR REPLACEMENT POWER TO CUSTOMER

EXPANSION POWER AND/OR REPLACEMENT POWER ALLOCATIONS

Customer: Finger Food Products, Inc. **Type of Allocation**	**Allocation Amount (kW)**	**Facility**	**Trustee Approval Date**	**Expiration Date**
Replacement Power	100	Vantage International Point Business Park, Sanborn, NY 14132	July 30, 2015	Seven (7) years from commencement of Electric Service of any portion of this Allocation.

SCHEDULE B TO AGREEMENT FOR THE SALE OF EXPANSION POWER AND/OR REPLACEMENT POWER TO CUSTOMER

EXPANSION POWER AND/OR REPLACEMENT POWER COMMITMENTS

I. Employment Commitments

A. Employment Levels

The provision of EP and/or RP to the Customer hereunder is in consideration of, among other things, the Customer's creation and/or maintenance of the employment level set forth in the Appendix of this Schedule (the "Base Employment Level"). Such Base Employment Level shall be the total number of full-time positions held by: (1) individuals who are employed by the Customer at Customer's Facility identified in the Appendix to this Schedule, and (2) individuals who are contractors or who are employed by contractors of the Customer and assigned to the Facility identified in such Appendix (collectively, "Base Level Employees"). The number of Base Level Employees shall not include individuals employed on a part-time basis (less than 35 hours per week); provided, however, that two individuals each working 20 hours per week or more at such Facility shall be counted as one Base Level Employee.

The Base Employment Level shall not be created or maintained by transfers of employees from previously held positions with the Customer or its affiliates within the State of New York, except that the Base Employment Level may be filled by employees of the Customer laid off from other Customer facilities for *bona fide* economic or management reasons.

The Authority may consider a request to change the Base Employment Level based on a claim of increased productivity, increased efficiency or adoption of new technologies or for other appropriate reasons as determined by the Authority. Any such change shall be within Authority's sole discretion.

B. Employment Records and Reports

A record shall be kept monthly by the Customer, and provided on a calendar year basis to the Authority, of the total number of Base Level Employees who are employed at or assigned to the Customer's Facility identified in the Appendix to this Schedule, as reported to the United States Department of Labor (or as reported in such other record as agreed upon by the Authority and the Customer). Such report shall separately identify the individuals who are employed by the Customer, and the individuals who are contractors or who are employed by contractors of the Customer, and shall be certified to be correct by an officer of the Customer, plant manager or such other person authorized by the Customer to prepare and file such report and shall be provided to the Authority on or before the last day of February following the end of the most recent calendar year. The Authority shall have the right to examine and audit on reasonable advance written notice

all non-confidential written and electronic records and data concerning employment levels including, but not limited to, personnel records and summaries held by the Customer and its affiliates relating to employment in New York State.

II. Reductions of Contract Demand

A. Employment Levels

If the year-end monthly average number of employees is less than 90% of the Base Employment Level set forth in this Schedule B, for the subject calendar year, the Authority may reduce the Contract Demand subject to Article II.D of this Schedule. The maximum amount of reduction will be determined by multiplying the Contract Demand by the quantity one minus the quotient of the average monthly employment during the subject calendar year divided by the Base Employment Level. Any such reduction shall be rounded to the nearest fifty (50) kW. In the event of a reduction of the Contract Demand to zero, the Agreement shall automatically terminate.

B. Power Utilization Levels

A record shall be kept monthly by the Customer, and provided on a calendar year basis to the Authority on or before the last day of February following the end of the most recent calendar year, of the maximum demand utilized each month in the Facility receiving the power covered by the Agreement. If the average of the Customer’s six (6) highest Billing Demands (as such term is described in Service Tariff No. WNY-1) for Expansion Power and/or Replacement Power is less than 90% of the Customer’s Contract Demand in such calendar year the Authority may reduce the Contract Demand subject to Article II.D of this Schedule. The maximum amount by which the Authority may reduce the Contract Demand shall be determined by multiplying the Contract Demand by the quantity one minus the quotient of the average of the six (6) highest Billing Demands for in such calendar year divided by the Contract Demand. Any such reduction shall be rounded to the nearest fifty (50) kW. In the event of a reduction of the Contract Demand to zero, this Agreement shall automatically terminate.

C. Capital Investment

The Customer agrees to undertake the capital investment set forth in the Appendix to this Schedule.

Notwithstanding any other provision of the Agreement, the Customer shall provide the Authority with such access to the Facility, and such documentation, as the Authority deems necessary to determine the Customer’s compliance with the Customer’s obligations provided for in this Schedule B.

D. Notice of Intent to Reduce Contract Demand

In the event that the Authority determines that the Contract Demand will be wholly or partially reduced pursuant to this Schedule , the Authority shall provide the Customer with at least thirty (30) days prior written notice of such reduction, specifying the amount of the reduction of Contract Demand and the reason for the reduction, provided, however, that before making the reduction, the Authority may consider the Customer's scheduled or unscheduled maintenance or Facility upgrading periods when such events temporarily reduce plant employment levels or electrical demand as well as business cycle.

III. Energy Efficiency Audits; Information Requests

Unless otherwise agreed to by the Authority in writing, the Customer shall undergo an energy efficiency audit of its Facility and equipment at which the Allocation is consumed at the Customer's expense at least once during the term of this Agreement but in any event not less than once every five years. The Customer will provide the Authority with a copy of the audit or, at the Authority's option, a report describing the results of the audit, and provide documentation requested by the Authority to verify the implementation of any efficiency measures implemented at the Facility.

The Customer agrees to cooperate to make its Facility available at reasonable times and intervals for energy audits and related assessments that the Authority desires to perform, if any, at the Authority's own expense.

The Customer shall provide information requested by the Authority or its designee in surveys, questionnaires and other information requests relating to energy efficiency and energy-related projects, programs and services.

The Customer may, after consultation with the Authority, exclude from written copies of audits, reports and other information provided to the Authority under this Article trade secrets and other information which if disclosed would harm the competitive position of the Customer.

APPENDIX TO SCHEDULE B

BASE EMPLOYMENT LEVEL

Within three (3) years of commencement of Electric Service, the Customer shall employ at least twenty-nine (29) full-time employees ("Base Employment Level") at the Customer's Facility. The Base Employment Level shall be maintained thereafter for the term of the Allocation in accordance with Article I of Schedule B.

CAPITAL INVESTMENT

The Customer shall make a total capital investment of a minimum of $3,000,000 to renovate and furnish the Facility (the "Capital Investment"). The Capital Investment for the Facility is expected to consist of the following specific expenditures:

Machinery:	$2,655,000
Property Procurement:	$ 37,500
Coolers, Fryers, etc.:	$ 315,000
Total Capital Investment:	**$3,007,500**

The Capital Investment shall be made, and the Facility shall be completed and fully operational, no later than July 30, 2018 (*i.e.*, within three (3) years of the date of the Authority's award of the Allocation). Upon request of the Customer, such date may be extended in the sole discretion of the Authority.

SCHEDULE C TO AGREEMENT FOR THE SALE OF EXPANSION POWER AND/OR REPLACEMENT POWER TO CUSTOMER

TAKEDOWN SCHEDULE

N/A

New York Power Authority

POWER AUTHORITY OF THE STATE OF NEW YORK
30 SOUTH PEARL STREET
ALBANY, NY 12207

Schedule of Rates for Sale of Firm Power to Expansion and Replacement Customers located In Western New York

Service Tariff No. WNY-1

Issued by James F. Pasquale, Senior Vice President
Power Authority of the State of New York
30 South Pearl Street, Albany, NY 12207

Table of Contents

Schedule of Rates for Firm Power Service

I. Applicability

To sales of Expansion Power and/or Replacement Power (as defined below) directly to a qualified business Customer (as defined below) for firm power service.

II. Abbreviations and Terms

• kW	kilowatt(s)
• kW-mo.	kilowatt-month
• kWh	kilowatt-hour(s)
• MWh	megawatt-hour(s)
• NYISO	New York Independent System Operator, Inc. or any successor organization
• PAL	New York Public Authorities Law
• OATT	Open Access Transmission Tariff

Agreement: An executed "Agreement for the Sale of Expansion and/or Replacement Power and Energy" between the Authority and the Customer (each as defined below).

Annual Adjustment Factor or **AAF**: This term shall have the meaning set forth in Section V herein.

Authority: The Power Authority of the State of New York, a corporate municipal instrumentality and a political subdivision of the State of New York created pursuant to Chapter 772 of the New York Laws of 1931 and existing and operating under Title 1 of Article 5 of the PAL, also known as the "New York Power Authority."

Customer: A business customer who has received an allocation for Expansion Power and/or Replacement Power from the Authority and who purchases Expansion Power and/or Replacement Power directly from the Authority.

Electric Service: The power and energy provided to the Customer in accordance with the Agreement, this Service Tariff and the Rules.

Expansion Power and/or **Replacement Power**: Firm Power and Firm Energy made available under this Service Tariff by the Authority from the Project for sale to the Customer for business purposes pursuant to PAL § 1005(5) and (13).

Firm Power: Capacity (kW) that is intended to be always available from the Project subject to the curtailment provisions set forth in the Agreement between the Authority and the Customer and this Service Tariff. Firm Power shall not include peaking power.

Firm Energy: Energy (kWh) associated with Firm Power.

Load Serving Entity or **LSE**: This term shall have the meaning set forth in the Agreement.

Load Split Methodology or **LSM**: A load split methodology applicable to a Customer's allocation. It is usually provided for in an agreement between the Authority and the Customer's local electric utility, an agreement between the Authority and the Customer, or an agreement between the Authority, the Customer and the Customer's local electric utility, or such local utility's tariff, regarding the delivery of WNY Firm Power. The load split methodology is often designated as "Load Factor Sharing" or "LFS" , "First through the Meter" or "FTM", "First through the Meter Modified" or "FTM Modified", or "Replacement Power 2" or "RP 2".

Project: The Authority's Niagara Power Project, FERC Project No. 2216.

Rate Year or **RY**: The period from July 1 through June 30 starting July 1, 2013, and for any year thereafter.

Rules: The Authority's rules and regulations set forth in 21 NYCRR § 450 *et seq*., as they may be amended from time to time.

Service Tariff: This Service Tariff No. WNY-1.

Target Rate: This term shall have the meaning set forth in Section III herein.

All other capitalized terms and abbreviations used but not defined herein shall have the same meaning as set forth in the Agreement.

III. Monthly Rates and Charges

A. Expansion Power (EP) and Replacement Power (RP) Base Rates

Beginning on July 1, 2013, there will be a 3-year phase-in to new base rates. The phase-in will be determined by the rate differential between the 2012 EP/RP rates and a "Target Rate." The Target Rate, specified in Section III.A.1. below, is based on the rates determined by the Authority to be applicable in RY 2013 for sales of "preservation power" as that term is defined in PAL § 1005(13). The following Sections III.A.1-4 describe the calculation and implementation of the phase-in.

1. The initial rate point will be established by the EP/RP rates ($/kW and $/MWh), determined by mid-April 2012 and made effective on May 1, 2012 in accordance with the Authority's then-applicable EP and RP tariffs. The Target Rate (*i.e.* demand and energy rates) for RY 2013 shall be $7.99/kW and $13.66/MWh.

2. The difference between the two rate points is calculated and divided by 3 to correspond with the number of Rate Years over which the phase-in will occur. The resulting quotients (in $/kW and $/MWh) are referred to as the "annual increment."

3. The annual increment will be applied to the base rates for the 3-year period of the 2013, 2014 and 2015 Rate Years, which shall be as follows:

   RY 2013: July 1, 2013 to June 30, 2014
   RY 2014: July 1, 2014 to June 30, 2015
   RY 2015: July 1, 2015 to June 30, 2016

   The annual rate adjustments normally made effective on May 1, 2013 under then-applicable EP and RP tariffs will be suspended, such that demand and energy rates established in 2012 shall be extended through June 30, 2013.

4. Effective commencing in RY 2013, the Annual Adjustment Factor ("AAF") described in Section V herein, shall be applied as follows:

   A. For the RY 2013 only, the AAF will be suspended, and the RY 2013 rate increase will be subject only to the annual increment.

   B. For the RYs 2014 and 2015, the AAF will be applied to the demand and energy rates after the addition of the annual increment to the rates of the previous RY rates. Such AAF will be subject to the terms and limits stated in Section V herein.

   C. Beginning in RY 2016, the AAF will be applied to the previous RY rates, and the annual increment is no longer applicable.

B. EP and RP Rates no Lower than Rural/Domestic Rate

At all times the applicable base rates for demand and energy determined in accordance with Sections III.A and V of this Service Tariff shall be no lower than the rates charged by the

Authority for the sale of hydroelectricity for the benefit of rural and domestic customers receiving service in accordance with the Niagara Redevelopment Act, 16 U.S.C. § 836(b)(1) and PAL § 1005(5) (the "Rural/Domestic Rate"). This provision shall be implemented as follows: if the base rates, as determined in accordance with Sections III.A and V of this Service Tariff, are lower than the Rural/Domestic Rate on an average $/MWh basis, each set of rates measured at 80% load factor which is generally regarded as representative for EP and RP Customers, then the base rates determined under Sections III.A and V of this Service Tariff will be revised to make them equal to the Rural/Domestic Rate on an average $/MWh basis. However, the base rates as so revised will have no effect until such time as these base rates are lower than the Rural/Domestic Rate.

C. Monthly Base Rates Exclude Delivery Service Charges

The monthly base rates set forth in this Section III exclude any applicable costs for delivery services provided by the local electric utility.

D. Minimum Monthly Charge

The minimum monthly charge shall equal the product of the demand charge and the contract demand (as defined herein). Such minimum monthly charge shall be in addition to any NYISO Charges or Taxes (each as defined herein) incurred by the Authority with respect to the Customer's Allocation.

E. Estimated Billing

If the Authority, in its sole discretion, determines that it lacks reliable data on the Customer's actual demand and/or energy usage for a Billing Period during which the Customer receives Electric Service from the Authority, the Authority shall have the right to render a bill to the Customer for such Billing Period based on estimated demand and estimated usage ("Estimated Bill").

For the purpose of calculating a Billing Demand charge for an Estimated Bill, the demand charge will be calculated based on the Customer's Load Split Methodology as following:

- For Customers whose allocation is subject to a Load Factor Sharing/LFS LSM, the estimated demand (kW) will be calculated based on an average of the Customer's Billing Demand (kW) values for the previous three (3) consecutive Billing Periods. If such historical data is not available, then the estimated demand (kW) value for the Estimated Bill will equal the Customer's Takedown (kW) amount.

- For Customers whose allocation is subject to a First through the Meter/ FTM, FTM Modified, or RP 2 LSM, the estimated demand (kW) value will equal the Customer's Takedown (kW) amount.

For the purpose of calculating a Billing Energy charge for an Estimated Bill, the energy charge will be calculated based on the Customer's Load Split Methodology as following:

- For Customers whose allocation is subject to a Load Factor Sharing/LFS LSM, the estimated energy (kWh) will be based on the average of the Customer's Billing Energy (kWh) values for the previous three (3) consecutive Billing Periods. If such historical data is not available, then the estimated energy value (kWh) will be equal to the Takedown (kW) amount at 70 percent load factor for that Billing Period.

- For Customers whose allocation is subject to a First through the Meter/FTM, FTM Modified, or RP 2 LSM, the estimated energy (kWh) will be equal to the Takedown (kW) amount at 100 percent load factor for that Billing Period.

If data indicating the Customer’s actual demand and usage for any Billing Period in which an Estimated Bill was rendered is subsequently provided to the Authority, the Authority will make necessary adjustments to the corresponding Estimated Bill and, as appropriate, render a revised bill (or provide a credit) to the Customer.

The Minimum Monthly Charge provisions of Section III B.D. shall apply to Estimated Bills.

The Authority’s discretion to render Estimated Bills is not intended to limit the Authority’s rights under the Agreement.

F. Adjustments to Charges

In addition to any other adjustments provided for in this Service Tariff, in any Billing Period, the Authority may make appropriate adjustments to billings and charges to address such matters as billing and payment errors, the receipt of actual, additional, or corrected data concerning Customer energy or demand usage.

G. Billing Period

Any period of approximately thirty (30) days, generally ending with the last day of each calendar month but subject to the billing cycle requirements of the local electric utility in whose service territory the Customer’s facilities are located.

H. Billing Demand

The billing demand shall be determined by applying the applicable billing methodology to total meter readings during the billing period. See Section IV.E, below.

I. Billing Energy

The billing energy shall be determined by applying the applicable billing methodology to total meter readings during the billing period. See Section IV.E, below.

J. Contract Demand

The contract demand of each Customer will be the amount of Expansion Power and/or Replacement Power, not to exceed their Allocation, provided to such Customer by the Authority in accordance with the Agreement.

IV. General Provisions

A. Character of Service

Alternating current; sixty cycles, three-phase.

B. Availability of Energy

1. Subject to Section IV.B.2, the Authority shall provide to the Customer in any billing period Firm Energy associated with Firm Power. The offer of Firm Energy for delivery shall fulfill the Authority's obligations for purposes of this provision whether or not the Firm Energy is taken by the Customer.

2. If, as a result of reduced water flows caused by hydrologic conditions, there is insufficient energy from the Hydro Projects to supply the full power and energy requirements of NYPA's Firm Power customers served from the Hydro Projects, hydropower curtailments (*i.e.* reductions) in the amount of Firm Power and Energy to which the Customer is entitled shall be applied on a *pro rata* basis to all Firm Power and Energy customers served from the Hydro Projects. Reductions as a percentage of the otherwise required Firm Power and Energy sales will be the same for all Firm Power and Energy customers served from the Hydro Projects. The Authority shall be under no obligation to deliver and will not deliver any such curtailed energy to the Customer in later billing periods. The Customer will receive appropriate bill credits as provided under the Rules.

C. Delivery

For the purpose of this Service Tariff, Firm Power and Firm Energy shall be deemed to be offered when the Authority is able to supply Firm Power and Firm Energy to the Authority's designated NYISO load bus. If, despite such offer, there is a failure of delivery caused by the Customer, NYISO or local electric utility, such failure shall not be subject to a billing adjustment pursuant to Section 454.6(d) of the Rules.

D. Adjustment of Rates

To the extent not inconsistent with the Agreement, the rates contained in this Service Tariff may be revised from time to time on not less than thirty (30) days written notice to the Customer.

E. Billing Methodology and Billing

Unless otherwise specified in the Agreement, the following provisions shall apply:

1. The billing methodology to be used to render bills to the Customer related to its Allocation shall be determined in accordance with the Agreement and delivery agreement between the Authority and, as applicable, the Customer or local electric utility or both.

2. Billing Demand –The Billing Demand charged by the Authority to each Customer will be the highest 15 or 30-minute integrated demand, as determined by the local utility, during each Billing Period recorded on the Customer's meter multiplied by a percentage based on the Load Split Methodology provided for in any contract between the Authority and the Customer's local electric utility, any contract between the Authority and the Customer, or any contract between the Authority, the Customer and the Customer's local electric utility for delivery of WNY Power. Billing Demand may not exceed the amount of the Contract Demand.

3. Billing Energy –The kilowatt-hours charged by the Authority to each Customer will be the total number of kilowatt-hours recorded on the Customer's meter for the Billing Period multiplied by a percentage based on the methodology provided for in any contract between the Authority and the Customer's local electric utility for delivery of WNY Power.

F. <u>Payment by Customer to Authority</u>

1. <u>Demand and Energy Charges, Taxes</u>

   The Customer shall pay the Authority for Firm Power and Energy during any billing period the higher of either (i) the sum of (a), (b) and (c) below or (ii) the monthly minimum charge as defined herein:

   a. The demand charge per kilowatt for Firm Power specified in this Service Tariff or any modification thereof applied to the Customer's billing demand (as defined in Section IV.E, above) for the billing period; and

   b. The energy charge per MWh for Firm Energy specified in this Service Tariff or any modification thereof applied to the Customer's billing energy (as defined in Section IV.E, above) for the billing period; and

   c. A charge representing reimbursement to the Authority for all applicable Taxes incurred by the Authority as a result of providing Expansion Power and/or Replacement Power allocated to the Customer.

2. <u>Transmission Charge</u>

   The Customer shall compensate the Authority for all transmission costs incurred by the Authority with respect to the Allocation, including such costs that are charged pursuant to the OATT.

3. <u>NYISO Transmission and Related Charges ("NYISO Charges")</u>

   The Customer shall compensate the Authority for the following NYISO Charges assessed on the Authority for services provided by the NYISO pursuant to its OATT or other tariffs (as the provisions of those tariffs may be amended and in effect from time to time) associated with providing Electric Service to the Customer:

   A. Ancillary Services 1 through 6 and any new ancillary services as may be defined and included in the OATT from time to time;

   B. Marginal losses;

C. The New York Power Authority Transmission Adjustment Charge ("NTAC");

D. Congestion costs, less any associated grandfathered Transmission Congestion Contracts ("TCCs") as provided in Attachment K of the OATT;

E. Any and all other charges, assessments, or other amounts associated with deliveries to Customers or otherwise associated with the Authority's responsibilities as a Load Serving Entity for the Customers that are assessed on the Authority by the NYISO under the provisions of its OATT or under other applicable tariffs; and

F. Any charges assessed on the Authority with respect to the provision of Electric Service to Customers for facilities needed to maintain reliability and incurred in connection with the NYISO's Comprehensive System Planning Process (or similar reliability-related obligations incurred by the Authority with respect to Electric Service to the Customer), applicable tariffs, or required to be paid by the Authority in accordance with law, regardless of whether such charges are assessed by the NYISO or another third party.

The NYISO Charges, if any, incurred by the Authority on behalf of the Customer, are in addition to the Authority production charges that are charged to the Customer in accordance with other provisions of this Service Tariff.
The method of billing NYISO charges to the Customer will be based on Authority's discretion.

4. Taxes Defined

Taxes shall be any adjustment as the Authority deems necessary to recover from the Customer any taxes, assessments or any other charges mandated by federal, state or local agencies or authorities that are levied on the Authority or that the Authority is required to collect from the Customer if and to the extent such taxes, assessments or charges are not recovered by the Authority pursuant to another provision of this Service Tariff.

5. Substitute Energy

The Customer shall pay for Substitute Energy, if applicable, as specified in the Agreement.

6. Payment Information

Bills computed under this Service Tariff are due and payable by electronic wire transfer in accordance with the Rules. Such wire transfer shall be made to J P Morgan Chase NY, NY / ABA021000021 / NYPA A/C # 008-030383, unless otherwise indicated in writing by the Authority. In the event that there is a dispute on any items of a bill rendered by the Authority, the Customer shall pay such bill in full. If necessary, any adjustments will be made thereafter.

Issued by James F. Pasquale, Senior Vice President
Power Authority of the State of New York
30 South Pearl Street, Albany, NY 12207

G. Rendition and Payment of Bills

1. The Authority will render bills to the Customer for Electric Service on or before the tenth (10^{th}) business day of the month for charges due for the previous Billing Period. Bills will reflect the amounts due and owing, and are subject to adjustment as provided for in the Agreement, Service Tariff No. WNY-1 and the Rules. Unless otherwise agreed to by the Authority and the Customer in writing, the Authority shall render bills to the Customer electronically.

2. Payment of bills by the Customer shall be due and payable by the Customer within twenty (20) days of the date the Authority renders the bill.

3. Except as otherwise agreed by the Authority in writing, if the Customer fails to pay any bill when due an interest charge of two percent of the amount unpaid will be added thereto as liquidated damages, and thereafter, as further liquidated damages, an additional interest charge of one and one-half percent of the sum unpaid shall be added on the first day of each succeeding Billing Period until the amount due, including interest, is paid in full.

4. If at any time after commencement of Electric Service the Customer fails to make complete payment of any two (2) bills for Electric Service when such bills become due pursuant to Agreement, the Authority shall have the right to require that the Customer deposit with the Authority a sum of money in an amount equal to all charges that would be due under this Agreement for Electric Service for two (2) consecutive calendar months as estimated by the Authority. Such deposit will be deemed security for the payment of unpaid bills and/or other claims of the Authority against the Customer upon termination of Electric Service. The failure or refusal of the Customer to provide the deposit within thirty (30) days of a request for such deposit will be grounds for the Authority in its sole discretion to suspend Electric Service to the Customer or terminate this Agreement.

H. Adjustment of Charges

1. Distribution Losses

   The Authority will make appropriate adjustments to compensate for distribution losses of the local electric utility.

I. Conflicts

The Authority's Rules shall apply to the Electric Service provided under this Service Tariff. In the event of any inconsistencies, conflicts or differences between the provisions of this Service Tariff and the Rules, the provisions of this Service Tariff shall govern.

J. Customer Resales Prohibited

The Customer may not resell any quantity of Expansion Power and/or Replacement Power.

V. Annual Adjustment Factor

A. Adjustment of Rates

1. The AAF will be based upon a weighted average of three indices described below. For each new Rate Year, the index value for the latest available calendar year ("Index Value for the Measuring Year") will be compared to the index value for the calendar year immediately preceding the latest available calendar year (the Index Value for the Measuring Year -1"). The change for each index will then be multiplied by the indicated weights. As described in detail below, these products are then summed, producing the AAF. The AAF will be multiplied by the base rate for the current Rate Year to produce the base rates for the new Rate Year, subject to a maximum adjustment of ±5.0% ("±5% Collar"). Amounts outside the ±5% Collar shall be referred to as the "Excess."

   Index 1, "BLS Industrial Power Price" (35% weight): The average of the monthly Producer Price Index for Industrial Electric Power, commodity code number 0543, not seasonally adjusted, as reported by the U.S. Department of Labor, Bureau of Labor Statistics ("BLS") electronically on its internet site and consistent with its printed publication, "Producer Price Index Detailed Report". For Index 1, the Index Value for the Measuring Year will be the index for the calendar year immediately preceding July 1 of the new Rate Year.

   Index 2, "EIA Average Industrial Power Price" (40% weight): The average weighted annual price (as measured in cents/kWh) for electric sales to the industrial sector in the ten states of CT, MA, ME, NH, NJ, NY, OH, PA, RI and VT ("Selected States") as reported by Coal and Electric Data and Renewables Division; Office of Coal, Nuclear, Electric and Alternate Fuels; Energy Information Administration ("EIA"); U.S. Department of Energy Form EIA-861 Final Data File. For Index 2, the Index Value for the Measuring Year will be the index for the calendar year two years preceding July 1 of the new Rate Year.

   Index 3, "BLS Industrial Commodities Price Less Fuel" (25% weight): The monthly average of the Producer Price Index for Industrial Commodities less fuel, commodity code number 03T15M05, not seasonally adjusted, as reported by the U.S. Department of Labor, BLS electronically on its internet site and consistent with its printed publication, "Producer Price Index Detailed Report". For Index 3, the Index Value for the Measuring Year will be the index for the calendar year immediately preceding July 1 of the new Rate Year.

2. Annual Adjustment Factor Computation Guide

   Step 1: For each of the three Indices, divide the Index Value for Measuring Year by the Index Value for the Measuring Year-1.

   Step 2: Multiply the ratios determined in Step 1 by percentage weights for each Index. Sum the results to determine the weighted average. This is the AAF.

   Step 3: Commencing RY 2014, modifications to the AAF will be subject to ±5% Collar, as described below.

   a) When the AAF falls outside the ±5% Collar, the Excess will be carried over to the subsequent RY. If the AAF in the subsequent RY is within the ±5% Collar, the current RY Excess will be added to/subtracted from the subsequent Rate Year's AAF, up to the ±5% Collar.

b) Excesses will continue to accrue without limit and carry over such that they will be added to/subtracted from the AAF in any year where the AAF is within the ±5% Collar.

Step 4: Multiply the current Rate Year base rate by the AAF calculated in Step 2 to determine the new Rate Year base rate.

The foregoing calculation shall be performed by the Authority consistent with the sample presented in Section V.B below.

3. The Authority shall provide the Customer with notice of any adjustment to the current base rate per the above and with all data and calculations necessary to compute such adjustment by June 15th of each year to be effective on July 1 of such year, commencing in 2014. The values of the latest officially published (electronically or otherwise) versions of the indices and data provided by the BLS and EIA as of June 1 shall be used notwithstanding any subsequent revisions to the indices.

4. If during the term of the Agreement any of the three above indices ceases to be available or ceases to be reflective of the relevant factors or of changes which the indices were intended by the Parties to reflect, the Customer and the Authority shall mutually select a substitute Index. The Parties agree to mutually select substitute indices within 90 days, once notified by the other party that the indices are no longer available or no longer reflect the relevant factors or changes with the indices were intended by the Parties to reflect. Should the 90-day period cover a planned July 1 rate change, the current base rates will remain in effect until substitute indices are selected and the adjusted rates based on the substitute indices will be retroactive to the previous July 1. If unable to reach agreement on substitute indices within the 90-day period, the Parties agree to substitute the mathematic average of the PPI—Intermediate Materials, Supplies and Components (BLS Series ID WPUSOP2000) and the PPI-- Finished Goods (BLS Series ID WPUSOP3000) indices for one or more indices that have ceased to be available and shall assume the percentage weighting(s) of the one or more discontinued indices as indicated in Section V.A.1.

B. Sample Computation of the AAF (hypothetical values for July 1, 2014 implementation):

STEP 1

Determine the Index Value for the Measuring Year (MY) and Measuring Year - 1 (MY-1) for Each Index

- Index 1 - Producer Price Index, Industrial Power

	Measuring Year (2013)	Measuring Year - 1 (2012)
January	171.2	167.8
February	172.8	167.6
March	171.6	168.2
April	173.8	168.6
May	175.1	171.6
June	185.7	180.1
July	186.4	182.7
August	184.7	179.2
September	185.5	181.8
October	175.5	170.2
November	172.2	168.8
December	171.8	166.6
Average	177.2	172.8
Ratio of MY/MY-1		**1.03**

- Index 2 – EIA Industrial Rate

State	Revenues ($000s)	Sales (MWh)	Avg. Rate (cents/kWh)
Measuring Year (2012)			
CT	590,972	6,814,757	
MA	1,109,723	13,053,806	
ME	328,594	4,896,176	
NH	304,363	2,874,495	
NJ	1,412,665	15,687,873	
NY	2,001,588	26,379,314	
OH	3,695,978	78,496,166	
PA	3,682,192	63,413,968	
RI	152,533	1,652,593	
VT	155,903	2,173,679	
TOTAL	13,434,511	215,442,827	**6.24**
Measuring Year -1 (2011)			
CT	579,153	6,678,462	
MA	1,076,431	12,662,192	
ME	310,521	4,626,886	
NH	298,276	2,817,005	
NJ	1,370,285	15,217,237	
NY	1,891,501	24,928,452	
OH	3,622,058	76,926,243	
PA	3,571,726	61,511,549	
RI	144,144	1,561,700	
VT	152,785	2,130,205	
TOTAL	13,016,880	209,059,931	**6.23**
Ratio of MY/MY-1			**1.00**

- Index 3 – Producer Price Index, Industrial Commodities Less Fuel

	Measuring Year (2013)	Measuring Year -1 (2012)
January	190.1	187.2
February	190.9	188.0
March	191.6	188.7
April	192.8	189.9
May	194.7	191.8
June	195.2	192.3
July	195.5	192.3
August	196.0	193.1
September	196.1	193.2
October	196.2	193.8
November	196.6	193.7
December	196.7	194.0
Average	194.4	191.5
Ratio of MY/MY-1		**1.02**

STEP 2

Determine AAF by Summing the Weighted Indices

Index	Ratio of MY to MY-1	Weight	Weighted Factors
PPI Industrial Power	1.03	0.35	0.361
EIA Industrial Rate	1.00	0.40	0.400
PPI Industrial Commodities less fuel	1.02	0.25	0.255
AAF			**1.016**

STEP 3

Apply Collar of ±5.0% to Determine the Maximum/Minimum AAF.

-5.0% < 1.6% < 5.0%; collar does not apply, assuming no cumulative excess.

STEP 4

Apply AAF to Calculate the New Rate Year Base Rate

	Demand $/kW-mo.	Energy $/MWh
Current Rate Year Base Rate	7.56	12.91
New Rate Year Base Rate	7.68	13.12

New York Power Authority | **Exhibit "A"**
Contracts for the Sale of Western New York Hydropower - Transmittal to the Governor | **July 30, 2015**

Line	Company Name	Program	City	County	Trustee Public Hearing Authorization Date	Allocation (kW)	New Jobs	Total Job Commitment	Capital Investment	Proposed Direct Sale Contract Term
1	Pride Pak Canada Ltd.	RP	Medina	Orleans	3/26/2015	1,000	163	163	$18,230,000	7 Years
2	Just Greens, LLC	EP	Lackawanna	Erie	5/19/2015	1,840	36	36	$32,620,132	7 Years
3	Cummins Inc.	EP	Lakewood	Chautauqua	5/19/2015	700	10	1,417	$47,000,000	7 Years

Exhibit B-1
July 30, 2015

POWER AUTHORITY

OF THE

STATE OF NEW YORK

30 South Pearl Street
10th Floor
Albany, New York 12207-3425

AGREEMENT FOR THE SALE
OF EXPANSION POWER AND/OR REPLACEMENT POWER
to
PRIDE PAK CANADA LTD.

The POWER AUTHORITY OF THE STATE OF NEW YORK ("Authority"), created pursuant to Chapter 772 of the New York Laws of 1931 and existing under Title I of Article V of the New York Public Authorities Law ("PAL"), having its office and principal place of business at 30 South Pearl Street, 10th Floor, Albany, New York 12207-3425, hereby enters into this Agreement for the Sale of Expansion Power and/or Replacement Power ("Agreement") with Pride Pak Canada Ltd. ("Customer"), with offices at __________. The Authority and the Customer are from time to time referred to in this Agreement as "Party" or collectively as "Parties" and agree follows:

RECITALS

WHEREAS, the Authority is authorized to sell hydroelectric power produced by the Niagara Power Project, Federal Energy Regulatory Commission ("FERC") Project No. 2216, known as "Expansion Power" (or "EP"), as further defined in this Agreement, to qualified businesses in New York State in accordance with PAL § 1005(5) and (13);

WHEREAS, the Authority is authorized to sell hydroelectric power produced by the Niagara Power Project, FERC Project No. 2216, known as "Replacement Power" (or "RP"), as further defined in this Agreement, to qualified businesses in New York State in accordance with PAL § 1005(5) and (13);

WHEREAS, EP consists of 250 megawatts ("MW") of firm hydroelectric power and associated firm energy produced by the Niagara Power Project;

WHEREAS, RP consists of 445 MW of firm hydroelectric power and associated firm energy produced by the Niagara Power Project;

WHEREAS, the Authority is authorized pursuant to PAL § 1005(13)(a) to award EP and/or RP based on, among other things, the criteria listed in the PAL, including but not limited to an applicant's long-term commitment to the region as evidenced by the current and planned capital investment; the type and number of jobs supported or created by the allocation; and the state, regional and local economic development strategies and priorities supported by local units of governments in the area in which the recipient's facilities are located;

WHEREAS, the Customer applied to the Authority for an allocation of hydropower to support operations at a new and/or expanded facility to be constructed and operated by the Customer (defined in Section I of this Agreement as the "Facility");

WHEREAS, on March 26, 2015, the Authority's Board of Trustees ("Trustees") approved a 1,000 kilowatt ("kW") allocation of RP to the Customer for a seven (7) year term (defined in Section I of this Agreement as the "Allocation") in connection with the construction and operation of the Facility as further described in this Agreement;

WHEREAS, on March 26, 2015, the Trustees authorized the Authority to, among other things, take any and all actions and execute and deliver any and all agreements and other documents necessary to effectuate its approval of the Allocation;

WHEREAS, the provision of Electric Service associated with the Allocation is an

unbundled service separate from the transmission and delivery of power and energy to the Customer, and delivery service will be performed by the Customer's local electric utility in accordance with the Utility Tariff;

WHEREAS, the Parties have reached an agreement on the sale of the Allocation to the Customer on the terms and conditions provided for in this Agreement;

WHEREAS, the Authority has complied with requirements of PAL § 1009 which specifies the approval process for certain contracts negotiated by the Authority; and

WHEREAS, the Governor of the State of New York has approved the terms of this Agreement pursuant to PAL § 1009(3).

NOW THEREFORE, in consideration of the mutual covenants herein, the Authority and the Customer agree as follows:

NOW THEREFORE, the Parties hereto agree as follows:

I. Definitions

A. **Agreement** means this Agreement.

B. **Allocation** refers to the allocation of EP and/or RP awarded to the Customer as specified in Schedule A.

C. **Contract Demand** is as defined in Service Tariff No. WNY-1.

D. **Electric Service** is the Firm Power and Firm Energy associated with the Allocation and sold by the Authority to the Customer in accordance with this Agreement, Service Tariff No. WNY-1 and the Rules.

E. **Expansion Power** (or **EP**) is 250 MW of Firm Power and associated Firm Energy from the Project eligible to be allocated by the Authority for sale to businesses pursuant to PAL § 1005(5) and (13).

F. **Facility** means the Customer's facilities as described in Schedule A to this Agreement.

G. **Firm Power** is as defined in Service Tariff No. WNY-1.

H. **Firm Energy** is as defined in Service Tariff No. WNY-1.

I. **FERC** means the Federal Energy Regulatory Commission (or any successor organization).

J. **FERC License** means the first new license issued by FERC to the Authority for the continued operation and maintenance of the Project, pursuant to Section 15 of the Federal Power Act, which became effective September 1, 2007 after expiration of the Project's original license which became effective in 1957.

K. **Hydro Projects** is a collective reference to the Project and the Authority's St. Lawrence-FDR Project, FERC Project No. 2000.

L. **Load Serving Entity** (or **LSE**) means an entity designated by a retail electricity customer (including the Customer) to provide capacity, energy and ancillary services to serve such customer, in compliance with NYISO Tariffs, rules, manuals and procedures.

M. **NYISO** means the New York Independent System Operator or any successor organization.

N. **NYISO Tariffs** means the NYISO's Open Access Transmission Tariff or the NYISO's Market Administration and Control Area Services Tariff, as applicable, as such tariffs are modified from time to time, or any successor to such tariffs.

O. **Project** means the Niagara Power Project, FERC Project No. 2216.

P. **Replacement Power** (or **RP**) is445 MW of Firm Power and associated Firm Energy from the Project eligible to be allocated by the Authority for sale to businesses pursuant to PAL § 1005(5) and (13).

Q. **Rules** are the applicable provisions of Authority's rules and regulations (Chapter X of Title 21 of the Official Compilation of Codes, Rules and Regulations of the State of New York), as may be modified from time to time by the Authority.

R. **Service Tariff No. WNY-1** means the Authority's Service Tariff No. WNY-1, as may be modified from time to time by the Authority, which contains, among other things, the rate schedule establishing rates and other commercial terms for sale of Electric Service to Customer under this Agreement.

S. **Schedule A** refers to the Schedule A entitled "Expansion Power and/or Replacement Power Allocations" which is attached to and made part of this Agreement.

T. **Schedule B** refers to the Schedule B entitled "Expansion Power and/or Replacement Power Commitments" which is attached to and made part of this Agreement.

U. **Schedule C** refers to the Schedule C entitled "Takedown Schedule" which is attached to and made part of this Agreement.

V. **Substitute Energy** means energy that the Authority provides at the request of the Customer to replace hydroelectricity that would otherwise have been supplied to the Customer under this Agreement. Unless otherwise agreed upon by the Parties, Substitute Energy refers to energy purchased by the Authority for the Customer from markets administered by the NYISO.

W. **Taxes** is as defined in Service Tariff No. WNY-1

X. **Unforced Capacity (or "UCAP")** means the electric capacity required to be provided by LSEs to serve electric load as defined by the NYISO Tariffs, rules, manuals and procedures.

Y. **Utility Tariff** means the retail tariff(s) of the Customer's local electric utility filed and approved by the PSC applicable to the delivery of EP and/or RP.

II. Electric Service

A. The Authority shall make available Electric Service to enable the Customer to receive the Allocation in accordance with this Agreement, Service Tariff No. WNY-1 and the Rules. The Customer shall not be entitled to receive Electric Service under this Agreement for any EP and/or RP allocation unless such EP and/or RP allocation is identified on Schedule A.

B. The Authority will provide, and the Customer shall pay for, Electric Service with respect to the Allocation specified on Schedule A. If Schedule C specifies a Takedown Schedule for the Allocation, the Authority will provide, and the Customer shall take and pay for, Electric Service with respect to the Allocation in accordance with such Takedown Schedule.

C. The Authority shall provide UCAP in amounts necessary to meet the Customer's NYISO UCAP requirements associated with the Allocation in accordance with the NYISO Tariffs. The Customer shall be responsible to pay the Authority for such UCAP in accordance with Service Tariff No. WNY-1.

D. The Customer acknowledges and agrees that Customer's local electric utility shall be responsible for delivering the Allocation to the Facility specified in Schedule A, and that the Authority has no responsibility for delivering the Allocation to the Customer.

E. The Contract Demand for the Customer's Allocation may be modified by the Authority if the amount of Firm Power and Firm Energy available for sale as EP or RP from the Project is modified as required to comply with any ruling, order, or decision of any regulatory or judicial body having jurisdiction, including but not limited to FERC. Any such modification will be made on a pro rata basis to all EP and RP customers, as applicable, based on the terms of such ruling, order, or decision.

F. The Contract Demand may not exceed the Allocation.

III. Rates, Terms and Conditions

A. Electric Service shall be sold to the Customer based on the rates, terms and conditions provided for in this Agreement, Service Tariff No. WNY-1 and the Rules.

B. Notwithstanding any provision of this Agreement to the contrary, the power and energy rates for Electric Service shall be subject to increase by Authority at any time upon 30 days prior written notice to Customer if, after consideration by Authority of its legal obligations, the marketability of the output or use of the Project and Authority's

competitive position with respect to other suppliers, Authority determines in its discretion that increases in rates obtainable from any other Authority customers will not provide revenues, together with other available Authority funds not needed for operation and maintenance expenses, capital expenses, and reserves, sufficient to meet all requirements specified in Authority's bond and note resolutions and covenants with the holders of its financial obligations. Authority shall use its best efforts to inform Customer at the earliest practicable date of its intent to increase the power and energy rates pursuant to this provision. Any rate increase to Customer under this subsection shall be on a non-discriminatory basis as compared to other Authority customers after giving consideration to the factors set forth in the first sentence of this subsection. With respect to any such increase, Authority shall forward to Customer with the notice of increase, an explanation of all reasons for the increase, and shall also identify the sources from which Authority will obtain the total of increased revenues and the bases upon which Authority will allocate the increased revenue requirements among its customers. Any such increase in rates shall remain in effect only so long as Authority determines such increase is necessary to provide revenues for the purposes stated in the preceding sentences.

IV. Expansion Power and/or Replacement Power Commitments

A. Schedule B sets forth the Customer's specific "Expansion Power and/or Replacement Power Commitments." The commitments agreed to in Schedule B are in addition to any other rights and obligations of the Parties provided for in the Agreement.

B. The Authority's obligation to provide Electric Service under this Agreement, and the Customer's obligation to take and pay for such Electric Service, are expressly conditioned upon the Customer's timely completion of the commitments described in Schedule B.

C. In the event of partial completion of the Facility which has resulted in such Facility being partly operational and the partial attainment of the Base Employment Level, the Authority may, upon the Customer's request, provide Electric Service to the Customer in an amount determined by the Authority to fairly correspond to the completed portion of the Facility, provided that the Customer demonstrates that the amount of requested Electric Service is needed to support the operations of the partially completed Facility.

D. The Customer shall give the Authority not less than ninety (90) days' advance notice in writing of the anticipated date of partial or full completion of the Facility. The Authority will inspect the Facility for the purpose of verifying the completion status of the Facility and notify Customer of the results of the inspection. The Authority will thereafter commence Electric Service within a reasonable time after verification based on applicable operating procedures of the Authority, the Customer's local electric utility and the NYISO.

E. In the event the Customer fails to complete the Facility by March 26, 2018 (*i.e.*, within three (3) years of the Authority's award of the Allocation), the Allocation, at the option and discretion of the Authority, may be canceled or reduced by the total amount of kilowatts determined by the Authority to fairly correspond to the uncompleted portion of the Facility, provided that in such event, and upon request of the Customer, such date may be extended by the Authority in its sole discretion.

V. Rules and Service Tariff

Service Tariff No. WNY-1, as may be modified or superseded from time to time by the Authority, is hereby incorporated into this Agreement with the same force and effect as if set forth herein at length. In the event of any inconsistencies, conflicts, or differences between the provisions of Service Tariff No.WNY-1 and the Rules, the provisions of Service Tariff No. WNY-1 shall govern. In the event of any inconsistencies, conflicts or differences between the provisions of this Agreement and Service Tariff No. WNY-1, the provisions of this Agreement shall govern.

