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

July 23, 2013

Table of Contents

	Subject	Page No.	Exhibit
	Introduction	**2**	
1.	Adoption of the July 23, 2013 Proposed Meeting Agenda	3	
2.	**Consent Agenda:**	4	
	a. Minutes of the Regular Meeting held on May 21, 2013	5	
	b. Direct Sale Contracts for the Sale of Western New York Hydropower – Transmittal to the Governor and Notice of Public Hearing	6	2b-A; 2b-A-1 – 2b-A-7; 2b-B; 2b-C; 2b-C-1
	c. Extension of Hydropower Contracts with Upstate Investor-Owned Utilities for the Benefit of Rural and Domestic Consumers – Transmittal to the Governor	9	2c-A – 2c-D
	d. Transmission Life Extension and Modernization Program – St. Lawrence/FDR Power Project – 115 kV and 230 kV SF6 Circuit Breakers – Contract Award	11	
	e. Niagara Power Project – Robert Moses South Access Gate Security Enhancements – Capital Expenditure Authorization Request	14	
	f. Niagara Power Project – Niagara University Shared Campus Initiative – Contract Award	17	
	g. Niagara Power Project – Design and Construction Support Services for New Tug Vessels – Contract Award	19	
	h. MAXIMO Application Upgrade Project – Capital Expenditure Authorization and Contract Award	22	
	i. Procurement (Construction) Contract – Danco Electrical Contractor, Inc. – Installation of Standby/PLM Generators in Grand Central Terminal	26	
	j. Procurement (Services) Contracts – Business Units and Facilities – Awards and Extensions	28	2j-A; 2j-B
	k. Procurement (Services) Contract – Request for Funding – Jackson, Lewis, LLP	36	
	l. Annual Hydropower Allocation Job Compliance Review	37	2l-A; 2l-B
	Resolution		

	Subject	Page No.	Exhibit
Discussion Agenda:		**45**	
3.	**Q&A on Reports from:**		
	a. President and Chief Executive Officer	45	3a-A
	b. Chief Operating Officer	47	3b-A
	c. Chief Financial Officer	49	3c-A
	d. Chief Risk Officer	51	
	e. Chief Strategic Planning Officer	52	3e-A
4.	Power Allocations:		
	a. Power Allocations under the Recharge New York Program Resolution	54	4a-A – 4a-G
	b. Allocations of Hydropower and Notice of Public Hearing Resolution	60	4b-A – 4b-A-2; 4b-B; 4b-B-1
5.	Awards of Fund Benefits from the Western New York Economic Development Fund Recommended by the Western New York Power Proceeds Allocation Board Resolution	64	5-A – 5-D
6.	Contribution of Funds to the State Treasury Resolution	70	
7.	**Informational Item:** Authority Cyber Security Overview	73	7-A
8.	Motion to Conduct an Executive Session	75	
9.	Motion to Resume Meeting in Open Session	76	
10.	Next Meeting	77	
	Closing	78	

July 23, 2013

Minutes of the Regular Meeting of the Power Authority of the State of New York held at the Clarence D. Rappleyea Building, 123 Main Street, White Plains, New York at approximately 10:40 a.m.

Members of the Board present were:

John R. Koelmel, Chairman
Eugene Nicandri, Trustee
R. Wayne LeChase, Trustee
Terrance P. Flynn, Trustee
Joanne M. Mahoney, Trustee

Trustee Jonathan Foster – excused

Gil C. Quiniones	President and Chief Executive Officer
Judith C. McCarthy	Executive Vice President and General Counsel
Edward Welz	Chief Operating Officer
Donald Russak	Chief Financial Officer
Jill Anderson	Chief of Staff and Director of Energy Policy
Robert Lurie	Senior Vice President – Strategic Planning
William Nadeau	Senior Vice President and Chief Risk Officer – Energy Risk Assessment and Control
James Pasquale	Senior Vice President – Economic Development and Energy Efficiency
Joan Tursi	Senior Vice President – Corporate Support Services
John Canale	Vice President – Project Manager
Dennis Eccleston	Vice President – Information Technology/Chief Information Officer
Michael Huvane	Vice President – Marketing – Business and Municipal Marketing
Joseph Leary	Vice President – Community and Government Relations
Karen Delince	Corporate Secretary
Brian McElroy	Treasurer
Frank Deaton	Director – Enterprise Risk Management – Energy Risk Assessment and Control
Michael Saltzman	Director – Media Relations
Lena Smart	Chief Information Security Officer
Gary Schmid	Manager – Network Services Infrastructure
Ruth Colon	Senior Business Integration Project Manager
John Giumarra	Account Executive – Business Marketing and Economic Development
Lorna M. Johnson	Associate Corporate Secretary
Sheila Baughman	Assistant Corporate Secretary
Scott Fein	Counsel, Whiteman Osterman

Trustee Eugene Nicandri presided over the meeting. Corporate Secretary Delince kept the Minutes.

Introduction

At the request of Chairman John Koelmel, Trustee Eugene Nicandri presided over the meeting. He welcomed the Trustees and staff members who were present at the meeting. He said 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. <u>Adoption of the July 23, 2013 Proposed Meeting Agenda</u>

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

2. <u>Consent Agenda</u>:

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

Trustee LeChase was recused from the vote on item 2j (Procurement (Services) Contracts – Business Units and Facilities – Awards and Extensions) as it pertains to LiRo Engineers, Inc.; and Trustee Flynn from the vote on item #2l (Annual Hydropower Allocation Job Compliance Review) as it pertains to Ashland Advanced Materials, LLC and Saint-Cobain Structural Ceramics.

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

The Minutes of the Regular Meeting held on May 21, 2013 were unanimously adopted.

b. Direct Sale Contracts for the Sale of Western New York Hydropower – Transmittal to the Governor and Notice of Public Hearing

The President and Chief Executive Officer submitted the following report:

"SUMMARY

The Trustees are requested to: (1) approve proposed final contracts for seven Expansion Power ('EP') and/or Replacement Power ('RP') customers; (2) authorize transmittal to the Governor of the proposed final contracts for his approval and authorization for the Authority to execute the contracts; and (3) authorize a public hearing on a proposed contract for the sale of hydropower to M&T Bank Corporation ('M&T') and transmittal of copies of such proposed contract to the Governor and legislative leaders pursuant to Public Authorities Law ('PAL') §1009. A list of the seven EP and/or RP allocations and the proposed final contracts to each customer are attached as Exhibit '2b-A.' The proposed contract with M&T is attached as Exhibit '2b-C.'

BACKGROUND

Under PAL §1005(13), the Authority may allocate and sell directly or by sale for resale, 250 MW of 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.

Since the late 1980s, the Authority's sales of EP and RP have been handled almost exclusively under contracts that the Authority entered into with Niagara Mohawk Power Corporation d/b/a National Grid ('National Grid') and New York State Electric and Gas Corporation ('NYSEG'), both of which facilitated the provision of Authority hydropower to end-use customers on a sale-for-resale basis. These contractual arrangements expired on June 30, 2013, and the Authority now sells EP and RP through direct sales to customers.

The first significant step in this direction was made in September 2010 after a public hearing process, when the Trustees approved long-term contract extensions that accommodated direct sales to customers for approximately 185 EP and RP allocations for the period July 1, 2013 through June 30, 2020. The Trustees also approved a new Service Tariff No. WNY-1 ('ST WNY-1'), governing all EP and RP sales commencing July 1, 2013, which modified the production rate for EP and RP by applying a three-year phase-in to a specified target rate based on the Authority's Preservation Power rate.

The seven proposed final contracts before the Trustees are for Ceres Crystal Industries, Inc., Delaco AMTB LLC, Greenpac Mill, LLC, Hammond Manufacturing Co. Inc., Nulife Glass NY Inc., Welded Tube USA, Inc., and Yahoo! Inc., as described in Exhibit '2b-A.' These customers have either been awarded allocations of hydropower in return for job creation and capital expansion commitments, or in the case of Ceres Crystal Industries Inc., Delaco AMTB, and Hammond Manufacturing Co., the companies have been approved for extensions of existing allocations in return for agreed-upon employment and annual capital spending levels. With the aforementioned sale-for-resale contractual arrangements with the customers' local utilities having expired June 30, 2013, the final proposed contracts would enable the Authority to sell these customers their allocations under a direct sale arrangement for the term of the allocations. Transmission and delivery service for these allocations would continue to be provided by National Grid or NYSEG, as applicable, and in accordance with their filed service tariffs.

The following is a summary of some pertinent provisions of these 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, all as set forth in ST WNY-1.

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

- The contracts include the ability to award additional allocations of EP or RP to the customers at the same facility, which would be incorporated into Schedule A of the contracts. The Trustees approved this convention in the 2010 long-term extension contracts, which simplifies contract administration.

- To accommodate non-payment risk that could result from a 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 the 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 Authority has discussed each contract with the relevant customer and in each case has received the customer's consent to the proposed contract. The customers acknowledge that ST WNY-1 rates will apply to their allocations. This is consistent with all allocations of EP and RP being served after July 1, 2013.

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 contracts. 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 records, to the Governor and other elected officials. Upon approval by the Governor, the Authority may execute the contract.

DISCUSSION

At their March 21, 2013 meeting, the Trustees authorized the Corporate Secretary to transmit the proposed contracts to the Governor and legislative leaders and schedule a public hearing on the contracts. A public hearing on the seven contracts was held on June 20, 2013 at the Niagara Power Project's Power Vista Visitor Center in Lewiston. 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-B.'

Regarding M&T, at their March 21, 2013 meeting, the Trustees were unable to adopt the resolution to authorize a public hearing on the proposed contract for the sale of 3,000 kW of EP because based on conflicts of interest they failed to attain the required number of votes necessary for its approval. Staff is therefore bringing the proposed contract, attached as Exhibit '2b-C,' back to the Trustees requesting the authorization necessary to initiate the PAL §1009 process after which staff will make additional recommendations regarding the proposed contract, as necessary, and report to the Trustees.

The proposed contract with M&T is in the same form as the final proposed contracts described above. The Authority and M&T have agreed to the proposed contract and M&T acknowledges that ST WNY-1 rates will apply to its allocation.

RECOMMENDATION

The Manager – Business Power Allocations and Compliance recommends that the Trustees approve the seven proposed contracts for the sale of Replacement Power and/or Expansion Power allocations that are attached as Exhibit '2b-A' and authorize the transmittal of the contracts to the Governor for approval. It is also recommended that the Trustees authorize the Corporate Secretary to convene a public hearing on the proposed contract for the sale of 3,000 kW of Expansion Power to M&T Bank Corporation and transmit copies of such proposed contract to the Governor and legislative leaders pursuant to Public Authorities Law §1009.

For the reasons stated, I recommend the approval of the above-requested action by adoption of a resolution in the form of the attached draft resolution."