VI. Transmission and Delivery of Firm Power and Firm Energy; Responsibility for Charges

A. The Customer shall be responsible complying with all requirements of its local electric utility that are necessary to enable the Customer to receive delivery service for the Allocation. Delivery of the Allocation shall be subject to the Utility Tariff.

B. The Customer shall be solely responsible for paying its local electric utility for delivery service associated with the Allocation in accordance with the Utility Tariff. Should the Authority incur any charges associated with such delivery service, the Customer shall reimburse the Authority for all such charges.

C. The Customer understands and acknowledges that delivery of the Allocation will be made over transmission facilities under the control of the NYISO. The Authority will act as the LSE with respect to the NYISO, or arrange for another entity to do so on the Authority's behalf. The Customer agrees and understands that it shall be responsible to the Authority for all costs incurred by the Authority with respect to the Allocation for the services established in the NYISO Tariff, or other applicable tariff ("NYISO Charges"), as set forth in Service Tariff No. WNY-1 or any successor service tariff, regardless of whether such NYISO Charges are transmission-related. Such NYISO Charges shall be in addition to the charges for power and energy.

D. By entering into this Agreement, the Customer consents to the exchange of information between the Authority and the Customer's local electric utility pertaining to the Customer that the Authority and the local electric utility determine is necessary to provide for the Allocation, sale and delivery of EP and/or RP to the Customer, the proper and efficient implementation of the EP and/or RP programs, billing related to EP and/or RP, and/or the performance of such parties' obligations under any contracts or other arrangements between them relating to such matters.

E. The provision of Electric Service by the Authority shall be dependent upon the existence of a written agreement or other form of understanding between the Authority and the Customer's local electric utility on terms and conditions that are acceptable to the Authority.

F. The Customer understands and acknowledges that the Authority may from time to time require the Customer to complete forms, provide documentation, execute consents and provide other information (collectively, "Information") which the Authority determines is necessary for the provision of Electric Service, the delivery of EP and/or RP, billing

related to the EP and/or RP program, the effective and proper administration of the EP and/or RP program, and/or the performance of contracts or other arrangements between the Authority and the Customer's local electric utility. The Customer's failure to provide such Information shall be grounds for the Authority in its sole discretion to withhold or suspend Electric Service to the Customer.

VII. Billing and Billing Methodology

A. The billing methodology for the Allocation shall be determined on a "load factor sharing" basis in a manner consistent with the Utility Tariff and any agreement between the Authority and the Customer's local electric utility. An alternative basis for billing may be used provided the Parties agree in writing and the local electric utility provides its consent if such consent is deemed necessary.

B. The Authority will render bills by the 10^{th} business day of the month for charges due for the previous month. Such bills shall include charges for Electric Service, NYISO Charges associated with the Allocation (subject to adjustment consistent with any later NYISO re-billings to the Authority), and other applicable charges.

C. The Authority may render bills to the Customer electronically.

D. The Authority and the Customer may agree in writing to an alternative method for the rendering of bills and for the payment of bills, including but not limited to the use of an Authority-established customer self-service web portal.

E. The Authority will charge and collect from the Customer all Taxes (including local, state and federal taxes) the Authority determines are applicable, unless the Customer furnishes the Authority with proof satisfactory to the Authority that (i) the Customer is exempt from the payment of any such Taxes, and/or (ii) the Authority is not obligated to collect such Taxes from the Customer. If the Authority is not collecting Taxes from the Customer based on the circumstances described in (i) or (ii) above, the Customer shall immediately inform the Authority of any change in circumstances relating to its tax status that would require the Authority to charge and collect such Taxes from the Customer.

F. Unless otherwise agreed to by the Authority and the Customer in writing, if the Customer fails to pay any bill when due, an interest charge of two percent (2%) of the amount unpaid shall be added thereto as liquidated damages, and thereafter, as further liquidated damages, an additional interest charge of one and one-half percent (1 1/2%) of the sum unpaid shall be added on the first day of each succeeding billing period until the amount due, including interest, is paid in full.

G. Unless otherwise agreed to by the Authority and the Customer in writing, in the event the Customer disputes any item of any bill rendered by Authority, the Customer shall pay such bill in full within the time provided for by this Agreement, and adjustments, if appropriate, will be made thereafter.

H. If at any time after commencement of Electric Service the Customer fails to make complete and timely payment of any two (2) bills for Electric Service, the Authority shall

have the right to require the Customer to deposit with the Authority a sum of money in an amount equal to all charges that would be due under this Agreement for Electric Service for two (2) consecutive calendar months as estimated by the Authority. Such deposit shall be deemed security for the payment of unpaid bills and/or other claims of the Authority against the Customer upon termination of Electric Service. If the Customer fails or refuses to provide the deposit within thirty (30) days of a request for such deposit, the Authority may, in its sole discretion, suspend Electric Service to the Customer or terminate this Agreement.

I. All other provisions with respect to billing are set forth in Service Tariff No. WNY-1 and the Rules.

J. The rights and remedies provided to the Authority in this Article are in addition to any and all other rights and remedies available to Authority at law or in equity.

VIII. Hydropower Curtailments and Substitute Energy

A. If, as a result of reduced water flows caused by hydrologic conditions, there is insufficient energy from the Hydro Projects to supply the full power and energy requirements of the Authority's firm power customers served by the Authority from the Hydro Projects, curtailments (*i.e.* reductions) in the amount of Firm Power and Firm Energy associated with the Allocation to which the Customer is entitled shall be applied on a *pro rata* basis to all firm power and energy customers served from the Hydro Projects, consistent with Service Tariff No. WNY-1 as applicable.

B. The Authority shall provide reasonable notice to Customer of any curtailments referenced in Section VIII.A of this Agreement that could impact Customer's Electric Service under this Agreement. Upon written request by the Customer, the Authority will provide Substitute Energy to the Customer to replace the Firm Power and Firm Energy that would otherwise have been supplied pursuant to this Agreement.

C. For each kilowatt-hour of Substitute Energy supplied by the Authority, the Customer will pay the Authority directly during the billing month: (1) the difference between the market cost of the Substitute Energy and the charge for firm energy as provided for in this Agreement; and (2) any NYISO charges and taxes the Authority incurs in connection with the provision of such Substitute Energy. Billing and payment for Substitute Energy shall be governed by the Billing and Payments provision of the Authority's Rules (Section 454.6) and shall apply directly to the Substitute Energy service supplied to the Customer.

D. The Parties may enter into a separate agreement to facilitate the provision of Substitute Energy, provided, however, that the provisions of this Agreement shall remain in effect notwithstanding any such separate agreement. The provision of Substitute Energy may be terminated by the Authority or the Customer on fifteen (15) days' prior written notice.

IX. Effectiveness, Term and Termination

A. This Agreement shall become effective and legally binding on the Parties upon execution of this Agreement by the Authority and the Customer.

B. Once commenced, Electric Service under the Agreement shall continue until the earliest of: (1) termination by the Customer with respect to its Allocation upon ninety (90) days prior written notice to the Authority; (2) termination by the Authority pursuant to this Agreement, Service Tariff No. WNY-1, or the Rules; or (3) expiration of the Allocation by its own term as specified in Schedule A.

C. The Customer may exercise a partial termination of the Allocation upon at least thirty (30) days' notice prior written notice to the Authority. The termination shall be effective commencing with the first billing period as defined in Service Tariff No. WNY-1.

D. The Authority may cancel service under this Agreement or modify the quantities of Firm Power and Firm Energy associated with the Allocation: (1) if such cancellation or modification is required to comply with any final ruling, order or decision of any regulatory or judicial body of competent jurisdiction (including any licensing or re-licensing order or orders of the FERC or its successor agency); or (2) as otherwise provided in this Agreement, Service Tariff No. WNY-1, or the Rules.

X. Additional Allocations

A. Upon proper application by the Customer, the Authority may in its discretion award additional allocations of EP or RP to the Customer at such rates and on such terms and conditions as the Authority establishes. If the Customer agrees to purchase Electric Service associated with any such additional allocation, the Authority will (i) incorporate any such additional allocations into Schedule A, or in its discretion will produce a supplemental schedule, to reflect any such additional allocations, and (ii) produce a modified Appendix to Schedule B, as the Authority determines to be appropriate. The Authority will furnish the Customer with any such modified Schedule A, supplemental schedule, and/or a modified Appendix to Schedule B, within a reasonable time after commencement of Electric Service for any such additional allocation.

B. In addition to any requirements imposed by law, the Customer hereby agrees to furnish such documentation and other information as the Authority requests to enable the Authority to evaluate any requests for additional allocations and consider the terms and conditions that should be applicable of any additional allocations.

XI. Notification

A. Correspondence involving the administration of this Agreement shall be addressed as follows:

To: The Authority

New York Power Authority

123 Main Street
White Plains, New York 10601
Email:
Facsimile: ______
Attention: Manager – Business Power Allocations and Compliance

To: The Customer

[________________-]
Pride Pak Canada Ltd.
[__________]
[__________]
Email:
Facsimile:
Attention:

The foregoing notice/notification information pertaining to either Party may be changed by such Party upon notification to the other Party pursuant to Section XI.B of this Agreement.

B. Except where otherwise herein specifically provided, any notice, communication or request required or authorized by this Agreement by either Party to the other shall be deemed properly given: (1) if sent by U.S. First Class mail addressed to the Party at the address set forth above; (2) if sent by a nationally recognized overnight delivery service, two (2) calendar days after being deposited for delivery to the appropriate address set forth above; (3) if delivered by hand, with written confirmation of receipt; (4) if sent by facsimile to the appropriate fax number as set forth above, with written confirmation of receipt; or (5) if sent by electronic mail to the appropriate address as set forth above, with written confirmation of receipt. Either Party may change the addressee and/or address for correspondence sent to it by giving written notice in accordance with the foregoing.

XII. Applicable Law

This Agreement shall be governed by and construed in accordance with the laws of the State of New York to the extent that such laws are not inconsistent with the FERC License and the Niagara Redevelopment Act (16 USC §§836, 836a).

XIII. Venue

Each Party consents to the exclusive jurisdiction and venue of any state or federal court within or for Albany County, New York, with subject matter jurisdiction for adjudication of any claim, suit, action or any other proceeding in law or equity arising under, or in any way relating to this Agreement.

XIV. Successors and Assigns; Resale of Hydropower

A. The Customer may not assign or otherwise transfer an interest in this Agreement.

B. The Customer may not resell or allow any other person to use any quantity of EP and/or RP it has purchased from the Authority under this Agreement.

C. Electric Service sold to the Customer pursuant to this Agreement may only be used by the Customer at the Facility specified in Schedule A.

XV. Previous Agreements and Communications

A. This Agreement shall constitute the sole and complete agreement of the Parties hereto with respect to the subject matter hereof, and supersedes all prior negotiations, representations, warranties, commitments, offers, contracts and writings, written or oral, with respect to the subject matter hereof.

B. Except as otherwise provided in this Agreement, no modification of this Agreement shall be binding upon the Parties hereto or either of them unless such modification is in writing and is signed by a duly authorized officer of each of them.

XVI. Severability and Voidability

A. If any term or provision of this Agreement shall be invalidated, declared unlawful or ineffective in whole or in part by an order of the FERC or a court of competent jurisdiction, such order shall not be deemed to invalidate the remaining terms or provisions hereof.

B. Notwithstanding the preceding paragraph, if any provision of this Agreement is rendered void or unenforceable or otherwise modified by a court or agency of competent jurisdiction, the entire Agreement shall, at the option of either Party and only in such circumstances in which such Party's interests are materially and adversely impacted by any such action, be rendered void and unenforceable by such affected Party.

XVII. Waiver

A. Any waiver at any time by either the Authority or the Customer of their rights with respect to a default or of any other matter arising out of this Agreement shall not be deemed to be a waiver with respect to any other default or matter.

B. No waiver by either Party of any rights with respect to any matter arising in connection with this Agreement shall be effective unless made in writing and signed by the Party making the waiver.

XVIII. Execution

To facilitate execution, this Agreement may be executed in as many counterparts as may be required, and it shall not be necessary that the signatures of, or on behalf of, each Party, or that the signatures of all persons required to bind any Party, appear on each counterpart; but it shall be sufficient that the signature of, or on behalf of, each Party, or that the signatures of the persons required to bind any Party, appear on one or more of the counterparts. All counterparts shall collectively constitute a single agreement. It shall

not be necessary in making proof of this Agreement to produce or account for more than a number of counterparts containing the respective signatures of, or on behalf of, all of the Parties hereto. The delivery of an executed counterpart of this Agreement by email as a PDF file shall be legal and binding and shall have the same full force and effect as if an original executed counterpart of this Agreement had been delivered.

[SIGNATURES FOLLOW ON NEXT PAGE]

AGREED:

PRIDE PAK CANADA LTD.

By: ____

Title: ____

Date: ____

AGREED:

POWER AUTHORITY OF THE STATE OF NEW YORK

By: ____
John R. Koelmel, Chairman

Date: ____

SCHEDULE A TO AGREEMENT FOR THE SALE OF EXPANSION POWER AND/OR REPLACEMENT POWER TO CUSTOMER

EXPANSION POWER AND/OR REPLACEMENT POWER ALLOCATIONS

Customer: Pride Pak of Canada, Ltd. Type of Allocation	Allocation Amount (kW)	Facility	Trustee Approval Date	Expiration Date
Replacement Power	1,000	1 Bernzomatic Drive Medina, NY 14103	March 26, 2015	Seven (7) years from commencement of Electric Service of any portion of this Allocation.

SCHEDULE B TO AGREEMENT FOR THE SALE OF EXPANSION POWER AND/OR REPLACEMENT POWER TO CUSTOMER

EXPANSION POWER AND/OR REPLACEMENT POWER COMMITMENTS

I. Employment Commitments

A. Employment Levels

The provision of EP and/or RP to the Customer hereunder is in consideration of, among other things, the Customer's creation and/or maintenance of the employment level set forth in the Appendix of this Schedule (the "Base Employment Level"). Such Base Employment Level shall be the total number of full-time positions held by: (1) individuals who are employed by the Customer at Customer's Facility identified in the Appendix to this Schedule, and (2) individuals who are contractors or who are employed by contractors of the Customer and assigned to the Facility identified in such Appendix (collectively, "Base Level Employees"). The number of Base Level Employees shall not include individuals employed on a part-time basis (less than 35 hours per week); provided, however, that two individuals each working 20 hours per week or more at such Facility shall be counted as one Base Level Employee.

The Base Employment Level shall not be created or maintained by transfers of employees from previously held positions with the Customer or its affiliates within the State of New York, except that the Base Employment Level may be filled by employees of the Customer laid off from other Customer facilities for *bona fide* economic or management reasons.

The Authority may consider a request to change the Base Employment Level based on a claim of increased productivity, increased efficiency or adoption of new technologies or for other appropriate reasons as determined by the Authority. Any such change shall be within Authority's sole discretion.

B. Employment Records and Reports

A record shall be kept monthly by the Customer, and provided on a calendar year basis to the Authority, of the total number of Base Level Employees who are employed at or assigned to the Customer's Facility identified in the Appendix to this Schedule, as reported to the United States Department of Labor (or as reported in such other record as agreed upon by the Authority and the Customer). Such report shall separately identify the individuals who are employed by the Customer, and the individuals who are contractors or who are employed by contractors of the Customer, and shall be certified to be correct by an officer of the Customer, plant manager or such other person authorized by the Customer to prepare and file such report and shall be provided to the Authority on or before the last day of February following the end of the most recent calendar year. The Authority shall have the right to examine and audit on reasonable advance written notice

all non-confidential written and electronic records and data concerning employment levels including, but not limited to, personnel records and summaries held by the Customer and its affiliates relating to employment in New York State.

II. Reductions of Contract Demand

A. Employment Levels

If the year-end monthly average number of employees is less than 90% of the Base Employment Level set forth in this Schedule B, for the subject calendar year, the Authority may reduce the Contract Demand subject to Article II.D of this Schedule. The maximum amount of reduction will be determined by multiplying the Contract Demand by the quantity one minus the quotient of the average monthly employment during the subject calendar year divided by the Base Employment Level. Any such reduction shall be rounded to the nearest fifty (50) kW. In the event of a reduction of the Contract Demand to zero, the Agreement shall automatically terminate.

B. Power Utilization Levels

A record shall be kept monthly by the Customer, and provided on a calendar year basis to the Authority on or before the last day of February following the end of the most recent calendar year, of the maximum demand utilized each month in the Facility receiving the power covered by the Agreement. If the average of the Customer's six (6) highest Billing Demands (as such term is described in Service Tariff No. WNY-1) for Expansion Power and/or Replacement Power is less than 90% of the Customer's Contract Demand in such calendar year the Authority may reduce the Contract Demand subject to Article II.D of this Schedule. The maximum amount by which the Authority may reduce the Contract Demand shall be determined by multiplying the Contract Demand by the quantity one minus the quotient of the average of the six (6) highest Billing Demands for in such calendar year divided by the Contract Demand. Any such reduction shall be rounded to the nearest fifty (50) kW. In the event of a reduction of the Contract Demand to zero, this Agreement shall automatically terminate.

C. Capital Investment

The Customer agrees to undertake the capital investment set forth in the Appendix to this Schedule.

Notwithstanding any other provision of the Agreement, the Customer shall provide the Authority with such access to the Facility, and such documentation, as the Authority deems necessary to determine the Customer's compliance with the Customer's obligations provided for in this Schedule B.

D. Notice of Intent to Reduce Contract Demand

In the event that the Authority determines that the Contract Demand will be wholly or partially reduced pursuant to this Schedule , the Authority shall provide the Customer with at least thirty (30) days prior written notice of such reduction, specifying the amount of the reduction of Contract Demand and the reason for the reduction, provided, however, that before making the reduction, the Authority may consider the Customer's scheduled or unscheduled maintenance or Facility upgrading periods when such events temporarily reduce plant employment levels or electrical demand as well as business cycle.

III. Energy Efficiency Audits; Information Requests

Unless otherwise agreed to by the Authority in writing, the Customer shall undergo an energy efficiency audit of its Facility and equipment at which the Allocation is consumed at the Customer's expense at least once during the term of this Agreement but in any event not less than once every five years. The Customer will provide the Authority with a copy of the audit or, at the Authority's option, a report describing the results of the audit, and provide documentation requested by the Authority to verify the implementation of any efficiency measures implemented at the Facility.

The Customer agrees to cooperate to make its Facility available at reasonable times and intervals for energy audits and related assessments that the Authority desires to perform, if any, at the Authority's own expense.

The Customer shall provide information requested by the Authority or its designee in surveys, questionnaires and other information requests relating to energy efficiency and energy-related projects, programs and services.

The Customer may, after consultation with the Authority, exclude from written copies of audits, reports and other information provided to the Authority under this Article trade secrets and other information which if disclosed would harm the competitive position of the Customer.

APPENDIX TO SCHEDULE B

BASE EMPLOYMENT LEVEL

Within three (3) years of commencement of Electric Service, the Customer shall employ at least one hundred sixty-three (163) full-time employees ("Base Employment Level") at the Customer's Facility. The Base Employment Level shall be maintained thereafter for the term of the Allocation in accordance with Article I of Schedule B.

CAPITAL INVESTMENT

The Customer shall make a total capital investment of at least $18,230,000 to renovate and furnish the Facility (the "Capital Investment"). The Capital Investment for the Facility is expected to consist of the following specific expenditures:

Renovations, Equipment, Machinery:	$18,230,000
Total Capital Investment:	**$18,230,000**

The Capital Investment shall be made, and the Facility shall be completed and fully operational, no later than March 26, 2018 (*i.e*., within three (3) years of the date of the Authority's award of the Allocation). Upon request of the Customer, such date may be extended in the sole discretion of the Authority.

SCHEDULE C TO AGREEMENT FOR THE SALE OF EXPANSION POWER AND/OR REPLACEMENT POWER TO CUSTOMER

TAKEDOWN SCHEDULE

N/A

POWER AUTHORITY OF THE STATE OF NEW YORK
30 SOUTH PEARL STREET
ALBANY, NY 12207

Schedule of Rates for Sale of Firm Power to Expansion and Replacement Customers located In Western New York

Service Tariff No. WNY-1

Table of Contents

Schedule of Rates for Firm Power Service

I. Applicability

To sales of Expansion Power and/or Replacement Power (as defined below) directly to a qualified business Customer (as defined below) for firm power service.

II. Abbreviations and Terms

• kW	kilowatt(s)
• kW-mo.	kilowatt-month
• kWh	kilowatt-hour(s)
• MWh	megawatt-hour(s)
• NYISO	New York Independent System Operator, Inc. or any successor organization
• PAL	New York Public Authorities Law
• OATT	Open Access Transmission Tariff

Agreement: An executed "Agreement for the Sale of Expansion and/or Replacement Power and Energy" between the Authority and the Customer (each as defined below).

Annual Adjustment Factor or **AAF**: This term shall have the meaning set forth in Section V herein.

Authority: The Power Authority of the State of New York, a corporate municipal instrumentality and a political subdivision of the State of New York created pursuant to Chapter 772 of the New York Laws of 1931 and existing and operating under Title 1 of Article 5 of the PAL, also known as the "New York Power Authority."

Customer: A business customer who has received an allocation for Expansion Power and/or Replacement Power from the Authority and who purchases Expansion Power and/or Replacement Power directly from the Authority.

Electric Service: The power and energy provided to the Customer in accordance with the Agreement, this Service Tariff and the Rules.

Expansion Power and/or **Replacement Power**: Firm Power and Firm Energy made available under this Service Tariff by the Authority from the Project for sale to the Customer for business purposes pursuant to PAL § 1005(5) and (13).

Firm Power: Capacity (kW) that is intended to be always available from the Project subject to the curtailment provisions set forth in the Agreement between the Authority and the Customer and this Service Tariff. Firm Power shall not include peaking power.

Firm Energy: Energy (kWh) associated with Firm Power.

Load Serving Entity or **LSE**: This term shall have the meaning set forth in the Agreement.

Load Split Methodology or **LSM**: A load split methodology applicable to a Customer's allocation. It is usually provided for in an agreement between the Authority and the Customer's local electric utility, an agreement between the Authority and the Customer, or an agreement between the Authority, the Customer and the Customer's local electric utility, or such local utility's tariff, regarding the delivery of WNY Firm Power. The load split methodology is often designated as "Load Factor Sharing" or "LFS" , "First through the Meter" or "FTM", "First through the Meter Modified" or "FTM Modified", or "Replacement Power 2" or "RP 2".

Project: The Authority's Niagara Power Project, FERC Project No. 2216.

Rate Year or **RY**: The period from July 1 through June 30 starting July 1, 2013, and for any year thereafter.

Rules: The Authority's rules and regulations set forth in 21 NYCRR § 450 *et seq*., as they may be amended from time to time.

Service Tariff: This Service Tariff No. WNY-1.

Target Rate: This term shall have the meaning set forth in Section III herein.

All other capitalized terms and abbreviations used but not defined herein shall have the same meaning as set forth in the Agreement.

III. Monthly Rates and Charges

A. Expansion Power (EP) and Replacement Power (RP) Base Rates

Beginning on July 1, 2013, there will be a 3-year phase-in to new base rates. The phase-in will be determined by the rate differential between the 2012 EP/RP rates and a "Target Rate." The Target Rate, specified in Section III.A.1. below, is based on the rates determined by the Authority to be applicable in RY 2013 for sales of "preservation power" as that term is defined in PAL § 1005(13). The following Sections III.A.1-4 describe the calculation and implementation of the phase-in.

1. The initial rate point will be established by the EP/RP rates ($/kW and $/MWh), determined by mid-April 2012 and made effective on May 1, 2012 in accordance with the Authority's then-applicable EP and RP tariffs. The Target Rate (*i.e.* demand and energy rates) for RY 2013 shall be $7.99/kW and $13.66/MWh.

2. The difference between the two rate points is calculated and divided by 3 to correspond with the number of Rate Years over which the phase-in will occur. The resulting quotients (in $/kW and $/MWh) are referred to as the "annual increment."

3. The annual increment will be applied to the base rates for the 3-year period of the 2013, 2014 and 2015 Rate Years, which shall be as follows:

   RY 2013: July 1, 2013 to June 30, 2014
   RY 2014: July 1, 2014 to June 30, 2015
   RY 2015: July 1, 2015 to June 30, 2016

   The annual rate adjustments normally made effective on May 1, 2013 under then-applicable EP and RP tariffs will be suspended, such that demand and energy rates established in 2012 shall be extended through June 30, 2013.

4. Effective commencing in RY 2013, the Annual Adjustment Factor ("AAF") described in Section V herein, shall be applied as follows:

   A. For the RY 2013 only, the AAF will be suspended, and the RY 2013 rate increase will be subject only to the annual increment.

   B. For the RYs 2014 and 2015, the AAF will be applied to the demand and energy rates after the addition of the annual increment to the rates of the previous RY rates. Such AAF will be subject to the terms and limits stated in Section V herein.

   C. Beginning in RY 2016, the AAF will be applied to the previous RY rates, and the annual increment is no longer applicable.

B. EP and RP Rates no Lower than Rural/Domestic Rate

At all times the applicable base rates for demand and energy determined in accordance with Sections III.A and V of this Service Tariff shall be no lower than the rates charged by the

Authority for the sale of hydroelectricity for the benefit of rural and domestic customers receiving service in accordance with the Niagara Redevelopment Act, 16 U.S.C. § 836(b)(1) and PAL § 1005(5) (the "Rural/Domestic Rate"). This provision shall be implemented as follows: if the base rates, as determined in accordance with Sections III.A and V of this Service Tariff, are lower than the Rural/Domestic Rate on an average $/MWh basis, each set of rates measured at 80% load factor which is generally regarded as representative for EP and RP Customers, then the base rates determined under Sections III.A and V of this Service Tariff will be revised to make them equal to the Rural/Domestic Rate on an average $/MWh basis. However, the base rates as so revised will have no effect until such time as these base rates are lower than the Rural/Domestic Rate.

C. Monthly Base Rates Exclude Delivery Service Charges

The monthly base rates set forth in this Section III exclude any applicable costs for delivery services provided by the local electric utility.

D. Minimum Monthly Charge

The minimum monthly charge shall equal the product of the demand charge and the contract demand (as defined herein). Such minimum monthly charge shall be in addition to any NYISO Charges or Taxes (each as defined herein) incurred by the Authority with respect to the Customer's Allocation.

E. Estimated Billing

If the Authority, in its sole discretion, determines that it lacks reliable data on the Customer's actual demand and/or energy usage for a Billing Period during which the Customer receives Electric Service from the Authority, the Authority shall have the right to render a bill to the Customer for such Billing Period based on estimated demand and estimated usage ("Estimated Bill").

For the purpose of calculating a Billing Demand charge for an Estimated Bill, the demand charge will be calculated based on the Customer's Load Split Methodology as following:

- For Customers whose allocation is subject to a Load Factor Sharing/LFS LSM, the estimated demand (kW) will be calculated based on an average of the Customer's Billing Demand (kW) values for the previous three (3) consecutive Billing Periods. If such historical data is not available, then the estimated demand (kW) value for the Estimated Bill will equal the Customer's Takedown (kW) amount.

- For Customers whose allocation is subject to a First through the Meter/ FTM, FTM Modified, or RP 2 LSM, the estimated demand (kW) value will equal the Customer's Takedown (kW) amount.

For the purpose of calculating a Billing Energy charge for an Estimated Bill, the energy charge will be calculated based on the Customer's Load Split Methodology as following:

- For Customers whose allocation is subject to a Load Factor Sharing/LFS LSM, the estimated energy (kWh) will be based on the average of the Customer's Billing Energy (kWh) values for the previous three (3) consecutive Billing Periods. If such historical data is not available, then the estimated energy value (kWh) will be equal to the Takedown (kW) amount at 70 percent load factor for that Billing Period.

- For Customers whose allocation is subject to a First through the Meter/FTM, FTM Modified, or RP 2 LSM, the estimated energy (kWh) will be equal to the Takedown (kW) amount at 100 percent load factor for that Billing Period.

If data indicating the Customer's actual demand and usage for any Billing Period in which an Estimated Bill was rendered is subsequently provided to the Authority, the Authority will make necessary adjustments to the corresponding Estimated Bill and, as appropriate, render a revised bill (or provide a credit) to the Customer.

The Minimum Monthly Charge provisions of Section III B.D. shall apply to Estimated Bills.

The Authority's discretion to render Estimated Bills is not intended to limit the Authority's rights under the Agreement.

F. <u>Adjustments to Charges</u>

In addition to any other adjustments provided for in this Service Tariff, in any Billing Period, the Authority may make appropriate adjustments to billings and charges to address such matters as billing and payment errors, the receipt of actual, additional, or corrected data concerning Customer energy or demand usage.

G. <u>Billing Period</u>

Any period of approximately thirty (30) days, generally ending with the last day of each calendar month but subject to the billing cycle requirements of the local electric utility in whose service territory the Customer's facilities are located.

H. <u>Billing Demand</u>

The billing demand shall be determined by applying the applicable billing methodology to total meter readings during the billing period. See Section IV.E, below.

I. <u>Billing Energy</u>

The billing energy shall be determined by applying the applicable billing methodology to total meter readings during the billing period. See Section IV.E, below.

J. <u>Contract Demand</u>

The contract demand of each Customer will be the amount of Expansion Power and/or Replacement Power, not to exceed their Allocation, provided to such Customer by the Authority in accordance with the Agreement.

IV. General Provisions

A. Character of Service

Alternating current; sixty cycles, three-phase.

B. Availability of Energy

1. Subject to Section IV.B.2, the Authority shall provide to the Customer in any billing period Firm Energy associated with Firm Power. The offer of Firm Energy for delivery shall fulfill the Authority's obligations for purposes of this provision whether or not the Firm Energy is taken by the Customer.

2. If, as a result of reduced water flows caused by hydrologic conditions, there is insufficient energy from the Hydro Projects to supply the full power and energy requirements of NYPA's Firm Power customers served from the Hydro Projects, hydropower curtailments (*i.e.* reductions) in the amount of Firm Power and Energy to which the Customer is entitled shall be applied on a *pro rata* basis to all Firm Power and Energy customers served from the Hydro Projects. Reductions as a percentage of the otherwise required Firm Power and Energy sales will be the same for all Firm Power and Energy customers served from the Hydro Projects. The Authority shall be under no obligation to deliver and will not deliver any such curtailed energy to the Customer in later billing periods. The Customer will receive appropriate bill credits as provided under the Rules.

C. Delivery

For the purpose of this Service Tariff, Firm Power and Firm Energy shall be deemed to be offered when the Authority is able to supply Firm Power and Firm Energy to the Authority's designated NYISO load bus. If, despite such offer, there is a failure of delivery caused by the Customer, NYISO or local electric utility, such failure shall not be subject to a billing adjustment pursuant to Section 454.6(d) of the Rules.

D. Adjustment of Rates

To the extent not inconsistent with the Agreement, the rates contained in this Service Tariff may be revised from time to time on not less than thirty (30) days written notice to the Customer.

E. Billing Methodology and Billing

Unless otherwise specified in the Agreement, the following provisions shall apply:

1. The billing methodology to be used to render bills to the Customer related to its Allocation shall be determined in accordance with the Agreement and delivery agreement between the Authority and, as applicable, the Customer or local electric utility or both.

2. Billing Demand –The Billing Demand charged by the Authority to each Customer will be the highest 15 or 30-minute integrated demand, as determined by the local utility, during each Billing Period recorded on the Customer's meter multiplied by a percentage based on the Load Split Methodology provided for in any contract between the Authority and the Customer's local electric utility, any contract between the Authority and the Customer, or any contract between the Authority, the Customer and the Customer's local electric utility for delivery of WNY Power. Billing Demand may not exceed the amount of the Contract Demand.

3. Billing Energy –The kilowatt-hours charged by the Authority to each Customer will be the total number of kilowatt-hours recorded on the Customer's meter for the Billing Period multiplied by a percentage based on the methodology provided for in any contract between the Authority and the Customer's local electric utility for delivery of WNY Power.

F. <u>Payment by Customer to Authority</u>

1. <u>Demand and Energy Charges, Taxes</u>

   The Customer shall pay the Authority for Firm Power and Energy during any billing period the higher of either (i) the sum of (a), (b) and (c) below or (ii) the monthly minimum charge as defined herein:

   a. The demand charge per kilowatt for Firm Power specified in this Service Tariff or any modification thereof applied to the Customer's billing demand (as defined in Section IV.E, above) for the billing period; and

   b. The energy charge per MWh for Firm Energy specified in this Service Tariff or any modification thereof applied to the Customer's billing energy (as defined in Section IV.E, above) for the billing period; and

   c. A charge representing reimbursement to the Authority for all applicable Taxes incurred by the Authority as a result of providing Expansion Power and/or Replacement Power allocated to the Customer.

2. <u>Transmission Charge</u>

   The Customer shall compensate the Authority for all transmission costs incurred by the Authority with respect to the Allocation, including such costs that are charged pursuant to the OATT.

3. <u>NYISO Transmission and Related Charges ("NYISO Charges")</u>

   The Customer shall compensate the Authority for the following NYISO Charges assessed on the Authority for services provided by the NYISO pursuant to its OATT or other tariffs (as the provisions of those tariffs may be amended and in effect from time to time) associated with providing Electric Service to the Customer:

   A. Ancillary Services 1 through 6 and any new ancillary services as may be defined and included in the OATT from time to time;

   B. Marginal losses;

C. The New York Power Authority Transmission Adjustment Charge ("NTAC");

D. Congestion costs, less any associated grandfathered Transmission Congestion Contracts ("TCCs") as provided in Attachment K of the OATT;

E. Any and all other charges, assessments, or other amounts associated with deliveries to Customers or otherwise associated with the Authority's responsibilities as a Load Serving Entity for the Customers that are assessed on the Authority by the NYISO under the provisions of its OATT or under other applicable tariffs; and

F. Any charges assessed on the Authority with respect to the provision of Electric Service to Customers for facilities needed to maintain reliability and incurred in connection with the NYISO's Comprehensive System Planning Process (or similar reliability-related obligations incurred by the Authority with respect to Electric Service to the Customer), applicable tariffs, or required to be paid by the Authority in accordance with law, regardless of whether such charges are assessed by the NYISO or another third party.

The NYISO Charges, if any, incurred by the Authority on behalf of the Customer, are in addition to the Authority production charges that are charged to the Customer in accordance with other provisions of this Service Tariff.
The method of billing NYISO charges to the Customer will be based on Authority's discretion.

4. Taxes Defined

Taxes shall be any adjustment as the Authority deems necessary to recover from the Customer any taxes, assessments or any other charges mandated by federal, state or local agencies or authorities that are levied on the Authority or that the Authority is required to collect from the Customer if and to the extent such taxes, assessments or charges are not recovered by the Authority pursuant to another provision of this Service Tariff.

5. Substitute Energy

The Customer shall pay for Substitute Energy, if applicable, as specified in the Agreement.

6. Payment Information

Bills computed under this Service Tariff are due and payable by electronic wire transfer in accordance with the Rules. Such wire transfer shall be made to J P Morgan Chase NY, NY / ABA021000021 / NYPA A/C # 008-030383, unless otherwise indicated in writing by the Authority. In the event that there is a dispute on any items of a bill rendered by the Authority, the Customer shall pay such bill in full. If necessary, any adjustments will be made thereafter.

G. Rendition and Payment of Bills

1. The Authority will render bills to the Customer for Electric Service on or before the tenth (10^{th}) business day of the month for charges due for the previous Billing Period. Bills will reflect the amounts due and owing, and are subject to adjustment as provided for in the Agreement, Service Tariff No. WNY-1 and the Rules. Unless otherwise agreed to by the Authority and the Customer in writing, the Authority shall render bills to the Customer electronically.

2. Payment of bills by the Customer shall be due and payable by the Customer within twenty (20) days of the date the Authority renders the bill.

3. Except as otherwise agreed by the Authority in writing, if the Customer fails to pay any bill when due an interest charge of two percent of the amount unpaid will be added thereto as liquidated damages, and thereafter, as further liquidated damages, an additional interest charge of one and one-half percent of the sum unpaid shall be added on the first day of each succeeding Billing Period until the amount due, including interest, is paid in full.

4. If at any time after commencement of Electric Service the Customer fails to make complete payment of any two (2) bills for Electric Service when such bills become due pursuant to Agreement, the Authority shall have the right to require that the Customer deposit with the Authority a sum of money in an amount equal to all charges that would be due under this Agreement for Electric Service for two (2) consecutive calendar months as estimated by the Authority. Such deposit will be deemed security for the payment of unpaid bills and/or other claims of the Authority against the Customer upon termination of Electric Service. The failure or refusal of the Customer to provide the deposit within thirty (30) days of a request for such deposit will be grounds for the Authority in its sole discretion to suspend Electric Service to the Customer or terminate this Agreement.

H. Adjustment of Charges

1. Distribution Losses

   The Authority will make appropriate adjustments to compensate for distribution losses of the local electric utility.

I. Conflicts

The Authority's Rules shall apply to the Electric Service provided under this Service Tariff. In the event of any inconsistencies, conflicts or differences between the provisions of this Service Tariff and the Rules, the provisions of this Service Tariff shall govern.

J. Customer Resales Prohibited

The Customer may not resell any quantity of Expansion Power and/or Replacement Power.

V. Annual Adjustment Factor

A. Adjustment of Rates

1. The AAF will be based upon a weighted average of three indices described below. For each new Rate Year, the index value for the latest available calendar year ("Index Value for the Measuring Year") will be compared to the index value for the calendar year immediately preceding the latest available calendar year (the Index Value for the Measuring Year -1"). The change for each index will then be multiplied by the indicated weights. As described in detail below, these products are then summed, producing the AAF. The AAF will be multiplied by the base rate for the current Rate Year to produce the base rates for the new Rate Year, subject to a maximum adjustment of ±5.0% ("±5% Collar"). Amounts outside the ±5% Collar shall be referred to as the "Excess."

   Index 1, "BLS Industrial Power Price" (35% weight): The average of the monthly Producer Price Index for Industrial Electric Power, commodity code number 0543, not seasonally adjusted, as reported by the U.S. Department of Labor, Bureau of Labor Statistics ("BLS") electronically on its internet site and consistent with its printed publication, "Producer Price Index Detailed Report". For Index 1, the Index Value for the Measuring Year will be the index for the calendar year immediately preceding July 1 of the new Rate Year.

   Index 2, "EIA Average Industrial Power Price" (40% weight): The average weighted annual price (as measured in cents/kWh) for electric sales to the industrial sector in the ten states of CT, MA, ME, NH, NJ, NY, OH, PA, RI and VT ("Selected States") as reported by Coal and Electric Data and Renewables Division; Office of Coal, Nuclear, Electric and Alternate Fuels; Energy Information Administration ("EIA"); U.S. Department of Energy Form EIA-861 Final Data File. For Index 2, the Index Value for the Measuring Year will be the index for the calendar year two years preceding July 1 of the new Rate Year.

   Index 3, "BLS Industrial Commodities Price Less Fuel" (25% weight): The monthly average of the Producer Price Index for Industrial Commodities less fuel, commodity code number 03T15M05, not seasonally adjusted, as reported by the U.S. Department of Labor, BLS electronically on its internet site and consistent with its printed publication, "Producer Price Index Detailed Report". For Index 3, the Index Value for the Measuring Year will be the index for the calendar year immediately preceding July 1 of the new Rate Year.

2. Annual Adjustment Factor Computation Guide

   Step 1: For each of the three Indices, divide the Index Value for Measuring Year by the Index Value for the Measuring Year-1.

   Step 2: Multiply the ratios determined in Step 1 by percentage weights for each Index. Sum the results to determine the weighted average. This is the AAF.

   Step 3: Commencing RY 2014, modifications to the AAF will be subject to ±5% Collar, as described below.

   a) When the AAF falls outside the ±5% Collar, the Excess will be carried over to the subsequent RY. If the AAF in the subsequent RY is within the ±5% Collar, the current RY Excess will be added to/subtracted from the subsequent Rate Year's AAF, up to the ±5% Collar.

b) Excesses will continue to accrue without limit and carry over such that they will be added to/subtracted from the AAF in any year where the AAF is within the ±5% Collar.

Step 4: Multiply the current Rate Year base rate by the AAF calculated in Step 2 to determine the new Rate Year base rate.

The foregoing calculation shall be performed by the Authority consistent with the sample presented in Section V.B below.

3. The Authority shall provide the Customer with notice of any adjustment to the current base rate per the above and with all data and calculations necessary to compute such adjustment by June 15th of each year to be effective on July 1 of such year, commencing in 2014. The values of the latest officially published (electronically or otherwise) versions of the indices and data provided by the BLS and EIA as of June 1 shall be used notwithstanding any subsequent revisions to the indices.

4. If during the term of the Agreement any of the three above indices ceases to be available or ceases to be reflective of the relevant factors or of changes which the indices were intended by the Parties to reflect, the Customer and the Authority shall mutually select a substitute Index. The Parties agree to mutually select substitute indices within 90 days, once notified by the other party that the indices are no longer available or no longer reflect the relevant factors or changes with the indices were intended by the Parties to reflect. Should the 90-day period cover a planned July 1 rate change, the current base rates will remain in effect until substitute indices are selected and the adjusted rates based on the substitute indices will be retroactive to the previous July 1. If unable to reach agreement on substitute indices within the 90-day period, the Parties agree to substitute the mathematic average of the PPI—Intermediate Materials, Supplies and Components (BLS Series ID WPUSOP2000) and the PPI-- Finished Goods (BLS Series ID WPUSOP3000) indices for one or more indices that have ceased to be available and shall assume the percentage weighting(s) of the one or more discontinued indices as indicated in Section V.A.1.

B. Sample Computation of the AAF (hypothetical values for July 1, 2014 implementation):

STEP 1

Determine the Index Value for the Measuring Year (MY) and Measuring Year - 1 (MY-1) for Each Index

- Index 1 - Producer Price Index, Industrial Power

	Measuring Year (2013)	Measuring Year - 1 (2012)
January	171.2	167.8
February	172.8	167.6
March	171.6	168.2
April	173.8	168.6
May	175.1	171.6
June	185.7	180.1
July	186.4	182.7
August	184.7	179.2
September	185.5	181.8
October	175.5	170.2
November	172.2	168.8
December	171.8	166.6
Average	177.2	172.8
Ratio of MY/MY-1		**1.03**

- Index 2 – EIA Industrial Rate

State	Revenues ($000s)	Sales (MWh)	Avg. Rate (cents/kWh)
Measuring Year (2012)			
CT	590,972	6,814,757	
MA	1,109,723	13,053,806	
ME	328,594	4,896,176	
NH	304,363	2,874,495	
NJ	1,412,665	15,687,873	
NY	2,001,588	26,379,314	
OH	3,695,978	78,496,166	
PA	3,682,192	63,413,968	
RI	152,533	1,652,593	
VT	155,903	2,173,679	
TOTAL	13,434,511	215,442,827	**6.24**
Measuring Year -1 (2011)			
CT	579,153	6,678,462	
MA	1,076,431	12,662,192	
ME	310,521	4,626,886	
NH	298,276	2,817,005	
NJ	1,370,285	15,217,237	
NY	1,891,501	24,928,452	
OH	3,622,058	76,926,243	
PA	3,571,726	61,511,549	
RI	144,144	1,561,700	
VT	152,785	2,130,205	
TOTAL	13,016,880	209,059,931	**6.23**
Ratio of MY/MY-1			**1.00**

- Index 3 – Producer Price Index, Industrial Commodities Less Fuel

	Measuring Year (2013)	Measuring Year -1 (2012)
January	190.1	187.2
February	190.9	188.0
March	191.6	188.7
April	192.8	189.9
May	194.7	191.8
June	195.2	192.3
July	195.5	192.3
August	196.0	193.1
September	196.1	193.2
October	196.2	193.8
November	196.6	193.7
December	196.7	194.0
Average	194.4	191.5
Ratio of MY/MY-1		**1.02**

STEP 2

Determine AAF by Summing the Weighted Indices

Index	Ratio of MY to MY-1	Weight	Weighted Factors
PPI Industrial Power	1.03	0.35	0.361
EIA Industrial Rate	1.00	0.40	0.400
PPI Industrial Commodities less fuel	1.02	0.25	0.255
AAF			**1.016**

STEP 3

Apply Collar of ±5.0% to Determine the Maximum/Minimum AAF.

-5.0% < 1.6% < 5.0%; collar does not apply, assuming no cumulative excess.

STEP 4

Apply AAF to Calculate the New Rate Year Base Rate

	Demand $/kW-mo.	Energy $/MWh
Current Rate Year Base Rate	7.56	12.91
New Rate Year Base Rate	7.68	13.12

Exhibit B-2
July 30, 2015

POWER AUTHORITY

OF THE

STATE OF NEW YORK

30 South Pearl Street
10th Floor
Albany, New York 12207-3425

AGREEMENT FOR THE SALE
OF EXPANSION POWER AND/OR REPLACEMENT POWER
to
JUST GREENS, LLC

The POWER AUTHORITY OF THE STATE OF NEW YORK ("Authority"), created pursuant to Chapter 772 of the New York Laws of 1931 and existing under Title I of Article V of the New York Public Authorities Law ("PAL"), having its office and principal place of business at 30 South Pearl Street, 10th Floor, Albany, New York 12207-3425, hereby enters into this Agreement for the Sale of Expansion Power and/or Replacement Power ("Agreement") with Just Greens, LLC ("Customer"), with offices at **__________**. The Authority and the Customer are from time to time referred to in this Agreement as "Party" or collectively as "Parties" and agree follows:

RECITALS

WHEREAS, the Authority is authorized to sell hydroelectric power produced by the Niagara Power Project, Federal Energy Regulatory Commission ("FERC") Project No. 2216, known as "Expansion Power" (or "EP"), as further defined in this Agreement, to qualified businesses in New York State in accordance with PAL § 1005(5) and (13);

WHEREAS, the Authority is authorized to sell hydroelectric power produced by the Niagara Power Project, FERC Project No. 2216, known as "Replacement Power" (or "RP"), as further defined in this Agreement, to qualified businesses in New York State in accordance with PAL § 1005(5) and (13);

WHEREAS, EP consists of 250 megawatts ("MW") of firm hydroelectric power and associated firm energy produced by the Niagara Power Project;

WHEREAS, RP consists of 445 MW of firm hydroelectric power and associated firm energy produced by the Niagara Power Project;

WHEREAS, the Authority is authorized pursuant to PAL § 1005(13)(a) to award EP and/or RP based on, among other things, the criteria listed in the PAL, including but not limited to an applicant's long-term commitment to the region as evidenced by the current and planned capital investment; the type and number of jobs supported or created by the allocation; and the state, regional and local economic development strategies and priorities supported by local units of governments in the area in which the recipient's facilities are located;

WHEREAS, the Customer applied to the Authority for an allocation of hydropower to support operations at a new and/or expanded facility to be constructed and operated by the Customer (defined in Section I of this Agreement as the "Facility");

WHEREAS, on May 19, 2015, the Authority's Board of Trustees ("Trustees") approved a 1,840 kilowatt ("kW") allocation of EP to the Customer for a seven (7) year term (defined in Section I of this Agreement as the "Allocation") in connection with the construction and operation of the Facility as further described in this Agreement;

WHEREAS, on May 19, 2015, the Trustees authorized the Authority to, among other things, take any and all actions and execute and deliver any and all agreements and other documents necessary to effectuate its approval of the Allocation;

WHEREAS, the provision of Electric Service associated with the Allocation is an

unbundled service separate from the transmission and delivery of power and energy to the Customer, and delivery service will be performed by the Customer's local electric utility in accordance with the Utility Tariff;

WHEREAS, the Parties have reached an agreement on the sale of the Allocation to the Customer on the terms and conditions provided for in this Agreement;

WHEREAS, the Authority has complied with requirements of PAL § 1009 which specifies the approval process for certain contracts negotiated by the Authority; and

WHEREAS, the Governor of the State of New York has approved the terms of this Agreement pursuant to PAL § 1009(3).

NOW THEREFORE, in consideration of the mutual covenants herein, the Authority and the Customer agree as follows:

NOW THEREFORE, the Parties hereto agree as follows:

I. Definitions

A. **Agreement** means this Agreement.

B. **Allocation** refers to the allocation of EP and/or RP awarded to the Customer as specified in Schedule A.

C. **Contract Demand** is as defined in Service Tariff No. WNY-1.

D. **Electric Service** is the Firm Power and Firm Energy associated with the Allocation and sold by the Authority to the Customer in accordance with this Agreement, Service Tariff No. WNY-1 and the Rules.

E. **Expansion Power** (or **EP**) is 250 MW of Firm Power and associated Firm Energy from the Project eligible to be allocated by the Authority for sale to businesses pursuant to PAL § 1005(5) and (13).

F. **Facility** means the Customer's facilities as described in Schedule A to this Agreement.

G. **Firm Power** is as defined in Service Tariff No. WNY-1.

H. **Firm Energy** is as defined in Service Tariff No. WNY-1.

I. **FERC** means the Federal Energy Regulatory Commission (or any successor organization).

J. **FERC License** means the first new license issued by FERC to the Authority for the continued operation and maintenance of the Project, pursuant to Section 15 of the Federal Power Act, which became effective September 1, 2007 after expiration of the Project's original license which became effective in 1957.

K. **Hydro Projects** is a collective reference to the Project and the Authority's St. Lawrence-FDR Project, FERC Project No. 2000.

L. **Load Serving Entity** (or **LSE**) means an entity designated by a retail electricity customer (including the Customer) to provide capacity, energy and ancillary services to serve such customer, in compliance with NYISO Tariffs, rules, manuals and procedures.

M. **NYISO** means the New York Independent System Operator or any successor organization.

N. **NYISO Tariffs** means the NYISO's Open Access Transmission Tariff or the NYISO's Market Administration and Control Area Services Tariff, as applicable, as such tariffs are modified from time to time, or any successor to such tariffs.

O. **Project** means the Niagara Power Project, FERC Project No. 2216.

P. **Replacement Power** (or **RP**) is445 MW of Firm Power and associated Firm Energy from the Project eligible to be allocated by the Authority for sale to businesses pursuant to PAL § 1005(5) and (13).

Q. **Rules** are the applicable provisions of Authority's rules and regulations (Chapter X of Title 21 of the Official Compilation of Codes, Rules and Regulations of the State of New York), as may be modified from time to time by the Authority.

R. **Service Tariff No. WNY-1** means the Authority's Service Tariff No. WNY-1, as may be modified from time to time by the Authority, which contains, among other things, the rate schedule establishing rates and other commercial terms for sale of Electric Service to Customer under this Agreement.

S. **Schedule A** refers to the Schedule A entitled "Expansion Power and/or Replacement Power Allocations" which is attached to and made part of this Agreement.

T. **Schedule B** refers to the Schedule B entitled "Expansion Power and/or Replacement Power Commitments" which is attached to and made part of this Agreement.

U. **Schedule C** refers to the Schedule C entitled "Takedown Schedule" which is attached to and made part of this Agreement.

V. **Substitute Energy** means energy that the Authority provides at the request of the Customer to replace hydroelectricity that would otherwise have been supplied to the Customer under this Agreement. Unless otherwise agreed upon by the Parties, Substitute Energy refers to energy purchased by the Authority for the Customer from markets administered by the NYISO.

W. **Taxes** is as defined in Service Tariff No. WNY-1

X. **Unforced Capacity (or "UCAP")** means the electric capacity required to be provided by LSEs to serve electric load as defined by the NYISO Tariffs, rules, manuals and procedures.

Y. **Utility Tariff** means the retail tariff(s) of the Customer's local electric utility filed and approved by the PSC applicable to the delivery of EP and/or RP.

II. Electric Service

A. The Authority shall make available Electric Service to enable the Customer to receive the Allocation in accordance with this Agreement, Service Tariff No. WNY-1 and the Rules. The Customer shall not be entitled to receive Electric Service under this Agreement for any EP and/or RP allocation unless such EP and/or RP allocation is identified on Schedule A.

B. The Authority will provide, and the Customer shall pay for, Electric Service with respect to the Allocation specified on Schedule A. If Schedule C specifies a Takedown Schedule for the Allocation, the Authority will provide, and the Customer shall take and pay for, Electric Service with respect to the Allocation in accordance with such Takedown Schedule.

C. The Authority shall provide UCAP in amounts necessary to meet the Customer's NYISO UCAP requirements associated with the Allocation in accordance with the NYISO Tariffs. The Customer shall be responsible to pay the Authority for such UCAP in accordance with Service Tariff No. WNY-1.

D. The Customer acknowledges and agrees that Customer's local electric utility shall be responsible for delivering the Allocation to the Facility specified in Schedule A, and that the Authority has no responsibility for delivering the Allocation to the Customer.

E. The Contract Demand for the Customer's Allocation may be modified by the Authority if the amount of Firm Power and Firm Energy available for sale as EP or RP from the Project is modified as required to comply with any ruling, order, or decision of any regulatory or judicial body having jurisdiction, including but not limited to FERC. Any such modification will be made on a pro rata basis to all EP and RP customers, as applicable, based on the terms of such ruling, order, or decision.

F. The Contract Demand may not exceed the Allocation.

III. Rates, Terms and Conditions

A. Electric Service shall be sold to the Customer based on the rates, terms and conditions provided for in this Agreement, Service Tariff No. WNY-1 and the Rules.

B. Notwithstanding any provision of this Agreement to the contrary, the power and energy rates for Electric Service shall be subject to increase by Authority at any time upon 30 days prior written notice to Customer if, after consideration by Authority of its legal obligations, the marketability of the output or use of the Project and Authority's

competitive position with respect to other suppliers, Authority determines in its discretion that increases in rates obtainable from any other Authority customers will not provide revenues, together with other available Authority funds not needed for operation and maintenance expenses, capital expenses, and reserves, sufficient to meet all requirements specified in Authority's bond and note resolutions and covenants with the holders of its financial obligations. Authority shall use its best efforts to inform Customer at the earliest practicable date of its intent to increase the power and energy rates pursuant to this provision. Any rate increase to Customer under this subsection shall be on a non-discriminatory basis as compared to other Authority customers after giving consideration to the factors set forth in the first sentence of this subsection. With respect to any such increase, Authority shall forward to Customer with the notice of increase, an explanation of all reasons for the increase, and shall also identify the sources from which Authority will obtain the total of increased revenues and the bases upon which Authority will allocate the increased revenue requirements among its customers. Any such increase in rates shall remain in effect only so long as Authority determines such increase is necessary to provide revenues for the purposes stated in the preceding sentences.

IV. Expansion Power and/or Replacement Power Commitments

A. Schedule B sets forth the Customer's specific "Expansion Power and/or Replacement Power Commitments." The commitments agreed to in Schedule B are in addition to any other rights and obligations of the Parties provided for in the Agreement.

B. The Authority's obligation to provide Electric Service under this Agreement, and the Customer's obligation to take and pay for such Electric Service, are expressly conditioned upon the Customer's timely completion of the commitments described in Schedule B.

C. In the event of partial completion of the Facility which has resulted in such Facility being partly operational and the partial attainment of the Base Employment Level, the Authority may, upon the Customer's request, provide Electric Service to the Customer in an amount determined by the Authority to fairly correspond to the completed portion of the Facility, provided that the Customer demonstrates that the amount of requested Electric Service is needed to support the operations of the partially completed Facility.

D. The Customer shall give the Authority not less than ninety (90) days' advance notice in writing of the anticipated date of partial or full completion of the Facility. The Authority will inspect the Facility for the purpose of verifying the completion status of the Facility and notify Customer of the results of the inspection. The Authority will thereafter commence Electric Service within a reasonable time after verification based on applicable operating procedures of the Authority, the Customer's local electric utility and the NYISO.

E. In the event the Customer fails to complete the Facility by May 19, 2018 (*i.e.*, within three (3) years of the Authority's award of the Allocation), the Allocation, at the option and discretion of the Authority, may be canceled or reduced by the total amount of kilowatts determined by the Authority to fairly correspond to the uncompleted portion of the Facility, provided that in such event, and upon request of the Customer, such date may be extended by the Authority in its sole discretion.

V. Rules and Service Tariff

Service Tariff No. WNY-1, as may be modified or superseded from time to time by the Authority, is hereby incorporated into this Agreement with the same force and effect as if set forth herein at length. In the event of any inconsistencies, conflicts, or differences between the provisions of Service Tariff No.WNY-1 and the Rules, the provisions of Service Tariff No. WNY-1 shall govern. In the event of any inconsistencies, conflicts or differences between the provisions of this Agreement and Service Tariff No. WNY-1, the provisions of this Agreement shall govern.

VI. Transmission and Delivery of Firm Power and Firm Energy; Responsibility for Charges

A. The Customer shall be responsible complying with all requirements of its local electric utility that are necessary to enable the Customer to receive delivery service for the Allocation. Delivery of the Allocation shall be subject to the Utility Tariff.

B. The Customer shall be solely responsible for paying its local electric utility for delivery service associated with the Allocation in accordance with the Utility Tariff. Should the Authority incur any charges associated with such delivery service, the Customer shall reimburse the Authority for all such charges.

C. The Customer understands and acknowledges that delivery of the Allocation will be made over transmission facilities under the control of the NYISO. The Authority will act as the LSE with respect to the NYISO, or arrange for another entity to do so on the Authority's behalf. The Customer agrees and understands that it shall be responsible to the Authority for all costs incurred by the Authority with respect to the Allocation for the services established in the NYISO Tariff, or other applicable tariff ("NYISO Charges"), as set forth in Service Tariff No. WNY-1 or any successor service tariff, regardless of whether such NYISO Charges are transmission-related. Such NYISO Charges shall be in addition to the charges for power and energy.

D. By entering into this Agreement, the Customer consents to the exchange of information between the Authority and the Customer's local electric utility pertaining to the Customer that the Authority and the local electric utility determine is necessary to provide for the Allocation, sale and delivery of EP and/or RP to the Customer, the proper and efficient implementation of the EP and/or RP programs, billing related to EP and/or RP, and/or the performance of such parties' obligations under any contracts or other arrangements between them relating to such matters.

E. The provision of Electric Service by the Authority shall be dependent upon the existence of a written agreement or other form of understanding between the Authority and the Customer's local electric utility on terms and conditions that are acceptable to the Authority.

F. The Customer understands and acknowledges that the Authority may from time to time require the Customer to complete forms, provide documentation, execute consents and provide other information (collectively, "Information") which the Authority determines is necessary for the provision of Electric Service, the delivery of EP and/or RP, billing

related to the EP and/or RP program, the effective and proper administration of the EP and/or RP program, and/or the performance of contracts or other arrangements between the Authority and the Customer's local electric utility. The Customer's failure to provide such Information shall be grounds for the Authority in its sole discretion to withhold or suspend Electric Service to the Customer.

VII. Billing and Billing Methodology

A. The billing methodology for the Allocation shall be determined on a "load factor sharing" basis in a manner consistent with the Utility Tariff and any agreement between the Authority and the Customer's local electric utility. An alternative basis for billing may be used provided the Parties agree in writing and the local electric utility provides its consent if such consent is deemed necessary.

B. The Authority will render bills by the 10th business day of the month for charges due for the previous month. Such bills shall include charges for Electric Service, NYISO Charges associated with the Allocation (subject to adjustment consistent with any later NYISO re-billings to the Authority), and other applicable charges.

C. The Authority may render bills to the Customer electronically.

D. The Authority and the Customer may agree in writing to an alternative method for the rendering of bills and for the payment of bills, including but not limited to the use of an Authority-established customer self-service web portal.

E. The Authority will charge and collect from the Customer all Taxes (including local, state and federal taxes) the Authority determines are applicable, unless the Customer furnishes the Authority with proof satisfactory to the Authority that (i) the Customer is exempt from the payment of any such Taxes, and/or (ii) the Authority is not obligated to collect such Taxes from the Customer. If the Authority is not collecting Taxes from the Customer based on the circumstances described in (i) or (ii) above, the Customer shall immediately inform the Authority of any change in circumstances relating to its tax status that would require the Authority to charge and collect such Taxes from the Customer.

F. Unless otherwise agreed to by the Authority and the Customer in writing, if the Customer fails to pay any bill when due, an interest charge of two percent (2%) of the amount unpaid shall be added thereto as liquidated damages, and thereafter, as further liquidated damages, an additional interest charge of one and one-half percent (1 1/2%) of the sum unpaid shall be added on the first day of each succeeding billing period until the amount due, including interest, is paid in full.

G. Unless otherwise agreed to by the Authority and the Customer in writing, in the event the Customer disputes any item of any bill rendered by Authority, the Customer shall pay such bill in full within the time provided for by this Agreement, and adjustments, if appropriate, will be made thereafter.

H. If at any time after commencement of Electric Service the Customer fails to make complete and timely payment of any two (2) bills for Electric Service, the Authority shall

have the right to require the Customer to deposit with the Authority a sum of money in an amount equal to all charges that would be due under this Agreement for Electric Service for two (2) consecutive calendar months as estimated by the Authority. Such deposit shall be deemed security for the payment of unpaid bills and/or other claims of the Authority against the Customer upon termination of Electric Service. If the Customer fails or refuses to provide the deposit within thirty (30) days of a request for such deposit, the Authority may, in its sole discretion, suspend Electric Service to the Customer or terminate this Agreement.

I. All other provisions with respect to billing are set forth in Service Tariff No. WNY-1 and the Rules.

J. The rights and remedies provided to the Authority in this Article are in addition to any and all other rights and remedies available to Authority at law or in equity.

VIII. Hydropower Curtailments and Substitute Energy

A. If, as a result of reduced water flows caused by hydrologic conditions, there is insufficient energy from the Hydro Projects to supply the full power and energy requirements of the Authority's firm power customers served by the Authority from the Hydro Projects, curtailments (*i.e.* reductions) in the amount of Firm Power and Firm Energy associated with the Allocation to which the Customer is entitled shall be applied on a *pro rata* basis to all firm power and energy customers served from the Hydro Projects, consistent with Service Tariff No. WNY-1 as applicable.

B. The Authority shall provide reasonable notice to Customer of any curtailments referenced in Section VIII.A of this Agreement that could impact Customer's Electric Service under this Agreement. Upon written request by the Customer, the Authority will provide Substitute Energy to the Customer to replace the Firm Power and Firm Energy that would otherwise have been supplied pursuant to this Agreement.

C. For each kilowatt-hour of Substitute Energy supplied by the Authority, the Customer will pay the Authority directly during the billing month: (1) the difference between the market cost of the Substitute Energy and the charge for firm energy as provided for in this Agreement; and (2) any NYISO charges and taxes the Authority incurs in connection with the provision of such Substitute Energy. Billing and payment for Substitute Energy shall be governed by the Billing and Payments provision of the Authority's Rules (Section 454.6) and shall apply directly to the Substitute Energy service supplied to the Customer.

D. The Parties may enter into a separate agreement to facilitate the provision of Substitute Energy, provided, however, that the provisions of this Agreement shall remain in effect notwithstanding any such separate agreement. The provision of Substitute Energy may be terminated by the Authority or the Customer on fifteen (15) days' prior written notice.

IX. Effectiveness, Term and Termination

A. This Agreement shall become effective and legally binding on the Parties upon execution of this Agreement by the Authority and the Customer.

B. Once commenced, Electric Service under the Agreement shall continue until the earliest of: (1) termination by the Customer with respect to its Allocation upon ninety (90) days prior written notice to the Authority; (2) termination by the Authority pursuant to this Agreement, Service Tariff No. WNY-1, or the Rules; or (3) expiration of the Allocation by its own term as specified in Schedule A.

C. The Customer may exercise a partial termination of the Allocation upon at least thirty (30) days' notice prior written notice to the Authority. The termination shall be effective commencing with the first billing period as defined in Service Tariff No. WNY-1.

D. The Authority may cancel service under this Agreement or modify the quantities of Firm Power and Firm Energy associated with the Allocation: (1) if such cancellation or modification is required to comply with any final ruling, order or decision of any regulatory or judicial body of competent jurisdiction (including any licensing or re-licensing order or orders of the FERC or its successor agency); or (2) as otherwise provided in this Agreement, Service Tariff No. WNY-1, or the Rules.

X. Additional Allocations

A. Upon proper application by the Customer, the Authority may in its discretion award additional allocations of EP or RP to the Customer at such rates and on such terms and conditions as the Authority establishes. If the Customer agrees to purchase Electric Service associated with any such additional allocation, the Authority will (i) incorporate any such additional allocations into Schedule A, or in its discretion will produce a supplemental schedule, to reflect any such additional allocations, and (ii) produce a modified Appendix to Schedule B, as the Authority determines to be appropriate. The Authority will furnish the Customer with any such modified Schedule A, supplemental schedule, and/or a modified Appendix to Schedule B, within a reasonable time after commencement of Electric Service for any such additional allocation.

B. In addition to any requirements imposed by law, the Customer hereby agrees to furnish such documentation and other information as the Authority requests to enable the Authority to evaluate any requests for additional allocations and consider the terms and conditions that should be applicable of any additional allocations.

XI. Notification

A. Correspondence involving the administration of this Agreement shall be addressed as follows:

To: The Authority

New York Power Authority

123 Main Street
White Plains, New York 10601
Email:
Facsimile: ______
Attention: Manager – Business Power Allocations and Compliance

To: The Customer

[_________________]
Just Greens, LLC
[___________]
[___________]
Email:
Facsimile:
Attention:

The foregoing notice/notification information pertaining to either Party may be changed by such Party upon notification to the other Party pursuant to Section XI.B of this Agreement.

B. Except where otherwise herein specifically provided, any notice, communication or request required or authorized by this Agreement by either Party to the other shall be deemed properly given: (1) if sent by U.S. First Class mail addressed to the Party at the address set forth above; (2) if sent by a nationally recognized overnight delivery service, two (2) calendar days after being deposited for delivery to the appropriate address set forth above; (3) if delivered by hand, with written confirmation of receipt; (4) if sent by facsimile to the appropriate fax number as set forth above, with written confirmation of receipt; or (5) if sent by electronic mail to the appropriate address as set forth above, with written confirmation of receipt. Either Party may change the addressee and/or address for correspondence sent to it by giving written notice in accordance with the foregoing.

XII. Applicable Law

This Agreement shall be governed by and construed in accordance with the laws of the State of New York to the extent that such laws are not inconsistent with the FERC License and the Niagara Redevelopment Act (16 USC §§836, 836a).

XIII. Venue

Each Party consents to the exclusive jurisdiction and venue of any state or federal court within or for Albany County, New York, with subject matter jurisdiction for adjudication of any claim, suit, action or any other proceeding in law or equity arising under, or in any way relating to this Agreement.

XIV. Successors and Assigns; Resale of Hydropower

A. The Customer may not assign or otherwise transfer an interest in this Agreement.

B. The Customer may not resell or allow any other person to use any quantity of EP and/or RP it has purchased from the Authority under this Agreement.

C. Electric Service sold to the Customer pursuant to this Agreement may only be used by the Customer at the Facility specified in Schedule A.

XV. Previous Agreements and Communications

A. This Agreement shall constitute the sole and complete agreement of the Parties hereto with respect to the subject matter hereof, and supersedes all prior negotiations, representations, warranties, commitments, offers, contracts and writings, written or oral, with respect to the subject matter hereof.

B. Except as otherwise provided in this Agreement, no modification of this Agreement shall be binding upon the Parties hereto or either of them unless such modification is in writing and is signed by a duly authorized officer of each of them.

XVI. Severability and Voidability

A. If any term or provision of this Agreement shall be invalidated, declared unlawful or ineffective in whole or in part by an order of the FERC or a court of competent jurisdiction, such order shall not be deemed to invalidate the remaining terms or provisions hereof.

B. Notwithstanding the preceding paragraph, if any provision of this Agreement is rendered void or unenforceable or otherwise modified by a court or agency of competent jurisdiction, the entire Agreement shall, at the option of either Party and only in such circumstances in which such Party's interests are materially and adversely impacted by any such action, be rendered void and unenforceable by such affected Party.

XVII. Waiver

A. Any waiver at any time by either the Authority or the Customer of their rights with respect to a default or of any other matter arising out of this Agreement shall not be deemed to be a waiver with respect to any other default or matter.

B. No waiver by either Party of any rights with respect to any matter arising in connection with this Agreement shall be effective unless made in writing and signed by the Party making the waiver.

XVIII. Execution

To facilitate execution, this Agreement may be executed in as many counterparts as may be required, and it shall not be necessary that the signatures of, or on behalf of, each Party, or that the signatures of all persons required to bind any Party, appear on each counterpart; but it shall be sufficient that the signature of, or on behalf of, each Party, or that the signatures of the persons required to bind any Party, appear on one or more of the counterparts. All counterparts shall collectively constitute a single agreement. It shall

not be necessary in making proof of this Agreement to produce or account for more than a number of counterparts containing the respective signatures of, or on behalf of, all of the Parties hereto. The delivery of an executed counterpart of this Agreement by email as a PDF file shall be legal and binding and shall have the same full force and effect as if an original executed counterpart of this Agreement had been delivered.

[SIGNATURES FOLLOW ON NEXT PAGE]

AGREED:

JUST GREENS, LLC

By: ______________________________________

Title: ______________________________________

Date: ______________________________________

AGREED:

POWER AUTHORITY OF THE STATE OF NEW YORK

By: ______________________________________
John R. Koelmel, Chairman

Date: ______________________________________

SCHEDULE A TO AGREEMENT FOR THE SALE OF EXPANSION POWER AND/OR REPLACEMENT POWER TO CUSTOMER

EXPANSION POWER AND/OR REPLACEMENT POWER ALLOCATIONS

Customer: Just Greens, LLC Type of Allocation	Allocation Amount (kW)	Facility	Trustee Approval Date	Expiration Date
Expansion Power	1.840	2303 Hamburg Turnpike Lackawanna, NY 14218 [TEMPORARY]	May 19, 2015	Seven (7) years from commencement of Electric Service of any portion of this Allocation.

<u>SCHEDULE B TO AGREEMENT FOR THE SALE OF EXPANSION POWER AND/OR REPLACEMENT POWER TO CUSTOMER</u>

<u>EXPANSION POWER AND/OR REPLACEMENT POWER COMMITMENTS</u>

I. <u>Employment Commitments</u>

A. Employment Levels

The provision of EP and/or RP to the Customer hereunder is in consideration of, among other things, the Customer's creation and/or maintenance of the employment level set forth in the Appendix of this Schedule (the "Base Employment Level"). Such Base Employment Level shall be the total number of full-time positions held by: (1) individuals who are employed by the Customer at Customer's Facility identified in the Appendix to this Schedule, and (2) individuals who are contractors or who are employed by contractors of the Customer and assigned to the Facility identified in such Appendix (collectively, "Base Level Employees"). The number of Base Level Employees shall not include individuals employed on a part-time basis (less than 35 hours per week); provided, however, that two individuals each working 20 hours per week or more at such Facility shall be counted as one Base Level Employee.

The Base Employment Level shall not be created or maintained by transfers of employees from previously held positions with the Customer or its affiliates within the State of New York, except that the Base Employment Level may be filled by employees of the Customer laid off from other Customer facilities for *bona fide* economic or management reasons.

The Authority may consider a request to change the Base Employment Level based on a claim of increased productivity, increased efficiency or adoption of new technologies or for other appropriate reasons as determined by the Authority. Any such change shall be within Authority's sole discretion.

B. Employment Records and Reports

A record shall be kept monthly by the Customer, and provided on a calendar year basis to the Authority, of the total number of Base Level Employees who are employed at or assigned to the Customer's Facility identified in the Appendix to this Schedule, as reported to the United States Department of Labor (or as reported in such other record as agreed upon by the Authority and the Customer). Such report shall separately identify the individuals who are employed by the Customer, and the individuals who are contractors or who are employed by contractors of the Customer, and shall be certified to be correct by an officer of the Customer, plant manager or such other person authorized by the Customer to prepare and file such report and shall be provided to the Authority on or before the last day of February following the end of the most recent calendar year. The Authority shall have the right to examine and audit on reasonable advance written notice

all non-confidential written and electronic records and data concerning employment levels including, but not limited to, personnel records and summaries held by the Customer and its affiliates relating to employment in New York State.

II. Reductions of Contract Demand

A. Employment Levels

If the year-end monthly average number of employees is less than 90% of the Base Employment Level set forth in this Schedule B, for the subject calendar year, the Authority may reduce the Contract Demand subject to Article II.D of this Schedule. The maximum amount of reduction will be determined by multiplying the Contract Demand by the quantity one minus the quotient of the average monthly employment during the subject calendar year divided by the Base Employment Level. Any such reduction shall be rounded to the nearest fifty (50) kW. In the event of a reduction of the Contract Demand to zero, the Agreement shall automatically terminate.

B. Power Utilization Levels

A record shall be kept monthly by the Customer, and provided on a calendar year basis to the Authority on or before the last day of February following the end of the most recent calendar year, of the maximum demand utilized each month in the Facility receiving the power covered by the Agreement. If the average of the Customer’s six (6) highest Billing Demands (as such term is described in Service Tariff No. WNY-1) for Expansion Power and/or Replacement Power is less than 90% of the Customer’s Contract Demand in such calendar year the Authority may reduce the Contract Demand subject to Article II.D of this Schedule. The maximum amount by which the Authority may reduce the Contract Demand shall be determined by multiplying the Contract Demand by the quantity one minus the quotient of the average of the six (6) highest Billing Demands for in such calendar year divided by the Contract Demand. Any such reduction shall be rounded to the nearest fifty (50) kW. In the event of a reduction of the Contract Demand to zero, this Agreement shall automatically terminate.

C. Capital Investment

The Customer agrees to undertake the capital investment set forth in the Appendix to this Schedule.

Notwithstanding any other provision of the Agreement, the Customer shall provide the Authority with such access to the Facility, and such documentation, as the Authority deems necessary to determine the Customer’s compliance with the Customer’s obligations provided for in this Schedule B.

D. Notice of Intent to Reduce Contract Demand

In the event that the Authority determines that the Contract Demand will be wholly or partially reduced pursuant to this Schedule , the Authority shall provide the Customer with at least thirty (30) days prior written notice of such reduction, specifying the amount of the reduction of Contract Demand and the reason for the reduction, provided, however, that before making the reduction, the Authority may consider the Customer's scheduled or unscheduled maintenance or Facility upgrading periods when such events temporarily reduce plant employment levels or electrical demand as well as business cycle.

III. Energy Efficiency Audits; Information Requests

Unless otherwise agreed to by the Authority in writing, the Customer shall undergo an energy efficiency audit of its Facility and equipment at which the Allocation is consumed at the Customer's expense at least once during the term of this Agreement but in any event not less than once every five years. The Customer will provide the Authority with a copy of the audit or, at the Authority's option, a report describing the results of the audit, and provide documentation requested by the Authority to verify the implementation of any efficiency measures implemented at the Facility.

The Customer agrees to cooperate to make its Facility available at reasonable times and intervals for energy audits and related assessments that the Authority desires to perform, if any, at the Authority's own expense.

The Customer shall provide information requested by the Authority or its designee in surveys, questionnaires and other information requests relating to energy efficiency and energy-related projects, programs and services.

The Customer may, after consultation with the Authority, exclude from written copies of audits, reports and other information provided to the Authority under this Article trade secrets and other information which if disclosed would harm the competitive position of the Customer.

APPENDIX TO SCHEDULE B

BASE EMPLOYMENT LEVEL

Within three (3) years of commencement of Electric Service, the Customer shall employ at least thirty- six (36) full-time employees ("Base Employment Level") at the Customer's Facility. The Base Employment Level shall be maintained thereafter for the term of the Allocation in accordance with Article I of Schedule B.

CAPITAL INVESTMENT

The Customer shall make a total capital investment of at least $32,620,132 to construct and furnish the Facility (the "Capital Investment"). The Capital Investment for the Facility is expected to consist of the following specific expenditures:

Equipment:	$14,580,132
Real Estate, Site Preparation & Development	$ 11,040,000
Miscellaneous:	$ 7,000,000
Total Capital Investment:	**$32,620,132**

The Capital Investment shall be made, and the Facility shall be completed and fully operational, no later than March 26, 2018 (*i.e*., within three (3) years of the date of the Authority's award of the Allocation). Upon request of the Customer, such date may be extended in the sole discretion of the Authority.

SCHEDULE C TO AGREEMENT FOR THE SALE OF EXPANSION POWER AND/OR REPLACEMENT POWER TO CUSTOMER

TAKEDOWN SCHEDULE

N/A

POWER AUTHORITY OF THE STATE OF NEW YORK
30 SOUTH PEARL STREET
ALBANY, NY 12207

Schedule of Rates for Sale of Firm Power to Expansion and Replacement Customers located In Western New York

Service Tariff No. WNY-1

Date of Issue: September 24, 2013 Date Effective: October 2013 Billing Period

Issued by James F. Pasquale, Senior Vice President
Power Authority of the State of New York
30 South Pearl Street, Albany, NY 12207

Table of Contents

Schedule of Rates for Firm Power Service **Leaf No.**

Schedule of Rates for Firm Power Service

I. Applicability

To sales of Expansion Power and/or Replacement Power (as defined below) directly to a qualified business Customer (as defined below) for firm power service.

II. Abbreviations and Terms

- kW kilowatt(s)
- kW-mo. kilowatt-month
- kWh kilowatt-hour(s)
- MWh megawatt-hour(s)
- NYISO New York Independent System Operator, Inc. or any successor organization
- PAL New York Public Authorities Law
- OATT Open Access Transmission Tariff

Agreement: An executed "Agreement for the Sale of Expansion and/or Replacement Power and Energy" between the Authority and the Customer (each as defined below).

Annual Adjustment Factor or **AAF**: This term shall have the meaning set forth in Section V herein.

Authority: The Power Authority of the State of New York, a corporate municipal instrumentality and a political subdivision of the State of New York created pursuant to Chapter 772 of the New York Laws of 1931 and existing and operating under Title 1 of Article 5 of the PAL, also known as the "New York Power Authority."

Customer: A business customer who has received an allocation for Expansion Power and/or Replacement Power from the Authority and who purchases Expansion Power and/or Replacement Power directly from the Authority.

Electric Service: The power and energy provided to the Customer in accordance with the Agreement, this Service Tariff and the Rules.

Expansion Power and/or **Replacement Power**: Firm Power and Firm Energy made available under this Service Tariff by the Authority from the Project for sale to the Customer for business purposes pursuant to PAL § 1005(5) and (13).

Firm Power: Capacity (kW) that is intended to be always available from the Project subject to the curtailment provisions set forth in the Agreement between the Authority and the Customer and this Service Tariff. Firm Power shall not include peaking power.

Firm Energy: Energy (kWh) associated with Firm Power.

Load Serving Entity or **LSE**: This term shall have the meaning set forth in the Agreement.

Load Split Methodology or **LSM**: A load split methodology applicable to a Customer's allocation. It is usually provided for in an agreement between the Authority and the Customer's local electric utility, an agreement between the Authority and the Customer, or an agreement between the Authority, the Customer and the Customer's local electric utility, or such local utility's tariff, regarding the delivery of WNY Firm Power. The load split methodology is often designated as "Load Factor Sharing" or "LFS" , "First through the Meter" or "FTM", "First through the Meter Modified" or "FTM Modified", or "Replacement Power 2" or "RP 2".

Project: The Authority's Niagara Power Project, FERC Project No. 2216.

Rate Year or **RY**: The period from July 1 through June 30 starting July 1, 2013, and for any year thereafter.

Rules: The Authority's rules and regulations set forth in 21 NYCRR § 450 *et seq*., as they may be amended from time to time.

Service Tariff: This Service Tariff No. WNY-1.

Target Rate: This term shall have the meaning set forth in Section III herein.

All other capitalized terms and abbreviations used but not defined herein shall have the same meaning as set forth in the Agreement.

III. Monthly Rates and Charges

A. Expansion Power (EP) and Replacement Power (RP) Base Rates

Beginning on July 1, 2013, there will be a 3-year phase-in to new base rates. The phase-in will be determined by the rate differential between the 2012 EP/RP rates and a "Target Rate." The Target Rate, specified in Section III.A.1. below, is based on the rates determined by the Authority to be applicable in RY 2013 for sales of "preservation power" as that term is defined in PAL § 1005(13). The following Sections III.A.1-4 describe the calculation and implementation of the phase-in.

1. The initial rate point will be established by the EP/RP rates ($/kW and $/MWh), determined by mid-April 2012 and made effective on May 1, 2012 in accordance with the Authority's then-applicable EP and RP tariffs. The Target Rate (*i.e.* demand and energy rates) for RY 2013 shall be $7.99/kW and $13.66/MWh.

2. The difference between the two rate points is calculated and divided by 3 to correspond with the number of Rate Years over which the phase-in will occur. The resulting quotients (in $/kW and $/MWh) are referred to as the "annual increment."

3. The annual increment will be applied to the base rates for the 3-year period of the 2013, 2014 and 2015 Rate Years, which shall be as follows:

   RY 2013: July 1, 2013 to June 30, 2014
   RY 2014: July 1, 2014 to June 30, 2015
   RY 2015: July 1, 2015 to June 30, 2016

   The annual rate adjustments normally made effective on May 1, 2013 under then-applicable EP and RP tariffs will be suspended, such that demand and energy rates established in 2012 shall be extended through June 30, 2013.

4. Effective commencing in RY 2013, the Annual Adjustment Factor ("AAF") described in Section V herein, shall be applied as follows:

   A. For the RY 2013 only, the AAF will be suspended, and the RY 2013 rate increase will be subject only to the annual increment.

   B. For the RYs 2014 and 2015, the AAF will be applied to the demand and energy rates after the addition of the annual increment to the rates of the previous RY rates. Such AAF will be subject to the terms and limits stated in Section V herein.

   C. Beginning in RY 2016, the AAF will be applied to the previous RY rates, and the annual increment is no longer applicable.

B. EP and RP Rates no Lower than Rural/Domestic Rate

At all times the applicable base rates for demand and energy determined in accordance with Sections III.A and V of this Service Tariff shall be no lower than the rates charged by the

Authority for the sale of hydroelectricity for the benefit of rural and domestic customers receiving service in accordance with the Niagara Redevelopment Act, 16 U.S.C. § 836(b)(1) and PAL § 1005(5) (the "Rural/Domestic Rate"). This provision shall be implemented as follows: if the base rates, as determined in accordance with Sections III.A and V of this Service Tariff, are lower than the Rural/Domestic Rate on an average $/MWh basis, each set of rates measured at 80% load factor which is generally regarded as representative for EP and RP Customers, then the base rates determined under Sections III.A and V of this Service Tariff will be revised to make them equal to the Rural/Domestic Rate on an average $/MWh basis. However, the base rates as so revised will have no effect until such time as these base rates are lower than the Rural/Domestic Rate.

C. <u>Monthly Base Rates Exclude Delivery Service Charges</u>

The monthly base rates set forth in this Section III exclude any applicable costs for delivery services provided by the local electric utility.

D. <u>Minimum Monthly Charge</u>

The minimum monthly charge shall equal the product of the demand charge and the contract demand (as defined herein). Such minimum monthly charge shall be in addition to any NYISO Charges or Taxes (each as defined herein) incurred by the Authority with respect to the Customer's Allocation.

E. <u>Estimated Billing</u>

If the Authority, in its sole discretion, determines that it lacks reliable data on the Customer's actual demand and/or energy usage for a Billing Period during which the Customer receives Electric Service from the Authority, the Authority shall have the right to render a bill to the Customer for such Billing Period based on estimated demand and estimated usage ("Estimated Bill").

For the purpose of calculating a Billing Demand charge for an Estimated Bill, the demand charge will be calculated based on the Customer's Load Split Methodology as following:

- For Customers whose allocation is subject to a Load Factor Sharing/LFS LSM, the estimated demand (kW) will be calculated based on an average of the Customer's Billing Demand (kW) values for the previous three (3) consecutive Billing Periods. If such historical data is not available, then the estimated demand (kW) value for the Estimated Bill will equal the Customer's Takedown (kW) amount.

- For Customers whose allocation is subject to a First through the Meter/ FTM, FTM Modified, or RP 2 LSM, the estimated demand (kW) value will equal the Customer's Takedown (kW) amount.

For the purpose of calculating a Billing Energy charge for an Estimated Bill, the energy charge will be calculated based on the Customer's Load Split Methodology as following:

- For Customers whose allocation is subject to a Load Factor Sharing/LFS LSM, the estimated energy (kWh) will be based on the average of the Customer's Billing Energy (kWh) values for the previous three (3) consecutive Billing Periods. If such historical data is not available, then the estimated energy value (kWh) will be equal to the Takedown (kW) amount at 70 percent load factor for that Billing Period.

- For Customers whose allocation is subject to a First through the Meter/FTM, FTM Modified, or RP 2 LSM, the estimated energy (kWh) will be equal to the Takedown (kW) amount at 100 percent load factor for that Billing Period.

If data indicating the Customer's actual demand and usage for any Billing Period in which an Estimated Bill was rendered is subsequently provided to the Authority, the Authority will make necessary adjustments to the corresponding Estimated Bill and, as appropriate, render a revised bill (or provide a credit) to the Customer.

The Minimum Monthly Charge provisions of Section III B.D. shall apply to Estimated Bills.

The Authority's discretion to render Estimated Bills is not intended to limit the Authority's rights under the Agreement.

F. <u>Adjustments to Charges</u>

In addition to any other adjustments provided for in this Service Tariff, in any Billing Period, the Authority may make appropriate adjustments to billings and charges to address such matters as billing and payment errors, the receipt of actual, additional, or corrected data concerning Customer energy or demand usage.

G. <u>Billing Period</u>

Any period of approximately thirty (30) days, generally ending with the last day of each calendar month but subject to the billing cycle requirements of the local electric utility in whose service territory the Customer's facilities are located.

H. <u>Billing Demand</u>

The billing demand shall be determined by applying the applicable billing methodology to total meter readings during the billing period. See Section IV.E, below.

I. <u>Billing Energy</u>

The billing energy shall be determined by applying the applicable billing methodology to total meter readings during the billing period. See Section IV.E, below.

J. <u>Contract Demand</u>

The contract demand of each Customer will be the amount of Expansion Power and/or Replacement Power, not to exceed their Allocation, provided to such Customer by the Authority in accordance with the Agreement.

IV. General Provisions

A. Character of Service

Alternating current; sixty cycles, three-phase.

B. Availability of Energy

1. Subject to Section IV.B.2, the Authority shall provide to the Customer in any billing period Firm Energy associated with Firm Power. The offer of Firm Energy for delivery shall fulfill the Authority's obligations for purposes of this provision whether or not the Firm Energy is taken by the Customer.

2. If, as a result of reduced water flows caused by hydrologic conditions, there is insufficient energy from the Hydro Projects to supply the full power and energy requirements of NYPA's Firm Power customers served from the Hydro Projects, hydropower curtailments (*i.e.* reductions) in the amount of Firm Power and Energy to which the Customer is entitled shall be applied on a *pro rata* basis to all Firm Power and Energy customers served from the Hydro Projects. Reductions as a percentage of the otherwise required Firm Power and Energy sales will be the same for all Firm Power and Energy customers served from the Hydro Projects. The Authority shall be under no obligation to deliver and will not deliver any such curtailed energy to the Customer in later billing periods. The Customer will receive appropriate bill credits as provided under the Rules.

C. Delivery

For the purpose of this Service Tariff, Firm Power and Firm Energy shall be deemed to be offered when the Authority is able to supply Firm Power and Firm Energy to the Authority's designated NYISO load bus. If, despite such offer, there is a failure of delivery caused by the Customer, NYISO or local electric utility, such failure shall not be subject to a billing adjustment pursuant to Section 454.6(d) of the Rules.

D. Adjustment of Rates

To the extent not inconsistent with the Agreement, the rates contained in this Service Tariff may be revised from time to time on not less than thirty (30) days written notice to the Customer.

E. Billing Methodology and Billing

Unless otherwise specified in the Agreement, the following provisions shall apply:

1. The billing methodology to be used to render bills to the Customer related to its Allocation shall be determined in accordance with the Agreement and delivery agreement between the Authority and, as applicable, the Customer or local electric utility or both.

2. Billing Demand –The Billing Demand charged by the Authority to each Customer will be the highest 15 or 30-minute integrated demand, as determined by the local utility, during each Billing Period recorded on the Customer's meter multiplied by a percentage based on the Load Split Methodology provided for in any contract between the Authority and the Customer's local electric utility, any contract between the Authority and the Customer, or any contract between the Authority, the Customer and the Customer's local electric utility for delivery of WNY Power. Billing Demand may not exceed the amount of the Contract Demand.

3. Billing Energy –The kilowatt-hours charged by the Authority to each Customer will be the total number of kilowatt-hours recorded on the Customer's meter for the Billing Period multiplied by a percentage based on the methodology provided for in any contract between the Authority and the Customer's local electric utility for delivery of WNY Power.

F. <u>Payment by Customer to Authority</u>

1. <u>Demand and Energy Charges, Taxes</u>

   The Customer shall pay the Authority for Firm Power and Energy during any billing period the higher of either (i) the sum of (a), (b) and (c) below or (ii) the monthly minimum charge as defined herein:

   a. The demand charge per kilowatt for Firm Power specified in this Service Tariff or any modification thereof applied to the Customer's billing demand (as defined in Section IV.E, above) for the billing period; and

   b. The energy charge per MWh for Firm Energy specified in this Service Tariff or any modification thereof applied to the Customer's billing energy (as defined in Section IV.E, above) for the billing period; and

   c. A charge representing reimbursement to the Authority for all applicable Taxes incurred by the Authority as a result of providing Expansion Power and/or Replacement Power allocated to the Customer.