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

RESOLVED, That the contracts for the sale of Expansion Power ("EP") and/or Replacement Power ("RP") to Ceres Crystal Industries, Inc., Delaco AMTB LLC, Greenpac Mill, LLC, Hammond Manufacturing Co. Inc., Nulife Glass NY Inc., Welded Tube USA, Inc., and Yahoo! Inc., are in the public interest and should be submitted to the Governor for his approval 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 after the contracts have been approved by the Governor; and be it further

RESOLVED, That the Trustees hereby authorize a public hearing on the terms of the proposed contract for the sale of Expansion Power by the Authority to M&T Bank Corporation, subject to rates previously approved by the Trustees; and be it further

RESOLVED, That the Corporate Secretary be, and hereby is, authorized to transmit copies of the proposed contract for M&T Bank Corporation to the Governor, the Speaker of the Assembly, the Minority Leader of the Assembly, the Chairman of the Assembly Committee on Ways and Means, the Temporary President of the Senate, the Minority Leader of the Senate and the Chairman of the Senate Finance Committee, pursuant to Public Authorities Law §1009(1); 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 companies as set forth in the foregoing report of the President and Chief Executive Officer; and be it further

RESOLVED, That the Chairman, the Vice Chairman, the President and Chief Executive 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.

c. Extension of Hydropower Contracts with Upstate Investor-Owned Utilities for the Benefit of Rural and Domestic Consumers – Transmittal to the Governor

The President and Chief Executive Officer submitted the following report:

"SUMMARY

The Trustees are requested to authorize the proposed contract extensions for the sale to Niagara Mohawk Power Corporation d/b/a National Grid ('National Grid'), New York State Electric and Gas Corporation ('NYSEG') and Rochester Gas and Electric Corporation ('RGE') (collectively, the 'Utilities') of firm peaking hydropower, totaling 360 MW and, in accordance with Public Authorities Law ('PAL') §1009, to authorize transmittal of the contracts to the Governor for his approval. The form of each contract with National Grid, NYSEG and RGE is attached as Exhibit '2c-A,' Exhibit '2c-B' and Exhibit '2c-C,' respectively. This request follows the public hearing and comment period on the form of the contracts that was authorized by the Trustees at their December 18, 2012 meeting. The public hearing was held on February 7, 2013. The transcript of the public hearing is attached as Exhibit '2c-D.'

BACKGROUND

Under the terms of the hydropower contracts signed with the Utilities in 1990 ('1990 Hydro Contracts') and subsequent annual contract extensions, the Utilities have purchased from the Authority both firm power and firm 'peaking power' generated by the St. Lawrence/FDR and Niagara Power Projects.

The Utilities purchased such power and energy at the Authority's cost-based hydropower rate, and the benefits were passed on to the Utilities' residential and small farm customers (known as 'rural and domestic' or 'R&D' consumers) without markup, through the electric service provided by the Utilities under their retail tariffs.

Anticipating the enactment of legislation creating a new hydropower-based economic development program, the Trustees approved only short-term extensions of the 1990 Hydro Contracts after the original expiration date of such contracts on August 31, 2007 to ensure that the underlying hydropower would be available for any new economic power program.

The last extension of the 1990 Hydro Contracts provided for an expiration date of December 31, 2012.

The 1990 Hydro Contracts and all prior extensions thereof have been subject to the public hearing and gubernatorial approval process provided for in PAL §1009.

Chapter 60 (Part CC) of the Laws of 2011 ('Chapter 60') created the Recharge New York Power Program ('RNY Program'). This law authorized the Authority to redeploy firm hydropower previously sold to the Utilities under the 1990 Hydro Contracts and extensions thereof for use in the RNY Program.

Effective August 1, 2011, the Authority withdrew the firm hydropower from the Utilities in accordance with Chapter 60 and terminated the firm power allocations of 189 MW for National Grid, 167 MW for NYSEG and 99 MW for RGE. That left firm peaking power allocations of 175 MW, 150MW and 35 MW available for sale to National Grid, NYSEG and RGE, respectively.

DISCUSSION

The Authority and each of the Utilities negotiated proposed contact extensions that would provide for the sale of the peaking power in the amounts indicated above through December 31, 2014. Each of the contracts specifies the terms and conditions that would apply to the sale of the peaking power, including provisions providing for the cancellation of the contract/allocations.

At their meeting of December 18, 2012, the Trustees authorized a public hearing on the extensions. To avoid an interruption of the financial benefits the peaking power provides to the R&D customers, the Trustees also

authorized staff to execute the contract extensions on an interim basis pending the completion of the PAL §1009 process. Accordingly, the contracts provide for their cancellation in the event that the Governor does not approve the contracts pursuant to PAL §1009.

In accordance with PAL §1009, a public hearing was held on the contract extensions on February 7, 2013, at Syracuse University in Syracuse, New York, from 3-7 p.m. Following the Authority's review of public comments, the Authority determined that no modifications to the contract extensions are required.

FISCAL INFORMATION

The proposed 2012 contract extensions would provide that the Utilities continue to pay for firm peaking hydropower at the same rates they are currently charged, *i.e.*, the cost-based rates that are currently charged to the Authority's preference customers and determined in accordance with the Authority's rate-setting methodologies and principles. The Trustees approved four annual preference power rate increases at their November 2011 meeting, which became effective in the December 2011 billing period. The rate increases for 2012 through 2014 occur on May 1st of each respective year. The proposed 2012 contract extensions would incorporate the new preference power rates. As such, there will be no fiscal impact to the Authority associated with these contract extensions.

RECOMMENDATION

The Senior Vice President – Economic Development and Energy Efficiency and the Director – Marketing Analysis and Administration recommend that the Trustees approve: (1) the terms of the proposed contract extensions with Niagara Mohawk Power Corporation d/b/a National Grid, New York State Electric and Gas Corporation and Rochester Gas and Electric Corporation; and (2) authorize transmittal of the contract extensions to the Governor for his consideration in accordance with Public Authorities Law §1009.

For the reasons stated, I recommend the approval of the above-requested action by adoption of a resolution in the form of the attached draft resolution."

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

> **RESOLVED, That the proposed contract extensions be submitted to the Governor for approval and that copies of the contract extensions 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, in accordance with Public Authorities Law §1009; and be it further**
>
> **RESOLVED, That the Chairman and the Corporate Secretary be authorized and directed to execute such contract extensions in the name of, and on behalf of, the Authority provided that the contract extensions have been approved by the Governor; and be it further**
>
> **RESOLVED, That the Chairman, the Vice Chairman, the President and Chief Executive Officer, the Chief Operating Officer and all other officers of the Authority are, and each of them herby 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, certifications 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. Transmission Life Extension and Modernization Program – St. Lawrence/FDR Power Project – 115 kV and 230 kV SF6 Circuit Breakers – Contract Award

The President and Chief Executive Officer submitted the following report:

"SUMMARY

The Trustees are requested to award a six-year contract to Hitachi, HVB Inc. ('HVB') of Suwanee, GA in the amount of $3.5 million to furnish and deliver twenty-one 115 kV and ten 230 kV SF6 Circuit Breakers ('STL Breakers') to the St. Lawrence/FDR Power Project's Switchyard ('Switchyard') for the Authority's Transmission Life Extension and Modernization ('T-LEM') Program ('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.

In accordance with the Authority's Expenditure Authorization Procedures ('EAPs') for the award of non-personal services, construction, equipment purchase or non-procurement contracts in excess of $3 million require the Trustees' approval.

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 and has been divided into several projects. The Program is estimated to cost $726 million and includes:

- Upgrades, refurbishments and replacements associated with switchyards and substations
- Transmission line structures or towers and associated hardware, including tower painting
- Replacement of the submarine cable on PV-20
- Work along rights-of-way, including access roads

The scope is a result of internal and external assessments and recommendations. Funding will be requested in a tiered approach for each project as the complete plan-of-work develops.

The STL Project's electric power facilities are protected against faults by power circuit breakers which are designed to rapidly isolate affected lines and equipment in order to minimize damage to the equipment and to protect public health and safety. Proper operation of these critical components of the protection system are crucial to minimizing adverse effects on the bulk power system and ultimately for preventing cascading system outages and wide-scale blackouts. The Authority's Engineering department evaluated the Oil Circuit Breakers ('OCBs') at the Switchyard and determined the scope and priority of the OCBs replacements.

It was determined that the OCBs are: 1) over-dutied; 2) beyond their useful life; 3) require increased maintenance; and 4) require replacement on an expedited basis. Therefore, the twenty 115 kV and nine 230 kV existing OCBs will be replaced with SF6 gas breakers; one additional 115 kV and 230 kV SF6 spare gas circuit breakers will also be procured.

DISCUSSION

In response to the Authority's request for proposals ('RFP'), Q12-5389RH, advertised in the New York State *Contract Reporter* on December 26, 2012, thirty-four (34) firms downloaded the bid documents to furnish and provide commissioning support for the STL Breakers. The Authority's Fair Cost Estimate ('FCE') is $3.9 million.

Three proposals were received on January 31, 2013 as noted below:

Bidder	**Location**	**Base Bid**
Hitachi, HVB Inc.*	Suwanee, GA	$3,172,660.00
Siemens Energy, Inc.**	Richland, MS	$3,174,700.00
Hitachi, HVB Inc.***	Suwanee, GA	$3,481,100.00
Siemens Energy, Inc.****	Richland, MS	$3,604,800.00
ABB, Inc.	Mount Pleasant, PA	$4,040,761.10

* Proposal based on delivery in 2014 and 2015
** Proposal based on delivery in 2014
*** Assumes 5% annual increases for material delivery and services beyond 2015
**** Assumes 5% annual increases for material delivery and services beyond 2014

HVB, the lowest technically qualified bidder, has provided a material lead-time that allows for the SF6 Circuit Breaker installation schedule conformance with the current line-outage schedule. HVB will furnish and deliver the STL Breakers, provide the STL Project staff with equipment training, technical assistance during installation, start-up and functional testing support. Accordingly, staff recommends award of this contract to HVB, which submitted the lowest-priced and most technically acceptable bid.

Siemens Energy Inc. ('Siemens') has been awarded previous contracts with the Authority and took numerous technical exceptions to the Authority's technical specification for the STL Breakers. The Authority provided Siemens the opportunity to clarify and resolve the exceptions. Based on Siemens' responses to the Authority's RFP, post-bid addendum and discussions; Siemens' proposal was deemed technically unacceptable and did not meet the requirements of the specification.

ABB Inc. ('ABB') is considered the second lowest-priced technically qualified bidder. ABB has been awarded previous contracts with the Authority, took minimal exceptions, demonstrated knowledge of the scope-of-work and is experienced in the manufacturing of high voltage equipment.