2. <u>Transmission Charge</u>

   The Customer shall compensate the Authority for all transmission costs incurred by the Authority with respect to the Allocation, including such costs that are charged pursuant to the OATT.

3. <u>NYISO Transmission and Related Charges ("NYISO Charges")</u>

   The Customer shall compensate the Authority for the following NYISO Charges assessed on the Authority for services provided by the NYISO pursuant to its OATT or other tariffs (as the provisions of those tariffs may be amended and in effect from time to time) associated with providing Electric Service to the Customer:

   A. Ancillary Services 1 through 6 and any new ancillary services as may be defined and included in the OATT from time to time;

   B. Marginal losses;

C. The New York Power Authority Transmission Adjustment Charge ("NTAC");

D. Congestion costs, less any associated grandfathered Transmission Congestion Contracts ("TCCs") as provided in Attachment K of the OATT;

E. Any and all other charges, assessments, or other amounts associated with deliveries to Customers or otherwise associated with the Authority's responsibilities as a Load Serving Entity for the Customers that are assessed on the Authority by the NYISO under the provisions of its OATT or under other applicable tariffs; and

F. Any charges assessed on the Authority with respect to the provision of Electric Service to Customers for facilities needed to maintain reliability and incurred in connection with the NYISO's Comprehensive System Planning Process (or similar reliability-related obligations incurred by the Authority with respect to Electric Service to the Customer), applicable tariffs, or required to be paid by the Authority in accordance with law, regardless of whether such charges are assessed by the NYISO or another third party.

The NYISO Charges, if any, incurred by the Authority on behalf of the Customer, are in addition to the Authority production charges that are charged to the Customer in accordance with other provisions of this Service Tariff.
The method of billing NYISO charges to the Customer will be based on Authority's discretion.

4. Taxes Defined

Taxes shall be any adjustment as the Authority deems necessary to recover from the Customer any taxes, assessments or any other charges mandated by federal, state or local agencies or authorities that are levied on the Authority or that the Authority is required to collect from the Customer if and to the extent such taxes, assessments or charges are not recovered by the Authority pursuant to another provision of this Service Tariff.

5. Substitute Energy

The Customer shall pay for Substitute Energy, if applicable, as specified in the Agreement.

6. Payment Information

Bills computed under this Service Tariff are due and payable by electronic wire transfer in accordance with the Rules. Such wire transfer shall be made to J P Morgan Chase NY, NY / ABA021000021 / NYPA A/C # 008-030383, unless otherwise indicated in writing by the Authority. In the event that there is a dispute on any items of a bill rendered by the Authority, the Customer shall pay such bill in full. If necessary, any adjustments will be made thereafter.

G. Rendition and Payment of Bills

1. The Authority will render bills to the Customer for Electric Service on or before the tenth (10th) business day of the month for charges due for the previous Billing Period. Bills will reflect the amounts due and owing, and are subject to adjustment as provided for in the Agreement, Service Tariff No. WNY-1 and the Rules. Unless otherwise agreed to by the Authority and the Customer in writing, the Authority shall render bills to the Customer electronically.

2. Payment of bills by the Customer shall be due and payable by the Customer within twenty (20) days of the date the Authority renders the bill.

3. Except as otherwise agreed by the Authority in writing, if the Customer fails to pay any bill when due an interest charge of two percent of the amount unpaid will be added thereto as liquidated damages, and thereafter, as further liquidated damages, an additional interest charge of one and one-half percent of the sum unpaid shall be added on the first day of each succeeding Billing Period until the amount due, including interest, is paid in full.

4. If at any time after commencement of Electric Service the Customer fails to make complete payment of any two (2) bills for Electric Service when such bills become due pursuant to Agreement, the Authority shall have the right to require that the Customer deposit with the Authority a sum of money in an amount equal to all charges that would be due under this Agreement for Electric Service for two (2) consecutive calendar months as estimated by the Authority. Such deposit will be deemed security for the payment of unpaid bills and/or other claims of the Authority against the Customer upon termination of Electric Service. The failure or refusal of the Customer to provide the deposit within thirty (30) days of a request for such deposit will be grounds for the Authority in its sole discretion to suspend Electric Service to the Customer or terminate this Agreement.

H. Adjustment of Charges

1. Distribution Losses

   The Authority will make appropriate adjustments to compensate for distribution losses of the local electric utility.

I. Conflicts

The Authority's Rules shall apply to the Electric Service provided under this Service Tariff. In the event of any inconsistencies, conflicts or differences between the provisions of this Service Tariff and the Rules, the provisions of this Service Tariff shall govern.

J. Customer Resales Prohibited

The Customer may not resell any quantity of Expansion Power and/or Replacement Power.

V. Annual Adjustment Factor

A. Adjustment of Rates

1. The AAF will be based upon a weighted average of three indices described below. For each new Rate Year, the index value for the latest available calendar year ("Index Value for the Measuring Year") will be compared to the index value for the calendar year immediately preceding the latest available calendar year (the Index Value for the Measuring Year -1"). The change for each index will then be multiplied by the indicated weights. As described in detail below, these products are then summed, producing the AAF. The AAF will be multiplied by the base rate for the current Rate Year to produce the base rates for the new Rate Year, subject to a maximum adjustment of ±5.0% ("±5% Collar"). Amounts outside the ±5% Collar shall be referred to as the "Excess."

   Index 1, "BLS Industrial Power Price" (35% weight): The average of the monthly Producer Price Index for Industrial Electric Power, commodity code number 0543, not seasonally adjusted, as reported by the U.S. Department of Labor, Bureau of Labor Statistics ("BLS") electronically on its internet site and consistent with its printed publication, "Producer Price Index Detailed Report". For Index 1, the Index Value for the Measuring Year will be the index for the calendar year immediately preceding July 1 of the new Rate Year.

   Index 2, "EIA Average Industrial Power Price" (40% weight): The average weighted annual price (as measured in cents/kWh) for electric sales to the industrial sector in the ten states of CT, MA, ME, NH, NJ, NY, OH, PA, RI and VT ("Selected States") as reported by Coal and Electric Data and Renewables Division; Office of Coal, Nuclear, Electric and Alternate Fuels; Energy Information Administration ("EIA"); U.S. Department of Energy Form EIA-861 Final Data File. For Index 2, the Index Value for the Measuring Year will be the index for the calendar year two years preceding July 1 of the new Rate Year.

   Index 3, "BLS Industrial Commodities Price Less Fuel" (25% weight): The monthly average of the Producer Price Index for Industrial Commodities less fuel, commodity code number 03T15M05, not seasonally adjusted, as reported by the U.S. Department of Labor, BLS electronically on its internet site and consistent with its printed publication, "Producer Price Index Detailed Report". For Index 3, the Index Value for the Measuring Year will be the index for the calendar year immediately preceding July 1 of the new Rate Year.

2. Annual Adjustment Factor Computation Guide

   Step 1: For each of the three Indices, divide the Index Value for Measuring Year by the Index Value for the Measuring Year-1.

   Step 2: Multiply the ratios determined in Step 1 by percentage weights for each Index. Sum the results to determine the weighted average. This is the AAF.

   Step 3: Commencing RY 2014, modifications to the AAF will be subject to ±5% Collar, as described below.

   a) When the AAF falls outside the ±5% Collar, the Excess will be carried over to the subsequent RY. If the AAF in the subsequent RY is within the ±5% Collar, the current RY Excess will be added to/subtracted from the subsequent Rate Year's AAF, up to the ±5% Collar.

b) Excesses will continue to accrue without limit and carry over such that they will be added to/subtracted from the AAF in any year where the AAF is within the ±5% Collar.

Step 4: Multiply the current Rate Year base rate by the AAF calculated in Step 2 to determine the new Rate Year base rate.

The foregoing calculation shall be performed by the Authority consistent with the sample presented in Section V.B below.

3. The Authority shall provide the Customer with notice of any adjustment to the current base rate per the above and with all data and calculations necessary to compute such adjustment by June 15th of each year to be effective on July 1 of such year, commencing in 2014. The values of the latest officially published (electronically or otherwise) versions of the indices and data provided by the BLS and EIA as of June 1 shall be used notwithstanding any subsequent revisions to the indices.

4. If during the term of the Agreement any of the three above indices ceases to be available or ceases to be reflective of the relevant factors or of changes which the indices were intended by the Parties to reflect, the Customer and the Authority shall mutually select a substitute Index. The Parties agree to mutually select substitute indices within 90 days, once notified by the other party that the indices are no longer available or no longer reflect the relevant factors or changes with the indices were intended by the Parties to reflect. Should the 90-day period cover a planned July 1 rate change, the current base rates will remain in effect until substitute indices are selected and the adjusted rates based on the substitute indices will be retroactive to the previous July 1. If unable to reach agreement on substitute indices within the 90-day period, the Parties agree to substitute the mathematic average of the PPI—Intermediate Materials, Supplies and Components (BLS Series ID WPUSOP2000) and the PPI-- Finished Goods (BLS Series ID WPUSOP3000) indices for one or more indices that have ceased to be available and shall assume the percentage weighting(s) of the one or more discontinued indices as indicated in Section V.A.1.

B. Sample Computation of the AAF (hypothetical values for July 1, 2014 implementation):

STEP 1

Determine the Index Value for the Measuring Year (MY) and Measuring Year - 1 (MY-1) for Each Index

- Index 1 - Producer Price Index, Industrial Power

	Measuring Year (2013)	Measuring Year - 1 (2012)
January	171.2	167.8
February	172.8	167.6
March	171.6	168.2
April	173.8	168.6
May	175.1	171.6
June	185.7	180.1
July	186.4	182.7
August	184.7	179.2
September	185.5	181.8
October	175.5	170.2
November	172.2	168.8
December	171.8	166.6
Average	177.2	172.8
Ratio of MY/MY-1		**1.03**

- Index 2 – EIA Industrial Rate

State	Revenues ($000s)	Sales (MWh)	Avg. Rate (cents/kWh)
Measuring Year (2012)			
CT	590,972	6,814,757	
MA	1,109,723	13,053,806	
ME	328,594	4,896,176	
NH	304,363	2,874,495	
NJ	1,412,665	15,687,873	
NY	2,001,588	26,379,314	
OH	3,695,978	78,496,166	
PA	3,682,192	63,413,968	
RI	152,533	1,652,593	
VT	155,903	2,173,679	
TOTAL	13,434,511	215,442,827	**6.24**
Measuring Year -1 (2011)			
CT	579,153	6,678,462	
MA	1,076,431	12,662,192	
ME	310,521	4,626,886	
NH	298,276	2,817,005	
NJ	1,370,285	15,217,237	
NY	1,891,501	24,928,452	
OH	3,622,058	76,926,243	
PA	3,571,726	61,511,549	
RI	144,144	1,561,700	
VT	152,785	2,130,205	
TOTAL	13,016,880	209,059,931	**6.23**
Ratio of MY/MY-1			**1.00**

- Index 3 – Producer Price Index, Industrial Commodities Less Fuel

	Measuring Year (2013)	Measuring Year -1 (2012)
January	190.1	187.2
February	190.9	188.0
March	191.6	188.7
April	192.8	189.9
May	194.7	191.8
June	195.2	192.3
July	195.5	192.3
August	196.0	193.1
September	196.1	193.2
October	196.2	193.8
November	196.6	193.7
December	196.7	194.0
Average	194.4	191.5
Ratio of MY/MY-1		**1.02**

STEP 2

Determine AAF by Summing the Weighted Indices

Index	Ratio of MY to MY-1	Weight	Weighted Factors
PPI Industrial Power	1.03	0.35	0.361
EIA Industrial Rate	1.00	0.40	0.400
PPI Industrial Commodities less fuel	1.02	0.25	0.255
AAF			**1.016**

STEP 3

Apply Collar of ±5.0% to Determine the Maximum/Minimum AAF.

-5.0% < 1.6% < 5.0%; collar does not apply, assuming no cumulative excess.

Issued by James F. Pasquale, Senior Vice President
Power Authority of the State of New York
30 South Pearl Street, Albany, NY 12207

STEP 4

Apply AAF to Calculate the New Rate Year Base Rate

	Demand $/kW-mo.	Energy $/MWh
Current Rate Year Base Rate	7.56	12.91
New Rate Year Base Rate	7.68	13.12

Exhibit B-3
July 30, 2015

POWER AUTHORITY

OF THE

STATE OF NEW YORK

30 South Pearl Street
10th Floor
Albany, New York 12207-3425

AGREEMENT FOR THE SALE
OF EXPANSION POWER AND/OR REPLACEMENT POWER
to
CUMMINS INC.

The POWER AUTHORITY OF THE STATE OF NEW YORK (“Authority”), created pursuant to Chapter 772 of the New York Laws of 1931 and existing under Title I of Article V of the New York Public Authorities Law (“PAL”), having its office and principal place of business at 30 South Pearl Street, 10th Floor, Albany, New York 12207-3425, hereby enters into this Agreement for the Sale of Expansion Power and/or Replacement Power (“Agreement”) with Cummins Inc., (“Customer”) with offices at 4720 Baker Street Extension, Lakewood, New York, 14750. The Authority and the Customer are from time to time referred to in this Agreement as “Party” or collectively as “Parties” and agree follows:

RECITALS

WHEREAS, the Authority is authorized to sell hydroelectric power produced by the Niagara Power Project, Federal Energy Regulatory Commission (“FERC”) Project No. 2216, known as “Expansion Power” (or “EP”), as further defined in this Agreement, to qualified businesses in New York State in accordance with PAL § 1005(5) and (13);

WHEREAS, the Authority is authorized to sell hydroelectric power produced by the Niagara Power Project, FERC Project No. 2216, known as “Replacement Power” (or “RP”), as further defined in this Agreement, to qualified businesses in New York State in accordance with PAL § 1005(5) and (13);

WHEREAS, EP consists of 250 megawatts (“MW”) of firm hydroelectric power and associated firm energy produced by the Niagara Power Project;

WHEREAS, RP consists of 445 MW of firm hydroelectric power and associated firm energy produced by the Niagara Power Project;

WHEREAS, the Authority is authorized pursuant to PAL § 1005(13)(a) to award EP and/or RP based on, among other things, the criteria listed in the PAL, including but not limited to an applicant’s long-term commitment to the region as evidenced by the current and planned capital investment; the type and number of jobs supported or created by the allocation; and the state, regional and local economic development strategies and priorities supported by local units of governments in the area in which the recipient’s facilities are located;

WHEREAS, the Customer applied to the Authority for an allocation of hydropower to support operations at a new and/or expanded facility to be constructed and operated by the Customer (defined in Section I of this Agreement as the “Facility”);

WHEREAS, on May 19, 2015, the Authority’s Board of Trustees (“Trustees”) approved a 700 kilowatt (“kW”) allocation of EP to the Customer for a seven (7) year term (defined in Section I of this Agreement as the “Allocation”) in connection with the construction and operation of the Facility as further described in this Agreement;

WHEREAS, on May 19, 2015, the Trustees authorized the Authority to, among other things, take any and all actions and execute and deliver any and all agreements and other documents necessary to effectuate its approval of the Allocation;

WHEREAS, the provision of Electric Service associated with the Allocation is an

unbundled service separate from the transmission and delivery of power and energy to the Customer, and delivery service will be performed by the Customer's local electric utility in accordance with the Utility Tariff;

WHEREAS, the Parties have reached an agreement on the sale of the Allocation to the Customer on the terms and conditions provided for in this Agreement;

WHEREAS, the Authority has complied with requirements of PAL § 1009 which specifies the approval process for certain contracts negotiated by the Authority; and

WHEREAS, the Governor of the State of New York has approved the terms of this Agreement pursuant to PAL § 1009(3).

NOW THEREFORE, in consideration of the mutual covenants herein, the Authority and the Customer agree as follows:

NOW THEREFORE, the Parties hereto agree as follows:

I. Definitions

A. **Agreement** means this Agreement.

B. **Allocation** refers to the allocation of EP and/or RP awarded to the Customer as specified in Schedule A.

C. **Contract Demand** is as defined in Service Tariff No. WNY-1.

D. **Electric Service** is the Firm Power and Firm Energy associated with the Allocation and sold by the Authority to the Customer in accordance with this Agreement, Service Tariff No. WNY-1 and the Rules.

E. **Expansion Power** (or **EP**) is 250 MW of Firm Power and associated Firm Energy from the Project eligible to be allocated by the Authority for sale to businesses pursuant to PAL § 1005(5) and (13).

F. **Facility** means the Customer's facilities as described in Schedule A to this Agreement.

G. **Firm Power** is as defined in Service Tariff No. WNY-1.

H. **Firm Energy** is as defined in Service Tariff No. WNY-1.

I. **FERC** means the Federal Energy Regulatory Commission (or any successor organization).

J. **FERC License** means the first new license issued by FERC to the Authority for the continued operation and maintenance of the Project, pursuant to Section 15 of the Federal Power Act, which became effective September 1, 2007 after expiration of the Project's original license which became effective in 1957.

K. **Hydro Projects** is a collective reference to the Project and the Authority's St. Lawrence-FDR Project, FERC Project No. 2000.

L. **Load Serving Entity** (or **LSE**) means an entity designated by a retail electricity customer (including the Customer) to provide capacity, energy and ancillary services to serve such customer, in compliance with NYISO Tariffs, rules, manuals and procedures.

M. **NYISO** means the New York Independent System Operator or any successor organization.

N. **NYISO Tariffs** means the NYISO's Open Access Transmission Tariff or the NYISO's Market Administration and Control Area Services Tariff, as applicable, as such tariffs are modified from time to time, or any successor to such tariffs.

O. **Project** means the Niagara Power Project, FERC Project No. 2216.

P. **Replacement Power** (or **RP**) is445 MW of Firm Power and associated Firm Energy from the Project eligible to be allocated by the Authority for sale to businesses pursuant to PAL § 1005(5) and (13).

Q. **Rules** are the applicable provisions of Authority's rules and regulations (Chapter X of Title 21 of the Official Compilation of Codes, Rules and Regulations of the State of New York), as may be modified from time to time by the Authority.

R. **Service Tariff No. WNY-1** means the Authority's Service Tariff No. WNY-1, as may be modified from time to time by the Authority, which contains, among other things, the rate schedule establishing rates and other commercial terms for sale of Electric Service to Customer under this Agreement.

S. **Schedule A** refers to the Schedule A entitled "Expansion Power and/or Replacement Power Allocations" which is attached to and made part of this Agreement.

T. **Schedule B** refers to the Schedule B entitled "Expansion Power and/or Replacement Power Commitments" which is attached to and made part of this Agreement.

U. **Schedule C** refers to the Schedule C entitled "Takedown Schedule" which is attached to and made part of this Agreement.

V. **Substitute Energy** means energy that the Authority provides at the request of the Customer to replace hydroelectricity that would otherwise have been supplied to the Customer under this Agreement. Unless otherwise agreed upon by the Parties, Substitute Energy refers to energy purchased by the Authority for the Customer from markets administered by the NYISO.

W. **Taxes** is as defined in Service Tariff No. WNY-1

X. **Unforced Capacity (or "UCAP")** means the electric capacity required to be provided by LSEs to serve electric load as defined by the NYISO Tariffs, rules, manuals and procedures.

Y. **Utility Tariff** means the retail tariff(s) of the Customer's local electric utility filed and approved by the PSC applicable to the delivery of EP and/or RP.

II. Electric Service

A. The Authority shall make available Electric Service to enable the Customer to receive the Allocation in accordance with this Agreement, Service Tariff No. WNY-1 and the Rules. The Customer shall not be entitled to receive Electric Service under this Agreement for any EP and/or RP allocation unless such EP and/or RP allocation is identified on Schedule A.

B. The Authority will provide, and the Customer shall pay for, Electric Service with respect to the Allocation specified on Schedule A. If Schedule C specifies a Takedown Schedule for the Allocation, the Authority will provide, and the Customer shall take and pay for, Electric Service with respect to the Allocation in accordance with such Takedown Schedule.

C. The Authority shall provide UCAP in amounts necessary to meet the Customer's NYISO UCAP requirements associated with the Allocation in accordance with the NYISO Tariffs. The Customer shall be responsible to pay the Authority for such UCAP in accordance with Service Tariff No. WNY-1.

D. The Customer acknowledges and agrees that Customer's local electric utility shall be responsible for delivering the Allocation to the Facility specified in Schedule A, and that the Authority has no responsibility for delivering the Allocation to the Customer.

E. The Contract Demand for the Customer's Allocation may be modified by the Authority if the amount of Firm Power and Firm Energy available for sale as EP or RP from the Project is modified as required to comply with any ruling, order, or decision of any regulatory or judicial body having jurisdiction, including but not limited to FERC. Any such modification will be made on a pro rata basis to all EP and RP customers, as applicable, based on the terms of such ruling, order, or decision.

F. The Contract Demand may not exceed the Allocation.

III. Rates, Terms and Conditions

A. Electric Service shall be sold to the Customer based on the rates, terms and conditions provided for in this Agreement, Service Tariff No. WNY-1 and the Rules.

B. Notwithstanding any provision of this Agreement to the contrary, the power and energy rates for Electric Service shall be subject to increase by Authority at any time upon 30 days prior written notice to Customer if, after consideration by Authority of its legal obligations, the marketability of the output or use of the Project and Authority's

competitive position with respect to other suppliers, Authority determines in its discretion that increases in rates obtainable from any other Authority customers will not provide revenues, together with other available Authority funds not needed for operation and maintenance expenses, capital expenses, and reserves, sufficient to meet all requirements specified in Authority's bond and note resolutions and covenants with the holders of its financial obligations. Authority shall use its best efforts to inform Customer at the earliest practicable date of its intent to increase the power and energy rates pursuant to this provision. Any rate increase to Customer under this subsection shall be on a non-discriminatory basis as compared to other Authority customers after giving consideration to the factors set forth in the first sentence of this subsection. With respect to any such increase, Authority shall forward to Customer with the notice of increase, an explanation of all reasons for the increase, and shall also identify the sources from which Authority will obtain the total of increased revenues and the bases upon which Authority will allocate the increased revenue requirements among its customers. Any such increase in rates shall remain in effect only so long as Authority determines such increase is necessary to provide revenues for the purposes stated in the preceding sentences.

IV. Expansion Power and/or Replacement Power Commitments

A. Schedule B sets forth the Customer's specific "Expansion Power and/or Replacement Power Commitments." The commitments agreed to in Schedule B are in addition to any other rights and obligations of the Parties provided for in the Agreement.

B. The Authority's obligation to provide Electric Service under this Agreement, and the Customer's obligation to take and pay for such Electric Service, are expressly conditioned upon the Customer's timely completion of the commitments described in Schedule B.

C. In the event of partial completion of the Facility which has resulted in such Facility being partly operational and the partial attainment of the Base Employment Level, the Authority may, upon the Customer's request, provide Electric Service to the Customer in an amount determined by the Authority to fairly correspond to the completed portion of the Facility, provided that the Customer demonstrates that the amount of requested Electric Service is needed to support the operations of the partially completed Facility.

D. The Customer shall give the Authority not less than ninety (90) days' advance notice in writing of the anticipated date of partial or full completion of the Facility. The Authority will inspect the Facility for the purpose of verifying the completion status of the Facility and notify Customer of the results of the inspection. The Authority will thereafter commence Electric Service within a reasonable time after verification based on applicable operating procedures of the Authority, the Customer's local electric utility and the NYISO.

E. In the event the Customer fails to complete the Facility by May 19, 2018 (*i.e.*, within three (3) years of the Authority's award of the Allocation), the Allocation, at the option and discretion of the Authority, may be canceled or reduced by the total amount of kilowatts determined by the Authority to fairly correspond to the uncompleted portion of the Facility, provided that in such event, and upon request of the Customer, such date may be extended by the Authority in its sole discretion.

V. Rules and Service Tariff

Service Tariff No. WNY-1, as may be modified or superseded from time to time by the Authority, is hereby incorporated into this Agreement with the same force and effect as if set forth herein at length. In the event of any inconsistencies, conflicts, or differences between the provisions of Service Tariff No.WNY-1 and the Rules, the provisions of Service Tariff No. WNY-1 shall govern. In the event of any inconsistencies, conflicts or differences between the provisions of this Agreement and Service Tariff No. WNY-1, the provisions of this Agreement shall govern.

VI. Transmission and Delivery of Firm Power and Firm Energy; Responsibility for Charges

A. The Customer shall be responsible complying with all requirements of its local electric utility that are necessary to enable the Customer to receive delivery service for the Allocation. Delivery of the Allocation shall be subject to the Utility Tariff.

B. The Customer shall be solely responsible for paying its local electric utility for delivery service associated with the Allocation in accordance with the Utility Tariff. Should the Authority incur any charges associated with such delivery service, the Customer shall reimburse the Authority for all such charges.

C. The Customer understands and acknowledges that delivery of the Allocation will be made over transmission facilities under the control of the NYISO. The Authority will act as the LSE with respect to the NYISO, or arrange for another entity to do so on the Authority's behalf. The Customer agrees and understands that it shall be responsible to the Authority for all costs incurred by the Authority with respect to the Allocation for the services established in the NYISO Tariff, or other applicable tariff ("NYISO Charges"), as set forth in Service Tariff No. WNY-1 or any successor service tariff, regardless of whether such NYISO Charges are transmission-related. Such NYISO Charges shall be in addition to the charges for power and energy.

D. By entering into this Agreement, the Customer consents to the exchange of information between the Authority and the Customer's local electric utility pertaining to the Customer that the Authority and the local electric utility determine is necessary to provide for the Allocation, sale and delivery of EP and/or RP to the Customer, the proper and efficient implementation of the EP and/or RP programs, billing related to EP and/or RP, and/or the performance of such parties' obligations under any contracts or other arrangements between them relating to such matters.

E. The provision of Electric Service by the Authority shall be dependent upon the existence of a written agreement or other form of understanding between the Authority and the Customer's local electric utility on terms and conditions that are acceptable to the Authority.

F. The Customer understands and acknowledges that the Authority may from time to time require the Customer to complete forms, provide documentation, execute consents and provide other information (collectively, "Information") which the Authority determines is necessary for the provision of Electric Service, the delivery of EP and/or RP, billing

related to the EP and/or RP program, the effective and proper administration of the EP and/or RP program, and/or the performance of contracts or other arrangements between the Authority and the Customer's local electric utility. The Customer's failure to provide such Information shall be grounds for the Authority in its sole discretion to withhold or suspend Electric Service to the Customer.

VII. Billing and Billing Methodology

A. The billing methodology for the Allocation shall be determined on a "load factor sharing" basis in a manner consistent with the Utility Tariff and any agreement between the Authority and the Customer's local electric utility. An alternative basis for billing may be used provided the Parties agree in writing and the local electric utility provides its consent if such consent is deemed necessary.

B. The Authority will render bills by the 10^{th} business day of the month for charges due for the previous month. Such bills shall include charges for Electric Service, NYISO Charges associated with the Allocation (subject to adjustment consistent with any later NYISO re-billings to the Authority), and other applicable charges.

C. The Authority may render bills to the Customer electronically.

D. The Authority and the Customer may agree in writing to an alternative method for the rendering of bills and for the payment of bills, including but not limited to the use of an Authority-established customer self-service web portal.

E. The Authority will charge and collect from the Customer all Taxes (including local, state and federal taxes) the Authority determines are applicable, unless the Customer furnishes the Authority with proof satisfactory to the Authority that (i) the Customer is exempt from the payment of any such Taxes, and/or (ii) the Authority is not obligated to collect such Taxes from the Customer. If the Authority is not collecting Taxes from the Customer based on the circumstances described in (i) or (ii) above, the Customer shall immediately inform the Authority of any change in circumstances relating to its tax status that would require the Authority to charge and collect such Taxes from the Customer.

F. Unless otherwise agreed to by the Authority and the Customer in writing, if the Customer fails to pay any bill when due, an interest charge of two percent (2%) of the amount unpaid shall be added thereto as liquidated damages, and thereafter, as further liquidated damages, an additional interest charge of one and one-half percent (1 1/2%) of the sum unpaid shall be added on the first day of each succeeding billing period until the amount due, including interest, is paid in full.

G. Unless otherwise agreed to by the Authority and the Customer in writing, in the event the Customer disputes any item of any bill rendered by Authority, the Customer shall pay such bill in full within the time provided for by this Agreement, and adjustments, if appropriate, will be made thereafter.

H. If at any time after commencement of Electric Service the Customer fails to make complete and timely payment of any two (2) bills for Electric Service, the Authority shall

have the right to require the Customer to deposit with the Authority a sum of money in an amount equal to all charges that would be due under this Agreement for Electric Service for two (2) consecutive calendar months as estimated by the Authority. Such deposit shall be deemed security for the payment of unpaid bills and/or other claims of the Authority against the Customer upon termination of Electric Service. If the Customer fails or refuses to provide the deposit within thirty (30) days of a request for such deposit, the Authority may, in its sole discretion, suspend Electric Service to the Customer or terminate this Agreement.

I. All other provisions with respect to billing are set forth in Service Tariff No. WNY-1 and the Rules.

J. The rights and remedies provided to the Authority in this Article are in addition to any and all other rights and remedies available to Authority at law or in equity.

VIII. Hydropower Curtailments and Substitute Energy

A. If, as a result of reduced water flows caused by hydrologic conditions, there is insufficient energy from the Hydro Projects to supply the full power and energy requirements of the Authority's firm power customers served by the Authority from the Hydro Projects, curtailments (*i.e.* reductions) in the amount of Firm Power and Firm Energy associated with the Allocation to which the Customer is entitled shall be applied on a *pro rata* basis to all firm power and energy customers served from the Hydro Projects, consistent with Service Tariff No. WNY-1 as applicable.

B. The Authority shall provide reasonable notice to Customer of any curtailments referenced in Section VIII.A of this Agreement that could impact Customer's Electric Service under this Agreement. Upon written request by the Customer, the Authority will provide Substitute Energy to the Customer to replace the Firm Power and Firm Energy that would otherwise have been supplied pursuant to this Agreement.

C. For each kilowatt-hour of Substitute Energy supplied by the Authority, the Customer will pay the Authority directly during the billing month: (1) the difference between the market cost of the Substitute Energy and the charge for firm energy as provided for in this Agreement; and (2) any NYISO charges and taxes the Authority incurs in connection with the provision of such Substitute Energy. Billing and payment for Substitute Energy shall be governed by the Billing and Payments provision of the Authority's Rules (Section 454.6) and shall apply directly to the Substitute Energy service supplied to the Customer.

D. The Parties may enter into a separate agreement to facilitate the provision of Substitute Energy, provided, however, that the provisions of this Agreement shall remain in effect notwithstanding any such separate agreement. The provision of Substitute Energy may be terminated by the Authority or the Customer on fifteen (15) days' prior written notice.

IX. Effectiveness, Term and Termination

A. This Agreement shall become effective and legally binding on the Parties upon execution of this Agreement by the Authority and the Customer.

B. Once commenced, Electric Service under the Agreement shall continue until the earliest of: (1) termination by the Customer with respect to its Allocation upon ninety (90) days prior written notice to the Authority; (2) termination by the Authority pursuant to this Agreement, Service Tariff No. WNY-1, or the Rules; or (3) expiration of the Allocation by its own term as specified in Schedule A.

C. The Customer may exercise a partial termination of the Allocation upon at least thirty (30) days' notice prior written notice to the Authority. The termination shall be effective commencing with the first billing period as defined in Service Tariff No. WNY-1.

D. The Authority may cancel service under this Agreement or modify the quantities of Firm Power and Firm Energy associated with the Allocation: (1) if such cancellation or modification is required to comply with any final ruling, order or decision of any regulatory or judicial body of competent jurisdiction (including any licensing or re-licensing order or orders of the FERC or its successor agency); or (2) as otherwise provided in this Agreement, Service Tariff No. WNY-1, or the Rules.

X. Additional Allocations

A. Upon proper application by the Customer, the Authority may in its discretion award additional allocations of EP or RP to the Customer at such rates and on such terms and conditions as the Authority establishes. If the Customer agrees to purchase Electric Service associated with any such additional allocation, the Authority will (i) incorporate any such additional allocations into Schedule A, or in its discretion will produce a supplemental schedule, to reflect any such additional allocations, and (ii) produce a modified Appendix to Schedule B, as the Authority determines to be appropriate. The Authority will furnish the Customer with any such modified Schedule A, supplemental schedule, and/or a modified Appendix to Schedule B, within a reasonable time after commencement of Electric Service for any such additional allocation.

B. In addition to any requirements imposed by law, the Customer hereby agrees to furnish such documentation and other information as the Authority requests to enable the Authority to evaluate any requests for additional allocations and consider the terms and conditions that should be applicable of any additional allocations.

XI. Notification

A. Correspondence involving the administration of this Agreement shall be addressed as follows:

To: The Authority

New York Power Authority

123 Main Street
White Plains, New York 10601
Email:
Facsimile: ______
Attention: Manager – Business Power Allocations and Compliance

To: The Customer

Cummins Inc.
4720 Baker Street Extension
Lakewood, New York 14750
Email:
Facsimile:
Attention:

The foregoing notice/notification information pertaining to either Party may be changed by such Party upon notification to the other Party pursuant to Section XI.B of this Agreement.

B. Except where otherwise herein specifically provided, any notice, communication or request required or authorized by this Agreement by either Party to the other shall be deemed properly given: (1) if sent by U.S. First Class mail addressed to the Party at the address set forth above; (2) if sent by a nationally recognized overnight delivery service, two (2) calendar days after being deposited for delivery to the appropriate address set forth above; (3) if delivered by hand, with written confirmation of receipt; (4) if sent by facsimile to the appropriate fax number as set forth above, with written confirmation of receipt; or (5) if sent by electronic mail to the appropriate address as set forth above, with written confirmation of receipt. Either Party may change the addressee and/or address for correspondence sent to it by giving written notice in accordance with the foregoing.

XII. Applicable Law

This Agreement shall be governed by and construed in accordance with the laws of the State of New York to the extent that such laws are not inconsistent with the FERC License and the Niagara Redevelopment Act (16 USC §§836, 836a).

XIII. Venue

Each Party consents to the exclusive jurisdiction and venue of any state or federal court within or for Albany County, New York, with subject matter jurisdiction for adjudication of any claim, suit, action or any other proceeding in law or equity arising under, or in any way relating to this Agreement.

XIV. Successors and Assigns; Resale of Hydropower

A. The Customer may not assign or otherwise transfer an interest in this Agreement.

B. The Customer may not resell or allow any other person to use any quantity of EP and/or RP it has purchased from the Authority under this Agreement.

C. Electric Service sold to the Customer pursuant to this Agreement may only be used by the Customer at the Facility specified in Schedule A.

XV. Previous Agreements and Communications

A. This Agreement shall constitute the sole and complete agreement of the Parties hereto with respect to the subject matter hereof, and supersedes all prior negotiations, representations, warranties, commitments, offers, contracts and writings, written or oral, with respect to the subject matter hereof.

B. Except as otherwise provided in this Agreement, no modification of this Agreement shall be binding upon the Parties hereto or either of them unless such modification is in writing and is signed by a duly authorized officer of each of them.

XVI. Severability and Voidability

A. If any term or provision of this Agreement shall be invalidated, declared unlawful or ineffective in whole or in part by an order of the FERC or a court of competent jurisdiction, such order shall not be deemed to invalidate the remaining terms or provisions hereof.

B. Notwithstanding the preceding paragraph, if any provision of this Agreement is rendered void or unenforceable or otherwise modified by a court or agency of competent jurisdiction, the entire Agreement shall, at the option of either Party and only in such circumstances in which such Party's interests are materially and adversely impacted by any such action, be rendered void and unenforceable by such affected Party.

XVII. Waiver

A. Any waiver at any time by either the Authority or the Customer of their rights with respect to a default or of any other matter arising out of this Agreement shall not be deemed to be a waiver with respect to any other default or matter.

B. No waiver by either Party of any rights with respect to any matter arising in connection with this Agreement shall be effective unless made in writing and signed by the Party making the waiver.

XVIII. Execution

To facilitate execution, this Agreement may be executed in as many counterparts as may be required, and it shall not be necessary that the signatures of, or on behalf of, each Party, or that the signatures of all persons required to bind any Party, appear on each counterpart; but it shall be sufficient that the signature of, or on behalf of, each Party, or that the signatures of the persons required to bind any Party, appear on one or more of the counterparts. All counterparts shall collectively constitute a single agreement. It shall

not be necessary in making proof of this Agreement to produce or account for more than a number of counterparts containing the respective signatures of, or on behalf of, all of the Parties hereto. The delivery of an executed counterpart of this Agreement by email as a PDF file shall be legal and binding and shall have the same full force and effect as if an original executed counterpart of this Agreement had been delivered.

[SIGNATURES FOLLOW ON NEXT PAGE]

AGREED:

CUMMINS INC.

By: ______________________________________

Title: ______________________________________

Date: ______________________________________

AGREED:

POWER AUTHORITY OF THE STATE OF NEW YORK

By: ______________________________________
John R. Koelmel, Chairman

Date: ______________________________________

SCHEDULE A TO AGREEMENT FOR THE SALE OF EXPANSION POWER AND/OR REPLACEMENT POWER TO CUSTOMER

EXPANSION POWER AND/OR REPLACEMENT POWER ALLOCATIONS

Customer: Cummins Inc. Type of Allocation	Allocation Amount (kW)	Facility	Trustee Approval Date	Expiration Date
Expansion Power	700	4720 Baker Street Extension, Lakewood, NY 14750	May 19, 2015	Seven (7) years from commencement of Electric Service of any portion of this Allocation.

SCHEDULE B TO AGREEMENT FOR THE SALE OF EXPANSION POWER AND/OR REPLACEMENT POWER TO CUSTOMER

EXPANSION POWER AND/OR REPLACEMENT POWER COMMITMENTS

I. Employment Commitments

A. Employment Levels

The provision of EP and/or RP to the Customer hereunder is in consideration of, among other things, the Customer's creation and/or maintenance of the employment level set forth in the Appendix of this Schedule (the "Base Employment Level"). Such Base Employment Level shall be the total number of full-time positions held by: (1) individuals who are employed by the Customer at Customer's Facility identified in the Appendix to this Schedule, and (2) individuals who are contractors or who are employed by contractors of the Customer and assigned to the Facility identified in such Appendix (collectively, "Base Level Employees"). The number of Base Level Employees shall not include individuals employed on a part-time basis (less than 35 hours per week); provided, however, that two individuals each working 20 hours per week or more at such Facility shall be counted as one Base Level Employee.

The Base Employment Level shall not be created or maintained by transfers of employees from previously held positions with the Customer or its affiliates within the State of New York, except that the Base Employment Level may be filled by employees of the Customer laid off from other Customer facilities for *bona fide* economic or management reasons.

The Authority may consider a request to change the Base Employment Level based on a claim of increased productivity, increased efficiency or adoption of new technologies or for other appropriate reasons as determined by the Authority. Any such change shall be within Authority's sole discretion.

B. Employment Records and Reports

A record shall be kept monthly by the Customer, and provided on a calendar year basis to the Authority, of the total number of Base Level Employees who are employed at or assigned to the Customer's Facility identified in the Appendix to this Schedule, as reported to the United States Department of Labor (or as reported in such other record as agreed upon by the Authority and the Customer). Such report shall separately identify the individuals who are employed by the Customer, and the individuals who are contractors or who are employed by contractors of the Customer, and shall be certified to be correct by an officer of the Customer, plant manager or such other person authorized by the Customer to prepare and file such report and shall be provided to the Authority on or before the last day of February following the end of the most recent calendar year. The Authority shall have the right to examine and audit on reasonable advance written notice

all non-confidential written and electronic records and data concerning employment levels including, but not limited to, personnel records and summaries held by the Customer and its affiliates relating to employment in New York State.

II. Reductions of Contract Demand

A. Employment Levels

If the year-end monthly average number of employees is less than 90% of the Base Employment Level set forth in this Schedule B, for the subject calendar year, the Authority may reduce the Contract Demand subject to Article II.D of this Schedule. The maximum amount of reduction will be determined by multiplying the Contract Demand by the quantity one minus the quotient of the average monthly employment during the subject calendar year divided by the Base Employment Level. Any such reduction shall be rounded to the nearest fifty (50) kW. In the event of a reduction of the Contract Demand to zero, the Agreement shall automatically terminate.

B. Power Utilization Levels

A record shall be kept monthly by the Customer, and provided on a calendar year basis to the Authority on or before the last day of February following the end of the most recent calendar year, of the maximum demand utilized each month in the Facility receiving the power covered by the Agreement. If the average of the Customer's six (6) highest Billing Demands (as such term is described in Service Tariff No. WNY-1) for Expansion Power and/or Replacement Power is less than 90% of the Customer's Contract Demand in such calendar year the Authority may reduce the Contract Demand subject to Article II.D of this Schedule. The maximum amount by which the Authority may reduce the Contract Demand shall be determined by multiplying the Contract Demand by the quantity one minus the quotient of the average of the six (6) highest Billing Demands for in such calendar year divided by the Contract Demand. Any such reduction shall be rounded to the nearest fifty (50) kW. In the event of a reduction of the Contract Demand to zero, this Agreement shall automatically terminate.

C. Capital Investment

The Customer agrees to undertake the capital investment set forth in the Appendix to this Schedule.

Notwithstanding any other provision of the Agreement, the Customer shall provide the Authority with such access to the Facility, and such documentation, as the Authority deems necessary to determine the Customer's compliance with the Customer's obligations provided for in this Schedule B.

D. Notice of Intent to Reduce Contract Demand

In the event that the Authority determines that the Contract Demand will be wholly or partially reduced pursuant to this Schedule , the Authority shall provide the Customer with at least thirty (30) days prior written notice of such reduction, specifying the amount of the reduction of Contract Demand and the reason for the reduction, provided, however, that before making the reduction, the Authority may consider the Customer's scheduled or unscheduled maintenance or Facility upgrading periods when such events temporarily reduce plant employment levels or electrical demand as well as business cycle.

III. Energy Efficiency Audits; Information Requests

Unless otherwise agreed to by the Authority in writing, the Customer shall undergo an energy efficiency audit of its Facility and equipment at which the Allocation is consumed at the Customer's expense at least once during the term of this Agreement but in any event not less than once every five years. The Customer will provide the Authority with a copy of the audit or, at the Authority's option, a report describing the results of the audit, and provide documentation requested by the Authority to verify the implementation of any efficiency measures implemented at the Facility.

The Customer agrees to cooperate to make its Facility available at reasonable times and intervals for energy audits and related assessments that the Authority desires to perform, if any, at the Authority's own expense.

The Customer shall provide information requested by the Authority or its designee in surveys, questionnaires and other information requests relating to energy efficiency and energy-related projects, programs and services.

The Customer may, after consultation with the Authority, exclude from written copies of audits, reports and other information provided to the Authority under this Article trade secrets and other information which if disclosed would harm the competitive position of the Customer.

APPENDIX TO SCHEDULE B

BASE EMPLOYMENT LEVEL

Within three (3) years of commencement of Electric Service, the Customer shall employ at least one thousand four hundred seventeen (1,417) full-time employees ("Base Employment Level") at the Customer's Facility. The Base Employment Level shall be maintained thereafter for the term of the Allocation in accordance with Article I of Schedule B.

CAPITAL INVESTMENT

The Customer shall make a total capital investment of at least $47,000,000 to renovate and furnish the Facility (the "Capital Investment"). The Capital Investment for the Facility is expected to consist of the following specific expenditures:

Machinery:	$39,370,000
Facility Upgrades:	$ 2,750,000
Tooling:	$ 3,000,000
Install:	$ 1,880,000
Total Capital Investment:	**$47,000,000**

The Capital Investment shall be made, and the Facility shall be completed and fully operational, no later than May 19, 2018 (*i.e.*, within three (3) years of the date of the Authority's award of the Allocation). Upon request of the Customer, such date may be extended in the sole discretion of the Authority.

SCHEDULE C TO AGREEMENT FOR THE SALE OF EXPANSION POWER AND/OR REPLACEMENT POWER TO CUSTOMER

TAKEDOWN SCHEDULE

N/A

POWER AUTHORITY OF THE STATE OF NEW YORK
30 SOUTH PEARL STREET
ALBANY, NY 12207

Schedule of Rates for Sale of Firm Power to Expansion and Replacement Customers located In Western New York

Service Tariff No. WNY-1

Issued by James F. Pasquale, Senior Vice President
Power Authority of the State of New York
30 South Pearl Street, Albany, NY 12207

Table of Contents

Schedule of Rates for Firm Power Service **Leaf No.**

Schedule of Rates for Firm Power Service

I. Applicability

To sales of Expansion Power and/or Replacement Power (as defined below) directly to a qualified business Customer (as defined below) for firm power service.