FISCAL INFORMATION

Payment associated with this project shall 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 Vice President – Procurement, the Project Manager and the Regional Manager – Northern New York recommend that the Trustees approve the award of a six-year contract to Hitachi, HVB Inc. of Suwanee, GA in the amount of $3.5 million to furnish and deliver Circuit Breakers to the St. Lawrence/FDR Power Project's Switchyard for the Authority's Transmission Life Extension and Modernization Program.

For the reasons stated, I recommend the approval of the above-requested action by adoption of a resolution in the form of the attached draft resolution."

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, approval is hereby granted to authorize the award of a six-year contract to Hitachi, HVB Inc. of Suwanee, GA in the amount of $3.5 million to furnish and deliver Circuit Breakers to the St. Lawrence/FDR Power Project's Switchyard for the Authority's Transmission Life Extension and Modernization Program, as recommended in the foregoing report of the President and Chief Executive Officer;

Contractor	**Contract Approval**
Hitachi, HVB Inc. **Suwanee, GA**	**$3.5 Million**

AND BE IT FURTHER RESOLVED, That the Chairman, the Vice 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. Niagara Power Project – Robert Moses South Access Gate Security Enhancements – Capital Expenditure Authorization Request

The President and Chief Executive Officer submitted the following report:

"SUMMARY

The Trustees are requested to authorize capital expenditures in the amount of $7,369,000 for the Robert Moses South Access Security Gate Enhancements at the Niagara Power Project. On February 7, 2013, the President and Chief Executive Officer authorized funding in the amount of $400,000 for engineering and design.

BACKGROUND

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 or non-low bidder.

The South Access Road ('Road'), a steep inclined road, serves as the main entrance into the Niagara Power Project. The Road extends along the Niagara River leading to the security guardhouse and main gate at the base of the gorge. Additionally, the Road provides public access to the fishing pier and associated parking lots, one at the top and another at the base of the Road.

Over the last several years, there have been three incidents involving vehicles crashing through the main security gate. As a result, the gate was modified and reinforced to prevent vehicle intrusion. Additionally, a highway consultant was contracted to study and propose roadway modifications and enhancements for the Road as a result of its steep nature and critical security access into the Niagara Power Project. Based on the consultant's study, the proposed enhancements include:

- An emergency stopping area at the base of the Road to assist drivers with stopping their vehicle in case of brake failure.
- Realignment at the base of the Road to include an 'S-curve' to prevent vehicles intentionally trying to breach the security gate at high speed;
- Construction of a 400-ft. long retaining wall to accommodate the Road realignment;
- Relocation of the lower public parking area near the fishing pier to improve security and public safety and to accommodate the road configuration;
- Construction of a dedicated pedestrian path from the upper parking lot to the fishing pier;
- Installation of radar speed signs and rumble strips to promote slower vehicle speeds;
- Construction of a vehicle 'check-in' point and turnaround area at the top of the Road to prevent unauthorized vehicles from continuing on the Road.

In addition to the Road enhancements, the existing security guardhouse structure, which is approximately 30 years old, has reached the end of its useful life. Due to the deteriorated exterior siding which has caused water intrusion, asbestos-containing materials, and odor and rodent concerns, the building will be replaced and sited in the same location as the existing site. The new guardhouse, which was recently approved by the New York State Historic Preservation Office, will include several improvements. The structure will be elevated approximately 4 feet to improve visibility for the security staff of the surrounding area and will contain a lavatory.

Environmental, Health and Safety ('EH&S') reviewed this proposed action for its compliance with the State Environmental Quality Review Act ('SEQRA'). EH&S determined it was a Type 2 Action requiring no further SEQRA assessment.

DISCUSSION

In early July, interim approval was received to award a one-year contract to BVR Construction Company, Inc. in the amount of $618,700, for the replacement of the guardhouse. Interim approval was requested to take advantage of the weather in order to complete construction of the guardhouse by December 2013.

The design for the Road enhancements was completed in June 2013 and the Authority issued an advertisement to procure bids in the New York State *Contract Reporter*. Staff anticipates presenting a recommendation for contract award to the Trustees at their September 2013 meeting. Construction is scheduled to commence in October 2013 and be completed in the fall of 2014.

The total project cost is estimated at $7,769,000 as follows:

Preliminary Engineering	$ 250,000
Final Engineering and Design, Construction Support	$ 754,000
Construction/Installation	
-Guardhouse Replacement	$ 747,500
-Retaining Wall for Road Realignment	$2,300,000
-South Access Road Replacement	$2,875,000
-Labor/Construction Support	$ 172,500
Total Construction/Installation	$6,095,000
Authority Indirect and Direct Expenses	$ 670,000
Previous Authorization	$ (400,000)
TOTAL	$7,369,000

Yearly expenditures are as follows:

2013	Guardhouse replacement & construction of retaining wall pile system.	$2,000,000
2014	Road realignment & construction completion	$5,579,000

Funding in the amount of $2,164,105 has been included in the 2013 approved Capital Budget. Future funding for 2014 will be included in the Capital Budget request for that year. The $400,000 that was previously authorized was expended for engineering documents and for bidding purposes.

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 – Procurement, the Project Manager and the Regional Manager – Western New York recommend that the Trustees approve capital expenditures in the amount of $7,369,000 for the Robert Moses South Access Gate Security Enhancements at the Niagara Power Project.

For the reasons stated, I recommend the approval of the above-requested action by adoption of a resolution in the form of the attached draft resolution."

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, approval is hereby granted to authorize capital expenditures in the amount of $7,369,000 for the Robert Moses South Access Security Gate Enhancements at the Niagara Power Project, as recommended in the foregoing report of the President and Chief Executive Officer;**
>
> **AND BE IT FURTHER RESOLVED, That the Chairman, the Vice 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.**

f. Niagara Power Project – Niagara University Shared Campus Initiative – Contract Award

The President and Chief Executive Officer submitted the following report:

"SUMMARY

The Trustees are requested to approve the award of a two-year contract in the amount of $5.5 million to Edbauer Construction, Inc. ('Edbauer'), of West Seneca, NY, for the Niagara Power Project – Niagara University Shared Campus Initiative Project (the 'Project'). In order to provide the additional time necessary to complete season-critical construction operations prior to winter, interim approval in the amount of $250,000 was authorized in June 2013 by the President and Chief Executive Officer in accordance with the Authority's Guidelines for Procurement Contracts.

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.

In accordance with the Authority's Expenditure Authorization Procedures ('EAPs') approval for the award of non-personal services, construction, equipment purchase or non-procurement contracts in excess of $3 million require the Trustees' approval.

The Niagara Power Project and Niagara University campuses adjoin each other and share facilities, including roadways and parking lots. The Authority has agreed to undertake this project to improve the overall safety, security, mobility, and aesthetics of the shared campuses. This work will include, but not be limited to, paving, striping, lighting, security cameras, modified intersections and access into the campuses. The Project will provide an effective network to accommodate multiple modes of transportation while providing safe recreational opportunities.

The Authority's Smart Growth Committee ('SGC') has determined that the project is a public infrastructure project ('PIP') subject to the Smart Growth Act. The Authority's SGC has conducted the required evaluation of the project, and the Chief Executive Officer of the Authority has issued the required Smart Growth Impact Statement.

DISCUSSION

The Authority issued an advertisement to procure bids in the New York State *Contract Reporter* and bid packages were available as of April 30, 2013. The bid documents were downloaded by seventy-nine (79) potential bidders and eight (8) potential bidders participated in a site visit on May 9, 2013.

The following five proposals were received on June 6, 2013, as noted below:

Bidder	**Location**	**Lump Sum**
Edbauer Construction, Inc.	West Seneca, NY	$5,481,281.22
Mark Cerrone, Inc.	Niagara Falls, NY	$5,978,126.10
Accadia Site Contracting, Inc.	Depew, NY	$6,412,311.99
Yarussi Construction, Inc.	Niagara Falls, NY	$6,850,527.00
Pinto Construction Services, Inc.	Buffalo, NY	$8,161,808.84

The proposals were reviewed by the evaluation committee comprising staff from the Niagara Power Project, Procurement, and Project Management.

Edbauer's bid was the lowest in price and was also technically acceptable. Edbauer, having extensive experience in general construction, has demonstrated knowledge of the scope-of-work, and is capable of completing this project in accordance with the required schedule. In addition, Edbauer has performed to the Authority's satisfaction on previous projects.

Edbauer took no commercial or technical exceptions to the contract terms.

FISCAL INFORMATION

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

RECOMMENDATION

The Senior Vice President and Chief Engineer – Operations Support Services, the Vice President – Project Management, the Vice President – Procurement, the Project Manager and the Regional Manager – Western New York recommend that the Trustees approve the award of a two-year contract to Edbauer Construction, Inc., of West Seneca, NY in the amount of $5.5 million for construction services for the Niagara Power Project – Niagara University Shared Campus Initiative Project.

For the reasons stated, I recommend the approval of the above-requested action by adoption of a resolution in the form of the attached draft resolution."

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 hereby granted to award a two-year contract to Edbauer Construction, Inc., of West Seneca, NY in the amount of $5.5 million for construction services for implementation of improvements to the Niagara Power Project and Niagara University Shared Campus Initiative Project, as recommended in the foregoing report of the President and Chief Executive Officer;

Contractor	**Contract Approval**
Edbauer Construction, Inc. **West Seneca, NY**	**$5.5 million**

AND BE IT FURTHER RESOLVED, That the Chairman, the Vice 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.

g. Niagara Power Project – Design and Construction Support Services for New Tug Vessels – Contract Award

The President and Chief Executive Officer submitted the following report:

"SUMMARY

The Trustees are requested to approve the award of a five-year contract in the amount of $234,700 to Bristol Harbor Group, Inc. ('BHGI') of Bristol, RI, for engineering, design and fabrication support services to replace two tug vessels associated with the Robert Moses Niagara Power Project Lake Erie Ice Boom.

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 existing tugboat vessels, the *Daniel Joncaire* and the *B-1 Breaker*, are used during the installation, removal and in-service maintenance of the Lake Erie Ice Boom on the Niagara River. In 2012, a study was conducted to evaluate options to ensure the long-term service lives of the 30+ year-old *Daniel Joncaire* and 50+ year-old *B-1 Breaker*. The study identified that the *Joncaire*, which has exceeded its service life for a towing vessel, has experienced severe corrosion and pitting to the hull plating. Additionally, the study indicated that major upgrades will be required to ensure that the vessel will meet the new United States Coast Guard requirements that are expected to be in effect in 2015. These upgrades would include a major overhaul of the vessel including, but not limited to, a complete replacement of the electrical system and replacement of the engines and gears. Additionally, based on the analysis performed, the existing vessel will probably not meet the future stability requirements as a result of the vessel's low freeboard, which would require a major redesign of the hull as well as structural modifications.