II. Abbreviations and Terms

- kW — kilowatt(s)
- kW-mo. — kilowatt-month
- kWh — kilowatt-hour(s)
- MWh — megawatt-hour(s)
- NYISO — New York Independent System Operator, Inc. or any successor organization
- PAL — New York Public Authorities Law
- OATT — Open Access Transmission Tariff

Agreement: An executed "Agreement for the Sale of Expansion and/or Replacement Power and Energy" between the Authority and the Customer (each as defined below).

Annual Adjustment Factor or **AAF**: This term shall have the meaning set forth in Section V herein.

Authority: The Power Authority of the State of New York, a corporate municipal instrumentality and a political subdivision of the State of New York created pursuant to Chapter 772 of the New York Laws of 1931 and existing and operating under Title 1 of Article 5 of the PAL, also known as the "New York Power Authority."

Customer: A business customer who has received an allocation for Expansion Power and/or Replacement Power from the Authority and who purchases Expansion Power and/or Replacement Power directly from the Authority.

Electric Service: The power and energy provided to the Customer in accordance with the Agreement, this Service Tariff and the Rules.

Expansion Power and/or **Replacement Power**: Firm Power and Firm Energy made available under this Service Tariff by the Authority from the Project for sale to the Customer for business purposes pursuant to PAL § 1005(5) and (13).

Firm Power: Capacity (kW) that is intended to be always available from the Project subject to the curtailment provisions set forth in the Agreement between the Authority and the Customer and this Service Tariff. Firm Power shall not include peaking power.

Firm Energy: Energy (kWh) associated with Firm Power.

Load Serving Entity or **LSE**: This term shall have the meaning set forth in the Agreement.

Load Split Methodology or **LSM**: A load split methodology applicable to a Customer's allocation. It is usually provided for in an agreement between the Authority and the Customer's local electric utility, an agreement between the Authority and the Customer, or an agreement between the Authority, the Customer and the Customer's local electric utility, or such local utility's tariff, regarding the delivery of WNY Firm Power. The load split methodology is often designated as "Load Factor Sharing" or "LFS" , "First through the Meter" or "FTM", "First through the Meter Modified" or "FTM Modified", or "Replacement Power 2" or "RP 2".

Project: The Authority's Niagara Power Project, FERC Project No. 2216.

Rate Year or **RY**: The period from July 1 through June 30 starting July 1, 2013, and for any year thereafter.

Rules: The Authority's rules and regulations set forth in 21 NYCRR § 450 *et seq*., as they may be amended from time to time.

Service Tariff: This Service Tariff No. WNY-1.

Target Rate: This term shall have the meaning set forth in Section III herein.

All other capitalized terms and abbreviations used but not defined herein shall have the same meaning as set forth in the Agreement.

Issued by James F. Pasquale, Senior Vice President
Power Authority of the State of New York
30 South Pearl Street, Albany, NY 12207

III. Monthly Rates and Charges

A. Expansion Power (EP) and Replacement Power (RP) Base Rates

Beginning on July 1, 2013, there will be a 3-year phase-in to new base rates. The phase-in will be determined by the rate differential between the 2012 EP/RP rates and a "Target Rate." The Target Rate, specified in Section III.A.1. below, is based on the rates determined by the Authority to be applicable in RY 2013 for sales of "preservation power" as that term is defined in PAL § 1005(13). The following Sections III.A.1-4 describe the calculation and implementation of the phase-in.

1. The initial rate point will be established by the EP/RP rates ($/kW and $/MWh), determined by mid-April 2012 and made effective on May 1, 2012 in accordance with the Authority's then-applicable EP and RP tariffs. The Target Rate (*i.e.* demand and energy rates) for RY 2013 shall be $7.99/kW and $13.66/MWh.

2. The difference between the two rate points is calculated and divided by 3 to correspond with the number of Rate Years over which the phase-in will occur. The resulting quotients (in $/kW and $/MWh) are referred to as the "annual increment."

3. The annual increment will be applied to the base rates for the 3-year period of the 2013, 2014 and 2015 Rate Years, which shall be as follows:

   RY 2013: July 1, 2013 to June 30, 2014
   RY 2014: July 1, 2014 to June 30, 2015
   RY 2015: July 1, 2015 to June 30, 2016

   The annual rate adjustments normally made effective on May 1, 2013 under then-applicable EP and RP tariffs will be suspended, such that demand and energy rates established in 2012 shall be extended through June 30, 2013.

4. Effective commencing in RY 2013, the Annual Adjustment Factor ("AAF") described in Section V herein, shall be applied as follows:

   A. For the RY 2013 only, the AAF will be suspended, and the RY 2013 rate increase will be subject only to the annual increment.

   B. For the RYs 2014 and 2015, the AAF will be applied to the demand and energy rates after the addition of the annual increment to the rates of the previous RY rates. Such AAF will be subject to the terms and limits stated in Section V herein.

   C. Beginning in RY 2016, the AAF will be applied to the previous RY rates, and the annual increment is no longer applicable.

B. EP and RP Rates no Lower than Rural/Domestic Rate

At all times the applicable base rates for demand and energy determined in accordance with Sections III.A and V of this Service Tariff shall be no lower than the rates charged by the

Issued by James F. Pasquale, Senior Vice President
Power Authority of the State of New York
30 South Pearl Street, Albany, NY 12207

Authority for the sale of hydroelectricity for the benefit of rural and domestic customers receiving service in accordance with the Niagara Redevelopment Act, 16 U.S.C. § 836(b)(1) and PAL § 1005(5) (the "Rural/Domestic Rate"). This provision shall be implemented as follows: if the base rates, as determined in accordance with Sections III.A and V of this Service Tariff, are lower than the Rural/Domestic Rate on an average $/MWh basis, each set of rates measured at 80% load factor which is generally regarded as representative for EP and RP Customers, then the base rates determined under Sections III.A and V of this Service Tariff will be revised to make them equal to the Rural/Domestic Rate on an average $/MWh basis. However, the base rates as so revised will have no effect until such time as these base rates are lower than the Rural/Domestic Rate.

C. <u>Monthly Base Rates Exclude Delivery Service Charges</u>

The monthly base rates set forth in this Section III exclude any applicable costs for delivery services provided by the local electric utility.

D. <u>Minimum Monthly Charge</u>

The minimum monthly charge shall equal the product of the demand charge and the contract demand (as defined herein). Such minimum monthly charge shall be in addition to any NYISO Charges or Taxes (each as defined herein) incurred by the Authority with respect to the Customer's Allocation.

E. <u>Estimated Billing</u>

If the Authority, in its sole discretion, determines that it lacks reliable data on the Customer's actual demand and/or energy usage for a Billing Period during which the Customer receives Electric Service from the Authority, the Authority shall have the right to render a bill to the Customer for such Billing Period based on estimated demand and estimated usage ("Estimated Bill").

For the purpose of calculating a Billing Demand charge for an Estimated Bill, the demand charge will be calculated based on the Customer's Load Split Methodology as following:

- For Customers whose allocation is subject to a Load Factor Sharing/LFS LSM, the estimated demand (kW) will be calculated based on an average of the Customer's Billing Demand (kW) values for the previous three (3) consecutive Billing Periods. If such historical data is not available, then the estimated demand (kW) value for the Estimated Bill will equal the Customer's Takedown (kW) amount.

- For Customers whose allocation is subject to a First through the Meter/ FTM, FTM Modified, or RP 2 LSM, the estimated demand (kW) value will equal the Customer's Takedown (kW) amount.

For the purpose of calculating a Billing Energy charge for an Estimated Bill, the energy charge will be calculated based on the Customer's Load Split Methodology as following:

- For Customers whose allocation is subject to a Load Factor Sharing/LFS LSM, the estimated energy (kWh) will be based on the average of the Customer's Billing Energy (kWh) values for the previous three (3) consecutive Billing Periods. If such historical data is not available, then the estimated energy value (kWh) will be equal to the Takedown (kW) amount at 70 percent load factor for that Billing Period.

- For Customers whose allocation is subject to a First through the Meter/FTM, FTM Modified, or RP 2 LSM, the estimated energy (kWh) will be equal to the Takedown (kW) amount at 100 percent load factor for that Billing Period.

If data indicating the Customer's actual demand and usage for any Billing Period in which an Estimated Bill was rendered is subsequently provided to the Authority, the Authority will make necessary adjustments to the corresponding Estimated Bill and, as appropriate, render a revised bill (or provide a credit) to the Customer.

The Minimum Monthly Charge provisions of Section III B.D. shall apply to Estimated Bills.

The Authority's discretion to render Estimated Bills is not intended to limit the Authority's rights under the Agreement.

F. Adjustments to Charges

In addition to any other adjustments provided for in this Service Tariff, in any Billing Period, the Authority may make appropriate adjustments to billings and charges to address such matters as billing and payment errors, the receipt of actual, additional, or corrected data concerning Customer energy or demand usage.

G. Billing Period

Any period of approximately thirty (30) days, generally ending with the last day of each calendar month but subject to the billing cycle requirements of the local electric utility in whose service territory the Customer's facilities are located.

H. Billing Demand

The billing demand shall be determined by applying the applicable billing methodology to total meter readings during the billing period. See Section IV.E, below.

I. Billing Energy

The billing energy shall be determined by applying the applicable billing methodology to total meter readings during the billing period. See Section IV.E, below.

J. Contract Demand

The contract demand of each Customer will be the amount of Expansion Power and/or Replacement Power, not to exceed their Allocation, provided to such Customer by the Authority in accordance with the Agreement.

IV. General Provisions

A. Character of Service

Alternating current; sixty cycles, three-phase.

B. Availability of Energy

1. Subject to Section IV.B.2, the Authority shall provide to the Customer in any billing period Firm Energy associated with Firm Power. The offer of Firm Energy for delivery shall fulfill the Authority's obligations for purposes of this provision whether or not the Firm Energy is taken by the Customer.

2. If, as a result of reduced water flows caused by hydrologic conditions, there is insufficient energy from the Hydro Projects to supply the full power and energy requirements of NYPA's Firm Power customers served from the Hydro Projects, hydropower curtailments (*i.e.* reductions) in the amount of Firm Power and Energy to which the Customer is entitled shall be applied on a *pro rata* basis to all Firm Power and Energy customers served from the Hydro Projects. Reductions as a percentage of the otherwise required Firm Power and Energy sales will be the same for all Firm Power and Energy customers served from the Hydro Projects. The Authority shall be under no obligation to deliver and will not deliver any such curtailed energy to the Customer in later billing periods. The Customer will receive appropriate bill credits as provided under the Rules.

C. Delivery

For the purpose of this Service Tariff, Firm Power and Firm Energy shall be deemed to be offered when the Authority is able to supply Firm Power and Firm Energy to the Authority's designated NYISO load bus. If, despite such offer, there is a failure of delivery caused by the Customer, NYISO or local electric utility, such failure shall not be subject to a billing adjustment pursuant to Section 454.6(d) of the Rules.

D. Adjustment of Rates

To the extent not inconsistent with the Agreement, the rates contained in this Service Tariff may be revised from time to time on not less than thirty (30) days written notice to the Customer.

E. Billing Methodology and Billing

Unless otherwise specified in the Agreement, the following provisions shall apply:

1. The billing methodology to be used to render bills to the Customer related to its Allocation shall be determined in accordance with the Agreement and delivery agreement between the Authority and, as applicable, the Customer or local electric utility or both.

2. Billing Demand –The Billing Demand charged by the Authority to each Customer will be the highest 15 or 30-minute integrated demand, as determined by the local utility, during each Billing Period recorded on the Customer's meter multiplied by a percentage based on the Load Split Methodology provided for in any contract between the Authority and the Customer's local electric utility, any contract between the Authority and the Customer, or any contract between the Authority, the Customer and the Customer's local electric utility for delivery of WNY Power. Billing Demand may not exceed the amount of the Contract Demand.

3. Billing Energy –The kilowatt-hours charged by the Authority to each Customer will be the total number of kilowatt-hours recorded on the Customer's meter for the Billing Period multiplied by a percentage based on the methodology provided for in any contract between the Authority and the Customer's local electric utility for delivery of WNY Power.

F. <u>Payment by Customer to Authority</u>

1. <u>Demand and Energy Charges, Taxes</u>

   The Customer shall pay the Authority for Firm Power and Energy during any billing period the higher of either (i) the sum of (a), (b) and (c) below or (ii) the monthly minimum charge as defined herein:

   a. The demand charge per kilowatt for Firm Power specified in this Service Tariff or any modification thereof applied to the Customer's billing demand (as defined in Section IV.E, above) for the billing period; and

   b. The energy charge per MWh for Firm Energy specified in this Service Tariff or any modification thereof applied to the Customer's billing energy (as defined in Section IV.E, above) for the billing period; and

   c. A charge representing reimbursement to the Authority for all applicable Taxes incurred by the Authority as a result of providing Expansion Power and/or Replacement Power allocated to the Customer.

2. <u>Transmission Charge</u>

   The Customer shall compensate the Authority for all transmission costs incurred by the Authority with respect to the Allocation, including such costs that are charged pursuant to the OATT.

3. <u>NYISO Transmission and Related Charges ("NYISO Charges")</u>

   The Customer shall compensate the Authority for the following NYISO Charges assessed on the Authority for services provided by the NYISO pursuant to its OATT or other tariffs (as the provisions of those tariffs may be amended and in effect from time to time) associated with providing Electric Service to the Customer:

   A. Ancillary Services 1 through 6 and any new ancillary services as may be defined and included in the OATT from time to time;

   B. Marginal losses;

C. The New York Power Authority Transmission Adjustment Charge ("NTAC");

D. Congestion costs, less any associated grandfathered Transmission Congestion Contracts ("TCCs") as provided in Attachment K of the OATT;

E. Any and all other charges, assessments, or other amounts associated with deliveries to Customers or otherwise associated with the Authority's responsibilities as a Load Serving Entity for the Customers that are assessed on the Authority by the NYISO under the provisions of its OATT or under other applicable tariffs; and

F. Any charges assessed on the Authority with respect to the provision of Electric Service to Customers for facilities needed to maintain reliability and incurred in connection with the NYISO's Comprehensive System Planning Process (or similar reliability-related obligations incurred by the Authority with respect to Electric Service to the Customer), applicable tariffs, or required to be paid by the Authority in accordance with law, regardless of whether such charges are assessed by the NYISO or another third party.

The NYISO Charges, if any, incurred by the Authority on behalf of the Customer, are in addition to the Authority production charges that are charged to the Customer in accordance with other provisions of this Service Tariff.
The method of billing NYISO charges to the Customer will be based on Authority's discretion.

4. Taxes Defined

Taxes shall be any adjustment as the Authority deems necessary to recover from the Customer any taxes, assessments or any other charges mandated by federal, state or local agencies or authorities that are levied on the Authority or that the Authority is required to collect from the Customer if and to the extent such taxes, assessments or charges are not recovered by the Authority pursuant to another provision of this Service Tariff.

5. Substitute Energy

The Customer shall pay for Substitute Energy, if applicable, as specified in the Agreement.

6. Payment Information

Bills computed under this Service Tariff are due and payable by electronic wire transfer in accordance with the Rules. Such wire transfer shall be made to J P Morgan Chase NY, NY / ABA021000021 / NYPA A/C # 008-030383, unless otherwise indicated in writing by the Authority. In the event that there is a dispute on any items of a bill rendered by the Authority, the Customer shall pay such bill in full. If necessary, any adjustments will be made thereafter.

G. Rendition and Payment of Bills

1. The Authority will render bills to the Customer for Electric Service on or before the tenth (10^{th}) business day of the month for charges due for the previous Billing Period. Bills will reflect the amounts due and owing, and are subject to adjustment as provided for in the Agreement, Service Tariff No. WNY-1 and the Rules. Unless otherwise agreed to by the Authority and the Customer in writing, the Authority shall render bills to the Customer electronically.

2. Payment of bills by the Customer shall be due and payable by the Customer within twenty (20) days of the date the Authority renders the bill.

3. Except as otherwise agreed by the Authority in writing, if the Customer fails to pay any bill when due an interest charge of two percent of the amount unpaid will be added thereto as liquidated damages, and thereafter, as further liquidated damages, an additional interest charge of one and one-half percent of the sum unpaid shall be added on the first day of each succeeding Billing Period until the amount due, including interest, is paid in full.

4. If at any time after commencement of Electric Service the Customer fails to make complete payment of any two (2) bills for Electric Service when such bills become due pursuant to Agreement, the Authority shall have the right to require that the Customer deposit with the Authority a sum of money in an amount equal to all charges that would be due under this Agreement for Electric Service for two (2) consecutive calendar months as estimated by the Authority. Such deposit will be deemed security for the payment of unpaid bills and/or other claims of the Authority against the Customer upon termination of Electric Service. The failure or refusal of the Customer to provide the deposit within thirty (30) days of a request for such deposit will be grounds for the Authority in its sole discretion to suspend Electric Service to the Customer or terminate this Agreement.

H. Adjustment of Charges

1. Distribution Losses

   The Authority will make appropriate adjustments to compensate for distribution losses of the local electric utility.

I. Conflicts

The Authority's Rules shall apply to the Electric Service provided under this Service Tariff. In the event of any inconsistencies, conflicts or differences between the provisions of this Service Tariff and the Rules, the provisions of this Service Tariff shall govern.

J. Customer Resales Prohibited

The Customer may not resell any quantity of Expansion Power and/or Replacement Power.

V. Annual Adjustment Factor

A. Adjustment of Rates

1. The AAF will be based upon a weighted average of three indices described below. For each new Rate Year, the index value for the latest available calendar year ("Index Value for the Measuring Year") will be compared to the index value for the calendar year immediately preceding the latest available calendar year (the Index Value for the Measuring Year -1"). The change for each index will then be multiplied by the indicated weights. As described in detail below, these products are then summed, producing the AAF. The AAF will be multiplied by the base rate for the current Rate Year to produce the base rates for the new Rate Year, subject to a maximum adjustment of ±5.0% ("±5% Collar"). Amounts outside the ±5% Collar shall be referred to as the "Excess."

   Index 1, "BLS Industrial Power Price" (35% weight): The average of the monthly Producer Price Index for Industrial Electric Power, commodity code number 0543, not seasonally adjusted, as reported by the U.S. Department of Labor, Bureau of Labor Statistics ("BLS") electronically on its internet site and consistent with its printed publication, "Producer Price Index Detailed Report". For Index 1, the Index Value for the Measuring Year will be the index for the calendar year immediately preceding July 1 of the new Rate Year.

   Index 2, "EIA Average Industrial Power Price" (40% weight): The average weighted annual price (as measured in cents/kWh) for electric sales to the industrial sector in the ten states of CT, MA, ME, NH, NJ, NY, OH, PA, RI and VT ("Selected States") as reported by Coal and Electric Data and Renewables Division; Office of Coal, Nuclear, Electric and Alternate Fuels; Energy Information Administration ("EIA"); U.S. Department of Energy Form EIA-861 Final Data File. For Index 2, the Index Value for the Measuring Year will be the index for the calendar year two years preceding July 1 of the new Rate Year.

   Index 3, "BLS Industrial Commodities Price Less Fuel" (25% weight): The monthly average of the Producer Price Index for Industrial Commodities less fuel, commodity code number 03T15M05, not seasonally adjusted, as reported by the U.S. Department of Labor, BLS electronically on its internet site and consistent with its printed publication, "Producer Price Index Detailed Report". For Index 3, the Index Value for the Measuring Year will be the index for the calendar year immediately preceding July 1 of the new Rate Year.

2. Annual Adjustment Factor Computation Guide

   Step 1: For each of the three Indices, divide the Index Value for Measuring Year by the Index Value for the Measuring Year-1.

   Step 2: Multiply the ratios determined in Step 1 by percentage weights for each Index. Sum the results to determine the weighted average. This is the AAF.

   Step 3: Commencing RY 2014, modifications to the AAF will be subject to ±5% Collar, as described below.

   a) When the AAF falls outside the ±5% Collar, the Excess will be carried over to the subsequent RY. If the AAF in the subsequent RY is within the ±5% Collar, the current RY Excess will be added to/subtracted from the subsequent Rate Year's AAF, up to the ±5% Collar.

b) Excesses will continue to accrue without limit and carry over such that they will be added to/subtracted from the AAF in any year where the AAF is within the ±5% Collar.

Step 4: Multiply the current Rate Year base rate by the AAF calculated in Step 2 to determine the new Rate Year base rate.

The foregoing calculation shall be performed by the Authority consistent with the sample presented in Section V.B below.

3. The Authority shall provide the Customer with notice of any adjustment to the current base rate per the above and with all data and calculations necessary to compute such adjustment by June 15th of each year to be effective on July 1 of such year, commencing in 2014. The values of the latest officially published (electronically or otherwise) versions of the indices and data provided by the BLS and EIA as of June 1 shall be used notwithstanding any subsequent revisions to the indices.

4. If during the term of the Agreement any of the three above indices ceases to be available or ceases to be reflective of the relevant factors or of changes which the indices were intended by the Parties to reflect, the Customer and the Authority shall mutually select a substitute Index. The Parties agree to mutually select substitute indices within 90 days, once notified by the other party that the indices are no longer available or no longer reflect the relevant factors or changes with the indices were intended by the Parties to reflect. Should the 90-day period cover a planned July 1 rate change, the current base rates will remain in effect until substitute indices are selected and the adjusted rates based on the substitute indices will be retroactive to the previous July 1. If unable to reach agreement on substitute indices within the 90-day period, the Parties agree to substitute the mathematic average of the PPI—Intermediate Materials, Supplies and Components (BLS Series ID WPUSOP2000) and the PPI-- Finished Goods (BLS Series ID WPUSOP3000) indices for one or more indices that have ceased to be available and shall assume the percentage weighting(s) of the one or more discontinued indices as indicated in Section V.A.1.

B. Sample Computation of the AAF (hypothetical values for July 1, 2014 implementation):

STEP 1

Determine the Index Value for the Measuring Year (MY) and Measuring Year - 1 (MY-1) for Each Index

- Index 1 - Producer Price Index, Industrial Power

	Measuring Year (2013)	Measuring Year - 1 (2012)
January	171.2	167.8
February	172.8	167.6
March	171.6	168.2
April	173.8	168.6
May	175.1	171.6
June	185.7	180.1
July	186.4	182.7
August	184.7	179.2
September	185.5	181.8
October	175.5	170.2
November	172.2	168.8
December	171.8	166.6
Average	177.2	172.8
Ratio of MY/MY-1		**1.03**

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Power Authority of the State of New York
30 South Pearl Street, Albany, NY 12207

- Index 2 – EIA Industrial Rate

State	Revenues ($000s)	Sales (MWh)	Avg. Rate (cents/kWh)
Measuring Year (2012)			
CT	590,972	6,814,757	
MA	1,109,723	13,053,806	
ME	328,594	4,896,176	
NH	304,363	2,874,495	
NJ	1,412,665	15,687,873	
NY	2,001,588	26,379,314	
OH	3,695,978	78,496,166	
PA	3,682,192	63,413,968	
RI	152,533	1,652,593	
VT	155,903	2,173,679	
TOTAL	13,434,511	215,442,827	**6.24**
Measuring Year -1 (2011)			
CT	579,153	6,678,462	
MA	1,076,431	12,662,192	
ME	310,521	4,626,886	
NH	298,276	2,817,005	
NJ	1,370,285	15,217,237	
NY	1,891,501	24,928,452	
OH	3,622,058	76,926,243	
PA	3,571,726	61,511,549	
RI	144,144	1,561,700	
VT	152,785	2,130,205	
TOTAL	13,016,880	209,059,931	**6.23**
	Ratio of MY/MY-1		**1.00**

- Index 3 – Producer Price Index, Industrial Commodities Less Fuel

	Measuring Year (2013)	Measuring Year -1 (2012)
January	190.1	187.2
February	190.9	188.0
March	191.6	188.7
April	192.8	189.9
May	194.7	191.8
June	195.2	192.3
July	195.5	192.3
August	196.0	193.1
September	196.1	193.2
October	196.2	193.8
November	196.6	193.7
December	196.7	194.0
Average	194.4	191.5
Ratio of MY/MY-1		**1.02**

STEP 2

Determine AAF by Summing the Weighted Indices

Index	Ratio of MY to MY-1	Weight	Weighted Factors
PPI Industrial Power	1.03	0.35	0.361
EIA Industrial Rate	1.00	0.40	0.400
PPI Industrial Commodities less fuel	1.02	0.25	0.255
AAF			**1.016**

STEP 3

Apply Collar of ±5.0% to Determine the Maximum/Minimum AAF.

-5.0% < 1.6% < 5.0%; collar does not apply, assuming no cumulative excess.

STEP 4

Apply AAF to Calculate the New Rate Year Base Rate

	Demand $/kW-mo.	Energy $/MWh
Current Rate Year Base Rate	7.56	12.91
New Rate Year Base Rate	7.68	13.12

Issued by James F. Pasquale, Senior Vice President
Power Authority of the State of New York
30 South Pearl Street, Albany, NY 12207

New York State Power Authority
Public Hearing

July 1, 2015

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New York State Power Authority

Wednesday, July 1, 2015

2:30 p.m. - 6:30 p.m.

Niagara Power Project Visitors' Center

5777 Lewiston Road

Lewiston, New York 14092

Patricia A. Schreier

SPEAKERS:

MS. JOHNSON: Good afternoon. This is a public hearing required by law and authorized by the New York Power Authority's Board of Trustees on the proposed Direct Sale Contracts for the sale of hydropower to Pride Pak Canada, Ltd, Just Greens, LLC and Cummins, Inc.

My name is Lorna Johnson and I'm the Authority's Associate Corporate Secretary.

New York State Public Authorities Law Section 1009, sets forth procedures for executing certain contracts negotiated by the Authority.

First, prior to the hearing, it requires that notice of the hearing be provided. Therefore, a notice was sent to the Governor, the Senate's President Pro Temp, the Senate Minority Leader and the Senate Finance Committee Chair, the Assembly Speaker, the Assembly Minority Leader and the Assembly Ways and Means Committee Chair.

In addition, notice appeared in the following newspapers, once a week, for the four weeks leading up to this hearing, Niagara Gazette, Buffalo News, Buffalo Business First, Lewiston Porter Sentinel, Albany Times-Union, Dunkirk Observer.

The public was also given access to the proposed contracts on the Authority's website and at the Authority's White Plains office during the 30 day period prior to today's hearing.

After the hearing, the public will be given access to the hearing transcript, once it is completed, at www.nypa.gov and at the White Plains office.

The next step in the process set forth in Section 1009 will be for the NYPA Trustees to reconsider the proposed contracts, in light of public comments. Once the Trustees have completed their final review, the contracts will be forwarded to the Governor for his consideration and approval.

If you plan to make an oral statement at this hearing, I ask that you so indicate on the sign-in sheet. Also, if you have a written statement, please give a copy to me and one to the reporter.

Written statements may be of any length and will appear in the record of the hearing in addition to oral statements. The record of the hearing will remain open for any additional comments through close of business, Thursday, July 2nd. Additional comments should be mailed, faxed or e-mailed to the Corporate Secretary at

123 Main Street, 11-P, White Plains, New York, 10601 or (914)390-8040 or secretarys.office@nypa.gov.

At this point, I would like to introduce Maribel Cruz-Brown, the Authority's Business Power Allocations and Compliance Manager, who will provide additional details on the proposed direct sale contracts.

Thank you.

MS. CRUZ-BROWN: Thank you, Ms. Johnson. Good afternoon. My name is Maribel Cruz-Brown and I'm the Manager of Business Power Allocations and Compliance at the New York Power Authority. I'm here today to present a summary of three proposed hydropower contracts.

Regarding the contracts, under Public Authorities Law Section 1005 Subsection 13, the Authority may allocate and sell directly or by sale-for-resale, 250 MW of Expansion Power, known as EP, and 445 MW of Replacement Power, known as RP, to businesses located within 30 miles of the Niagara Power Project, provided that the amount of EP allocated to businesses in Chautauqua County on January 1, 1987 shall continue to be allocated in Chautauqua County.

Three companies have been awarded hydropower allocations by the Authority's Trustees in return for commitments made to create or expand their businesses in Western New York.

Specifically, Cummins, Inc., a diesel engine manufacturing plant in Chautauqua County, was awarded 700 kilowatts of EP to reconfigure 40,000 square-feet of existing storage space to install a new machine line to increase production of 15-liter engine blocks. Cummins will invest $47 million and create 10 new jobs.

Just Greens, LLC was awarded 1,840 kilowatts of EP in support of the construction of a new 68,000-square-foot vertical farm facility in the Lackawanna Business Park in Erie County to produce green-leafy vegetables. The $32.6 million expansion will create 36 new jobs.

Pride Pak Canada, Ltd was awarded 1,000 kilowatts of RP to purchase and renovate the 180,000-square-foot former Bernzomatic building in the Village of Medina in (Orleans County) and install several production lines to process organic fruit and vegetables for the Wegmans grocery change. The $18.23 million expansion will create 163 new jobs.

In aggregate, the three companies have committed to capital spending of more than $97 million in their

Western New York facilities while creating 209 new jobs.

To summarize some of the pertinent provisions of the proposed contracts, first, the contracts provide for the direct billing of all hydropower supply charges, including all New York Independent System Operator, Inc., (NYISO) charge and taxes.

Each contract includes the customer's agreed-upon commitments with respect to employment and capital investment. The contracts retain the Authority's right to reduce or terminate a customer's allocation if employment, power utilization or capital investment commitments are not met.

For example, the contracts include an annual job reporting requirement and a job compliance threshold of 90 percent. Should a company's average annual employment fall below the compliance threshold of 90 percent of the employment commitment, the Authority has the right to reduce the allocation on a pro rata basis.

The contract compels the company to perform an energy audit at the facility at least once within five years, helping to ensure the customer uses the hydropower efficiently. Additionally, to accommodate nonpayment risk that could result from the direct billing arrangement, the contract includes commercially reasonable provisions concerning the Authority's ability to charge late payment fees and to require deposits in the event of customer failure to make payment for any two monthly billings. These contract provisions are consistent with other Authority direct sales contracts, including the Recharge New York sales contracts.

The contracts will serve the allocations in accordance with the Authority's Service Tariff WNY-1 which specifies the rates and other terms applicable to all EP and RP allocations. The Service Tariff specifies a three year rate phase-in to a target rate based on the Authority's other hydropower program's rate - Preservation Power - to ultimately ensure consistency among the Authority's three hydropower programs. Transmission and delivery service for these allocations will be provided by National Grid or NYSEG in accordance with the utility's Public Service Commission approved delivery service tariffs.

As Ms. Johnson stated earlier, the Authority will accept your comments in the proposed contracts until the close of business on Thursday, July 2nd. I am now turning the forum back to Ms. Johnson.

Ms. Johnson.

MS. JOHNSON: Thank you, Ms. Cruise-Brown. We will recess now and reconvene when speakers arrive.

(recess)

MS. JOHNSON: The July 1st, 2015 public hearing on the proposed Direct Sale Contracts to Pride Pak Canada, Ltd, Just Greens, LLC and Cummins, Inc., is now officially closed.

As I previously stated, the record of the hearing will remain open for additional comments through close of business Thursday, July 2nd. Thank you and have a good night.

(Hearing concluded at 6:30 p.m.)

STATE OF NEW YORK
COUNTY OF ERIE

I, Patricia A. Schreier, a Notary Public in and for the State of New York, do hereby certify:

That the witness, whose testimony appears herein before, was, before the commencement of his testimony, duly sworn to testify the truth, the whole truth and nothing but the truth; that such testimony was taken pursuant to notice at the time and place herein set forth; that said testimony was taken down in shorthand by me and thereafter under my supervision transcribed into the English language, and hereby certify the foregoing testimony is a full, true and correct transcription of the shorthand notes so taken.

I further certify that I am neither counsel for nor related to any parties to said action, nor in anywise interested in the outcome thereof.

IN WITNESS WHEREOF, I have here unto subscribed my name this 11th day of July, 2015.

Notary Public
State of New York

Amendment to Net Metering Provisions of Authority's
<u>Governmental Customer Service Tariffs – Notice of Adoption</u>

Exhibit "A"

Trustee Meeting

July 30, 2015

Rider C – Net Metering

A. Applicability:

To Customers served under Service Classification Nos. 62, 65, 68, 69, 82, 85, 91, 93, and 98 for service pursuant to a net metering arrangement provided that such Customers meet the following conditions:

1. For a Customer with solar electric generating equipment, wind electric generating equipment, micro-combined heat and power generating equipment, micro-hydroelectric electric generating equipment and fuel cell electric generating equipment located and used at its premises, as follows:

   (a) if the Customer is served under demand rates and uses solar, wind or micro-hydroelectric electric generating equipment, such equipment must have a rated capacity of not more than 2,000 kW;

   (b) if the Customer is served under demand rates and uses micro-combined heat and power generating equipment, such equipment must have a rated capacity of not more than 2,000 kW;

   (c) if the Customer is served under demand rates and uses fuel cell electric generating equipment, such equipment must have a rated capacity of not more than 1,500 kW;

   (d) if the Customer is served under energy-only rates, such equipment must have a rated capacity of not more than 10 kW.

2. Service will be provided under this Rider to eligible Customers on a first-come, first-served basis based on the date that NYPA receives notification from the Utility that the Customer has provided a complete project application in accordance with the New York State Standardized Interconnection Requirements ("SIR") and Application Process for New Distributed Generators 2 MW or Less Connected in Parallel with Utility Distribution Systems adopted by the New York State Public Service Commission, as modified from time to time.

3. NYPA must also receive a completed detailed study from the Utility stating that the Utility has approved the interconnection and parallel operation of such facilities in accordance with the New York State Public Service Commission's requirements.

4. To be considered for Net Metering service, the Customer must submit the above required documentation for applicability of service under this Rider in Sections A.2 and A.3, as well as NYPA's application for Net Metering service, which is available upon written request. NYPA reserves the right to limit service under this Rider. Such circumstances may include, but are not limited to the following: the availability of billing data from the Utility, accurate Utility flagging of Net Metering Accounts to NYPA, Customer meter installation and functionality issues, and other technical issues.

B. Net Metering Definitions and Terms:

Excess Energy: The amount of energy (kWh) generated by the Customer's electric generating equipment that is in excess to the amount of energy consumed by the Account and is exported to the Utility's distribution system during a billing period.

Host Account: NYPA-served electric Account with qualified electric generating equipment located on its premises.

Net Energy: The difference between the energy consumed by the Account and the energy generated by the Customer's electric generating equipment during a billing period.

Net Metering: The bi-directional metering process that measures the flow of energy, and registers the difference between the Account's consumption and the energy generated by the Customer's electric generating equipment during a billing period.

Outstanding Charges: Outstanding demand, energy and other production charges in the billing period, excluding any Delivery Service charges.

Remote Net Metering: A service offered by NYPA to its qualified Net Metering Customers that allows the Host Account's Excess Energy that is converted into monetary credits to be applied from the Host Account to Satellite Accounts.

Satellite Account: NYPA-served electric Account to which Host Account's Excess Energy is converted into monetary credits by NYPA and applied to such Account.

C. Requirements for Service:

1. Service under this Rider is limited to Customers who meet the SIR requirements.
2. Customers receiving service under this Rider may be required to pay for the installation and/or upgrade of equipment necessary to protect the safety or adequacy of electric service provided to other Customers, as required by the Utility. Customers also may be subject to additional terms, conditions and charges relative to the safe interconnection of Customer's electric generating equipment, as may be required by the Utility.
3. Billing under this Rider will be provided once a flag identifying a Net Metering Account is received from the Utility through the Utility's billing data files to NYPA.

D. Metering:

Meters shall be furnished, installed, employed, and maintained as required by the Utility.

E. Remote Net Metering:

1. Customer's Account served under this Rider may apply for Remote Net Metering if they have solar, wind, micro-combined heat and power, micro-hydroelectric, or fuel cell electric generating equipment. Remote Net Metering is subject to the following conditions:

    (a) All Satellite Accounts must be in the same NYISO zone as the Host Account. A Satellite Account can have only one Host Account, and such Satellite Account cannot be a net metered customer-generator.

    (b) The Host Account and Satellite Account(s) shall be established in the same Customer name and located on property owned or leased by the Customer. NYPA reserves the right to require the Customer to prove that the properties served by the Host Account and all Satellite Accounts are owned or leased by the same Customer.

    (c) The Customer shall designate in its initial application to NYPA for Remote Net Metering service the Host Account and Satellite Account(s) that will be Remote Net Metered. In submitting an amended application, the Customer may designate additional Satellite Accounts or remove existing Satellite Accounts once per year, with the new designations to take effect commencing with the January bill issued for the Host Account.

F. Charges and Credits:

1. Charges

    (a) The Customer shall pay the rates and charges of the Customer's applicable Service Classification for Net Energy supplied by NYPA. If the Customer is served under time-of-day ("TOD") rates, the charge for Net Energy supplied by NYPA will be determined for each time period.

    (b) A Customer served under this Rider shall pay any customer charge, Production minimum bill charge, and any other rates and charges under the Customer's applicable Service Classification regardless of whether the amount of energy produced by the generating equipment is less than, equal to, or greater than the amount of energy used by the Customer. A Customer taking service under a demand-billed Service Classification also shall pay Production Demand Charges based on the billing demand.

    (c) Delivery Service charges will reflect a direct pass-through of the Utility's tariff charges and credits, if any, including all Special Provisions, applicable to the Account, as amended from time to time by the Utility.

2. Credits

   (a) For an Account served under a Service Classification with energy-only rates and that supplies Excess Energy to the Utility's distribution system, any kWh of Excess Energy provided during the billing period will be applied as a kWh credit towards any net kWh used by the Account during the succeeding billing period. If an Account is billed under TOD rates, the kWh Excess Energy credit will be determined and applied, as appropriate, to each time period.

   (b) For an Account served under a Service Classification with demand billing and that supplies Excess Energy to the Utility's distribution system, any kWh of Excess Energy provided will be converted to the equivalent monetary value at the ¢/kWh rate applicable to the Customer's Service Classification. The monetary credit will be applied towards any Account's Outstanding Charges. Any remaining monetary credit will be carried forward to the succeeding billing period.

   (c) If an Account participates in Remote Net Metering, any Excess Energy kWh provided to the Utility's distribution system by the Host Account during the billing period shall be converted to its equivalent monetary value at the ¢/kWh rate applicable to the Host Account's Service Classification. The monetary credit then shall be applied, along with any prior period remaining monetary credits, as a direct monetary credit to the Host Account's electric bill for any Outstanding Charges. If the Host Account's monetary credits exceed the Host Account's Outstanding Charges, any remaining monetary credit shall be applied to the Customer's Satellite Account(s) Outstanding Charges in the order in which the Satellite Account(s) are billed until such time that the monetary credit is reduced to zero or all Satellite Account(s) have been credited. If more than one Satellite Account bills on the same day, the monetary credit shall be applied to the Satellite Accounts' Outstanding Charges in order of kWh usage from highest to lowest. If a monetary credit remains after all Satellite Account(s) are credited, the remainder of the monetary credit shall be carried forward to the succeeding billing period and applied in the same manner set forth above.

3. Year-End Process

   The following procedures shall apply:

   (a) At the end of any 12-month cycle, if an Account served under a Service Classification with energy-only rates does not participate in Remote Net Metering, any Excess Energy kWh credits remaining on the Account shall be carried forward to the subsequent 12-month cycle.

   (b) At the end of any 12-month cycle, if an Account served under a Service Classification with demand billing does not participate in Remote Net Metering, any monetary credits remaining on the Account shall be carried forward to the subsequent 12-month cycle.

   (c) At the end of any 12-month cycle, if an Account participates in Remote Net Metering, any monetary credit remaining on the Host Account after all Satellite Account(s) have been credited (as described in sections F.2.c of this Rider) shall be carried forward to the subsequent 12-month cycle.

4. Account Closure

   NYPA requires an actual reading to close an Account under this Rider. NYPA shall close an Account upon the earlier of following dates:

   (a) the first cycle date on which a reading is taken following the requested turn off date, or

   (b) the date of a special reading, which a Customer may request for a charge.

   After an Account's final bill is rendered, any remaining kWh or monetary credits will not be credited to the Account or transferred to another Account. If an Account participates in Remote Net Metering, a Satellite Account(s) shall no longer receive credits after the final bill is rendered for a Host Account.

5. Future Changes

   NYPA reserves the right, in any manner permitted by law and at any time, to terminate, change, or modify this Rider as deemed necessary by NYPA's staff analysis, including, but not limited to harmonization with requirements of the Utility or the New York State Public Service Commission.

Rider C – Net Metering

A. Applicability:

To Customers served under Service Classification Nos. 62, 68, 69 and 82 for service pursuant to a net metering arrangement provided that such Customers meet the following conditions:

1. For a Customer with solar electric generating equipment, wind electric generating equipment, micro-combined heat and power generating equipment, micro-hydroelectric electric generating equipment and fuel cell electric generating equipment located and used at its premises, as follows:

   (a) if the Customer is served under demand rates and uses solar, wind or micro-hydroelectric electric generating equipment, such equipment must have a rated capacity of not more than 2,000 kW;

   (b) if the Customer is served under demand rates and uses micro-combined heat and power generating equipment, such equipment must have a rated capacity of not more than 2,000 kW;

   (c) if the Customer is served under demand rates and uses fuel cell electric generating equipment, such equipment must have a rated capacity of not more than 1,500 kW;

   (d) if the Customer is served under energy-only rates, such equipment must have a rated capacity of not more than 10 kW.

2. Service will be provided under this Rider to eligible Customers on a first come, first served basis based on the date that NYPA receives notification from the Utility that the Customer has provided a complete project application in accordance with the New York State Standardized Interconnection Requirements (“SIR”) and Application Process for New Distributed Generators 2 MW or Less Connected in Parallel with Utility Distribution Systems adopted by the New York State Public Service Commission, as modified from time to time.

3. NYPA must also receive a completed detailed study from the Utility stating that the Utility has approved the interconnection and parallel operation of such facilities in accordance with the New York State Public Service Commission’s requirements.

4. To be considered for Net Metering service, the Customer must submit the above required documentation for applicability of service under this Rider in Sections A.2 and A.3, as well as NYPA’s application for Net Metering service, which is available upon written request. NYPA reserves the right to limit service under this Rider. Such circumstances may include, but are not limited to the following: the availability of billing data from the Utility, accurate Utility flagging of Net Metering Accounts to NYPA, Customer meter installation and functionality issues, and other technical issues.

B. Net Metering Definitions and Terms:

<u>Excess Energy</u>: The amount of energy (kWh) generated by the Customer's electric generating equipment that is in excess to the amount of energy consumed by the Account and is exported to the Utility's distribution system during a billing period.

<u>Host Account</u>: NYPA-served electric Account with qualified electric generating equipment located on its premises.

<u>Net Energy</u>: The difference between the energy consumed by the Account and the energy generated by the Customer's electric generating equipment during a billing period.

<u>Net Metering</u>: The bi-directional metering process that measures the flow of energy, and registers the difference between the Account's consumption and the energy generated by the Customer's electric generating equipment during a billing period.

<u>Outstanding Charges</u>: Outstanding demand, energy and other production charges in the billing period, excluding any Delivery Service charges.

<u>Remote Net Metering</u>: A service offered by NYPA to its qualified Net Metering Customers that allows the Host Account's Excess Energy that is converted into monetary credits to be applied from the Host Account to Satellite Accounts.

<u>Satellite Account</u>: NYPA-served electric Account to which Host Account's Excess Energy is converted into monetary credits by NYPA and applied to such Account.

C. Requirements for Service:

1. Service under this Rider is limited to Customers who meet the SIR requirements.
2. Customers receiving service under this Rider may be required to pay for the installation and/or upgrade of equipment necessary to protect the safety or adequacy of electric service provided to other Customers, as required by the Utility. Customers also may be subject to additional terms, conditions and charges relative to the safe interconnection of Customer's electric generating equipment, as may be required by the Utility.
3. Billing under this Rider will be provided once a flag identifying a Net Metering Account is received from the Utility through the Utility's billing data files to NYPA.

D. Metering:

Meters shall be furnished, installed, employed, and maintained as required by the Utility.

Issued by James F. Pasquale, Senior Vice President
Power Authority of the State of New York
30 South Pearl Street, Albany, NY 12207

E. Remote Net Metering:

1. Customer's Account served under this Rider may apply for Remote Net Metering if they have solar, wind, micro-combined heat and power, micro-hydroelectric, or fuel cell electric generating equipment. Remote Net Metering is subject to the following conditions:

   (a) All Satellite Accounts must be in the same NYISO zone as the Host Account. A Satellite Account can have only one Host Account, and such Satellite Account cannot be a net metered customer-generator.

   (b) The Host Account and Satellite Account(s) shall be established in the same Customer name and located on property owned or leased by the Customer. NYPA reserves the right to require the Customer to prove that the properties served by the Host Account and all Satellite Accounts are owned or leased by the same Customer.

   (c) The Customer shall designate in its initial application to NYPA for Remote Net Metering service the Host Account and Satellite Account(s) that will be Remote Net Metered. In submitting an amended application the Customer may designate additional Satellite Accounts or remove existing Satellite Accounts once per year, with the new designations to take effect commencing with the January bill issued on the Host Account.

F. Charges and Credits:

1. Charges

   (a) The Customer shall pay the rates and charges of the Customer's applicable Service Classification for Net Energy supplied by NYPA. If the Customer is served under time-of-day ("TOD") rates, the charge for Net Energy supplied by NYPA will be determined for each time period.

   (b) A Customer served under this Rider shall pay any customer charge, Production minimum bill charge, and any other rates and charges under the Customer's applicable Service Classification regardless of whether the amount of energy produced by the generating equipment is less than, equal to, or greater than the amount of energy used by the Customer. A Customer taking service under a demand-billed Service Classification also shall pay Production Demand Charges based on the billing demand.

   (c) Delivery Service charges will reflect a direct pass-through of the Utility's tariff charges, and credits, if any, including all Special Provisions, applicable to the Account, as amended from time to time by the Utility.

2. Credits

   (a) For an Account served under a Service Classification with energy-only rates and that supplies Excess Energy to the Utility's distribution system, any kWh of Excess Energy provided during the billing period will be applied as a kWh credit towards any net kWh used by the Account during the succeeding billing period. If an Account is billed under TOD rates, the kWh Excess Energy credit will be determined and applied, as appropriate, to each time period.

   (b) For an Account served under a Service Classification with demand billing and that supplies Excess Energy to the Utility's distribution system, any kWh of Excess Energy provided will be converted to the equivalent monetary value at the ¢/kWh rate applicable to the Customer's Service Classification. The monetary credit will be applied towards any Account's Outstanding Charges. Any remaining monetary credit will be carried forward to the succeeding billing period.

   (c) If an Account participates in Remote Net Metering, any Excess Energy kWh provided to the Utility's distribution system by the Host Account during the billing period shall be converted to its equivalent monetary value at the ¢/kWh rate applicable to the Host Account's Service Classification. The monetary credits then shall be applied, along with any prior period remaining monetary credits, as a direct monetary credit to the Host Account's electric bill for any Outstanding Charges. If the Host Account's monetary credits exceed the Host Account's Outstanding Charges, any remaining monetary credit shall be applied to the Customer's Satellite Account(s) Outstanding Charges in the order in which the Satellite Account(s) are billed until such time that the monetary credit is reduced to zero or all Satellite Account(s) have been credited. If more than one Satellite Account bills on the same day, the monetary credit shall be applied to the Satellite Accounts' Outstanding Charges in order of kWh usage from highest to lowest. If a monetary credit remains after all Satellite Account(s) are credited, the remainder of the monetary credit shall be carried forward to the succeeding billing period on applied in the same manner set forth above.

3. Year-End Process

The following procedures shall apply:

(a) At the end of any 12-month cycle, if an Account served under a Service Classification with energy-only rates does not participate in Remote Net Metering, any Excess Energy kWh credits remaining on the Account shall be carried forward to the subsequent 12-month cycle.

(b) At the end of any 12-month cycle, if an Account served under a Service Classification with demand billing does not participate in Remote Net Metering, any monetary credits remaining on the Account shall be carried forward to the subsequent 12-month cycle.

(c) At the end of any 12-month cycle, if an Account participates in Remote Net Metering, any monetary credits remaining on the Host Account after all Satellite Account(s) have been credited (as described in sections F.2.c of this Rider) shall be carried forward to the subsequent 12-month cycle.

4. Account Closure

NYPA requires an actual reading to close an Account under this Rider. NYPA shall close an Account upon the earlier of the following dates:

(a) the first cycle date on which a reading is taken following the requested turn off date, or

(b) the date of a special reading, which a Customer may request for a charge.

After an Account's final bill is rendered, any remaining kWh or monetary credits will not be credited to the Account or transferred to another Account. If an account participates in Remote Net Metering, a Satellite Account(s) shall no longer receive credits after the final bill is rendered on a Host Account.

5. Future Changes

NYPA reserves the right, in any manner permitted by law and at any time, to terminate, change, or modify this Rider as deemed necessary by NYPA's staff analysis, including, but not limited to harmonization with requirements of the Utility or the New York State Public Service Commission.

Exhibit 'A'

New York City
Economic Development
Corporation

Madelyn Wils
Executive Vice President
Planning, Development
and Maritime

110 William Street
New York, NY 10038
Tel: 212.312.3525
Fax: 212.618.5785

mwils@nycedc.com
www.nycedc.com

July 7, 2010

Mr. James Pasquale
Senior Vice President
New York Power Authority
123 Main Street
White Plains, NY 10601

Dear Mr. Pasquale:

In our effort to establish shore power capability at the Brooklyn Cruise Terminal (BCT), the City of New York and the New York Power Authority agree to share the cost of supplying power to cruise ships (specifically, and limited to the Queen Mary II and the Caribbean Princess) berthing at the facility. The terms of the agreement are as follows:

- Carnival Cruise Line will pay 12 cents per kilowatt hour (kWh)
- NYPA and the City of New York will split the difference between 12 cents per kWh and the NYPA tariff rate
- The term of the deal is five years
- Any escalations would be covered by the City and NYPA in equal proportion

The City of New York, the Port Authority and NYPA will work together to reduce the Con Edison delivery rate.

The term of this agreement will commence on or about January 1, 2012, at which time the Port Authority will have completed the necessary landside infrastructure and the Queen Mary II and Caribbean Princess have been retrofitted to accept shore power connections.

Sincerely,

Madelyn Wils

AGREED TO:

James Pasquale,
Senior Vice President, Marketing and Economic Development
New York Power Authority

EXECUTION COPY

AGREEMENT

THIS AGREEMENT (this "Agreement") is entered into as of the ____ day of January, between the City of New York (the "City") with its office located at City Hall, New York, NY 10007, and the New York Power Authority ("NYPA") with its office located at 123 Main Street, White Plains, NY 10601.

WITNESSETH

WHEREAS, the City and NYPA wish to collaborate to establish shore power capability at the facility commonly known as the Brooklyn Cruise Terminal (the "BCT"), which facility is owned by the Port Authority of New York and New Jersey (the "Port Authority") and leased by New York City Economic Development Corporation ("NYCEDC") pursuant to a certain Amendment and Restatement of Agreement of Lease dated as of January 1, 2009;

WHEREAS, pursuant to that certain New York Cruise Terminals Usage Agreement dated as of June 25, 2004 between NYCEDC and Carnival Corporation (as amended by that certain Amendment to New York Cruise Terminals Usage Agreement dated as of June 19, 2006 between NYCEDC and Carnival Corporation), two cruise lines that are subsidiaries of the Carnival Corporation, directly or indirectly, (i.e. Carnival plc, trading as Cunard Line ("Cunard") and Princess Cruise Lines, Ltd., ("Princess")), each have the right to berth cruise ships at the BCT, subject to the terms set forth in such agreement;

WHEREAS, the Port Authority expects to construct shore power infrastructure at the BCT and complete such construction in 2012;

WHEREAS, pursuant to an agreement to be entered into by NYCEDC, Cunard and Princess (the "Carnival Shore Power Agreement"), Cunard and Princess will, following the completion of construction of the shore power infrastructure at the BCT,cause their respective cruise ships, the Queen Mary 2 and the Caribbean Princess, to employ the shore power infrastructure when each such ship is berthed at the BCT and, in connection therewith, Cunard and Princess, as applicable, shall pay NYCEDC or its designee a fixed rate of $0.12 per Kilowatt hour (the "Carnival Rate") for the NYPA-supplied electricity used by its cruise ship;

WHEREAS, in furtherance of the shared goal of establishing shore power capability at the BCT, the City and NYPA are each willing to be responsible for paying, for a period not to exceed five (5) years, an equal portion of the difference between the Carnival Rate and the actual cost of providing shore power to the Queen Mary 2 and Caribbean Princess;

WHEREAS, NYCEDC, Cunard and Princess will agree, pursuant to the Carnival Shore Power Agreement, that the Carnival Rate will apply no earlier than January 1, 2013.

NOW, THEREFORE, the City and NYPA agree as follows:

1. From the date of the first use of the shore power infrastructure at the BCT by either the Queen Mary 2 or the Caribbean Princess on or after January 1, 2013, until the termination of this Agreement, NYPA and the City will each pay half of the difference between the cost of the electrical power consumed by the Queen Mary 2 and the Caribbean Princess when berthed at the BCT and drawing shore power (i) at the Carnival Rate and (ii) at the then applicable NYPA tariff rate.

2. From the date of this Agreement until the termination of this Agreement, NYPA and the City will work together to reduce the Con Edison delivery rate included in the NYPA tariff rate to ensure long-term viability of shore power in New York City.

3. This Agreement shall terminate on December 31, 2017 or upon the expiration or earlier termination of the Carnival Shore Power Agreement, whichever comes first, in either case without the need for any further action by either of the parties hereto.

4. NYPA and the City shall adopt mutually acceptable billing procedures to effectuate the sharing of the costs described in Paragraph 1. NYPA shall not seek recovery from the City of NYPA's share of the costs described in Paragraph 1 through any tariff, the Long Term Agreement between the parties, or any other agreement under which NYPA provides services to the City. In addition, the City shall not seek recovery from NYPA of its share of the costs described in Paragraph 1 through any agreement between the City and NYPA.

5. No amendment, assignment or other modification of any of the terms of this Agreement shall be binding unless such amendment, assignment or other modification shall be in writing and executed by authorized officers of the parties hereto.

Approved as to Form [signature] Acting Corporation Counsel	**CITY OF NEW YORK** Authorized Representative: Stephen Goldsmith Title: Deputy Mayor for Operations Signature: [signature] Date: 1/20/2011 **NEW YORK POWER AUTHORITY** Authorized Representative: Richard M. Kessel Title: President and CEO Signature: [signature] Date: 1/27/11

Certificate of Appointment

Since the office of Executive Vice President and General Counsel very recently became vacant, I, Richard M. Kessel, President and Chief Executive Officer of the Power Authority of the State of New York (the "Authority"), in order to effectuate the Board of Trustees' resolution adopted on October 26, 2010 authorizing the Authority's entry into a cost share agreement with New York City Economic Development Corporation for shore power at the Brooklyn Cruise Terminal as specified in said resolution, hereby appoint Judith McCarthy as Acting General Counsel and an officer of the Authority for the limited purpose of doing any and all things and taking any and all actions and delivering any and all agreements, certificates and other documents, including approving the form of all such documents, to effectuate such resolution.

February 2, 2011

Richard M. Kessel
President and Chief Executive Officer

EXHIBIT B

FIRST AMENDMENT
TO THE AGREEMENT BETWEEN
THE CITY OF NEW YORK AND NEW YORK POWER AUTHORITY

THIS AMENDMENT dated this day of , 2015 by and between the City of New York (the "City") acting by the Department of Citywide Administrative Services ("DCAS"), located at One Centre Street, 17th Floor, New York, New York 10007, and the New York Power Authority ("NYPA") with its office located at 123 Main Street, White Plains, NY 10601.

WITNESSETH:

WHEREAS, on or about January 31, 2011 the City and NYPA entered into an agreement concerning the payment of the cost of the electrical power consumed by two named cruise ships when berthed at the Brooklyn Cruise Terminal (the "BCT") ("Agreement"); and

WHEREAS, the City and NYPA wish to further define its collaboration to establish shore power capability at the BCT; and

WHEREAS, pursuant to that certain New York Cruise Terminals Usage Agreement dated as of June 25, 2004 between the New York City Economic Development Corporation ("NYCEDC") and Carnival Corporation (as amended by that certain Amendment to New York Cruise Terminals Usage Agreement dated as of June 19, 2006 between NYCEDC and Carnival Corporation), Carnival plc, trading as Cunard Line ("Cunard") and Princess Cruise Lines, Ltd., ("Princess" and together with Cunard, the "Carnival Lines"), are two cruise lines that, directly or indirectly, are subsidiaries of the Carnival Corporation, and each of which continue to have the right to berth cruise ships at the BCT, subject to the terms set forth in such agreement; and

WHEREAS, the Port Authority of New York and New Jersey expects to complete construction of shore power infrastructure at the BCT by fall 2015; and

WHEREAS, pursuant to a certain agreement dated as of February 14, 2011 entered into by NYCEDC and the Carnival Lines (the "Carnival Shore Power Agreement"), the Carnival Lines (and additional Carnival Corporation Lines upon approval by NYCEDC) (collectively with the Carnival Lines the "Carnival Corporation Lines") will, following the completion of construction of the shore power infrastructure at the BCT, cause certain of their respective cruise ships to employ the shore power infrastructure when such cruise ships are berthed at the BCT; and

WHEREAS, the Carnival Corporation Lines, as applicable, shall pay NYCEDC or its designee a fixed rate of $0.12 per Kilowatt hour (the "Carnival Rate") for electric supply under the NYPA Service Tariff or any successor tariff; and

WHEREAS, currently there are no scheduled calls at the BCT through the end of 2017 for vessels with shore power capability outside of Carnival Corporation Lines (Non-Carnival Line"); and

WHEREAS, in the event that any Non-Carnival Line vessels schedule calls at the BCT prior to the end of 2017 and seek to employ shore power, NYCEDC will seek to enter into a shore power agreement with such Non-Carnival Line, so that upon the execution of any such agreement such vessels may employ shore power at the BCT ("Non-Carnival Shore Power Vessels"); and

WHEREAS, in furtherance of the shared goal of establishing shore power capability at the BCT, the City and NYPA are each willing to be responsible, over the period ending December 31, 2017, for an equal portion of the difference between the Carnival Rate and the cost of NYPA-supplied electricity providing shore power to the certain Carnival Corporation Lines cruise ships and Non-Carnival Shore Power Vessels as applicable; and

WHEREAS, NYCEDC and the Carnival Lines agreed, pursuant to the Carnival Shore Power Agreement, that the Carnival Rate was to apply no earlier than January 1, 2013.

NOW, THEREFORE, the City and NYPA agree as follows:

A. All capitalized words and expressions shall have the meaning ascribed to them in the Agreement, unless otherwise defined herein.

B. Paragraph 1 of the Agreement is deleted in its entirety and replaced with the following:

1. "From the date of the first use of the shore power infrastructure at the BCT by any Carnival Corporation Lines cruise ships or Non-Carnival Shore Power Vessels, as applicable, on or after January 1, 2013, until the termination of this Agreement on December 31, 2017, NYPA and the City will each cover half of the difference between the cost of the electrical power consumed by those ships when berthed at the BCT and drawing shore power (i) at the Carnival Rate and (ii) at the then applicable NYPA tariff rate, not to exceed a total of forty (40) calls per calendar year by the Carnival Corporation Lines cruise ships or Non-Carnival Shore Power Vessels, as applicable, or four hundred (400) hours per calendar year of use by the Carnival Corporation Lines cruise ships or Non-Carnival Shore Power Vessels, as applicable, whichever first occurs. A list of the current scheduled calls at the BCT through the end of 2015 of Carnival Corporation Lines cruise ships that have shore power capability is

listed on Exhibit A hereto. If the limits described in (ii) are exceeded by Carnival Corporation Lines and Non-Carnival Shore Power Vessels, cumulatively, applicable standard electric rates for electric supply under NYPA Service Tariff 100 or any successor tariff shall be applied. Upon NYPA's request, the City shall provide to NYPA the information necessary to track the limits identified in this Paragraph 1 related to usage of shore power at the BCT by Carnival Corporation Lines cruise ships or Non-Carnival Shore Power Vessels."

C. Except as modified herein, all other covenants, terms and conditions of the Agreement will remain unchanged and continue in full force and effect.

NEW YORK POWER AUTHORITY

By: ______________________________

Title: ___________________________
Date: ___________________________

CITY OF NEW YORK
Department of Citywide Administrative Services

By: ____________________________
Title: __________________________
Date: ___________________________

Approved as to Form

____
Acting Corporation Counsel

Exhibit A

Shore Power Capable Carnival Corporation Lines Ships
Current Scheduled Calls at the BCT

1/3/2015 Brooklyn Queen Mary 2
5/10/2015 Brooklyn Queen Mary 2
6/3/2015 Brooklyn Queen Mary 2
6/21/2015 Brooklyn Queen Mary 2
7/14/2015 Brooklyn Queen Mary 2
7/30/2015 Brooklyn Queen Mary 2
8/4/2015 Brooklyn Queen Mary 2
8/19/2015 Brooklyn Queen Mary 2
9/4/2015 Brooklyn Queen Mary 2
9/21/2015 Brooklyn Caribbean Princess
9/26/2015 Brooklyn Regal Princess
9/27/2015 Brooklyn Queen Mary 2
10/3/2015 Brooklyn Regal Princess
10/10/2015 Brooklyn Regal Princess
10/17/2015 Brooklyn Regal Princess
10/24/2015 Brooklyn Regal
10/28/2015 Brooklyn Caribbean Princess
10/29/2015 Brooklyn Queen Mary 2
11/12/2015 Brooklyn Queen Mary 2
11/25/2015 Brooklyn Queen Mary 2
12/22/2015 Brooklyn Queen Mary 2

Procurement (Services) and Other Contracts – Awards
(For Description of Contracts See "Discussion")

EXHIBIT "A"
July 30, 2015

Bus Unit/ Plant Site	Company Contract #	Start of Contract	Description of Contract	Closing Date	Award Basis[1] Contract Type[2]	Compensation Limit	Amount Expended To Date	Authorized Expenditures For Life Of Contract
ECONOMIC DEVELOPMENT & ENERGY EFFICIENCY - CUSTOMER ENERGY SOLUTIONS	**Q15-5865LW; 7 awards:** 1. **BURO HAPPOLD CONSULTING ENGINEERS, PC** New York, NY 2. **FIREFLY ENERGY CONSULTING, LLC** Dallas, TX 3. **ICF RESOURCES, LLC** Fairfax, VA 4. **KEMA, INC.** Burlington, MA 5. **NAVIGANT CON-SULTING, INC.** New York, NY 6. **NEXANT, INC.** San Francisco, CA 7. **OPTIMAL ENERGY, INC.** Hinesburg, VT (PO#s TBA)	08/01/15 (on or about)	Provide for consulting services in support of Program Strategy and Development ("PS&D") initiatives	07/31/20	B/P	*Note: represents aggregate total for up to 5-year term		**$3,000,000***
ECONOMIC DEVELOPMENT & ENERGY EFFICIENCY - ENERGY EFFICIENCY	**SOLAR LIBERTY ENERGY SYSTEMS, INC.** Williamsville, NY (**Q14-5789RH**; PO# TBA)	08/01/15 (on or about)	Provide for all super-vision, labor, materials and equipment to F/D/I and make operational solar photovoltaic (PV) systems at certain Ener-gy Efficiency Program participant sites state-wide (Phase II)	05/19/20 (coterminous with two other contracts for such work, approved by the Trustees on 5/19/15)	B/C	*Note: represents funding for approx. 5-year term -- **to be added to the previously-approved aggregate total of $32 million for contracts with two other firms (Standard Solar and Montante Solar), resulting in a combined aggregate total of $48 million, and to be allocated as needed. All costs will be recovered by the Authority.**		**$16,000,000***

♦ **M / WBE:** **New York State-certified Minority / Women-owned Business Enterprise (indicated by the ♦ symbol after the Company Name)**
1 **Award Basis:** **B= Competitive Bid; S= Sole Source; Si= Single Source; C= Competitive Search**
2 **Contract Type:** **P= Personal Service; S= (Non-Personal) Service; C= Construction; E= Equipment; N= Non-Procurement; A= Architectural & Engineering Service; L= Legal Service**

Bus Unit/ Plant Site	Company Contract #	Start of Contract	Description of Contract	Closing Date	Award Basis[1] Contract Type[2]	Compensation Limit	Amount Expended To Date	Authorized Expenditures For Life Of Contract
ECONOMIC DEVELOPMENT & ENERGY EFFICIENCY - ENERGY EFFICIENCY	**Q15-5862MC; 3 awards:** **1. AERY LIGHTING** Elmsford, NY **(4600002989)** **2. GRAYBAR ELECTRIC CO., INC.** Teterboro, NJ **(4600002995)** **3. LUMEN LIGHT SOLUTIONS, LLC** Yonkers, NY **(4600003006)**	07/15/15	Provide for furnishing & delivery of LED lighting equipment/materials for the Westchester County Street Lighting Project	07/14/18	B/E	$1,500,000 (Aggregate Interim Award Amount) *Note: represents aggregate total for 3-year term **All costs will be recovered by the Authority.**		**$7,500,000***
ECONOMIC DEVELOPMENT & ENERGY EFFICIENCY - ENERGY EFFICIENCY & CUSTOMER ENERGY SOLUTIONS	**Q15-5863SR; 5 awards:** **1. DONIA & ASSOC-IATES, LLC** ♦ Brooklyn, NY **4600002993** **2. HILL INTERNATIONAL, INC.** Philadelphia, PA (HQ) New York, NY (Branch Office) **4600002991** **3. L J GONZER ASSOCIATES** Cranford, NJ **4600002990** **4. NPTS, INC.** ♦ Buffalo, NY **4600002994** [continued on next page]	07/02/15	Provide for the services of temporary personnel to support construction activities and/or perform engineering services in connection with Energy Efficiency & Customer Energy Solutions pro-grams & projects	07/01/18	B/S	$1,000,000 (Aggregate Interim Award Amount) *Note: represents aggregate total for up to 3-year term		**$10,000,000***

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2 **Contract Type:** **P= Personal Service; S= (Non-Personal) Service; C= Construction; E= Equipment; N= Non-Procurement; A= Architectural & Engineering Service; L= Legal Service**

Bus Unit/ Plant Site	Company Contract #	Start of Contract	Description of Contract	Closing Date	Award Basis[1] Contract Type[2]	Compensation Limit	Amount Expended To Date	Authorized Expenditures For Life Of Contract
	5. RCM TECHNOLOGIES, INC. Pennsauken, NJ **4600002992**							
ENTERPRISE SHARED SERVICES - IT	**Q15-5806CP; 15 awards:** **1. 22ND CENTURY ♦ TECHNOLOGIES, INC.** Somerset, NJ **2. ARTECH INFORMATION SYSTEMS, LLC** Morristown, NJ **3. CARLYLE CONSULTING SERVICES, INC.** New York, NY **4. CLARUSTEC, INC.** Edison, NJ **5. CMA CONSULTING ♦ SERVICES** Latham, NY **6. DONNELLY & MOORE ♦ CORP.** New City, NY **7. ECLARO INTER- ♦ NATIONAL, INC.** New York, NY **8. GARNET RIVER, LLC ♦** Saratoga Springs, NY [continued on next page]	08/01/15 (on or about)	Provide for IT temporary staffing services	07/31/18	B/S	*Note: represents aggregate total for up to 3-year term		**$9,000,000***

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2 Contract Type: P= Personal Service; S= (Non-Personal) Service; C= Construction; E= Equipment; N= Non-Procurement; A= Architectural & Engineering Service; L= Legal Service

Bus Unit/ Plant Site	Company Contract #	Start of Contract	Description of Contract	Closing Date	Award Basis[1] Contract Type[2]	Compensation Limit	Amount Expended To Date	Authorized Expenditures For Life Of Contract
	9. INDOTRONIX INTER-NATIONAL CORP. Poughkeepsie, NY							
	10. MINDLANCE, INC. Hoboken, NJ							
	11. NEOTECRA, INC. New York, NY							
	12. SOFTWARE GUIDANCE & ASSISTANCE, INC. Tarrytown, NY							
	13. SYSTEM EDGE (USA), LLC ♦ Iselin, NJ (HQ) New York, NY (Branch Office)							
	14. TRIGYN TECHNOLOGIES, INC. Edison, NJ							
	15. UNIQUE COMP, INC. ♦ Long Island City, NY (PO#s TBA)							
ENTERPRISE SHARED SERVICES - IT	**Q15-5841SR; 10 awards:** **1. A-1 TECHNOLOGY, INC. ♦** New York, NY **2. ERNST & YOUNG, LLP** New York, NY	08/01/15 (on or about)	Provide for SAP consulting services in four areas: advisory and consulting services, system integration and implementation services, end-to-end consulting services and turnkey solutions	07/31/18	B/P	*Note: represents aggregate total for up to 3-year term		**$10,500,000***

[continued on next page]

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2 **Contract Type:** **P= Personal Service; S= (Non-Personal) Service; C= Construction; E= Equipment; N= Non-Procurement; A= Architectural & Engineering Service; L= Legal Service**

Bus Unit/ Plant Site	Company Contract #	Start of Contract	Description of Contract	Closing Date	Award Basis[1] Contract Type[2]	Compensation Limit	Amount Expended To Date	Authorized Expenditures For Life Of Contract
	3. GROM ASSOCIATES, INC. Flemington, NJ							
	4. GYANSYS, INC. Indianapolis, IN							
	5. HEWLETT-PACKARD COMPANY Palo Alto, CA							
	6. NTT DATA, INC. Boston, MA							
	7. QUINTEL-MC, INC./ QUINTEL MANAGEMENT CONSULTING, INC. Greenwood Village, CO							
	8. SAGE GROUP CONSULTING, INC. Hazlet, NJ							
	9. SIERRA INFOSYS, INC. ♦ Houston, TX							
	10. U-TEGRATION, INC. Houston, TX (PO#s TBA)							

♦ M / WBE: New York State-certified Minority / Women-owned Business Enterprise (indicated by the ♦ symbol after the Company Name)
1 Award Basis: B= Competitive Bid; S= Sole Source; Si= Single Source; C= Competitive Search
2 Contract Type: P= Personal Service; S= (Non-Personal) Service; C= Construction; E= Equipment; N= Non-Procurement; A= Architectural & Engineering Service; L= Legal Service

Procurement (Services) and Other Contracts – Awards
(For Description of Contracts See "Discussion")

EXHIBIT "A"
July 30, 2015

Bus Unit/ Plant Site	Company Contract #	Start of Contract	Description of Contract	Closing Date	Award Basis[1] Contract Type[2]	Compensation Limit	Amount Expended To Date	Authorized Expenditures For Life Of Contract
OPERATIONS SUPPORT SERVICES - ASSET & MAINT MGMT + OPERATIONS - TRANSMISSION	**ABB, INC.** Raleigh, NC (PO# TBA)	08/01/15 (on or about)	Provide for a long-term maintenance agreement to provide for emergency repairs and maintenance for ABB SF6 circuit breakers at Authority plants and substations statewide	07/31/20	Si/S	*Note: represents total for up to 5-year term		**$500,000***
OPERATIONS SUPPORT SERVICES - PROJ MGMT	**BERNIER, CARR & ASSOCIATES, PC** Watertown, NY **Q15-5816FS; 4500261111)**	07/14/15	Provide for A/E and design services for the construction of new Parks Facilities at Robert Moses State Park in Massena, NY	12/31/17	B/A	$75,000 (Interim Award Amount) *Note: represents total for up to 30-month term		**$364,375***
OPERATIONS SUPPORT SERVICES - EH&S	**BIO-ONE, INC.** Shokan, NY (**Q15-5822RH**; PO# TBA)	08/01/15 (on or about)	Provide for on-call infectious disease biological clean-up services statewide, as may be required	07/31/17	B/S	*Note: represents total for up to 2-year term		**$50,000***
OPERATIONS SUPPORT SERVICES - EH&S and STL	**2 related awards:**		Provide for maintenance by the respective Original Equipment Manufacturers of devices / equipment and related software (1. PIT Tag monitoring system and 2. Flowmeters) to support the eel passage facility at STL, per FERC requirements		S/S			
	1. BIOMARK, INC. Boise, ID **(4500259576)**	06/03/15		06/02/20		$6,085 (Interim Award Amount)		**$40,350***
	2. DEADLINE SOLUTIONS, INC. Syracuse, NY **(4500259572)**	06/03/15		06/02/20		$7,740 (Interim Award Amount) *Note: represents total for up to 5-year term		**$131,509***
OPERATIONS SUPPORT SERVICES - ENGINEERING	**C&S ENGINEERS, INC.** Syracuse, NY (**Q14-5758FS**; PO# TBA)	08/01/15 (on or about)	Provide for on-call engineering services	12/31/19 (coterminous with nine other contracts for such services, approved by Trustees 5/19/15)	B/A	*Note: included in the previously-approved aggregate total of $20 million for 9 other contracts for such services, for a term of approximately 4.5 years		**$***

♦	**M / WBE:**	**New York State-certified Minority / Women-owned Business Enterprise (indicated by the ♦ symbol after the Company Name)**
1	**Award Basis:**	**B= Competitive Bid; S= Sole Source; Si= Single Source; C= Competitive Search**
2	**Contract Type:**	**P= Personal Service; S= (Non-Personal) Service; C= Construction; E= Equipment; N= Non-Procurement; A= Architectural & Engineering Service; L= Legal Service**

Bus Unit/ Plant Site	Company Contract #	Start of Contract	Description of Contract	Closing Date	Award Basis[1] Contract Type[2]	Compensation Limit	Amount Expended To Date	Authorized Expenditures For Life Of Contract
OPERATIONS - POWER GEN - SCPPs	**DAIKIN APPLIED AMERICAS, INC. dba DAIKIN APPLIED** (formerly McQuay Factory Service) Minneapolis, MN (HQ); Long Island City, NY (Factory Service Office) (**Q15-5810JT;** PO# TBA)	08/01/15 (on or about)	Provide for maintenance and repair services for centrifugal chillers at the Small Clean Power Plants	07/31/20	B/S	*Note: represents total for up to 5-year term		**$5,000,000***
OPERATIONS SUPPORT SERVICES - PROJ MGMT + STL	**E I TEAM, INC. ♦** Buffalo, NY **(Q15-5873DK; 4500260904**)	07/07/15	Provide for A/E and design services for the construction of new Warehouse/Office and Security Buildings at the STL Project	07/06/18	B/A	$200,000 (Interim Award Amount) *Note: represents total for up to 3-year term		**$1,062,828***
OPERATIONS - POWER GEN - STL	**FUSION BABBITTING COMPANY, INC.** Milwaukee, WI (**RFQ 6000156451**; PO# TBA)	08/01/15 (on or about)	Provide for refurbishment of hydroelectric turbine thrust bearing shoes for the STL Project	07/31/18	B/S	*Note: represents total for up to 3-year term		**$225,000***
OPERATIONS - POWER GEN - SENY PLANTS	**GRUNAU COMPANY, INC.** Boardman, OH **(Q15-5809JT; 4600002978)**	07/15/15	Provide for inspection, testing, maintenance and repair services for the fire alarm and protection system at the SENY Plants	07/14/20	B/S	$100,000 (Interim Award Amount) *Note: represents total for up to 5-year term		**$3,000,000***
OPERATIONS SUPPORT SERVICES - EH&S	**RUBY CANYON ENGINEERING, INC.** Grand Junction, CO **(Q15-5852SG; 4500259425)**	07/01/15	Provide for consulting services involving verification of greenhouse gas emissions data reported by the Authority to the Climate Registry	06/30/20	B/P	$10,000 (Interim Award Amount) *Note: represents total for up to 5-year term		**$96,304***

♦ M / WBE: **New York State-certified Minority / Women-owned Business Enterprise (indicated by the ♦ symbol after the Company Name)**
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2 Contract Type: **P= Personal Service; S= (Non-Personal) Service; C= Construction; E= Equipment; N= Non-Procurement; A= Architectural & Engineering Service; L= Legal Service**

Bus Unit/ Plant Site	Company Contract #	Start of Contract	Description of Contract	Closing Date	Award Basis[1] Contract Type[2]	Compensation Limit	Amount Expended To Date	Authorized Expenditures For Life Of Contract
OPERATIONS SUPPORT SERVICES - TECH COMPL - PHYSICAL INFRASTRUC. SECURITY	**SUMMIT SECURITY SERVICES, INC.** Uniondale, NY (**Q15-5828SR**; PO# TBA)	08/01/15 (on or about)	Provide for background investigation services to support Authority operations at its offices and operating facilities state-wide	07/31/20	B/S	*Note: represents total for up to 5-year term		**$2,500,000***

♦ **M / WBE:** **New York State-certified Minority / Women-owned Business Enterprise (indicated by the ♦ symbol after the Company Name)**
1 **Award Basis:** **B= Competitive Bid; S= Sole Source; Si= Single Source; C= Competitive Search**
2 **Contract Type:** **P= Personal Service; S= (Non-Personal) Service; C= Construction; E= Equipment; N= Non-Procurement; A= Architectural & Engineering Service; L= Legal Service**

Procurement (Services) Contracts – Extensions and/or Additional Funding
(For Description of Contracts See "Discussion")

EXHIBIT "B"
July 30, 2015

Plant Site/ Bus. Unit	Company Contract #	Start of Contract	Description of Contract	Closing Date	Award Basis[1] Contract Type[2]	Compensation Limit	Amount Expended To Date	Authorized Expenditures For Life Of Contract
ECONOMIC DEVELOPMENT & ENERGY EFFICIENCY - CUSTOMER ENERGY SOLUTIONS	**TALISEN TECHNOLOGIES, INC.** St. Louis, MO **4600002730**	10/09/13	Provide for software & services related to the development & implementation of the Energy Mgmt Center / NY Energy Manager for continuous monitoring, analysis, forecasting & management of customer facility energy supply, consumption & costs	10/08/18	B/P	$2,236,000 (Target Value) *Note: represents originally approved amount of $1.79 million + an additional $446,000 authorized per the EAPs + **CURRENT REQUEST for $5 million**	$1,786,461 (Released Amount)	**$7,236,000***
ENTERPRISE SHARED SERVICES - IT	**6 related contracts:** 1. **AVEPOINT PUBLIC SECTOR, INC.** Arlington, VA **4600002834** 2. **BLUEMETAL ARCHITECTS, INC.** (formerly Jornata LLC) Watertown, MA **4600002850** 3. **EMC CORP.** Hopkinton, MA **4600002849** 4. **KMQ ENTERPRISES, INC. dba TAILWIND ASSOCIATES** Schenectady, NY **4600002851** 5. **STELLAR SERVICES, INC. ♦** New York, NY **4600002835** [continued on next page]	09/01/14	Provide for consulting services in connection with SharePoint 2013 implementation, including support for various business process improvements and strategic initiatives	07/31/19	B/P	$1,199,998 (Aggregate Target Value) *Note: includes originally approved aggregate total of $1.2 million + **CURRENT REQUEST for $8 million**	$840,768 (Aggregate Released Amount)	**$9,200,000***

♦ M / WBE: New York State-certified Minority / Women-owned Business Enterprise (indicated by the ♦ symbol after the Company Name)
1 Award Basis: B= Competitive Bid; C= Competitive Search; S= Sole Source; Si = Single Source
2 Contract Type: P= Personal Service; S= (Non-Personal) Service; C= Construction; E= Equipment; N= Non-Procurement; L= Legal Service

Procurement (Services) Contracts – Extensions and/or Additional Funding
(For Description of Contracts See "Discussion")

EXHIBIT "B"
July 30, 2015

Plant Site/ Bus. Unit	Company Contract #	Start of Contract	Description of Contract	Closing Date	Award Basis[1] Contract Type[2]	Compensation Limit	Amount Expended To Date	Authorized Expenditures For Life Of Contract
	6. SUMMIT 7 SYSTEMS, INC. Huntsville, AL **4600002836**							
OPERATIONS SUPP SERV - PROJ MGMT + STL	**ABB, INC.** Raleigh, NC **4500228543**	01/23/13	Provide for services in connection with the GSU Transformer Re-placement Project at STL	12/31/17	B/C	$24,353,657 *Note: includes original award amount of $22,139,326 + an additional $2,214,331 authorized per the EAPs + **CURRENT REQUEST for $6,262,987**	$9,070,288	**$30,616,644***
OPERATIONS SUPP SERV - TECH COMPL - PHYSICAL INFRASTRUC. SECURITY	**CARCO GROUP, INC.** Holtsville, NY **4600002319**	07/01/10	Provide for background investigation services to support Authority opera-tions at its offices and operating facilities statewide	12/31/15	B/S	$2,500,000 *Note: includes originally approved amount of $1.5 million + an additional $1 million authorized in accordance with the EAPs + **CURRENT REQUEST for $300,000**	$2,298,518	**$2,800,000***
OPERATIONS SUPP SERV - PROJ MGMT + NIA PROJ	**FERGUSON ELECTRIC CONSTRUCTION CO.** Buffalo, NY **4500252428**	11/20/14	Provide for installation services for GSU trans-former Project at RMNPP	12/31/16	B/C	$371,900 *Note: includes originally approved amount of $371,900; **NO additional funding requested**	$0	**$371,900***
OPERATIONS SUPP SERV - PROJ MGMT + STL	**STIEGLITZ SNYDER ARCHITECTURE** Buffalo, NY **4500219697**	08/01/12	Provide for A/E, design and construction support services for the new Nature Center at Robert Moses State Park in Massena, NY	07/31/17	B/A	$580,756 *Note: represents originally approved amount of $430,993 + an additional $149,763 authorized per the EAPs + **CURRENT REQUEST for $50,000**	$470,456	**$630,756***

♦ M / WBE: New York State-certified Minority / Women-owned Business Enterprise (indicated by the ♦ symbol after the Company Name)
1 Award Basis: B= Competitive Bid; C= Competitive Search; S= Sole Source; Si = Single Source
2 Contract Type: P= Personal Service; S= (Non-Personal) Service; C= Construction; E= Equipment; N= Non-Procurement; L= Legal Service

New York Power Authority
Niagara Power Project
EXHIBIT A
Delineating Portions of
Former First Buffalo Marina
To Be Transferred to ECHDC
and To Be Retained by NYPA
City of Buffalo
Erie County

Legend

- Boundary of Retained Parcel
- Proposed Improvements
- NYPA-Owned Lands
- Interstate Highway
- Primary Highways
- Other Roads

Date of Aerial Photo: April 2011

NYPAGIS
White Plains Office

N
W E
S

1 inch = 300 feet

0 75 150 300 450 600
Feet

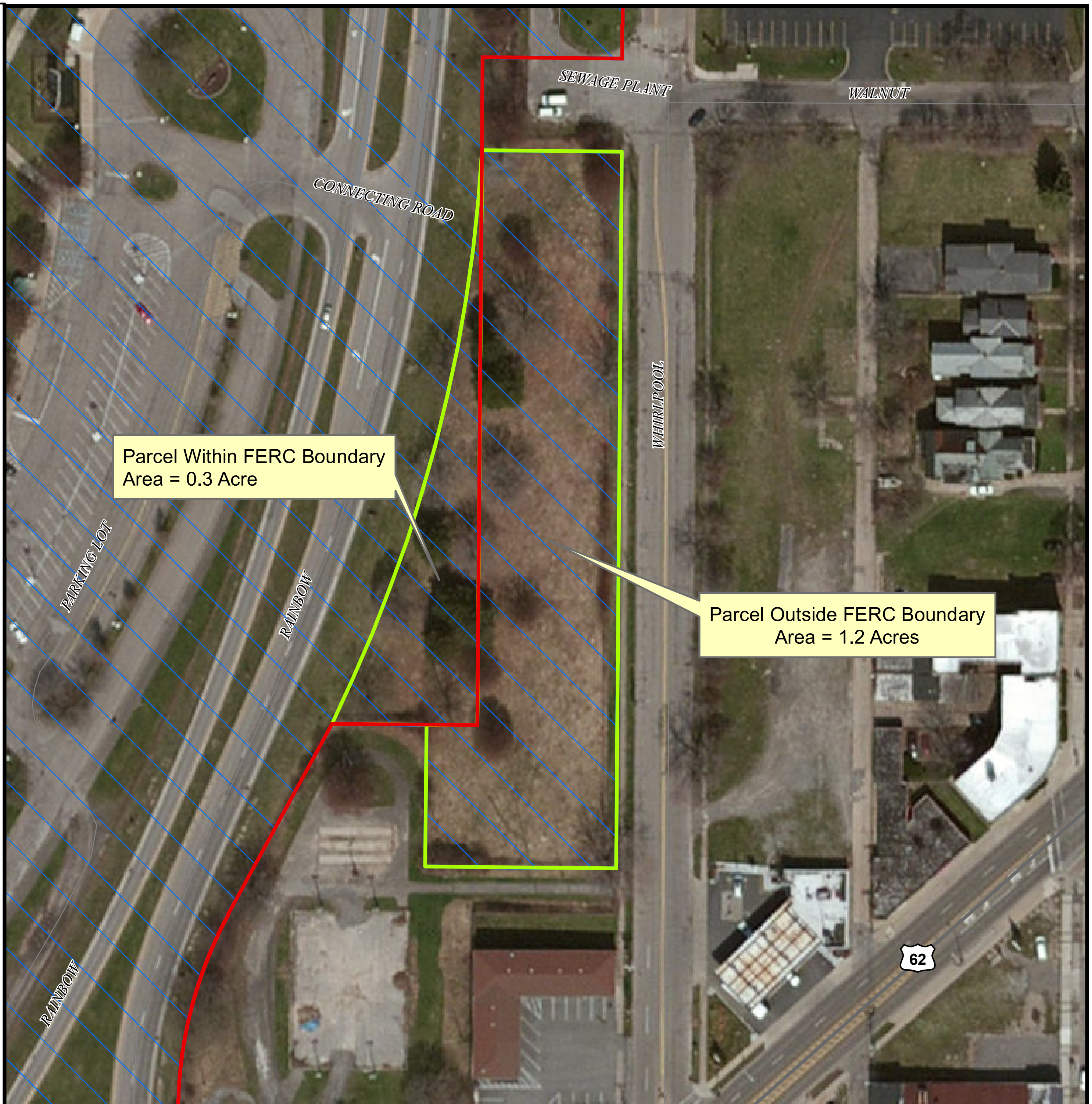
NPP Marina Transfer.PDF JGW 09/8/14

New York Power Authority
Niagara Power Project
Parcels to be Conveyed
to OPRHP
City of Niagara Falls
Niagara County

EXHIBIT A

Legend

- Proposed Conveyance Boundaries
- FERC Project Boundary
- NYPA Owned Lands
- Interstate Highway
- Primary Highways
- Other Roads



N
W E
S

1 inch = 100 feet

0 25 50 100 150 200

Feet

President & Chief Executive Officer Report

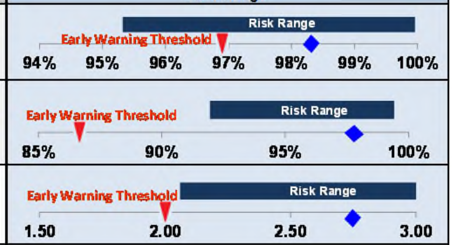
Gil Quiniones

July 30, 2015

NYPA Overall Performance June 2015

Goal	Measure	Year-To-Date 2015 Status	Target	Actual
Maintain Infrastructure	Generation Market Readiness *(%)*	●	99.40	98.37
	Transmission System Reliability *(%)*	▲	96.15	97.28
Financial Management	Debt Coverage *(Ratio)*	▲	2.70	2.74
	O&M Budget Performance *($ Millions)*	▲	225.1	204.3
Energy Services	MMBTU's Saved	▲	62.0	91.0
	Energy Efficiency Investment in State Facilities *($ Millions)*	●	21.4	18.6
Workforce Management	Retention *(# of Touchpoints)*	▲	420	690*
Safety Leadership	DART Rate *(Index)*	●	0.78	1.23
Environmental Responsibility	Environmental Incidents *(Units)*	▲	16	14

Year 2016 Risk Range



Risk Range

◆	Year-to-Date Actual
▼	Risk Threshold

Projected risk ranges to be reported quarterly

Corporate Performance

Status	
▲	Meeting or Exceeding Target
■ (yellow)	Below Target
●	Significantly Below Target

*Quarterly measure. Actual as of Q2.

NEW YORK STATE OF OPPORTUNITY | NY Power Authority

EDWARD WELZ, PE
Chief Operating Officer

TO: NYPA BOARD OF TRUSTEES

FROM: EDWARD WELZ, CHIEF OPERATING OFFICER

DATE: JULY 14, 2015

SUBJECT: MONTHLY REPORT FOR THE BOARD OF TRUSTEES

****

This report covers performance of the Operations group in June 2015.

Operations

Plant Performance

Systemwide net generation[1] in June was 2,058,059 MWh (megawatt-hours[2]) which is below the projected net generation of 2,303,642 MWh. For the year, net generation was 11,884,766 MWh which is below the projected target of 13,864,221 MWh.

The fleet availability factor[3] in June was 92.00 percent, and was 85.47 percent for the year. Generation Market Readiness factor[4] in June was 98.62 percent, which is lower than the target of 99.40 percent. Year-to-date Generation Market Readiness factor was at 98.37 percent, which is below the annual target of 99.40 percent.

There were two significant forced outage[5] events in June:

1. Pouch GT needed to have the generator rotor rebuilt beginning in May, and returned to service on June 20. This resulted in 858.9 total forced outage hours.
2. The St. Lawrence Plant was derated during the course of the month due to lack of water. This resulted in the equivalent of one day out of service.