Both vessels, which are in similar condition, are critical to the Niagara Power Project and Ontario Power Generation's Sir Adam Beck Plant operations for winter ice boom deployment and ice breaking duties. As such, new, reliable tug vessels, designed and built in accordance with the latest codes and standards regulated by the American Bureau of Shipping, the Code of Federal Regulations, the Environmental Protection Agency, and the United States Coast Guard, are required for the winter operations on Lake Erie and the Niagara River.

The intent of this contract is to procure the professional marine engineering and naval architecture services of BHGI for the design of the new vessels as well as support during the bidding and fabrication processes. BHGI will assist the Authority in selecting a shipyard to construct the vessels by reviewing builders' proposals and evaluating their qualifications. Fabrication support will include oversight and inspection during the fabrication process, as well as necessary requirements to document the vessels with the United States Coast Guard. Fabrication of the new vessels is planned for 2015 and 2017 under a separate contract.

DISCUSSION

The Authority issued an advertisement to procure bids in the New York State *Contract Reporter* and bid packages were available as of April 30, 2013. The bid documents were downloaded by thirty-eight (38) potential bidders.

The following three proposals were received on May 30, 2013:

Bidder	Location	Bid
Bristol Harbor Group, Inc.	Bristol, RI	$234,700
C.R. Cushing & Co., Inc.	New York, NY	$278,400
Robert Allan Ltd.	Vancouver, BC, Canada	$473,445

The proposals were reviewed by an evaluation committee comprising of staff from Engineering, Niagara Maintenance, Procurement, and Project Management.

BHGI's bid was the lowest in price and was also technically acceptable. BHGI, having extensive experience in the field of Naval Architecture, has demonstrated knowledge of the scope-of-work, and is capable of completing this project in accordance with the required schedule. BHGI has performed to the Authority's satisfaction on previous projects, including the design of the work barge, *Havasu II*, which is also used during ice boom activities.

In February 2013, the President and Chief Executive Officer authorized preliminary project funding in the amount of $76,370, which sum is included in the current contract award request, to begin engineering and design services in order to finalize the scope and cost estimate of the overall Vessel Replacement Project. The Capital Expenditure Authorization Request will be presented for approval in 2014. Future funding for 2014 through 2017 will be included in the Capital Budget requests for those years.

FISCAL INFORMATION

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

As this is a Joint Works Project, costs for this contract will be shared with Ontario Power Generation.

RECOMMENDATION

The Senior Vice President and Chief Engineer – Operations Support Services, the Vice President – Project Management, the Vice President – Procurement, the Project Manager, and the Regional Manager – Western New York recommend that the Trustees approve the award of a five-year contract to Bristol Harbor Group, Inc. of Bristol, RI in the amount of $234,700 for the engineering, design, and fabrication support services to replace the *Joncaire* and *B-1 Breaker* tug vessels used during critical ice boom operations associated with the Robert Moses Niagara Power Project.

For the reasons stated, I recommend the approval of the above-requested action by adoption of a resolution in the form of the attached draft resolution."

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, approval is hereby granted to award a five-year contract to Bristol Harbor Group, Inc. of Bristol, RI, in the amount of $234,700, for engineering, design, and fabrication support services to replace the *Daniel Joncaire* and *B-1 Breaker* tug vessels used during critical ice boom operations associated with the Robert Moses Niagara Power Project, as recommended in the foregoing report of the President and Chief Executive Officer;

Contractor	**Contract Approval**
Bristol Harbor Group, Inc. **Bristol, RI**	**$234,700**

AND BE IT FURTHER RESOLVED, That the Chairman, the Vice 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.

h. MAXIMO Application Upgrade Project – Capital Expenditure Authorization and Contract Award

The President and Chief Executive Officer submitted the following report:

"SUMMARY

The Trustees are requested to increase the expenditure authorization limit for the MAXIMO Application Upgrade Project from the previously authorized capital expenditure of $2,205,000 to $4,720,000. In January 2012, the President and Chief Executive Officer authorized $2,205,000 for engineering and design services associated with the project. This additional authorization will provide the balance of the funding necessary to complete the installation, testing and commissioning of the software.

The Trustees are also requested to approve the award of a contract for consulting services in the amount of $3 million to Starboard Consulting of Longwood, FL, ('Starboard') for the MAXIMO software upgrade tasks associated with application configurations, interfaces, data migration, report development, testing and training. The contract work is scheduled to commence in September 2013 and be completed in February 2015.

BACKGROUND

In accordance with the Authority's Expenditure Authorization Procedures, capital expenditure authorizations in excess of $3 million require the Trustees' approval.

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 also require the Trustees' approval for the award of personal services contracts in excess of $1 million if low bidder, or $500,000 if non-low bidder.

The Authority's Operations Business Unit utilizes the MAXIMO Enterprise Asset Management ('EAM') system as its primary tool for managing generation and transmission asset maintenance activities associated with the Authority's Maintenance Resource Management ('MRM') Program. The Authority's MRM Program is integral to the reliability and availability of the generation and transmission assets under the Authority's purview. The MRM Program includes systematic tracking of maintenance history at the equipment and system level. In this regard, the MRM Program provides evidence to support the Authority's compliance with regulatory requirements including the Federal Energy Regulatory Commission's ('FERC') Dam Safety and the North American Electric Reliability Corporation's ('NERC') Reliability Standards. Additionally, the MRM Program is leveraged to ensure high-priority corrective work is performed timely, to track history, and for charging work crew costs.

The MAXIMO EAM system is the primary tool utilized to manage the capture and maintenance of the Authority's assets. The Authority's Operations is the system owner and there are approximately 800 users throughout the Authority's White Plains Office and six sites.

The system is available 24/7 for the facilities' personnel to record events such as adding newly delivered equipment to asset inventory, creating work orders to request required maintenance on equipment, and creating work plans and job plans to schedule maintenance.

The MAXIMO system is currently stable and meets the basic needs of the Authority's business groups. However, there are risks and deficiencies associated with this application due to the fact that the core product code has been customized extensively by the Authority over the years to enhance functionality to fulfill business requirements. The Authority has not implemented a MAXIMO upgrade since 2006 as the effort would have required substantial time and resources to integrate these customizations into the new upgrades. The difficulty with upgrading MAXIMO has also created lost opportunities for business users since the Authority cannot leverage the latest industry best practices provided in new vendor releases.

The Authority is currently running MAXIMO version 5.2 which is three major versions behind the latest MAXIMO release, version 7.5. In addition, as of September 2010, IBM dropped support for MAXIMO version 5.2. To mitigate this risk the Authority contracted with an external consulting agency to provide additional support.

The decision to upgrade MAXIMO to the latest vendor release and retain the core functionality 'as is' was ultimately determined to be the most efficient solution for the near and distant future. Based on this decision, a thorough GAP Analysis was conducted in 2012 to determine how to best perform this upgrade as well as to examine the Authority's required business processes within the standard product. The GAP analysis documented and made assessment recommendations in the following areas: Configurations, Data Migration, Interfaces, Reporting, Training, Upgrade Approach, Hardware, and Upgrade Proposed Schedule.

DISCUSSION

The Authority placed a notice, ('RFQ Q12-5368DB'), to solicit bids in the New York State *Contract Reporter* on November 29, 2012 for MAXIMO version 7.5 Implementation Consulting Services. A total of 83 companies requested copies of the original bid documents. On February 5, 2013, eight (8) proposals were received by the Procurement Department and were subsequently reviewed by the *MAXIMO 7.5 Implementation RFP Review Committee* ('Review Committee') consisting of staff from Procurement, Information Technology, and Operations. These Committee members were from the White Plains Office as well as from the Niagara, St. Lawrence, Clark Energy Center, and Blenheim-Gilboa facilities.

The proposals were evaluated based on:

- Experience with MAXIMO versions 5, 6, and 7 and their interfaces
- Experience with Upgrading MAXIMO
- Utility Experience and Knowledge of Upgrade Challenges
- References, Quality of Staff and Proposed Project Manager
- Proposed Project Plan and Methodology
- Competitive billing rates
- Commercial exceptions

The eight bids were initially reviewed by the Review Committee for their technical capability to fulfill the requirements of the RFQ. The eight bids were evaluated and ranked using evaluation criteria documented prior to return of the bids that included: completeness of the response, overall understanding of project objectives, project methodology, change management approach, and overall qualifications. Four bidders – ABS Consulting, EMA Consulting, Interloc, and Rolta – were rejected for further consideration as they ranked lowest in Technical Qualifications, Past Performance Experience, and Resumes of Key Personnel.

The remaining four vendors – Starboard, Cohesive, Total Resource Management, and Tata Consulting Services – were asked to present their proposals in person to the Review Committee. As part of the bid evaluation process, post bid addenda were issued for technical and commercial clarifications from bidders.

Starboard was the lowest evaluated bidder, ranked highest using the evaluation criteria, and was the most technically qualified. They addressed all areas of the RFQ in their proposal and received favorable responses from their submitted references. They included a MS Project Work Plan that explained the implementation of the requirements in a manner that matched with the Authority's expectations. Starboard re-affirmed that there were no limits on what/how configurations would be performed to meet the Authority's defined requirements: deliverables, integrations, configurations, training, reports, data migration, testing, key personnel, etc. Both reference interviews for Starboard were favorable and both indicated that they will continue to use them in the future.

Summary of Evaluated Bids

Bidder:	Total Evaluated Cost of Bid:
Starboard (Longwood, FL)	$2,855,000
Cohesive (Kennesaw, GA)	$3,171,600
Total Resource Management (Alexandria, VA)	$2,856,034
Bidder:	**Total Evaluated Cost of Bid:**
Tata Consulting Services (New York, NY)	$3,692,000

After technical and commercial evaluation of each proposal, the Review Committee recommended that the award of a contract for consulting services (RFQ Q12-5368DB) be made to Starboard Consulting, the lowest evaluated bidder, for a total value of $3,000,000. This consists of $2,525,000 for consulting, $330,000 for travel, and a contingency of $145,000 to allow for potential configuration changes that may be identified during initial requirements analysis and business process reviews. (An additional contingency of $200,000 for other project needs is also requested for a total of $345,000 for Contingencies). The Review Committee agreed that Starboard has the experience, size, and a detailed plan necessary to obtain the deliverables outlined in the RFQ, most importantly, to provide a solid base on which to conduct the implementation of MAXIMO 7.5.

MAXIMO Requirements Analysis and Business Process Reviews for the MAXIMO Upgrade will begin in September 2013 and the 'go-live' of the new upgraded production environment will occur in February 2015 after training has been completed.

The total project cost is estimated to be $4,720,000 as follows:

Consulting & Travel	$3,455,000 (includes money already spent during GAP Analysis
Internal Labor	700,000
Contingency	345,000
Overhead	220,000
Total	**$4,720,000**

FISCAL INFORMATION

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

RECOMMENDATION

The Senior Vice President – Enterprise Shared Services, the Vice President – Procurement and Vice President – Information Technology/Chief Information Officer recommend that the Trustees approve capital expenditures in the amount of $4,720,000 for the engineering, design, development and testing associated with an upgrade of the MAXIMO software application.

It is also recommended that the Trustees approve the award of a contract for consulting services to Starboard Consulting of Longwood, FL, in the amount of $3 million for the MAXIMO software application upgrade tasks associated with application configurations, interfaces, data migration, report development, testing and training.

For the reasons stated, I recommend the approval of the above-requested actions by adoption of a resolution in the form of the attached draft resolution."

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 in the amount of $4,720,000 are hereby authorized in accordance with and 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 and the Authority's Expenditure Authorization Procedures, approval is hereby granted to award a contract for consulting services to Starboard Consulting in the amount of $3 million for upgrade tasks associated with application configurations, interfaces, data migration, report development, testing and training, as recommended in the foregoing report of the President and Chief Executive Officer:

Contractor	Contract Approval	Projected Completion
Starboard Consulting Longwood, FL	**$3 million**	**February 2015**

AND BE IT FURTHER RESOLVED, That the Chairman, the Vice 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.

i. Procurement (Construction) Contract – Danco Electrical Contractor, Inc. – Installation of Standby/ PLM Generators in Grand Central Terminal

The President and Chief Executive Officer submitted the following report:

"SUMMARY

In January 2011, the Trustees approved the award of a contract (Contract #4500199630), to the low bidder, Danco Electrical Contractor, Inc., a New York State certified minority-owned business, in the amount of $9,355,000, to install two 2-MW Standby/Peak Load Management ('PLM') Generators and associated equipment in Metro-North Railroad's Grand Central Terminal. The contract price was subsequently reduced to $9,075,000 to reflect value engineering.

The contract stipulated a construction completion date of April 1, 2012. Without modifying the contractual completion date, the Trustees are now requested to authorize staff to complete the contract and close-out the project through December 31, 2013.

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, and for the extension of such contracts when the cumulative term of the extensions is greater than 12 months.

In 2008, Metro-North Railroad ('MNR') authorized the Authority to proceed with design of two 2-MW standby generators for Grand Central Terminal. The generators are available for standby power in the event of a grid power outage or for PLM during periods of peak demand on the grid. In mid-2010, the Authority solicited bids for the installation of two 2-MW standby generators and associated equipment in Grand Central Terminal.

DISCUSSION

As a result of the contractor's failure to prosecute the work expeditiously, the original completion date for construction has been surpassed. The generators have been placed into service but staff is working with the contractor to achieve the completion of final 'punch list' items and project close-out. Staff is in the process of negotiating a final settlement with the contractor to resolve outstanding change order disputes and bring the project to a close.

Nevertheless, the project is now more than 12 months beyond the original contract completion date and staff expects that final close-out will not occur before December 31, 2013.

FISCAL INFORMATION

Funding for this contract is being provided from the proceeds of the Authority's Commercial Paper Notes and/or the Operating Fund. All Authority costs, including Authority overheads and the costs of advancing funds, will be recovered consistent with other Energy Efficiency Programs.

RECOMMENDATION

The Senior Vice President – Economic Development and Energy Efficiency, the Vice President – Energy Efficiency, the Vice President – Procurement and the Director – Engineering and Design recommend that the Trustees authorize staff to close-out Contract #4500199630 with Danco Electrical Contractor, Inc., for the installation of two 2-MW Standby/Peak Load Management Generators and associated equipment in Metro-North Railroad's Grand Central Terminal on or about December 31, 2013.

For the reasons stated, I recommend the approval of the above-requested actions by adoption of a resolution in the form of the attached draft resolution."

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, the Trustees hereby authorize staff to close-out Contract #4500199630 with Danco Electrical Contractor, Inc., for the installation of two 2-MW Standby/Peak Load Management Generators and associated equipment in Metro-North Railroad's Grand Central Terminal through December 31, 2013; and be it further**
>
> **RESOLVED, that the Chairman, the Vice 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.**

j. Procurement (Services) Contracts – Business Units and Facilities – Awards and Extensions

The President and Chief Executive Officer submitted the following report:

"SUMMARY

The Trustees are requested to approve the award and funding of the multiyear procurement (services) contracts listed in Exhibit '2j-A,' as well as the continuation and funding of the procurement (services) contracts listed in Exhibit '2j-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.

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 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 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 the greater of $500,000 or 25% of the originally approved contract amount not to exceed $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.

DISCUSSION

Awards

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 $75,000 to $15 million. Except as noted, these contract awards do not 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.

Extensions

Although the firms identified in Exhibit '2j-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 '2j-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:

Corporate Support Services / Enterprise Shared Services

The contracts with **Penda-Aiken, Inc. ('Penda-Aiken') and Reinhard-Madison Approach Staffing, Inc. dba Madison Approach Staffing ('Reinhard-Madison') (Q13-5440; PO#s TBA)** would provide for the services of temporary administrative personnel to support various departments at the Authority's White Plains Office, on an 'as needed' basis. The firm/s will be notified by the Authority of its temporary assignment requirements for personnel (including, but not limited to, job classification, any special qualifications and experience that may be required, anticipated start date and duration of assignment) and will be requested to submit résumés for each specific personnel requisition. Upon receipt and review of a responsive résumé, the prospective candidate will be interviewed by Authority staff (either in person or via telephone). The firms will interface with the Authority on all matters relating to these contracts. Fourteen Minority and Women-owned Business Enterprise firms ('M/WBEs') were invited to submit proposals for such services in response to the Request for Quotations. Two bids were received and evaluated. Based on their qualifications, experience and acceptable commercial evaluation, staff recommends the award of contracts to both firms, **Penda-Aiken and Reinhard-Madison (PO#s TBA).** Additionally, one of these firms has provided satisfactory service under a prior contract for such work. The contracts would become effective on or about August 1, 2013 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, $1 million. Total commitments and expenditures for the contracts will also be tracked against the approved aggregate total. Such contracts will be closely monitored for utilization levels, available approved funding and combined total expenditures. It should be noted that both firms are New York State-certified Woman-owned Business Enterprises ('WBEs') and Penda-Aiken is also a Minority-owned Business Enterprise ('MBE').

Human Resources

The federal government's Consolidated Omnibus Budget Reconciliation Act of 1985 ('COBRA'), as amended by various acts since that date, mandates that employers continue to offer health coverage at group health plan rates to certain former employees and their eligible dependents upon termination of employment and other qualifying events. New York State law provides for additional continuation coverage, requiring the Authority to provide the opportunity for a temporary extension of health coverage in certain instances where coverage under the plan would otherwise end. The contract with **Total Administrative Services Corp. ('TASC') (Q13-5431; PO# TBA)** would provide for comprehensive third-party administration services for the Authority's continuation of benefits program in compliance with both federal and state COBRA requirements. Services include, but are not limited to: issuing all mandated notices and notifications, enrollment, changes and terminations, billing and receipt of monthly premiums, follow-up, processing payments to various health insurance carriers and to the Authority; tracking of time and limitations imposed by law; record-keeping services and reporting to Authority management for the medical and dental plans, Employee Assistance Program, health care Flexible Spending Account, Vision and Hearing plans for the Authority's approximately 1,650 salaried and bargaining unit employees. Bid documents were

developed by staff and were downloaded electronically from the Authority's Procurement website by 18 firms, including those that may have responded to a notice in the New York State *Contract Reporter*. Two proposals were received and evaluated. Staff recommends the award of a contract to TASC, the lower-priced bidder, which is qualified to provide such services, offers optional additional services not provided by the other bidder, and has performed satisfactory services under the existing contract for such work. The new contract would become effective on or about January 1, 2014 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, $75,000.

Economic Development and Energy Efficiency – ***Energy Efficiency***

and

Operations Support Services – ***EH&S***

As part of the Authority's Energy Services programs to promote energy efficiency for its customers, the Authority provides for energy-related improvement work, which may require the abatement of asbestos- or lead-containing materials. As part of the Authority's environmental support services (specifically, asbestos and lead management) related to such activities, the services of asbestos/lead consultants are required to mitigate the risks associated with asbestos/lead abatement prior to undertaking construction. Such services include, but are not limited to: asbestos and lead feasibility studies, inspections, abatement planning and design and project monitoring, as well as laboratory sample analysis. Demand for these services is expected to increase significantly due to the Authority's central role in supporting the Governor's $450 million initiative to reduce energy usage in State facilities by 20% by 2020. To that end, bid documents **(Q12-5364)** were developed by staff and were downloaded electronically from the Authority's Procurement website by 76 firms, including those that may have responded to a notice in the New York State *Contract Reporter*. Eighteen proposals were received and evaluated. Of this number, one bid was incomplete and was not considered further. The remaining 17 firms were invited to make presentations to the evaluation team on their technical capabilities, which included specific project experiences, familiarity with state and city agency procedures, manpower, company structure, and office locations. Based on the bidders' proposals and their presentations, the team rated the bidders on technical capability and cost, and then calculated their combined technical and cost ranking in each of the five bid regions (Downstate, Capital, Central, Northern and Western New York). Based on the foregoing, staff recommends the award of contracts to the following eight firms with the highest combined rankings in each region: **Adelaide Environmental Health Associates, Inc., Airtek Environmental Corp., CORE Environmental Consultants, Inc., Joseph C. Lu Engineering and Land Survey, P.C. dba Lu Engineers, KAM Consultants Corp., LiRo Engineers, Inc., TRC Environmental Corp. and Warren & Panzer Engineers, P.C. (PO#s TBA)**. The number of firms selected for each region is based on the projected volume of work per region, as further set forth in Exhibit '2j-A.' Several of these firms have provided quality services to the Authority under prior or existing contracts for such work. The new contracts would become effective on or about August 1, 2013 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, $15 million, which will be allocated as specific projects are assigned, based on the firm's ability to provide the necessary resources and performance. It should be noted that all costs, including interest and Authority overheads, will be recovered by the Authority from customers participating in the Energy Services programs. It should also be noted that the Adelaide and CORE firms are New York State-certified Woman-owned Business Enterprises ('WBEs').