Niagara River flows in June were above the historical average and will be above normal levels during the year. St. Lawrence River flows for June were below historical levels but are expected to be above the average flow for the rest of the year.

EDWARD WELZ, PE
Chief Operating Officer

Transmission Performance

Transmission reliability[i] in June was 98.84 percent, which was above the monthly target of 98.60 percent. Year-to-date transmission reliability is 97.28 percent, above the target of 96.15 percent.

There was one significant[ii] unplanned transmission outages in June. The GF5-35 line came out on emergency for 13-hours to repair a leak on the CCVT.

Safety

The NYPA DART (Days Away, Restricted or Transferred) Rate for June is 0.00. For the year, the DART Rate is 1.23 compared to the target of 0.78.

The Operations DART Rate for June is 0.00. For the year, the DART Rate is 1.64 compared to the target of 1.08.

There was no lost time incidents in June that met the DART criteria.

For the year, there have been 10 injuries that resulted in lost time and met the DART criteria.

Environmental

There were two reportable incidents in June:

1. At Flynn, a miscommunication with the sampling contractor caused the discharge monitoring sample to be taken at the end of the quarter. This resulted in the plant missing the submittal of the Discharge Monitoring Quarterly Report to the NYSDEC.
2. At Astoria 500MW, the required discharge monitoring samples were not taken due to the plant's forced outage. This resulted in the plant failing to report the Discharge Monitoring Report to the NYSDEC.

For the year, there have been 13 incidents. The annual target is 32 incidents.

NEW YORK STATE OF OPPORTUNITY | NY Power Authority

EDWARD WELZ, PE
Chief Operating Officer

Life Extension and Modernization Programs

Transmission LEM

T-LEM is a multiyear program that will upgrade the Authority's existing transmission system to maintain availability, increase reliability, and ensure regulatory compliance. The Program encompasses Authority transmission assets in the Central, Northern, and Western Regions. The Program is estimated to cost $726 million and is comprised of several projects:

- **St. Lawrence Breaker & Relay Replacement:** Trustees authorized funding for Phase 1 in the amount of $67.8 million (total $110 million) at the December 2012 meeting.
    - Construction continues; PCB 1724 energized.
    - Station Service transformers and 480V switchgear 4A &4B on order.
- **STL Remote Substations and Switchyard LEM (CPR 558, 1162, and 1163)**
    - Adirondack Sub work will be included in the MA1 rebuild package.
    - Engineering for replacement of Adirondack breakers OCB 102 and 202 completed.
    - Engineering for Station Service Upgrade at Plattsburgh in progress.
    - RFP is being assembled for storm water drainage improvement.
- **NIA Protective Relay Replacement (CPR 209):** Trustees authorized funding for Phase 1 in the amount of $25.9 million (total $52 million) at the December 2012 meeting.
    - NIA Packard 195, Packard 194, Bay10 Relay/1NR, Gardenville 180/ Panel 9NR scheduled for 2015:
        - Relay replacement outage in Bay 10 Relay/1NR, Gibson 198 was completed on 5/1/15
        - Replacement of the Packard 194 relay with a 311L is planned for the 3rd quarter 2015
        - Gardenville 180 scheduled for the 4th quarter 2015
- **NIA Switchyard LEM:** Trustees authorized funding for Phase 1 in the amount of $154 million (total $266.9 million) at the December 2012 meeting.
    - 800MVA Auto-Transformer design/fabrication complete; delivery scheduled for 8/20/2015.
    - Five (5) 115kV Breakers delivered to site on 6/30/2015
    - Award recommendation in progress for 2015/2016 Installation Contract and Miscellaneous Equipment
    - 115kV trenching and conduit installation complete.
    - Fall 2015 outage work including AT4 Replacement – scheduled start 9/7/2015
    - NIA DC Distribution Upgrade: comments on 90% design package received. IFC and specifications for procurement of equipment package to be issued by RCMT- August 2015
- **CEC Switchyard LEM:**
    - CEAR and award for 765 kV circuit breakers approved by Trustees.
    - 345 kV breakers contract awarded
    - IFB package for 2016 construction in progress – due 9/30/2015
    - 765 PT contract awarded
- **CEC Auto-Transformer/Reactor Refurbishment:**
    - All reactors complete; 1A, 1C, 1X,1B

- Change Order issued to ABB to repair Auto-Transformer 1X to address the damage caused by ABB as well as legacy issues discovered during the inspection. The unit is expected to return to CEC by 3/31/16.
- **Massena Substation Reactor Refurbishment:**
    - Refurbishment of (2) reactors is planned for 2015.
        - Reactor 1X outage: 8/3/15 – 10/2/15.
        - Reactor 1B outage: 10/3/15 - 10/25/15.
- **PV-20 Submarine Cable Replacement:**
    - Bids received for cable removal on 4/30/15 and installation on 5/14/15; review in progress.
- **BG & CEC Relay Replacements:**
    - The project team continues to design, procure equipment, and install relays.
- **Massena Substation Autotransformer Replacement:**
    - All auto-transformers have been delivered to Massena; installation in progress.
    - Bank 2 energized on May 29, 2015; Bank 1 return-to-service will be in 2016
    - Request for additional funding to be presented to the Trustees at July 2015 meeting.
- **Tower Painting:**
    - Painting started in the Northern NY region and is expected to run through November 2015.

<u>LPGP LEM</u>

The fourth unit outage (Unit 2) commenced on March 25, 2015 and the unit refurbishment work is well underway as scheduled. However, Mitsubishi Hitachi Power Systems Americas (MHPSA) has encountered quality control issues with the new inner head cover that they are fabricating which will delay the unit re-assembly by at least two weeks. MHPSA is preparing a recovery plan in order to try and maintain the schedule and the time allotted for commissioning will also need to be compressed to return the unit to service on November 10, 2015.

MHPSA has decided to change the fabrication of the remaining six head covers from their own facility located in Saskatoon Canada to an independently-owned fabricator, ABS Machining located in Mississauga, Canada, due to ongoing quality and schedule issues. The Saskatoon facility will continue with the fabrication of the fifth and six set of head covers and ABS commenced with the fabrication process in parallel with the Saskatoon facility; this is to ensure that at least one set of head covers is available for the next unit outage (Unit 6) in order to maintain the schedule. In addition, the fabricator of the new servomotors, Voith, recently underwent staff downsizing at their facility located in York, PA and decided to have the remaining seven servomotors fabricated to the same ABS facility mentioned above in order to meet the program schedule and contract terms.

As previously reported, the rotor from Unit 2 has signs of overheating and the Plant will replace the damaged rotor pole components in order to place the rotor back in service.

EDWARD WELZ, PE
Chief Operating Officer

The fourth runner (to be installed in Unit 2) has been delivered and the fifth and sixth runners are presently being assembled in MHPSA's facility located in Japan (which is typical for all runners). The fabrication of the seventh runner components have been completed by the Litostroj foundry located in Slovenia and arrived at MHPSA's facility for assembly. The components for the eighth runner are in various stages of fabrication at the Litostroj foundry and were inspected in May with acceptable results. As previously reported, the Litostroj facility may be acquired by another fabricator which is still pending.

The fourth set of wicket gates arrived on site and the fabrication of the fifth set of wicket gates is underway. The third set of spare shafts was delivered and the fabrication of three additional spare sets of shafts was released. MHPSA ordered the fourth spare set of shafts from Hyunjin and ordered the fifth and sixth spare set of shafts from a new forging foundry, Taewoong also located in South Korea as previously reported. NYPA's QA and Engineering staff plan on inspecting the first shaft that is being fabricated by the Taewoong facility in July.

The original turbine shaft from Unit 2 was inspected in June and cracks were discovered and it was decided to use the new spare shafts instead. Based upon the discovery of cracks in three out of four original shafts inspected thus far and given the high probability that additional shafts will be in similar condition, all existing shafts on future units going forward will be replaced with new ones. A fabrication release for the remaining additional spare sets of shafts will be forthcoming.

The time frame between the future unit outages has been condensed in order to maintain the completion of the LPGP LEM program in 2020 as originally planned.

EDWARD WELZ, PE
Chief Operating Officer

Technical Compliance – NERC Reliability Standards

Enforcement Actions – Northeast Power Coordinating Council (NPCC)

During the reporting period, no new possible violations of the North American Electric Reliability Corporation (NERC) Reliability Standards were reported to the NPCC. There is one (1) possible violation being processed under NERC's risk-based enforcement program for self-logging of minimal risk issues.

Internal Investigation of Possible Violations

One (1) new investigation was initiated in June. There are seven (7) open investigations.

New Bulk Electric System (BES) Definition

As stated in earlier reports, the Federal Energy Regulatory Commission (FERC) approved a new Bulk Electric System (BES) definition. Under the new definition NYPA has nearly 50 newly identified BES elements that will be subject to the NERC reliability standards in July 2016.

In June, a joint NYPA-Alcoa exclusion exception request to the BES definition for the Moses-Alcoa (MAL) 115 kV transmission lines was submitted to NPCC for review and approval. Based on the NERC Rules of Procedure Appendix 5c, it is anticipated that a decision regarding this exception will be available by November 2015. NYPA is also developing an exclusion exception request to the BES definition for the Plattsburgh 115 kV capacitor banks 5 and 6. This exception request is anticipated to be submitted to NPCC in July 2015. Approval of these exception requests will relieve NYPA from having to be registered as a Transmission Operator for its newly identified BES elements. With that outcome, the NYISO will be the Transmission Operator for NYPA's new BES elements.

Physical Security Standard (CIP-014-1)

On June 12, 2015, NPCC performed an assessment of NYPA's preparation for complying with the NERC CIP-014 physical security standard. The meeting was held at the Clark Energy Center. NPCC was impressed with NYPA's preparation and steps that have been taken with regard to developing and enhancing the security plans of the facilities that may be subject to the standard. NPCC's summary report concluded that NYPA has applied a logical, common sense approach to achieve a security posture that is aligned with the requirements of the CIP-014 standard.

Critical Infrastructure Protection (CIP) Standards - Version 5

NYPA's CIP Version 5 (V5) Implementation Project team continued to execute the transition plan to achieve compliance with the new standards before the April 1, 2016 enforcement date. In preparation for this outcome, NYPA is scheduled for a CIP V5 transition assessment by NPCC on September 15-17, 2015. The assessment is an opportunity for NYPA to validate its approach and implement any recommendations NPCC might make before the enforcement date.

NEW YORK STATE OF OPPORTUNITY. | NY Power Authority

EDWARD WELZ, PE
Chief Operating Officer

Energy Resource Management

NYISO Markets

In June, Energy Resource Management (ERM) bid 2.29 million MWh of NYPA generation into the NYISO markets, netting $32.2 million in power supplier payments to the Authority. Year-to-date net power supplier payments are $301.7 million.

Fuel Planning & Operations

In June, NYPA's Fuels Group transacted $12.4 million in natural gas and oil purchases, compared with $23.6 million in June 2014. Year-to-date natural gas and oil purchases are $164.5 million, compared with $252.2 million at this point in 2014. The total -$87.7 million decrease is due to the lower cost of fuel and / or fuel consumption at the Astoria Energy II Plant (-$31.1 million), 500-Mw Combined Cycle Plant (-$36.0 million), and Richard M. Flynn Power Plant (-$14.5 million), and Small Clean Power Plants (-$6.1 million).

RGGI

Auction 28 of the Regional Greenhouse Gas Initiative was held on June 3, 2015. Auction 28 cleared at $5.50 and NYPA was awarded 1.5 million allowances. To date, NYPA has secured sufficient allowances to cover its compliance obligation for 2015 and the majority of 2016. Since inception, NYPA has purchased nearly 26 million RGGI allowances for a total cost of approximately $91 million, averaging $3.51 per allowance.

EDWARD WELZ, PE
Chief Operating Officer

GLOSSARY

[1] **Net Generation –** The energy generated in a given time period by a power plant or group of plants, less the amount used at the plants themselves (station service) or for pumping in a pumped storage facility. Preliminary data in the COO report is provided by Accounting and subject to revision.

[2] **Megawatt-hour (MWh) –** The amount of electricity needed to light ten thousand l00-watt light bulbs for one hour. A megawatt is equal to 1,000 kilowatts and can power about 800 homes, based on national averages.

[3] **Availability Factor –** The Available Hours of a generating unit over the Period Hours (hours in a reporting period when the unit was in an active state). Available Hours are the sum of Service Hours (hours of generation), Reserve Shutdown Hours (hours a unit was not running but was available) and Pump Hours (hours a pumped storage unit was pumping water instead of generating power).

[4] **Generation Market Readiness Factor –** The availability of generating facilities for bidding into the New York Independent System Operator (NYISO) market. It factors in available hours and forced outage hours that drive the results.

[5] **Significant Unplanned Generation Events –** Those events (forced or emergency outages of individual generator units) of duration greater than 72 hours, or have a total repair cost of greater than $75,000, or result in greater than $50,000 of lost revenues.

[6] **Transmission Reliability** - A measurement of the impact of forced and scheduled outages on the statewide system's ability to transmit power.

[7] **Significant Unplanned Transmission Events –** Those events (forced or emergency outages of individual transmission lines) which directly affect the reliability of the state's transmission network, or affect the availability of any component of the state's transmission network for greater than 8 hours, or that have a repair cost greater than $75,000.

NEW YORK STATE OF OPPORTUNITY. | NY Power Authority

Chief Financial Officer Report

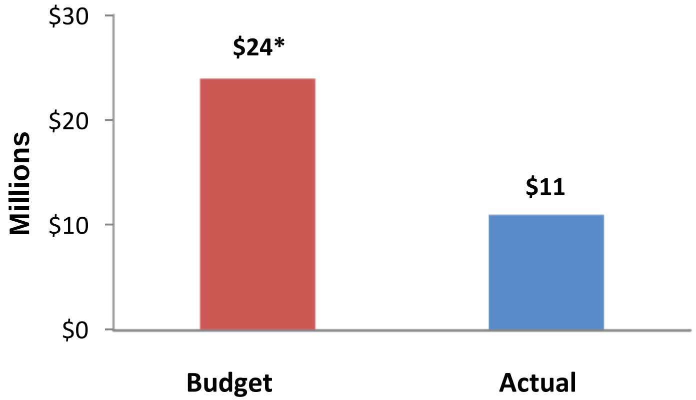
July 30, 2015

Net Income

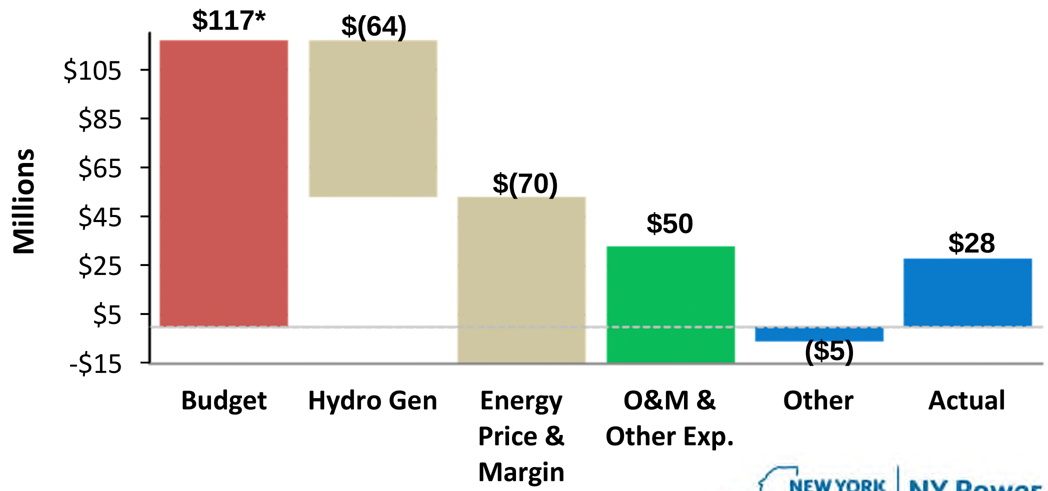
- During the month of June, the Authority had net income of $11.1 million which was $12.8 million less than the budgeted $23.9 million (excluding the New York State contribution)* due primarily to a lower net margin on sales ($16.5 million), partially offset by lower operating expenses.

- Net income for the year to date was $27.8 million, which was $89.5 million lower than budgeted (excluding the state contribution) due to lower hydro production ($64 million), and lower energy prices on market sales ($70 million), partially offset by lower O&M and other expenses ($50 million). Lower production resulted from low precipitation and a less than normal winter ice thaw. Lower O&M and other expenses reflected timing differences including Industrial Incentive Awards, Western NY Workforce Development , and Customer Energy Solutions.

June 2015



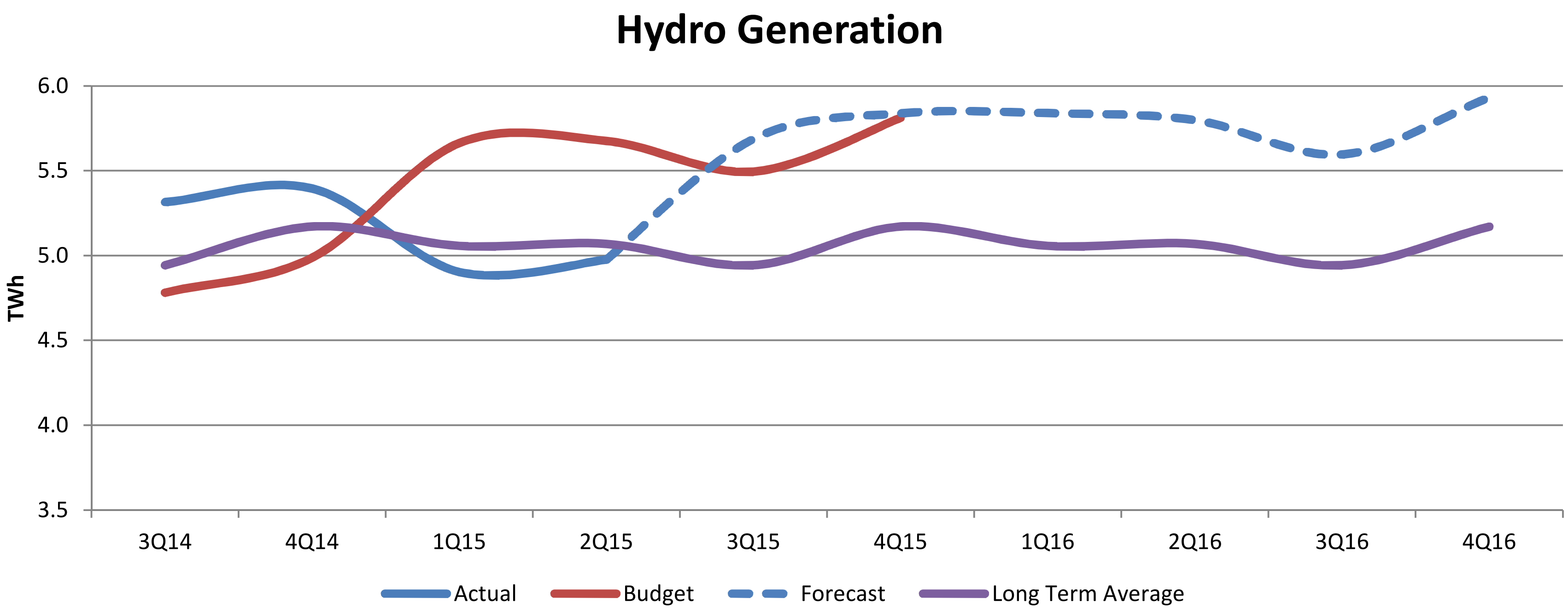
Year-to-date – June 2015



*Excluding State contribution ($25 million included in original budget for June, to be considered by the Board in July).

NEW YORK STATE OF OPPORTUNITY | NY Power Authority

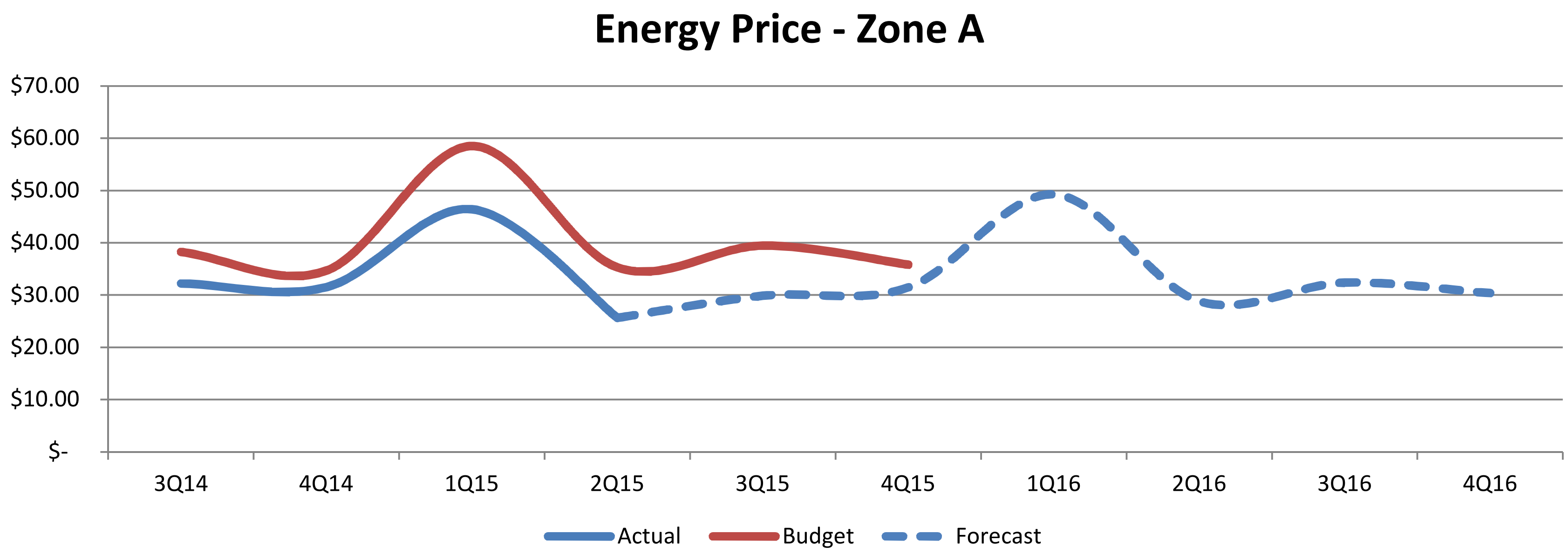
Hydro Generation



Increased hydro volume expected towards the end of 2015 and for 2016. The July update includes a .9Twh increase in hydro production related to 2015 due to record June rainfalls.

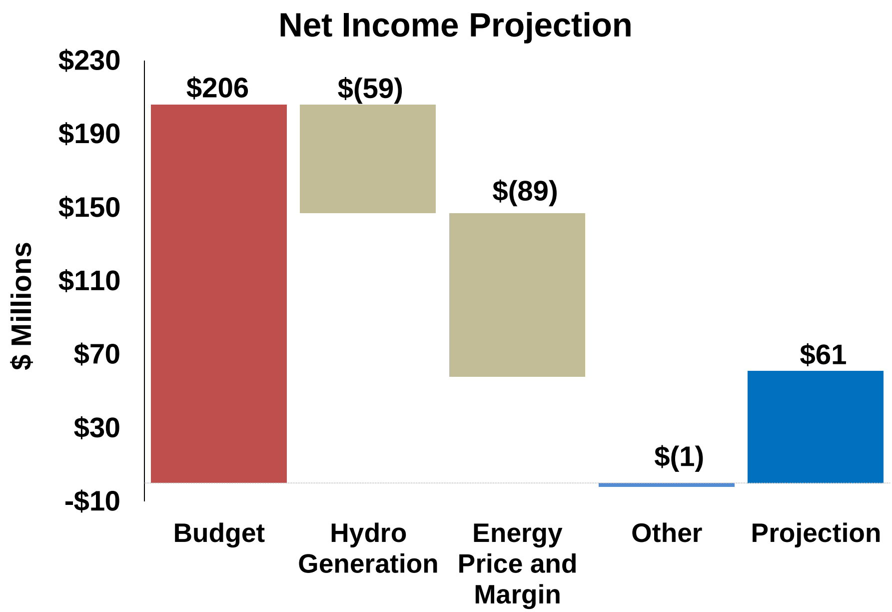
NEW YORK STATE OF OPPORTUNITY | NY Power Authority

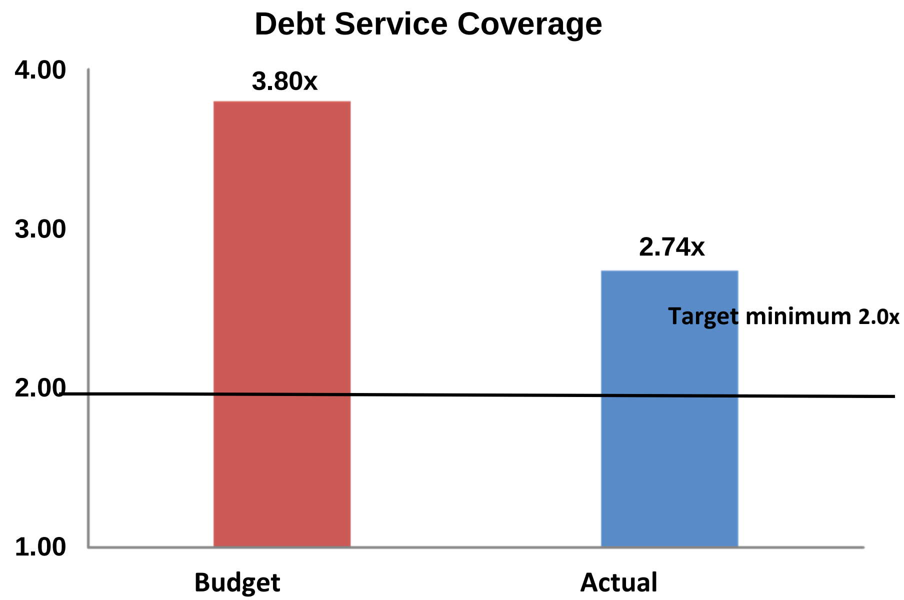
Energy Price Forecast



Niagara prices forecasted to remain below budget (energy prices 21% below budget in WNY for 2015).

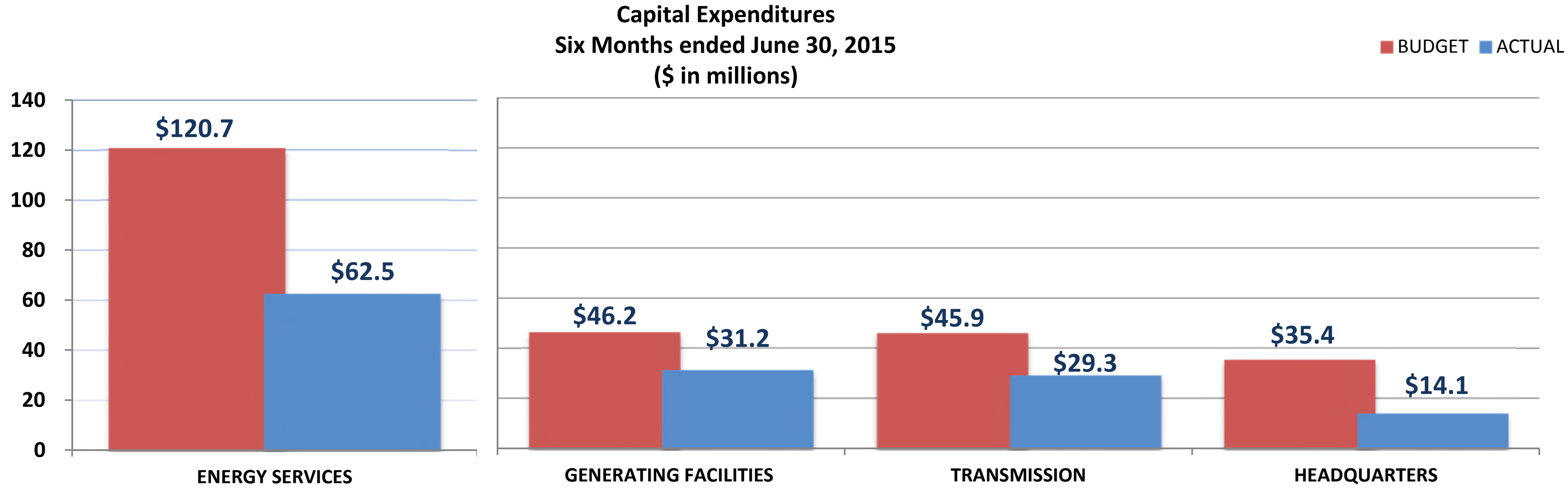
Year-End Net Income Projection & Debt Service Coverage





Net income for the year is projected to be $61 million, $145 million lower than the budget primarily due to the aforementioned lower hydro production and lower energy prices (projections for hydro production increased .9 Twh since last month, and energy margins are projected to be 10% lower than previously anticipated resulting from lower gas prices).

NEW YORK STATE OF OPPORTUNITY | NY Power Authority



Energy Services expenditures were under budget by $58.2 million due to delayed startups in the Governmental and Statewide Energy Services programs. Total expenditures by year-end are expected to be $160 million vs. a budget of $241 million.

Capital expenditures for NYPA facilities were under budget by $52.4 million through June. Generating Facilities were under budget by $15 million primarily due to the deferral of motor/generator work resulting from performance issues for the Lewiston Pump Generation Plant-LEM. Transmission expenditures were under budget by $16.6 million due to a delay in the startup of the Massena 765/230KV Multi-Unit-Transformer Project and the CEC Switch yard LEM. Headquarters expenditures were under budget primarily due to the delay with the implementation of the Critical Infrastructure Protocol project. This project was approved in late 2014 and work commenced in March 2015. Total spending by year-end is anticipated to be $241 million vs. a budget of $264 million.

NEW YORK STATE OF OPPORTUNITY | NY Power Authority

New York Power Authority **Exhibit "A"**

ReCharge New York Retention Power Allocation Recommendations **July 30, 2015**

Line	Company	City	County	Economic Development Region	IOU	Description	kW Request	kW Recommendation	Jobs Retained	Jobs Created	Total Job Commitment	Capital Investment ($)		Contract Term (years)
1	Bausch & Lomb Incorporated	Rochester	Monroe	Finger Lakes	RGE	Manufacturer of contact lenses	5,719	2,856	820	0	820	$24,000,000	(1)	7
2	Thomas Electronics, Inc.	Clyde	Wayne	Finger Lakes	NYSEG	Manufacturer of electronic displays	597	296	130	0	130	$1,500,000		7
3	Upstate Door, Inc.	Warsaw	Wyoming	Finger Lakes	RGE	Manufacturer of custom-made doors	375	176	55	0	55	$950,000		7
	Finger Lakes Region Sub-totals:						**6,691**	**3,328**	**1,005**	**0**	**1,005**	**$26,450,000**		
4	Crystorama, Inc.	Westbury	Nassau	Long Island	LIPA	Manufacturer of lighting fixtures	27	10	43	0	43	$250,000		7
5	Precipart Group, Inc.	Farmingdale	Suffolk	Long Island	LIPA	Manufacturer of industrial machinery	465	230	204	0	204	$1,202,500	(1)	7
6	Summit Plastics, Inc.	Bay Shore	Suffolk	Long Island	LIPA	Manufacturer of advertising displays	698	346	225	0	225	$300,000	(1)	7
	Long Island Region Sub-totals:						**1,190**	**586**	**472**	**0**	**472**	**$1,752,500**		
7	Square One Coating Systems LLC	Oriskany	Oneida	Mohawk Valley	NGRID	Metal finishing, coating, & plating	98	46	5	0	5	$250,000		7
	Mohawk Valley Region Sub-totals:						**98**	**46**	**5**	**0**	**5**	**$250,000**		7
8	Weitsman Shredding, LLC	Owego	Tioga	Southern Tier	NYSEG	Shredding, metal recycling, and processing	6,399	3,196	79	0	79	$1,600,000		7
	Southern Tier Region Sub-totals:						**6,399**	**3,196**	**79**	**0**	**79**	**$1,600,000**		7
9	Surmet Ceramics Corporation	Buffalo	Erie	Western New York	NGRID	Ceramics processing facility	606	300	19	0	19	$100,000		7
	Western New York Region Sub-totals:						**606**	**300**	**19**	**0**	**19**	**$100,000**		7
	Totals							**7,456**	**1,580**	**0**	**1,580**	**$30,152,500**		

(1) These companies are also recommended for expansion-related allocations of RNY for separate and distinct job creation and capital investment commitments associated with proposed business expansions.

New York Power Authority **Exhibit "B"**
ReCharge New York Expansion Power Allocation Recommendations **July 30, 2015**

Line	Company	City	County	Economic Development Region	IOU	Description	kW Request	kW Recommendation (1)	Base Employment (3)	Job Creation Commitment	Project Capital Investment ($)		Contract Term (years)
1	Bausch & Lomb Incorporated	Rochester	Monroe	Finger Lakes	RGE	Manufacturer of contact lenses	660	460	820	112	$218,068,000	(2)	7
2	Creative Food Ingredients, Inc.	Perry	Wyoming	Finger Lakes	NYSEG	Commercial bakery	20	10	130	4	$2,000,000		7
	Finger Lakes Region Sub-totals:							**470**	**950**	**116**	**$220,068,000**		
3	Citation Business Forms, Inc.	Hauppauge	Suffolk	Long Island	LIPA	Manufacturer of clinical supply labels	200	140	57	10	$1,000,000	(4)	7
4	Precipart Group, Inc.	Farmingdale	Suffolk	Long Island	LIPA	Manufacturer of industrial machinery	53	36	204	4	$150,000	(2)	7
5	Ropack Inc.	Commack	Suffolk	Long Island	LIPA	Turnkey contract packaging machinery	600	420	0	84	$21,700,000		7
6	Ropack Inc.	Hauppauge	Suffolk	Long Island	LIPA	Turnkey contract packaging machinery	420	290	0	46	$20,300,000		7
7	RUI Management Services, Inc.	Melville	Suffolk	Long Island	LIPA	Financial services operations - HR, IT, & Admin	300	210	0	200	$803,000		7
8	Summit Plastics, Inc.	Bay Shore	Suffolk	Long Island	LIPA	Manufacturer of advertising displays	209	146	225	25	$1,400,000	(2)	7
	Long Island Region Sub-totals:							**1,242**	**486**	**369**	**$45,353,000**		
9	Amazon Corporate LLC	New York	New York	New York City	CONED	Financial, IT, & Admin business support	1,745	1,220	0	300	$46,500,000		7
	New York City Region Sub-totals:							**1,220**	**0**	**300**	**$46,500,000**		
	Totals							**2,932**	**57**	**785**	**$311,921,000**		

(1) All expansion-based RNY Power allocations are recommended to be "up to" the amount indicated pending the applicant's compliance with contractual commitments, including commitments relating to job creation, capital investment spending and power utilization.
(2) These companies are also being recommended for retention-based RNY Power allocations associated with separate and distinct contractual commitments relating to such matters as job retention, capital investment spending and power utilization associated with an existing business.
(3) The number of new jobs committed will be above a base employment level specified in the power sale contract with the applicant.
(4) The base employment refers to this applicant's current employment level, which is not associated with an existing power allocation.

New York Power Authority
ReCharge New York Power Program
Ineligible Applicants and/or Projects

Exhibit "C"
July 30, 2015

Line	Company	City	County	Economic Development Region	IOU	Description	Reason
1	Odyssey Cleaning Corporation	Brooklyn	Kings	New York City	CONED	Provides cleaning crews for hire	Retail cleaning business

New York Power Authority
ReCharge New York Power Program
Applications Not Considered or Not Recommended

Exhibit "D"
July 30, 2015

Line	Company	City	County	Economic Development Region	IOU	Description	Reason
1	Big Red Partners LLC	Geddes	Onondaga	Central New York	NGRID	Fish farming facility	Expansion project premature
2	Captured Filmz Inc.	TBD	New York	New York City	CONED	Computer, film, and camera learning center	Withdrawn
3	Cellectis, Inc.	New York	New York	New York City	CONED	Cancer drug research and development	No demand meter
4	Heritage Restoration Properties, LLC	Middletown	Orange	Mid-Hudson	O&R	Commercial brewery	Not responsive
5	MedSave, USA, Inc.	Hauppauge	Suffolk	Long Island	LIPA	Medical claims processing services	Withdrawn
6	New York Greenhouse Project	Batavia	Genesee	Finger Lakes	TBD	Greenhouse for tomato production	Withdrawn
7	Ropack Inc.	Commack & Hauppauge	Suffolk	Long Island	LIPA	Turnkey contract packaging machinery	Withdrawn
8	Summerwind LLC	Skaneateles	Onondaga	Central New York	NGRID	Manufacturer of electric and solar trucks	Withdrawn
9	The FarmHouse Brewery, LLC	Newark Valley	Tioga	Southern Tier	NYSEG	Malting and brewing operation	Not responsive
10	Vino Verona LLC	Oneida	Oneida	Mohawk Valley	NGRID	Vineyard and winery	No demand meter

EXHIBIT A

Non-Compliance with Job Commitments – Proposed Reductions in Contract Demands and Hydropower Allocations with Adjustments to Job Commitments

1. Ashland Advanced Materials (Niagara Falls, Niagara County)

Allocation:	3,500 kW of Replacement Power ("RP")
Contract Demand:	2,200 kW of Replacement Power ("RP")
Power Utilization:	96%
Capital Spending:	$559,668 or 373%
Job Commitment:	75 jobs
Jobs Reported:	27 jobs, or 36%

Background: Ashland Advanced Materials ("Ashland") is a supplier of manufactured graphite products and ultra-high temperature heat treating services, providing products and services to renewable and green energy technology industries. The company historically has been highly dependent on the solar and sapphire markets. In 2014, the third year of required compliance reporting, the company came in at an average 27 employees, or 36% of its job commitment. This is an increase of 5 jobs from the previous reporting year 2013.

Recommendation: *Staff recommends that the Trustees authorize a reduction in the allocation to not less than 2,150 and contract demand to not less than 1,350 kW, and authorize an adjustment of the job commitment to not less than 46 jobs.*

2. Lockheed Martin Corporation (Niagara Falls, Niagara County)

Allocation:	250 kW of RP
Contract Demand:	250 kW of RP
Power Utilization:	100%
Capital Spending:	$530,000 or 237%
Job Commitment:	45 jobs
Jobs Reported:	28 jobs, or 62%

Background: Lockheed Martin Corporation ("Lockheed") is a manufacturer of gravity gradiometer technology for the U. S. Navy and commercial use. Lockheed's 2014 reported job number shows no change from the previous year's average of 28 jobs. Lockheed stated it experienced a significant reduction in force caused by cuts in defense spending by the government and by softness in its commercial customer markets. New acquisitions may provide justification for hiring additional 2-3 employees this year and an additional 2-3 the following year. Lockheed captured additional business and increased its workforce through contract labor and direct hire. However, long range business plans indicate that employment levels will not be at the contractual commitment levels for a number of years.

Recommendation: *Staff recommends that the Trustees authorize a reduction in the allocation and contract demand to not less than 200 kW, and authorize an adjustment to the job commitment to not less than 39 jobs.*

3. Niagara LaSalle Corp. (Buffalo, Erie County)

Allocation: 1,400 kW of RP
Contract Demand: 1,400 kW of RP
Power Utilization: 95%
Capital Spending: $149,019 or 116%
Job Commitment: 115 jobs
Jobs Reported: 75 jobs, or 65%

Background: Niagara LaSalle Corp. produces cold finished steel products. The company states that it continues to struggle to return to pre-2008 business levels. It indicates that it continues to make minor progress with business levels, siting foreign competition as a factor.

Recommendation: *Staff recommends that the Trustees authorize a reduction in the allocation and contract demand to not less than 1,300 kW, and authorize an adjustment of the job commitment to not less than 104 jobs.*

4. Hurtubise Tire, Inc. (North Tonawanda, Niagara County)

Allocation: 180 kW of RP
Contract Demand: 180 kW of RP
Power Utilization: 100%
Capital Spending: $70,352 or 235%
Jobs Commitment: 18 jobs
Jobs Reported: 6 jobs, or 33%

Background: Hurtubise Tire, Inc. ("Hurtubise") provides truck tire re-capping and services. Hurtubise averaged 2 jobs less than the previous year 2013 reporting. The company has been unable to grow employment for the last three years averaging 8 employees and falling short of its job commitment target.

Recommendation: *Staff recommends that the Trustees authorize a reduction in the allocation and contract demand to not less than 100 kW, and authorize an adjustment to the job commitment to not less than 10 jobs.*

5. RHI Monofrax, LTD (Falconer, Chautauqua County)

Allocation: 2,082kW of EP
Contract Demand: 2,082kW of EP
Power Utilization: 98%
Capital Spending: $1,991,051 or 287%
Job Commitment: 250 jobs
Jobs Reported: 135 jobs, or 54%

Background: RHI Monofrax, LTD manufactures ceramic castings. The company reports that it is struggling with foreign competition and is actively trying to win back customers.

Recommendation: *Staff recommends that the Trustees authorize a reduction in the allocation and the contract demand to not less than 1,650 kW, and authorize an adjustment of the job commitment to not less than 197 jobs.*

6. Air Products Inc. - Medina (Medina, Orleans County)

Allocation: 1,000 kW of RP
Contract Demand: 1,000 kW of RP
Power Utilization: 25%
Capital Spending Commitment: $55,000
Capital Spending: $37,320 or 68%
Job Commitment: 20 jobs
Jobs Reported: 7 jobs, or 36%

Background: Air Products, Inc., formerly EPCO Carbondioxide Products, Inc. manufactures purified liquid carbon dioxide. It sells its product to both wholesalers and end users of carbon dioxide. Air Products' capital spending for the 2014 year that was budgeted for Medina, went to other CO2 facilities. Due to corporate reorganization, Air Products had to reduce employment at its Medina facility.

Recommendation: *Staff recommends that the Trustees authorize a reduction in the allocation and contract demand to not less than 600kW, and authorize an adjustment of the job commitment to not less than 12 jobs and capital investment commitment to not less than $33,000.*

7. Saint Gobain Structural Ceramics (Niagara Falls, Niagara County)

Allocation: 6,150 kW of RP
Contract Demand: 6,150 kW of RP
Power Utilization: 71%
Capital Spending: $1,385,318 or 104%
Job Commitment: 186 jobs
Jobs Reported: 137 jobs, or 74%

Background: Saint Gobain Structural Ceramics produces boron nitride powder and solids. The company reports that since its anticipated growth did not materialize, it was unable to meet job and energy usage this year. It anticipates that its armor business can return to full strength by second quarter 2015. The customer has historically failed to meet employment and power utilization commitments.

Recommendation: *Staff recommends that the Trustees authorize a reduction in the allocation and contract demand to not less than 6,050kW, and authorize an adjustment of the job commitment to not less than 184 jobs.*

8. Treibacher Schleifmittel North America, Inc. (Niagara Falls, Niagara County)

Allocation: 750 kW of RP
Contract Demand: 750 kW of RP
Power Utilization: 69%
Capital Spending: $234,236 or 111%
Job Commitment: 64 jobs
Jobs Reported: 31 jobs, or 48%

Background: Treibacher Schleifmittel North America, Inc. produces abrasive grains. The company indicates that it has not reached its commitments due to a slow market for its product, which is a commodity product and highly competitive in today's global marketplace. It is unable to provide a time frame as to when it will come into compliance.

Recommendation: *Staff recommends that the Trustees authorize a reduction in the allocation and contract demand to not less than 550kW, and authorize an adjustment of the job commitment to not less than 47 jobs.*

EXHIBIT B

Non-Compliance with Power Utilization Commitments – Proposed Reductions in Contract Demands and Hydropower Allocations with Adjustments to Job Commitments

1. CertainTeed Corporation (Buffalo, Erie County)

Allocation:	3,100 kW of EP
Contract Demand:	3,100 kW of EP
Power Utilization:	**71%**
Capital Spending:	$483,581 or 296%
Jobs Commitment**:**	113 jobs
Jobs Reported:	116 jobs, or 103%

Background: CertainTeed Corporation ("CertainTeed"), a wholly-owned subsidiary of the Saint–Gobain company, is a vinyl fence, deck and railing manufacturer. During the past 4 years, it has underutilized its allocation. The company described several reasons for non-compliance in power utilization including temporary production cut backs due to a shortage in a particular raw material which is a staple in its main component, resin. CertainTeed built up inventory during winter months which reduced its demand during summer, its busy season, with fewer production lines needed during the summer months. CertainTeed stated this lower demand utilization will be a normal course of business throughout 2015 and production will remain fairly constant.