Internal Audit

The Authority has been providing low-cost power to business and non-profit groups under various Economic Development Power ('EDP') programs enacted by State legislation (e.g., Replacement Power, Expansion Power, Recharge New York). The companies applying for and receiving this low-cost power agree to maintain and/or create jobs in New York State. These customers are required to report their job levels annually to the Authority. In past years, the Authority has engaged outside auditors to perform on-site verifications of the job commitments, based on a random sample of customers selected each year. The customer's place of business is visited and the customer is required to produce appropriate documents to support the job levels reported. If the promised job levels are not maintained, the power allocations may be reduced entirely or in proportion to the job

levels reported. Staff has determined that continued use of an outside audit firm to perform such work would be both cost-effective and most efficient in order to audit an appropriate number of customer contracts (approximately 100) annually. The contract with **Dannible & McKee, LLP (Q13-5461; PO# TBA)** would provide for the additional resources and services to perform such customer compliance audits, in order to verify that job levels reported by customers participating in the various EDP programs are accurate and in compliance with contractual requirements. To that end, bid documents were developed by staff and were downloaded electronically from the Authority's Procurement website by 61 firms, including those that may have responded to a notice in the New York State *Contract Reporter*. Three proposals were received and evaluated. Staff recommends the award of a contract to Dannible & McKee, the lowest-priced bidder, which is qualified to perform such services, has demonstrated a thorough understanding of the required tasks, and has provided satisfactory service under a previous contract for such work. The new contract would become effective on or about August 1, 2013 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, $330,000.

Operations

The contract with **AAF-McQuay Inc. dba McQuay Factory Service ('McQuay') (RFQ 6000138865; PO# TBA)** would provide for preventive maintenance and repair services for 11 centrifugal chillers at the 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 27 firms, including those that may have responded to a notice in the New York State *Contract Reporter*. Two proposals were received and evaluated. Based on its qualifications, experience and reasonable pricing, staff recommends the award of a contract to McQuay, the lowest-priced bidder, which is uniquely qualified to perform such services as the Original Equipment Manufacturer and has provided satisfactory service under the existing contract for such work. The new contract would become effective on or about October 6, 2013 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, $750,000.

The contract with **Carrier Corporation ('Carrier') (Q13-5447; PO# TBA)** would provide for heating, ventilation and air-conditioning ('HVAC') maintenance services for the 500 MW Combined Cycle and Small Clean Power Plants ('SCPPs'), as well as the Flynn Plant and Brentwood SCPP on Long Island, in the Southeastern New York ('SENY') region. Services include HVAC equipment and system preventative maintenance (including annual maintenance, seasonal start-up, shutdown, service call work and preventative maintenance of the equipment, as recommended by the equipment manufacturer and common industry practice), as well as on-call equipment maintenance and repairs, on an 'as needed' basis. Bid documents were developed by staff and were downloaded electronically from the Authority's Procurement website by 56 firms, including those that may have responded to a notice in the New York State *Contract Reporter*; three proposals were received and evaluated. The Request for Quotations gave bidders the option of submitting a proposal to provide services for some or all of the SENY plants (including the Flynn Plant and the Brentwood SCPP on Long Island, currently serviced by another contractor), enabling staff to evaluate and determine the feasibility and cost of combining coverage for all SENY plants under one new contract (as previously indicated to the Trustees in September 2012). Staff recommends award of a contract to Carrier, the lowest-priced bidder for all plants, which is qualified to perform such work, meets the bid requirements and has provided satisfactory service for the SENY plants under an existing contract for such work. The new contract would become effective on or about October 1, 2013 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 million.

The contract with **Dresser-Rand Company ('Dresser-Rand') (Q13-5387; PO# TBA)** would provide for service, maintenance and engineering support for 17 reciprocating and centrifugal type gas compressors at the Authority's power plant facilities in the Southeastern New York ('SENY') Region. The contractor will furnish qualified service technicians / mechanics to perform the work, which includes, but is not limited to, annual inspections, scheduled maintenance, technical services and valve refurbishment (of rotating spares), as well as emergency repair support services on a '24/7' basis for the three different gas compressor manufacturers at the

various plants and locations (comprising the 500 MW Combined Cycle Plant and the Small Clean Power Plants ('SCPPs') in the New York City boroughs, as well as the Brentwood SCPP and the Flynn Plant on Long Island). This contract will also cover the migration of the Dresser-Rand VIP controls to the DI-TRONICS control systems, which will be performed by qualified Instrumentation and Controls technicians. To that end, bid documents were developed by staff and were downloaded electronically from the Authority's Procurement website by 22 firms, including those that may have responded to a notice in the New York State *Contract Reporter*; one proposal was received and evaluated. In addition to furnishing the requisite technicians, Dresser-Rand also provides for a site service manager to plan all the maintenance service contract deliverables and activities in order to minimize disruptions and impact on plant operations and to coordinate the resolution of any technical issues that are identified. Its service center provides product-specific repair capabilities and technical staffing. Based on its qualifications, experience, resources, ability to perform such work and to provide replacement parts as needed, staff recommends the award of a contract to Dresser-Rand, which has also provided consistent, effective and satisfactory services under prior contracts for such work. The new contract would become effective on or about January 1, 2014 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.

The contract with **IsleChem, LLC ('IsleChem') (RFQ 6000139741; PO# TBA)** would provide for State Pollutant Discharge Elimination System ('SPDES') environmental inspection, sampling, testing and analysis of wastewater, solid and hazardous waste for the Niagara Power Project. Services include, but are not limited to, scheduled monthly collection of wastewater, waste oils, soil samples and hazardous waste, and analysis for various elements / contaminants, as well as unscheduled collection and analysis, on an 'as needed' basis, and submittal of a written report of the findings, in accordance with specified New York State Department of Environmental Conservation and Department of Health requirements. Services also include benchmark monitoring to be performed at least once per year for the First Buffalo Marina and the ice boom storage site in Buffalo, in compliance with the permit requirements for water transportation facilities. Bid documents were developed by staff and were downloaded electronically from the Authority's Procurement website by 69 firms, including those that may have responded to a notice in the New York State *Contract Reporter;* one additional firm obtained the bid documents from an alternate source. Six proposals were received and evaluated. Staff recommends the award of a contract to IsleChem, the lowest-priced evaluated bidder, which is qualified to perform such services and has provided satisfactory service under the existing contract for such work. This laboratory is also certified by the New York State Department of Health Environmental Laboratory Approval Program ('ELAP'), in accordance with the bid requirements. The new contract would become effective on or about August 1, 2013 for an intended term of up to four 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, $300,000.

The contract with **Yaboo Fence Co., Inc. ('Yaboo Fence') (RFQ 6000139152; PO# TBA)** would provide for the necessary qualified labor to perform repair services on fences, gates, hinges, barbed wire, etc. and/or new installations at the Authority's power projects in the Southeastern New York ('SENY') region, as well as any and all associated hardware associated with the fencing and its repair, on an 'an needed' basis. Bid documents were developed by staff and were downloaded electronically from the Authority's Procurement website by 53 firms, including those that may have responded to a notice in the New York State *Contract Reporter.* Four proposals were received and evaluated. Yaboo was also invited to meet with Authority staff to review its proposal and address any questions. Based on the foregoing, as well as its qualifications, experience and reasonable pricing, staff recommends the award of a contract to Yaboo Fence, the lowest-priced bidder, which is qualified to perform such work and meets the bid requirements. The contract would become effective on or about August 1, 2013 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, $175,000. It should be noted that Yaboo Fence is a New York State-certified Woman-owned Business Enterprise ('WBE').

Contract Extensions:

Corporate Support Services / Enterprise Shared Services

Information Technology

At their meeting of June 29, 2010, the Trustees approved the award of a three-year contract to **Information Technology Corp. ('ITC') (4600002285)** for maintenance as well as on-site and remote technical support of the Authority's Apple / Macintosh computer hardware and software for the Communications & Marketing Services and Video Production Services groups. The contract became effective on August 2, 2010; services include, but are not limited to, the following: individualized attention to the designated staff regarding hardware and software requirements, providing one point of contact, scheduled weekly visits to resolve open requests, Help Desk/Call Tracking process for unresolved issues, keeping the Apple software environment current and in-sync, supporting printers and servers, providing back-up and restoring MAC data files, identifying and recommending hardware and software solutions, as well as off-hour capability and response time of four to eight hours. ITC's performance has consistently demonstrated a high level of skill, technical expertise and in-depth understanding of the work to be performed. The firm has been very responsive and has provided quality services and work product in a timely manner. Based on the individualized and exceptional services that ITC has provided to the Authority thus far, staff recommends a two-year extension of the subject contract to provide for continued maintenance and technical support services. The current contract amount is $210,000; staff estimates that an additional $150,000 will be required for the extended term. The Trustees are requested to approve extension of the subject contract through July 31, 2015, as well as the additional funding requested.

Economic Development & Energy Efficiency

Energy Efficiency

The Authority's Statewide Energy Services Program ('Statewide ESP') is an energy efficiency program that provides a turnkey approach to identifying, procuring and implementing energy-saving solutions for program participants. At their meeting of July 29, 2008, the Trustees approved the award of contracts to two firms, **Parsons Brinckerhoff Americas, Inc. (4600001998, now Parsons Brinckerhoff, Inc.) and PRES Energy (4600001985; now PRES Services, LLC)**, to provide for program management and implementation services for the Statewide ESP, for a term of up to five years. The Trustees also authorized increased funding in the amount of $200 million for the Statewide ESP, of which up to $180 million (in aggregate) would be allocated to the approved contracts, based on contractor performance and areas of specialization. The contracts, which were competitively bid, became effective on August 1, 2008. While many of the assigned projects have been completed successfully, a number of other projects have been delayed for various reasons. Most project delays were due to customer delays in milestone approvals resulting from funding uncertainties (that are being resolved as a result of the Build Smart NY initiative). Customers have now authorized the Authority to proceed to the next steps on most of these projects and other projects are expected to receive authorization to proceed shortly. Examples of such projects that will require additional time for completion include, but are not limited to those for: State University of New York ('SUNY') campuses, the New York State Department of Corrections and Community Supervision ('DOCCS') correctional facilities, Office of General Services ('OGS') facilities and sites, municipal buildings, county systems, school districts, etc. The scopes of work vary by customer and facility; they may include, but are not limited to: replacement of boilers, water heaters, chillers, HVAC systems and related controls, compressors; installation / upgrade of lighting and lighting controls, traffic signals, metering; recovery and re-use of building waste heat; thermal storage; etc. Since work is in progress on these projects, and these contractors have been performing well, it would not be practical or cost-effective to rebid these services or reassign these projects to a new contractor/s. In order bring the remaining projects to successful completion, while maintaining the terms, conditions and pricing in the original contracts, staff recommends an extension of approximately four and one-half years of the existing contracts with **Parsons and PRES**. Adequate funding is available to cover the estimated costs to complete the active project assignments under these contracts. No new projects will be initiated or assigned to these contracts. The current aggregate total amount released and allocated to the two contracts is $90 million (of the previously approved $180 million aggregate total). Staff anticipates that no additional funding in excess of the previously approved aggregate $180 million will be required for the extended term. The Trustees are requested to approve extension of the subject contracts with Parsons and PRES through December 31, 2017, and to approve the release

and allocation of the $90 million remaining from the previously approved $180 million, as needed (with no additional funding requested). Change Orders reflecting such allocations will be executed in accordance with the Authority's Expenditure Authorization Procedures. Total commitments and expenditures for these contracts will continue to be tracked against the approved aggregate total. Such contracts will be closely monitored for utilization levels, available approved funding and combined total expenditures. It should be noted that all costs will be recovered by the Authority from the program participants.