Recommendation: *Staff recommends that the Trustees authorize a reduction in the allocation and contract demand to 3,000 kW, and authorize an adjustment of the job commitment to not less than 108 jobs.*

2. TAM Ceramics Group of NY, LLC (Niagara Falls, Niagara County)

Allocation:	7,000 kW of RP and 500 kW of EP
Contract Demand:	7,000 kW of RP and 500 kW of EP
Power Utilization:	72%
Capital Spending:	$1,257,792 or 520%
Job Commitment:	100 jobs
Jobs Reported:	78 jobs, or 78%

Background: TAM Ceramics Group of NY LLC develops and produces titanium products and zirconium ceramic powders. The company estimates that it is 12-18 months away from meeting its contractual commitment.

Recommendation: *Staff recommends that the Trustees authorize a reduction in the RP allocation to not less than 6,800kW, authorize a reduction in the contract demand to not less than 6,800 kW, and authorize an adjustment to the cumulative job commitment to not less than 97 jobs.*

3. Washington Mills Electro Minerals Corp. (Niagara Falls, Niagara County)

Allocation: 9,700 kW of RP
Contract Demand: 9,700 kW of RP
Power Utilization: 55%
Capital Spending: $2,032,336 or 138%
Job Commitment: 107 jobs
Jobs Reported: 106 jobs, or 99%

Background: Washington Mills Electro Minerals Corp makes abrasive grains for sandpaper and grinding wheels. The customer has historically underutilized its allocation.

Recommendation: *Staff recommends that the Trustees authorize a reduction in the allocation and contract demand to 7,750kW, and authorize an adjustment to the job commitment to not less than 86 jobs.*

4. Citigroup Technology, Inc. (Getzville, Erie County)

Allocation: 1,000 kW of RP
Contract Demand: 1,000 kW of RP
Power Utilization: **71%**
Capital Spending Commitment: $7,500
Capital Spending: Not yet Required per Contract
Jobs Committed: 500 jobs
Jobs Reported: 1,180 jobs, or 680%

Background: Citigroup Technology, Inc. provides back office support from its Getzville facility for its financial services business. During the past 4 years, it has underutilized its allocation. Citigroup indicated that a moderately reduced allocation to the amount recommended would keep them in a position such that the hydropower will continue to provide needed economic benefits that are important at this location.-

Recommendation: *Staff recommends that the Trustees authorize a reduction in the allocation and contract demand to not less than 750 kW, and authorize an adjustment to the job commitment to not less than 480 jobs.*

5. Air Products Inc. - Medina (Medina, Orleans County)

Allocation: 1,000 kW of RP
Contract Demand: 1,000 kW of RP
Power Utilization: 25%
Capital Spending Commitment: $55,000
Capital Spending: $37,320 or 68%
Job Commitment: 20 jobs
Jobs Reported: 7 jobs, or 36%

Background: Air Products, Inc., formerly EPCO Carbondioxide Products, Inc. manufactures purified liquid carbon dioxide. It sells its product to both wholesalers and end users of carbon dioxide. Air Products' capital spending for the 2014 year that was budgeted for Medina, went to other CO2 facilities. Due to corporate reorganization, Air Products had to reduce employment at its Medina facility.

Recommendation: *Staff recommends that the Trustees authorize a reduction in the allocation and contract demand to not less than 600kW, and authorize an adjustment of the job commitment to not less than 12 jobs and capital investment commitment to not less than $33,000.*

6. Saint Gobain Structural Ceramics (Niagara Falls, Niagara County)

Allocation:	6,150 kW of RP
Contract Demand:	6,150 kW of RP
Power Utilization:	71%
Capital Spending:	$1,385,318 or 104%
Job Commitment:	186 jobs
Jobs Reported:	137 jobs, or 74%

Background: Saint Gobain Structural Ceramics produces boron nitride powder and solids. The company reports that since its anticipated growth did not materialize, it was unable to meet job and energy usage this year. It anticipates that its armor business can return to full strength by second quarter 2015. The customer has historically failed to meet employment and power utilization commitments.

Recommendation: *Staff recommends that the Trustees authorize a reduction in the allocation and contract demand to not less than 6,050kW, and authorize an adjustment of the job commitment to not less than 184 jobs.*

7. Treibacher Schleifmittel North America, Inc. (Niagara Falls, Niagara County)

Allocation:	750 kW of RP
Contract Demand:	750 kW of RP
Power Utilization:	69%
Capital Spending:	$234,236 or 111%
Job Commitment:	64 jobs
Jobs Reported:	31 jobs, or 48%

Background: Treibacher Schleifmittel North America, Inc. produces abrasive grains. The company indicates that it has not reached its commitments due to a slow market for its product, which is a commodity product and highly competitive in today's global marketplace. It is unable to provide a time frame as to when it will come into compliance.

Recommendation: *Staff recommends that the Trustees authorize a reduction in the allocation and contract demand to 550kW, and authorize an adjustment of the job commitment to not less than 47 jobs.*

EXHIBIT C

Non-Compliance with Capital Investment Commitments – Proposed Reductions in Contract Demands and Hydropower Allocations with Adjustments to Job Commitments and Capital Investment Commitments

1. Coyne Textile Services (Buffalo, Erie County)

Allocation: 250 kW of EP
Contract Demand: 250 kW of EP
Capital Spending Commitment: $141,185
Power Utilization: 100%
Capital Spending: $52,404 or 37%
Job Commitment: 52 jobs
Jobs Reported: 48 jobs, or 92%

Background: Coyne Textile Services, ("CTS") provides textile rental products (work uniforms, shop floor mats, etc.) and laundering services. In 2014, Coyne Textile reported an average of 48 jobs, or 4 more jobs than the previous year 2013 reporting. The company is moving in the direction of reduced spending and at this time does not foresee any additional increase in capital spending.

Recommendation: *Staff recommends that the Trustees authorize a reduction in the allocation and contract demand to not less than 150 kW, and authorize an adjustment of the job commitment to not less than 32 jobs and capital investment commitment to not less than $87,699.*

2. Rosina Food Products, Inc.-Cheektowaga (Buffalo, Erie County)

Allocation: 600 kW of EP
Contract Demand: 600 kW of EP
Power Utilization: 100%
Capital Spending Commitment: $1,360,953
Capital Spending: $476,343 or 35%
Job Commitment: 235 jobs
Jobs Reported: 255 jobs or 109%

Background: Rosina Food Products, Inc. manufactures frozen Italian food specialties. The company reports the significant increase in commodity prices, particularly pork, as the primary reason for poor results in 2014. The company also underwent a debt and financing restructuring in 2014 that resulted in very low levels of capital available for investment in the plant.

Recommendation: *Staff recommends that the Trustees authorize a reduction in the allocation and contract demand to not less than 350 kW, and authorize an adjustment of the job commitment to not less than 141 jobs and capital investment commitment to not less than $816,581.*

3. Precision Electro Minerals Company (Niagara Falls, Niagara County)

Allocation: 800 kW of RP
Contract Demand: 800 kW of RP
Power Utilization: 100%
Capital Spending Commitment: $116,836
Capital Spending: $18,933 or 16%

Job Commitment: 24 jobs
Jobs Reported: 20 jobs or 83%

Background: Precision Electro Minerals Company produces fused silica for precision casting applications such as jet engines, medical inserts and automotive components.

Recommendation: *Staff recommends that the Trustees authorize a reduction in the allocation and contract demand to not less than 350 kW, and authorize an adjustment to the job commitment to not less than 10 jobs and capital investment commitment to not less than $48,142.*

4. Air Products Inc. - Medina (Medina, Orleans County)

Allocation: 1,000 kW of RP
Contract Demand: 1,000 kW of RP
Power Utilization: 25%
Capital Spending Commitment: $55,000
Capital Spending: $37,320 or 68%
Job Commitment: 20 jobs
Jobs Reported: 7 jobs, or 36%

Background: Air Products, Inc., formerly EPCO Carbondioxide Products, Inc. manufactures purified liquid carbon dioxide. It sells its product to both wholesalers and end users of carbon dioxide. Air Products' capital spending for the 2014 year that was budgeted for Medina, went to other CO2 facilities. Due to corporate reorganization, Air Products had to reduce employment at its Medina facility.

Recommendation: *Staff recommends that the Trustees authorize a reduction in the allocation and contract demand to not less than 600kW, and authorize an adjustment of the job commitment to not less than 12 jobs and capital investment commitment to not less than $33,000.*

EXHIBIT D

Reported Non-Compliance with Commitments – No Action Recommended

1. Tops Market, LLC - Cheektowaga (Cheektowaga, Erie County)

Allocation:	300kW of EP
Contract Demand:	300kW of EP
Power Utilization:	70%
Capital Spending:	$274,756 or 734%
Job Commitment:	50 jobs
Jobs Reported:	56 jobs, or 112%

Background: Tops Market, LLC is a grocery distribution center.
Recommendation: *Staff recommends no action at this time.*

2. Cliffstar, LLC (Dunkirk, Chautauqua County)

Allocation:	500 kW of EP
Contract Demand:	500 kW of EP
Power Utilization:	94%
Capital Spending	$2,313,676 or 72%
Job Commitment:	630 jobs
Jobs Reported:	489 jobs, or 78%

Background: Cliffstar, LLC is a private-label beverage manufacturer that was purchased by Cott Incorporated in 2010. Since then the former Cliffstar corporate office was consolidated to the Cott corporate headquarters in Tampa, Florida, negatively affecting the Dunkirk campus headcount.

Recommendation: *Staff recommends no action at this time.*

3. Confer Plastics, Inc. (North Tonawanda, Niagara County)

Allocation:	300 kW of RP
Contract Demand:	300 kW of RP
Power Utilization:	100%
Capital Spending:	$116,718 or 22%
Job Commitment:	120 jobs
Jobs Reported:	169 jobs, or 141%

Background: Confer Plastics Inc. manufactures above-ground pool ladders and accessories.
Recommendation: *Staff recommends no action at this time.*

EXHIBIT E

Non-Compliance with Reporting Requirement – Allocations to be Suspended

1. Fresenius Kabi USA LLC (Grand Island, Erie County)

Allocation: 2,000 kW of RP
Contract Demand: 2,000 kW of RP
Power Utilization: 0%
Capital Spending Commitment: $1,135,955
Capital Spending: $0.0 or 0% of commitment
Job Commitment: 526 jobs
Jobs Reported: 0 jobs, or 0% of commitment

Background: Fresenius Kabi USA LLC is a producer of Pharmaceuticals. It did not submit a 2014 compliance report.

2. Stollberg, Inc. (Niagara Falls, Niagara County)

Allocation: 300 kW of EP
Contract Demand: 300 kW of EP
Power Utilization: 0%
Capital Spending Commitment: $165,500
Capital Spending: $0.0 or 0%
Job Commitment: 71 jobs
Jobs Reported: 0 jobs, or 0% of commitment

Background: Stollberg, Inc. makes castings for the steel industry. It did not submit its year 2013 hydropower compliance report until September 2014, and did not provide any explanation for its capital spending shortfall. Additionally, it did not submit a 2014 compliance report.

EXHIBIT F

Ongoing Compliance Activities – No Action Recommended at This Time

4. Globe Metallurgical, Inc. (Niagara Falls, Niagara County)

Allocation:	7,353 kW of Expansion Power ("EP") and 32,647 kW of RP
Contract Demand:	7,353 kW of Expansion Power ("EP") and 32,647 kW of RP
Power Utilization:	98%
Capital Spending:	$3,028,604 or 90%
Job Commitment:	500 jobs
Jobs Reported:	105 jobs, or 21%

Background: Globe Metallurgical, Inc. ("Globe") manufactures silicon metal products at four U.S. facilities including Niagara Falls. In 2014, the second year of required compliance reporting, the company came in at an average of 21 jobs less than the previous year 2013 reporting.

Recommendation: *Staff is not recommending compliance action as to this customer at this time. Staff has completed its analysis of this customer's situation and is currently working with other State agencies and key stakeholders to address impacts. Staff will come back to the Board with a recommendation in September and final resolution by no later than year end.*

EXHIBIT G

ALLOCATIONS, JOB AND CAPITAL INVESTMENT COMMITMENTS TO BE REDUCED DUE TO JOBS NONCOMPLIANCE

Customer	Allocation (kW)	Employment Commitment (# of Jobs)	Jobs Reported	Jobs Compliance %	Revised Commitments		Reductions	
					kW	Jobs	kW	Jobs
Ashland Advanced Materials	3,500	75	27	36%	2,150	46	1,350	29
Lockheed Martin Corporation	250	45	28	62%	200	39	50	6
Niagara LaSalle Corp.	1,400	115	75	65%	1,300	104	100	11
Hurtubise Tire, Inc.	180	18	6	33%	100	10	80	8
RHI Monofrax	2,082	250	135	54%	1,650	197	432	53
Air Products, Inc. - Medina	1,000	20	7	35%	600	12	400	8
Saint Gobain Structural Ceramics	6,150	186	137	74%	6,050	184	100	2
Treibacher Schleifmittel North America, Inc.	750	64	31	48%	550	47	200	17
						TOTALS:	2,712	134

ALLOCATIONS, JOB AND CAPITAL INVESTMENT COMMITMENTS TO BE REDUCED DUE TO UTILIZATION NONCOMPLIANCE

Customer	Allocation (kW)	Employment Commitment (# of Jobs)	Usage Reported	Usage Compliance %	Revised Commitments		Reductions	
					kW	Jobs	kW	Jobs
CertainTeed Corporation	3,100	51	2,111	68%	3,000	46	100	5
TAM Ceramics Group of NY, LLC	7,000	100	5,295	76%	6,800	97	200	3
Washington Mills Electro Minerals Corp.	9,700	107	5,266	54%	7,750	87	1950	20
Citigroup Technology, Inc.	1,000	402	654	65%	750	382	250	20
Air Products, Inc. - Medina	1,000	20	250	25%	600	12	400	8
Saint Gobain Structural Ceramics	6,150	186	4,341	71%	6,050	184	100	2
Treibacher Schleifmittel North America, Inc.	750	64	520	69%	550	47	200	17
						TOTALS:	2,500	48

ALLOCATIONS, JOB AND CAPITAL INVESTMENT COMMITMENTS TO BE REDUCED DUE TO CAPITAL INVESTMENT NONCOMPLIANCE

Customer	Allocation (kW)	Employment Commitment (# of Jobs)	Capital Investment Commitment	Capital Investment Reported	Capital Investment Compliance %	Revised Commitments			Reductions		
						kW	Jobs	Capital Investment	kW	Jobs	Capital Investment
Coyne Textile Services	250	52	$141,185.00	$52,404.00	37%	150	32	$87,699.00	100	20	$53,486.00
Rosina Food Products, Inc. - Cheektowaga	600	235	$1,360,953.00	$476,343.00	35%	350	141	$816,581.00	250	94	$544,372.00
Precision Electro Minerals Company	800	24	$116,836.00	$18,933.00	16%	350	10	$48,142.00	450	14	$68,694.00
Air Products, Inc. - Medina	1,000	20	$55,000.00	$37,320.00	68%	600	12	$33,000.00	400	8	$22,000.00
								TOTALS:	800	128	$666,552.00

ALLOCATIONS AND JOB COMMITMENTS TO REMAIN THE SAME

Customer	Allocation (kW)	Employment Commitment (# of Jobs)	Capital Investment Commitment	Revised Commitments			Reductions		
				kW	Jobs	Capital Investment	kW	Jobs	Capital Investment
Tops Markets, LLC	146	185	$37,433.00	146	185	$37,433.00	0	0	0
Cliffstar, LLC	160	57	$3,222,333.00	160	57	$3,222,333.00	0	0	0
Confer Plastics, Inc.	130	20	$530,432.00	130	20	$530,432.00	0	0	0

ONGOING COMPLIANCE ACTIVITIES - NO ACTION RECOMMENED AT THIS TIME

Customer	Allocation (kW)	Employment Commitment (# of Jobs)	Capital Investment Commitment	Revised Commitments			Reductions		
				kW	Jobs	Capital Investment	kW	Jobs	Capital Investment
Globe Metallurgical, Inc.	40,000	500	$3,028,604.00	40,000	500	$3,028,604.00	0	0	0

ALLOCATIONS TO BE SUSPENDED

Customer	Allocation (kW)	Employment Commitment (# of Jobs)	Capital Investment Commitment	Revised Commitments			Reductions		
				kW	Jobs	Capital Investment	kW	Jobs	Capital Investment

Fresenius Kabi USA LLC	1,000	526	$1,135,955.00	1000	526	$1,135,955.00	0	0	0
Stollberg, Inc.	300	71	$165,500.00	300	71	$165,500.00	0	0	0

Total kW Reduction	6,012
Total Job Reduction	310
Total Capital Investment Reduction	$688,552.00

EXHIBIT A

Non-Compliance with Job Commitments – Proposed Reductions in Contract Demands and RNY Power Allocations with Adjustments to Job Commitments

1. AccuMED Innovative Technologies, LLC (Buffalo, Erie County)

Allocation: 86 kW
Contract Demand: 86 kW
Power Utilization: 100%
Cumulative Capital Spending: $632,063 or 16% of 5yr. commitment
Job Commitment**:** 200 jobs
Jobs Reported: 140 jobs or 70%

Background: AccuMed Technologies manufactures medical devices. In 2013, the company stated that many customers are looking to overseas suppliers to provide lower cost products, which has limited the company's ability to hire and maintain current staff levels. During 2014, one of its largest customers shifted manufacturing from AccuMed to in-house production, forcing AccuMed to reduce staffing.

Recommendation: *Staff recommends that the Trustees authorize a reduction in the allocation and contract demand to not less than 80 kW, and authorize an adjustment of the job commitment to not less than 190 jobs.*

2. Albany Molecular Research, Inc. (Albany, Albany County)

Allocation: 1,350 kW
Contract Demand: 1,350 kW
Power Utilization: 86%
Cumulative Capital Spending: $5,273,746 or 35% of 5yr. commitment
Job Commitment**:** 363 jobs
Jobs Reported: 254 jobs or 70%

Background: Albany Molecular is a Research Pharmaceutical company. In 2013, Albany Molecular reduced staff at its AMRI West Campus location in Albany by 73 jobs. This reduction was due to AMRI's decision to strategically move many employees to different corporate locations within New York State which affected the original base line employment level.

Recommendation: *Staff recommends that the Trustees authorize a reduction in the allocation and contract demand to not less than 1,280 kW, and authorize an adjustment of the job commitment to not less than 345 jobs.*

3. Burton Industries, Inc. (North Babylon, Suffolk County)

Allocation: 426 kW
Contract Demand: 426 kW
Power Utilization: 100%
Cumulative Capital Spending: $620,718 or 83% of commitment
Job Commitment**:** 50 jobs
Jobs Reported: 34 jobs or 68%

Background: Burton Industries Inc. provides metal heat-treating services. During the first half of 2013, a division of Burton Industries, the North East Finishing Company (NEFCO) was separated from Burton Industries. As part of succession planning, NEFCO is no longer part of Burton Industries and separately employs approximately 20 people. Burton Industries no longer has any financial interest in this division and no longer controls employment at NEFCO. Consequently, as of June 2014, employment at Burton is now at 34 jobs. The company has requested a modification to its job commitments.

Recommendation: *Staff recommends that the Trustees authorize a reduction in the allocation and contract demand to not less than 400 kW, and authorize an adjustment of the job commitment to not less than 47 jobs.*

4. County Frame Corp. (Holtsville, Suffolk County)

Allocation: 70 kW
Contract Demand: 70 kW
Power Utilization: 100%
Cumulative Capital Spending: 0% of 5yr. commitment
Job Commitment**:** 80 jobs
Jobs Reported: 45 jobs or 56%

Background: County Frame Corp. manufactures framed artwork. The company did not provide any information explaining its reported job shortfall.

Recommendation: *Staff recommends that the Trustees authorize a reduction in the allocation and contract demand to not less than 60 kW, and authorize an adjustment of the job commitment to not less than 65 jobs.*

5. Ethox International, Inc. (Buffalo, Erie County)

Allocation: 250 kW
Contract Demand: 250 kW
Power Utilization: 100%
Cumulative Capital Spending: $163,526 or 33% of 5yr. commitment
Job Commitment**:** 94 jobs
Jobs Reported: 61 jobs or 65%

Background: Ethox International specializes in medical devices for use in operating rooms. There was a change in ownership in mid-2013, which led to, among other things, personnel cuts.

Recommendation: *Staff recommends that the Trustees authorize a reduction in the allocation and contract demand to not less than 230 kW, and authorize an adjustment of the job commitment to not less than 85 jobs.*

6. Friedberg Jewish Community Center (Oceanside, Nassau County)

Allocation: 30 kW
Contract Demand: 30 kW
Power Utilization: 100%
Cumulative Capital Spending: 0% of 5yr. commitment
Job Commitment**:** 425 jobs
Jobs Reported: 254 jobs or 60%

Background: Friedberg Jewish Community Center provides community services. Due to the economic conditions and other factors, it has been unable to meet its job commitment. It is currently adding programs and services that may eventually result in a sustained employment level in the future.

Recommendation: *Staff recommends that the Trustees authorize a reduction in the allocation and contract demand to not less than 20 kW, and authorize an adjustment of the job commitment to not less than 361 jobs.*

7. The Indium Corporation of America (Lincoln Avenue, Utica, Oneida County)

Allocation: 176 kW
Contract Demand: 176 kW
Power Utilization: 100%
Cumulative Capital Spending: $1,160,837 or 116% of 5yr. commitment
Job Commitment**:** 65 jobs
Jobs Reported: 30 jobs or 46%

Background: The Indium Corporation of America manufactures electronic assembly materials. Indium has four facilities with RNY allocations and in aggregate the company is meeting its jobs and capital spending commitments. Due to changing business demands and manufacturing consolidations, Indium relocated employees from Lincoln Avenue to its Business Park location, also in Utica.

Recommendation: *Staff recommends that the Trustees authorize a reduction in the allocation and contract demand to not less than 120 kW, and authorize an adjustment of the job commitment to not less than 46 jobs.*

8. ITT Corp. (EDO) (Bohemia, Suffolk County)

Allocation: 360 kW
Contract Demand: 360 kW
Power Utilization: 100%
Cumulative Capital Spending: $722,241 or 29% of 5yr. commitment
Job Commitment: 220 jobs
Jobs Reported: 157 jobs or 71%

Background: ITT Corp. (EDO) manufactures antennas. The company reports job shortfalls as a result of the effect of the defense budget sequestration, which had implications on its receipt of Department of Defense contracts. ITT Corp. anticipates a slight increase in staff during 2015. In year 1, the company reported 88% compliance with 193 jobs.

Recommendation: *Staff recommends that the Trustees authorize a reduction in the allocation and contract demand to not less than 350 kW, and authorize an adjustment of the job commitment to not less than 211 jobs.*

9. Intertek Testing Services NA, Inc. (Cortland, Cortland County)

Allocation: 606 kW
Contract Demand: 606 kW
Power Utilization: 100% of commitment
Cumulative Capital Spending: $1,537,701 or 12% of 5yr. commitment
Job Commitment**:** 418 jobs
Jobs Reported: 308 jobs, or 74%

Background: Intertek Testing Services provides testing, inspecting and product certification services. The company did not provide any information explaining its job shortfall.

Recommendation: *Staff recommends that the Trustees authorize a reduction in the allocation and contract demand to not less than 600 kW, and authorize an adjustment of the job commitment to not less than 414 jobs.*

10. Northrop Grumman Systems Corporation (Bethpage, Nassau County)

Allocation: 1,716 kW
Contract Demand: 1,716 kW
Power Utilization: 100%
Cumulative Capital Spending: 0% of 5 yr. commitment
Job Commitment**:** 1,566 jobs
Jobs Reported: 905 jobs or 58%

Background: Northrop Grumman Systems Corporation is a security products company for government and commercial customers. Northrop Grumman reported 537 jobs less than the previous reporting period. The company cites business reorganization as the reason for the jobs shortfall. Based on latest communications, it anticipates that job count moving forward will be less than originally planned.

Recommendation: *Staff recommends that the Trustees authorize a reduction in the allocation and contract demand to not less than 1,420 kW, and authorize an adjustment of the job commitment to not less than 1,300 jobs.*

<u>11. Universal Photonics, Inc. – Vernon (Vernon, Dutchess County)</u>

Allocation: 116 kW
Contract Demand: 116 kW
Power Utilization: 100%
Cumulative Capital Spending: $4,683,689 or 123% of 5yr. commitment
Job Commitment: 65 jobs
Jobs Reported: 43 jobs or 66%

Background: Universal Photonics provides critical surface preparation materials. For this second reporting period, the company continues to indicate that an overall decline in its sales has kept it from maintaining employment levels.

Recommendation: *Staff recommends that the Trustees authorize a reduction in the allocation and contract demand to not less than 110 kW, and authorize an adjustment of the job commitment to not less than 59 jobs.*

<u>12. Women's Housing & Economic Development Corp. (Bronx, Bronx County)</u>

Allocation: 16 kW
Contract Demand: 16 kW
Power Utilization: 100%
Cumulative Capital Spending: $5,500,000 or 27% of 5yr. commitment
Job Commitment: 275 jobs
Jobs Reported: 167 jobs or 61%

Background: Women's Housing & Economic Development ("WHEDCO") is a green building program for affordable housing. In July 2014, WHEDCO acquired 2 new program contracts. As a result, it is hopeful it can hire more full time employees in the future.

Recommendation: *Staff recommends that the Trustees authorize a reduction in the allocation and contract demand to not less than 10 kW, and authorize an adjustment of the job commitment to not less than 237 jobs.*

<u>13. Ultralife Batteries, Inc. (Newark, Wayne County)</u>

Allocation: 900 kW
Contract Demand: 900 kW
Power Utilization: 100%
1-year Capital Investment Commitment: $1,285,000
Capital Investment reported: $603,834 or 47% of commitment
Cumulative Capital Spending: $692,500 or 54% of commitment
Job Commitment: 402 jobs
Jobs Reported: 162 jobs or 40%

Background: Ultralife Batteries, Inc. manufactures batteries and communication systems. Ultra life stated due to reduced government spending, its revenues and capital spending are below projections. Employment was reduced due to a drop in sales and reorganization to support its current sales.

Recommendation: *Staff recommends that the Trustees authorize a reduction in the allocation and contract demand to not less than 590 kW, and authorize an adjustment of the job commitment to not less than 261 jobs and the capital investment commitment to not less than $835,250.*

EXHIBIT B

Non-Compliance with Capital Investment Commitments – Proposed Reductions in Contract Demands and Hydropower Allocations with Adjustments to Job Commitments and Capital Investment Commitments

1. Canada Dry Bottling Company of New York, Inc. (Melville, Suffolk County)

Allocation: 40 kW
Contract Demand: 40 kW
Power Utilization: 100%
1-year Capital Investment Commitment: $95,689
Capital Investment reported: $0
Cumulative Capital Spending: 0%
Job Commitment: 51 jobs
Jobs Reported: 56 jobs or 110%

Background: Canada Dry is a beverage distributor and is under the ownership of the Pepsi Cola Bottling Company of NY. The company has not met the capital spending commitment due to a decision by its corporate parent to redirect investment to other facilities. Canada Dry previously indicated plans to invest during the 2014 year, however for a second year; it has not made any investment at this particular facility.

Recommendation*: Staff recommends that the Trustees authorize a reduction in the allocation and contract demand to not less than 30 kW, and authorize an adjustment of the job commitment to not less than 38 jobs and the capital investment commitment to not less than $23,920.*

2. Ultralife Batteries, Inc. (Newark, Wayne County)

Allocation: 900 kW
Contract Demand: 900 kW
Power Utilization: 100%
1-year Capital Investment Commitment: $1,285,000
Capital Investment reported: $603,834 or 47% of commitment
Cumulative Capital Spending: $692,500 or 54% of commitment
Job Commitment: 402 jobs
Jobs Reported: 162 jobs or 40%

Background: Ultra life Batteries, Inc., manufactures batteries and communication systems. Ultra life stated due to reduced government spending, its revenues and capital spending are below projections. Employment was reduced due to a drop in sales and reorganization to support its current sales.

Recommendation: *Staff recommends that the Trustees authorize a reduction in the allocation and contract demand to not less than 590 kW, and authorize an adjustment of the job commitment to not less than 261 jobs and the capital investment commitment to not less than $835,250.*

EXHIBIT C

Reported Non-Compliance with Commitments – No Action Recommended

1. Dab-O-Matic Corporation (Mount Vernon, Westchester County)
Allocation: 136 kW
Contract Demand: 136 kW
Power Utilization: 100%
1-year Capital Investment Commitment: $425,000
Capital Investment reported: $130,005 or 31%
Cumulative Capital Spending: $195,801 or 46%
Job Commitment: 83 jobs
Jobs Reported: 85 jobs or 102%

Background: Dab-O-Matic manufactures flow applicators. The company indicates that a bad economy forced it to cut back on capital expenditures during the reporting period, although it managed to maintain its employment commitment during this period. The company had nearly $300,000 of planned capital spending for the year 2014, but was not able to sustain this level of spending. It plans to purchase more equipment by the next reporting period.

Recommendation: *Staff recommends no action at this time.*

2. Alken Industries, Inc. (Ronkonkoma, Suffolk County)
Allocation: 80 kW
Contract Demand: 80 kW
Power Utilization: 70%
Cumulative Capital Spending: $35,753 or 1% of 5yr. commitment
Job Commitment: 50 jobs
Jobs Reported: 50 jobs or 100%

Background: Alken Industries, Inc. manufactures and assembles aircraft parts. Although it has not satisfied its power utilization commitment, it has reallocated its RNY allocation to additional electric accounts which staff expects will enable it to better utilize its allocation.

Recommendation: *Staff recommends no action at this time.*

3. Huron Real Estate Associates, LLC (Endicott, Broome County)
Allocation: 10,000 kW
Contract Demand: 10,000 kW
Power Utilization: 70%
Cumulative Capital Spending: $11,953,035 or 80% of 5yr. commitment
Job Commitment: 2,100 jobs
Jobs Reported: 1,842 jobs or 88%

Background: Huron Real Estate Associates, LLC is a real estate company. Although it has not satisfied its power utilization commitment, it has reallocated its RNY allocation to additional electric accounts which staff expects will enable it to better utilize its allocation.

Recommendation: *Staff recommends that the Trustees take no action at this time.*

EXHIBIT D

Non-Compliance with Reporting Requirement – Electric Service to be Suspended

1. Fermer Precision (Ilion, Herkimer County)

Allocation: 160 kW
Contract Demand: 160 kW
Power Utilization: 0%
Cumulative Capital Spending: $98,813 or 24% of 5yr. commitment
Job Commitment: 57 jobs
Jobs Reported: 0 jobs or 0%

Background: Fermer Precision provides machining applications for metal and plastic industries. The company did not submit its year 2014 compliance report.

2. GE Inspection Technologies (Skaneateles, Onondaga County)

Allocation: 146 kW
Contract Demand: 146 kW
Power Utilization: 0%
Capital Spending Reported $0.0 or 0% of 5yr. commitment
Job Commitment: 185 jobs
Jobs Reported: 0 jobs or 0%

Background: GE Inspections Technologies manufactures video inspection equipment**.** The company did not submit its year 2014 compliance report.

EXHIBIT E: ALLOCATIONS AND JOB COMMITMENTS TO BE REDUCED DUE TO JOB NONCOMPLIANCE

Customer	Allocation (kW)	Employment Commitment	Jobs Reported	Jobs Compliance %	Revised Commitments		Reductions	
					kW	Jobs	kW	Jobs
AccuMed Innovative Technologies, LLC	86	200	140	70%	80	190	6	10
Albany Molecular Research	1,350	363	254	70%	1280	345	70	18
Burton Industries, Inc.	426	50	34	68%	400	47	26	3
County Frame Corp.	70	80	45	56%	60	65	10	15
Ethox International, Inc.	250	94	61	65%	230	85	20	9
Friedberg Jewish Community Center	30	425	254	60%	20	361	10	64
The Indium Corporation of America	176	65	30	46%	120	46	56	19
ITT Corp. (EDO)	360	220	157	71%	350	211	10	9
Intertek Testing Services NA, Inc.	606	418	308	74%	600	414	6	4
Northrop Crumman Systems Corporation	1,716	1,566	905	58%	1420	1300	296	266
Universal Photonics, Inc.	116	65	43	66%	110	59	6	6
Women's Housing & Economic Development Corp.	16	275	167	61%	10	237	6	38
Ultralife Batteries, Inc.	900	402	162	40%	590	261	310	141
						TOTALS:	522	461

EXHIBIT B: ALLOCATIONS, JOB AND CAPITAL INVESTMENT COMMITMENTS TO BE REDUCED DUE TO CAPITAL INVESTMENT NONCOMPLIANCE

Customer	Allocation (kW)	Employment Commitment (# of Jobs)	Capital Investment Commitment	Capital Investment Reported	Capital Investment Compliance %	Revised Commitments			Reductions		
						kW	Jobs	Capital Investment	kW	Jobs	Capital Investment
Canada Dry Bottling Company of New York, Inc.	40	51	$95,689.00	$0.00	0%	30	38	$23,920.00	10	13	$71,769.00
Ultralife Batteries, Inc.	900	402	$1,285,000.00	$603,834.00	47%	590	261	$835,250.00	310	141	$449,750.00
								TOTALS:	320	154	$521,519.00

EXHIBIT C: ALLOCATIONS AND JOB COMMITMENTS TO REMAIN THE SAME

Customer	Allocation (kW)	Employment Commitment (# of Jobs)	Capital Investment Commitment	Revised Commitments			Reductions		
				kW	Jobs	Capital Investment	kW	Jobs	Capital Investment
Dab-O-Matic Corporation	136	83	$425,000.00	136	83	$425,000.00	0	0	0
Alken Industries	80	50	*N/A*	80	50	*N/A*	0	0	*N/A*
Huron Real Estate Associates, LLC	10,000	2,100	*N/A*	10,000	2,100	*N/A*	0	0	*N/A*

EXHIBIT D: ALLOCATIONS TO BE SUSPENDED

Customer	Allocation (kW)	Employment Commitment (# of Jobs)	Revised Commitments		Reductions	
			kW	Jobs	kW	Jobs
Fermer Precision	160	57	160	57	0	0
GE Inspection Technologies	146	185	146	185	0	0

Total kW Reduction	842
Total Job Reduction	615
Total Capital Investment Reduction	$521,519.00

Western NY Power Proceeds Allocation Board

Exhibit "A"
July 30, 2015

Applicants Recommended for an Award of Fund Benefits

Line	Business	City	County	Economic Development Region	Project Description	Project Type	Recommended Award Amount	Total Project Cost	Jobs Retained	Jobs Created
1	Borderworx Logistics, LLC	Sanborn	Niagara	Western NY	Building Construction	Business Investment	$285,000	$2,960,980	10	1
						Total:	**$285,000**	**$2,960,980**	**10**	**1**

Total Jobs Created & Retained: 11

Western NY Power Proceeds Allocation Board
Exhibit “B”

Criteria adapted from the Western NY Power Proceeds Allocation Board’s
“Procedures for the Review of Applications for Fund Benefits”

1. The extent to which an award of Fund Benefits would be consistent with the strategies and priorities of the Regional Economic Development Council (“REDC”) having responsibility for the region in which an Eligible Project is located.[1] The Western New York Regional Economic Development Council which is responsible for Eligible Projects in Erie and Niagara Counties Strategies & Priorities are:
   - Promote “Smart Growth” by investing in areas that infrastructure already exists and achieves certain goals, such as: preserving historic buildings; reviving downtowns; reviving main streets; investing in existing neighborhoods; and investing in former industrial sites. A project consistent with Smart Growth will also focus on: enhancing walkability; enhancing multiple modes of transportation; connecting disadvantaged communities to employment clusters; spurring mixed-use private investment in existing communities and preserving/enhancing natural lands and or resources.
   - Promote workforce development by increasing diversity in the labor force, developing and cultivating that includes workers with advancement potential, underemployed, unemployed and special population; align education and skills training to job market for current and future industry needs.
   - Foster entrepreneurship and new business formation and growth. Designing a plan that brings new technologies and/or products to the marketplace, increases new start ups in strategic industries and facilitates the commercialization of products that can lead to job growth in the Region.
   - Increase the industry profile of agriculture in WNY by: creating better access to markets; creating new products; creating new more efficient processes; creating strong regional brands; creating programs that promote careers in agriculture.
   - Utilize Western New York’s proximity to Canadian and U.S. population centers to advance economic development in WNY. Bi-national projects will: utilize cross-border planning to create transportation and logistical infrastructure; improve

[1] As provided for in EDL § 189-c(4), criteria 2-15 are adapted from the criteria for eligibility for Expansion Power, Replacement Power and Preservation Power under Public Authorities Law § 1005. The specific criteria identified in PAL § 1005(13)(b)(4)-(5) are relevant to power allocations under these programs but do not have any logical application to allocations of Fund Benefits. Therefore, the Board does not expect to use these criteria to evaluate applications for Fund Benefits. Additionally, in accordance with PAL § 1005(13), criteria 13-15 listed herein will only be used in the case of Eligible Projects which are proposed by Applicants as, and determined by the Board to be, “revitalization” projects.

operational relationships; promote the attractiveness of WNY as a hub for global trade.

- Position the WNY region as a global energy hub through new sources of clean energy, energy efficiency and energy efficient transportation.
- Support growth of advanced manufacturing by making research more available to manufacturers to help them innovate.
- Spur growth in the health and life sciences industry through improved commercialization, recruit high profile research talent and reducing the cost burden of healthcare while improving health outcomes.
- Expand the scope of higher education by increasing accessibility to Higher Education for communities that currently have limited access to educational opportunities; better aligning education with the industry needs and creating support structures for start-ups which will assist start-ups with commercialization, business planning, workforce preparation, facilities, etc.
- Grow visitors and visitor spending by raising the profile of WNY as a national and international destination; connect multiple tourist destinations in WNY; improve the profile of the WNY Gateway to the United States.

For more information on the Western New York Regional Economic Development Council please go to http://regionalcouncils.ny.gov/content/western-new-york.

2. The extent to which an award of Fund Benefits would be consistent with the strategies and priorities of the Regional Economic Development Council ("REDC") having responsibility for the region in which an Eligible Project is located.[2] The Finger Lakes Regional Economic Development Council which is responsible for Eligible Projects in Orleans and Genesee Counties Strategies & Priorities can be found at: http://regionalcouncils.ny.gov/content/finger-lakes.
3. The number of jobs that would be created as a result of an award of Fund Benefits.
4. The applicant's long term commitment to the region as evidenced the current and/or planned capital investment in applicant's facilities in the region.
5. The ratio of the number of jobs to be created to the amount of Fund Benefits requested.
6. The types of jobs that would be created, as measured by wage and benefit levels, security and stability of employment.
7. The amount of capital investment, including the type and cost of buildings, equipment and facilities, proposed to be constructed, enlarged or installed.
8. The extent to which an award of Fund Benefits would affect the overall productivity or competitiveness of the applicant and its existing employment.

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[2] As provided for in EDL § 189-c(4), criteria 2-15 are adapted from the criteria for eligibility for Expansion Power, Replacement Power and Preservation Power under Public Authorities Law § 1005. The specific criteria identified in PAL § 1005(13)(b)(4)-(5) are relevant to power allocations under these programs but do not have any logical application to allocations of Fund Benefits. Therefore, the Board does not expect to use these criteria to evaluate applications for Fund Benefits. Additionally, in accordance with PAL § 1005(13), criteria 13-15 listed herein will only be used in the case of Eligible Projects which are proposed by Applicants as, and determined by the Board to be, "revitalization" projects.

9. The extent to which an award of Fund Benefits may result in a competitive disadvantage for other business in the State.
10. The growth potential of the applicant's facilities and the contribution of economic strength to the area in which the applicant's facilities are or would be located.
11. The extent of the applicant's willingness to satisfy affirmative action goals.
12. The extent to which an award of Fund Benefits is consistent with state, regional and local economic development strategies and priorities and supported by local units of government in the area in which the business is located.
13. The impact of an award of Fund Benefits on the operation of any other facilities of the applicant, and on other businesses within the region.
14. That the business is likely to close, partially close or relocate resulting in the loss of a substantial number of jobs.
15. That the applicant is an important employer in the community and efforts to revitalize the business are in long-term interests of both employers and the community.
16. That a reasonable prospect exists that the proposed award of Fund Benefits will enable the applicant to remain competitive and become profitable and preserve jobs for a substantial period of time.

Western NY Power Proceeds Allocation Board

Western New York Economic Development Fund Recommendation Memorandum

Exhibit "C"

Applicant Name:	Borderworx Logistics, LLC	REDC Region:	WNY
Project Type:	Business Investment	County:	Niagara
Industry:	Process, Physical Distribution, and Logistics Consulting Services	Locality:	Town of Sanborn
Amount Requested:	$300,000	Start Date:	July 2015
		Finish Date:	January 2016
RECOMMENDED OFFER			
Recommended Total Award:	$285,000		
Total Project Cost:	$2,960,980		
% of Project Cost Recommended:	Approx. 10%		
PROJECT BUDGET- 50,000 sq. ft., pre-engineered building			
Use of funds	**Amount**	**Source of Funds**	**Amount**
Construction	$2,691,800	Committed: First Niagara Bank	$1,425,000
10% Contingency	$269,180	Committed: Equity Investment	$560,980
		Potential: NYBDC	$675,000
		WNYPPAB	$300,000
Total:	**$2,960,980**	**Total:**	**$2,960,980**
REGIONAL IMPACT MEASUREMENTS			
Number of Jobs Retained:	10		
Number of Jobs Created:	1		
Average Salary of Jobs:	$36,000		
Indirect Jobs Created:			
Other Impact:	Operation of a designated Foreign Trade Zone for Niagara County. Phases II and III of the project are expected to create a total of 75 additional jobs (source: ESD job commitments for Phase II and III).		

Western NY Power Proceeds Allocation Board

Western New York Economic Development Fund Recommendation Memorandum

PROJECT DESCRIPTION (Adapted from Application)
Borderworx, Inc. is a third party logistics company headquartered in Halton Hills, Ontario. In 2008, it established Borderworx Logistics, LLC ("Borderworx") a NY corporation in Grand Island, NY, where the company currently leases space. Borderworx has outgrown its Grand Island location and has been actively reviewing alternative locations in both the US and Southern Ontario. To respond to its growth needs the company plans to purchase 31 acres in the Vantage Center Industrial Park in Niagara County, which is located in an inactive Foreign Trade Zone (FTZ) and in close proximity to the Niagara Falls International Airport. The company has established a three-phased initiative to develop the property. The first phase is the subject of this project and entails the construction of a 50,000 square foot distribution center (the "Distribution Center"). The majority of the constructed building (approximately 40,000 sq. ft.) will be used to receive, inventory and distribute finished goods for various client industries. These clients are non-resident companies from Canada and overseas who will use this location as their business presence in the US market. The services Borderworx provides on behalf of these companies include, but are not limited to: (1) inventory storage, (2) order processing and distribution, (3) returns management, (4) accounting and finance, and (5) meeting space and work areas. This facility will also be used to support some light manufacturing and assembly work for distribution clients and house administration and IT departments. Borderworx will use the facility built in Phase I to attract more Canadian businesses as clients. In Phases II and III Borderworx will construct other buildings suitable for light manufacturing on the remaining acres purchased.

OTHER ECONOMIC DEVELOPMENT BENEFITS RECEIVED			
ESD: Excelsior Tax Credits- Job Growth Track for Phase I, II, & III	Up to $590,000	NYPA: NA	$
IDA: PILOT, Sales Tax & Mortgage Recording	$ 582,000	Other: N/A	$

PREVIOUS STATE ASSISTANCE OFFERED OR PROVIDED		
TYPE	AMOUNT	STATUS

Western NY Power Proceeds Allocation Board

Western New York Economic Development Fund Recommendation Memorandum

ESD: NA	$	
BASIS FOR RECOMMENDATION		
This company provides distribution of finished goods to retailers located throughout the U.S. and primarily in the Midwest. Borderworx is planning on moving the majority of its Canadian presence into the U.S. and is considering multiple border locations throughout the northern U.S. and southern Ontario. If the company relocates to any of these alternative locations, WNY will lose 10 jobs and Niagara County will lose the opportunity for a company to operate Niagara County's FTZ and create an additional 75 jobs. A Fund Benefits award would keep this company in NYS and gain a FTZ operator in Niagara County.		
DISBURSEMENT TERMS		
Subject to final determination by the New York Power Authority, staff anticipates that Fund Benefits would be used to reimburse the applicant for a portion of costs related to the construction of the Distribution Center, and disbursed in arrears in two installments: 1. 90% of the award ($256,500) upon completion of the project, including documentation of the following: ▪ employment of at least 10 Full-time Permanent Employees at the Project Location; ▪ total project expenditures of approximately $2,960,980; and ▪ receipt of a Certificate of Occupancy or other documentation verifying project completion and operation. 2. 10% of the award grant ($28,500) upon documentation of employment of at least 11 Full-time Permanent Employees at the Project Location.		