Law

The contract with **Duane Morris LLP (4500220355)** provides for outside counsel services in connection with the design and drafting of construction contract models to support the Authority's new Energy Efficiency initiatives. The original contract, which was awarded as the result of a competitive search, became effective on August 1, 2012 for a term of up to one year, in the amount of $300,000. During the past year, Duane Morris has provided templates for a proposed 'design build' construction agreement and a regular construction agreement; their counsel has been helpful. A three-year extension is now requested, during which the law firm will continue to counsel the Authority in connection with the current Energy Efficiency initiatives, particularly providing assistance with the design and drafting of alternative methods of construction contracts and assistance with contract disputes on an 'as needed' basis. The current contract amount is $300,000; 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 July 31, 2016, with no additional funding requested at this time.

Operations Support Services on behalf of the Executive Offices

The recent storms of 2011 and 2012, particularly Super Storm Sandy, highlighted a critical need for improvements and reinvestment in New York's energy infrastructure. Governor Cuomo assembled four Commissions in the fall of 2012 to develop recommendations for improvements. The Authority was a key contributor to those Commissions and their resulting recommendations, and is now actively facilitating the implementation of such recommendations, which cut across the areas of power system hardening, operations improvement and future grid development. To that end, in April 2013, the Authority awarded competitively bid contracts to the following five firms: **ICF Resources, LLC (4600002662), KEMA, Inc. (4600002665), Quanta Technology, LLC (4600002661), Siemens Industry, Inc. / Siemens Power Technologies International (4600002663) and WorleyParsons of New York, Inc. (4600002669)**, to provide for consulting services in connection with the aforementioned power system hardening efforts. The consultants will utilize their respective expertise to address specific tasks and scopes of work, on an 'as needed' basis. These may include, but are not limited to: performing system assessments; recommending strategies, best practices, improvements; assisting in change management; advising on rate case justifications; evaluating new technologies and programs, etc. The original aggregate total amount authorized for the five contracts was $995,000, which was expected to be expended during the contract term of up to one year. Subsequently, several scopes of work were developed in consultation with the Long Island Power Authority ('LIPA') and the New York State Department of Public Service ('NYS DPS') and have been awarded to the respective consultants (specifically, for evaluations of the LIPA Summer Operating Report, the LIPA Power System Flood Protection, and the NYS DPS Power System Hardening Operations and Grid Improvement), as well as for an evaluation of the Authority's transmission and generating facilities storm hardening and resiliency. Staff anticipates that at least two additional scopes will be awarded: evaluation of the LIPA Management Service Agreement ('MSA') exit (expected to be awarded prior to the July Trustees' meeting) and the forthcoming LIPA Power System Hardening, Operations and Grid Improvements, for which the scope of work has not yet been fully developed. The current aggregate total for awarded contracts is $1,026,500, which has been authorized in accordance with the limits set forth in the Authority's EAPs. Based on the aggregate total value of contracts awarded to date and the anticipated additional work, staff recommends that these contracts be extended by one year and the aggregate total amount authorized for the five contracts be increased to $2 million. The Trustees are requested to approve extension of the subject contracts through April 1, 2015, as well as the additional funding requested. Total commitments and expenditures for these contracts will continue to be tracked against the approved aggregate total. Such contracts will be closely monitored for utilization levels, available approved funding and combined total expenditures, including travel and living expenses.

FISCAL INFORMATION

Funds required to support contract services for various Business Units/Departments and Facilities have been included in the 2013 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.

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. Payment for certain contracts in support of Energy Services Programs will be made from the Energy Conservation Effectuation and Conservation Fund.

RECOMMENDATION

The Senior Vice President – Operations Support Services and Chief Engineer, the Senior Vice President – Power Generation, the Senior Vice President – Corporate Support Services, the Assistant General Counsel – Procurement and Contract Affairs, the Vice President – Project Management, the Vice President – Engineering, the Vice President – Environment, Health and Safety, the Vice President – Procurement, the Vice President – Information Technology and Chief Information Officer, the Vice President – Energy Efficiency, the Vice President – Human Resources, the Vice President – Internal Audit, the Regional Manager – Northern New York, the Regional Manager – Western 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 '2j-A' and the extension and/or funding of the procurement (services) contracts listed in Exhibit '2j-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 a resolution in the form of the attached draft resolution."

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

> **RESOLVED, That pursuant to the Guidelines for Procurement Contracts adopted by the Authority, the award and funding of the multiyear procurement services and other contracts set forth in Exhibit "2j-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 "2j-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 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.**

k. Procurement (Services) Contract –
Request for Funding – Jackson, Lewis, LLP

The President and Chief Executive Officer submitted the following report:

"SUMMARY

The Trustees are requested to approve funding in the amount of two hundred and fifty thousand ($250,000.00) dollars to fund a contract for legal services with the law firm of Jackson, Lewis, LLP of White Plains, New York, to represent the Authority in a potential employment matter.

BACKGROUND AND DISCUSSION

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

The Authority is facing the prospect of being involved in a lawsuit alleging workplace discrimination. In response, the Authority conducted a competitive search for law firms that specialize in employment litigation. This law firm has the appropriate expertise and resources to handle this employment matter, and maintains a local office.

FISCAL INFORMATION

Payments to support this contract for legal services will be made from the Authority's Operating Fund.

RECOMMENDATION

The Executive Vice President and General Counsel recommends that the Trustees approve the funding request for this contract.

For the reasons stated, I recommend the approval of the above-requested action by adoption of a resolution in the form of the attached draft resolution."

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, funding for a legal services contract with the law firm of Jackson, Lewis. LLP of White Plains, New York for a two-year term with an option to renew for an additional year is hereby approved in the amount and for the purpose as recommended in the foregoing report of the President and Chief Executive Officer; and be it further**
>
> **RESOLVED, That the Chairman, the Vice 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 as to form thereof by the Executive Vice President and General Counsel.**

l. Annual Review of Hydropower Allocation Job Compliance

The President and Chief Executive Officer submitted the following report:

"SUMMARY

Staff has conducted its annual review of hydropower allocation job compliance covering the reporting period January through December 2012. It is recommended that the Trustees take no action regarding 32 non-compliant allocations held by 24 companies reporting job levels below their commitment threshold, as set forth in Exhibit '2l-B.'

BACKGROUND

Each year staff performs a review of all in-service hydropower allocation contracts for compliance with agreed-upon job commitment levels. The contracts contain a customer's commitment to retain and add a specific number of jobs within a specified timeframe. For compliance evaluation, customers are required by contract to report the monthly employment numbers for calendar year 2012 by February 28, 2013.

If the reported twelve-month average employment level is below the compliance threshold of 90% of the job commitment (or below 80% of the 2-year average in the case of 'vintage' customers, i.e., those having allocations awarded prior to 1988), the Authority may reduce that customer's power allocation proportionately.

DISCUSSION

In 2012, the Authority had 112 hydropower customers holding 203 Replacement Power ('RP'), Expansion Power ('EP'), and Preservation Power ('PP') allocation contracts. Of these, a total of 105 customers held 191 contracts that required the customers to report job levels for 2012. One customer, Fairbanks Farms, went out of business in early 2013 and did not submit its reporting for the year 2012. The remaining contracts and allocation commitments reviewed by staff represent total power allocations of 1,068 MW and total employment commitments of 29,858 jobs. In the aggregate, these customers reported actual employment of 33,749 jobs. This represents 113% of the total job commitment for hydropower customers reporting in 2012.

For the year 2012, 144 of the 190 contracts reviewed were found to be compliant. These compliant contracts are held by 86 companies. Additionally, there were 12 companies with 13 contracts that, although reporting employment below their total commitment, contractually have more time to attain the commitment levels. These companies are included for informational purposes only, and have allocations that are still within the timeframe allowed per contract to create the new jobs committed to when the allocations were awarded. These 13 contracts together with the 144 compliant contracts totaling 157 allocations, comprise 83% of the total allocations reviewed and are listed in Exhibit '2l-A.'

For the year 2012, a total of 24 customers with 32 contracts (or 23% of the 104 companies reviewed) reported actual 2012 job levels below the compliance threshold.

Many of the non-compliant customers continue to cite the lingering effects of the past recession and continued lack of growth of the national and global economies. Businesses that did not meet job commitment levels for 2012 cited continued challenges, including the loss of business stemming from decreased sales due to a slack economy, increased costs for raw materials, increased global competition, and difficulty finding qualified employees. For many of these companies, reducing the low-cost power allocation will only increase business challenges and potentially hasten job losses.

Upon review, and similar to last year, staff is recommending that reductions in allocation amounts are not made to those non-compliant allocations in which the companies reported employment at or above 80% of job commitment levels. These eight companies representing nine allocations are within reasonable distance of meeting the compliance threshold with a modest economic turn-around. In addition, we are recommending no reductions for 3 companies representing four allocations having unique circumstances. All these companies are detailed in Section I and listed in Exhibit '2l-B.'

As requested by the Trustees at their July 2012 meeting, seven companies were part of a joint NYPA and Empire State Development Corporation ('ESD') review. Working with ESD, staff conducted site visits and analyzed the resulting information to gain insight into the then-current business landscape and prospects for employment gains for these companies. Results were presented at the December 18, 2012 Trustee meeting at which two allocations were permanently reduced and six companies' employment commitments were reset to reflect the current and future employment level prospects of the companies. Staff is recommending no action be taken for six of these companies, having just undergone extra scrutiny and to allow these companies time to live up to their new commitments. These six companies representing nine allocations are also detailed in Section I and listed in Exhibit '2l-B.'

In addition, the Trustees approved job commitment reductions to six companies representing eight allocations, effective July 1, 2013, as part of the WNY contract extension initiative undertaken in 2010. These companies are now meeting or exceeding the new job commitment levels and therefore staff requests the Trustee take no action with regard to these non-compliant allocations. They are also detailed in Section I and listed in Exhibit '2l-B.'

Section I

Non-Compliant Allocations to Continue With No Change

Ashland Advanced Materials (Buffalo, Erie County)

Allocation:	3,500 kW of RP
Job Commitment:	75 jobs
Jobs Reported:	25 jobs, or 33% of commitment

Background: Ashland Advanced Materials ('Ashland') is a privately-owned company and one of the primary suppliers of manufactured graphite products and ultra-high temperature heat treating services. The company's main business is providing products and servicing in renewable and green energy technologies. This is the first year that the company was required to report its job compliance. Ashland states the solar power industry faced issues which hindered its ability to hire any additional employees until recently. The company has since obtained a 2-yearcontract with a large company and is now in the process of adding additional employees.

Recommendation: *Staff recommends that the Trustees take no action at this time.*

Ashton Potter USA Ltd (Williamsville, Erie County)

Allocation:	450 kW of RP
Job Commitment**:**	48 jobs
Jobs Reported:	38 jobs, or 80% of commitment

Background: Ashton Potter USA Ltd (Ashton Potter) is primarily a print manufacturing company that produces and sells secured documents. The majority of its business is a result of a long-term contract with the United States Postal Service.

Recommendation: *Staff recommends that the Trustees take no action at this time.*

Aurubis Buffalo, Inc. (Erie County)

Allocation:	250 kW of RP
Job Commitment:	831 jobs
Jobs Reported:	655 jobs, or 79% of commitment

Background: Aurubis Buffalo Inc., ('Aurubis'), formerly known as Luvata Buffalo, manufactures copper and brass sheets and rolls. For the past year, the company averaged 655 jobs, i.e., 79% of its contractual commitment for this allocation. This is an increase of 21 jobs from the previous year's average. Aurubis has two other allocations that met its employment commitments in 2012. The company stated that business improved during 2012 and the trend is positive. Although reporting slightly below 80%, this allocation is compliant when considered against the reduced

commitment of 575 jobs, which is effective July 1, 2013, as approved by the Trustees as part of the WNY contract extension initiative.

Recommendation: *Staff recommends that the Trustees take no action at this time.*

Bernzomatic – Worthington Cylinder (Medina, Orleans County)

Allocation:	600 kW of Expansion Power ('EP')
Job Commitment**:**	210 jobs
Jobs Reported:	179 jobs, or 85% of commitment

Background: Bernzomatic – Worthington Cylinder ('Bernzomatic') manufactures handheld torches and components at its Medina plant. The Bernzomatic operations were acquired by Worthington Cylinder Industries in July 2011.

Recommendation: *Staff recommends that the Trustees take no action at this time.*

Buffalo Newspress Inc. (Buffalo, Erie County)

Allocation:	200 kW of EP
Job Commitment**:**	138 jobs
Jobs Reported:	123 jobs, or 89% of commitment

Background: Buffalo Newspress Inc. ('Buffalo Newspress'), founded in 1979, prints advertising inserts, brochures and weekly newspapers. The company reported that it has increased sales growth each year since 2010 and has forecasted growth in 2013 to exceed 15%. The company reported an employment level just under the 90% commitment threshold. It is important to note the company was selected for the 2012 joint NYPA/ESD review whereby the Trustees approved a reduction to its job commitment from 149 down to 138.

Recommendation: *Staff recommends that the Trustees take no action at this time.*

Coyne Textile Services (Buffalo, Erie County)

Allocation:	350 kW of EP – *reduced to 250 kW effective April 1, 2013*
Job Commitment:	52 jobs
Jobs Reported:	41 jobs, or 79% of commitment

Background: Coyne Textile Services, ('CTS') is a family-owned business that provides textiles rental products (work uniforms, shop floor mats, etc.) and laundering services. CTS' low employment levels were a result of low demand. A large number of the company's accounts have closed business or switched to other suppliers. It is important to note that the company was selected for the 2012 joint NYPA/ESD review whereby the Trustees approved a reduction to its job commitment from 93 to 52 and a reduction to the allocation from 350 kW to 250 kW

Recommendation: *Staff recommends that the Trustees take no action at this time.*

EPCO Carbondioxide Products (Medina, Orleans County)

Allocation:	1,000 kW of RP
Job Commitment:	20 jobs
Jobs Reported:	8 jobs, or 40% of commitment

Background: EPCO Carbondioxide Products Materials ('EPCO') was incorporated in 1987. The company manufactures purified liquid carbon dioxide. It sells its product to both wholesalers and end user of carbon dioxide. EPCO continues to feel the impact of reduced demand on the delivery side of its operations in the New York region. Much of the company's business continues to be from customers who are willing to pick-up directly from the EPCO plant, thereby eliminating the need to hire additional drivers. Recently, the company was acquired by Air Products and now anticipates a growth in business as result of the acquisition. EPCO plans to hire four new drivers during the course of this year, and anticipates a total head count of 18 employees by year's end.

Recommendation: *Staff recommends that the Trustees take no action at this time.*

Ford Motor Company (Buffalo, Erie County)

Allocations: 4,300 kW and 2,900 kW of EP
Job Commitments**:** 950 jobs
Jobs Reported: 671 jobs, or 71% of commitment

Background: Ford Motor Company ('Ford') opened its Buffalo Stamping Plant in 1950, where it manufactures doors, floor pans, quarter panels and some inner body components. The components then go to other Ford assembly plants and distributions center throughout the U.S and Canada. In 2012, Ford averaged 671 jobs, or 71% of its contractual commitment. This is a significant decrease from the previous year's average of 773 jobs. The automotive industry has undergone a dramatic transformation over the past several years. The downturn in the economy forced significant changes in the way Ford does business, which has adversely affected employment levels at the Buffalo plant. The Ford Buffalo Plant continues to compete internally for additional business, with NYPA low-cost power being a critical cost component. This is expected to be a successful differentiator in attracting additional capital investment and business as the automotive industry continues to recover.

Recommendation: *Staff recommends that the Trustees take no action at this time.*

Hurtubise Tire, Inc. (North Tonawanda, Niagara County)

Allocation: 180 kW of Replacement Power ('RP')
Jobs Commitment: 18 jobs
Jobs Reported: 8 jobs, or 44% of commitment

Background: Hurtubise Tire, Inc. ('Hurtubise') is a family-owned business which provides truck tire re-capping and services. The company has acquired two nationally based accounts that will purchase its retreaded tires, and have hired one additional salesman and deliveryman to help meet the demand for its products. Hurtubise states it is in the process of purchasing a company based in Syracuse with the intentions to reach a broader service area. The company has recently hired three additional employees which brings its current job levels to 11.

Recommendation: *Staff recommends that the Trustees take no action at this time.*

International Imaging Materials, Inc. (Amherst, Erie County)

Allocations: 1,000 kW of EP and 250 kW of RP
Job Commitments: 499 jobs and 393 jobs, respectively
Jobs Reported: 342 jobs, or 69% of its EP commitment and 87% of its RP commitment

Background: International Imaging Materials, Inc. ('International Imaging') manufactures thermal transfer ribbons. For the past year, International Imaging reported an average of 342 jobs, i.e., 69% and 87% of its contractual commitments, respectively. This is an increase from the previous year's average of 337 jobs. The company has been able to add additional employees and is optimistic about this year's growth. The company has two other allocations that are meeting job commitments. Although the EP allocation is below 80% of its job commitment, it is compliant when considered against the reduced July 1, 2013 commitment of 310 jobs that was approved by the Trustees as part of the WNY contract extension initiative.

Recommendation: *Staff recommends that the Trustees take no action at this time.*

Lockheed Martin, Niagara Falls (Niagara County)

Allocation: 250 kW of RP
Job Commitment: 45 jobs
Jobs Reported: 35 jobs, or 78% of commitment

Background: Lockheed Martin ('Lockheed') is a manufacturer of gravity gradiometer technology for the U. S. Navy and commercial use. Lockheed states that its employment numbers have remained low due to the state of the economy and restrictions on government defense spending. The company managed to maintain about the same employment levels of jobs as the previous year and anticipates the same job levels throughout 2013.

Recommendation: *Staff recommends that the Trustees take no action at this time.*

Moldtech, Inc. (Lancaster, Erie County)

Allocation:	250 kW of EP
Job Commitment:	75 jobs
Jobs Reported:	63 jobs, or 84% of commitment

Background: Moldtech, Inc. ('Moldtech') is an injection molded rubber manufacturer that produces injection molding machines in Western New York. This is a decrease from the previous year of 68 jobs. Although the EP allocation is below 80% of Moldtech's job commitment, it is compliant when considered against the reduced July 1, 2013 commitment of 65 jobs that was approved by the Trustees as part of the WNY contract extension initiative.

Recommendation: *Staff recommends that the Trustees take no action at this time.*

Niagara Ceramics Corporation (Buffalo, Erie County)

Allocations:	850 kW of RP & 250 kW of EP
Job Commitments:	140 jobs
Jobs Reported:	86 jobs, or 62% of commitment

Background: Niagara Ceramics Corporation ('Niagara Ceramics'), founded in 2003, produces dinnerware. The company continued to struggle in 2012 due to losses from a competitive import market which have resulted in a slowdown in its incoming order volume. The company is looking to hire 15-20 additional employees in the near future; however, finding qualified staff is a challenge. It is important to note that the company was selected for the year 2012 ESD review at the December 18, 2012 Trustee meeting. The Trustees approved a reduction to Niagara Ceramics' job commitment from 190 to 140. Based on these reductions, staff would like to give Niagara Ceramics additional time to adjust to these changes.

Recommendation: *Staff recommends that the Trustees take no action at this time.*

Niagara LaSalle Corporation (Buffalo, Erie County)

Allocation:	700 kW and 700 kW of RP respectively
Job Commitment:	115 jobs
Jobs Reported:	76 jobs, or 66% of commitment

Background: Niagara LaSalle Corporation ('Niagara LaSalle') manufactures cold finished and thermal treated steel bars. The Buffalo facility was not immune to corporate-wide staffing reductions at its facilities over the last several years. It is important to note that the company was selected for the year 2012 ESD review at the December 18, 2012 Trustee meeting. The Trustees approved a reduction to Buffalo Newspress' job commitment from 164 to 115. The company is also part of the WNY contract extension initiative in effect as of July 1, 2013.

Recommendation: *Staff recommends that the Trustees take no action at this time.*

Nuttall Gear Company, Niagara Falls, Niagara County

Allocation:	350 kW of EP
Jobs Commitment**:**	108 jobs
Jobs Reported:	96 jobs, or 89% of commitment

Background: Nuttall Gear Company ('Nuttall') manufactures enclosed gear drives for industrial, commercial, transportation and utility applications. The company was forced to operate with fewer employees in 2012. Nuttall Gear has added one employee to its head count in 2012; however, the company is currently looking to hire qualified machinists. It is important to note that the company was selected for the year 2012 ESD review at the December 18, 2012 Trustee meeting. The Trustees approved a job commitment reduction from 135 to 108.

Recommendation: *Staff recommends that the Trustees take no action at this time.*

PEMCO – Precision Electro Minerals Co., Inc. (Niagara Falls, Niagara County)

Allocation: 800 kW of RP
Job Commitment: 22 jobs
Jobs Reported: 19 jobs, or 85% of commitment

Background: PEMCO – Precision Electro Minerals Co., Inc. ('PEMCO') makes and sells fused silica for use in the foundry and refractory industry. PEMCO awaits a turnaround in market conditions that will enable the comany to increase employment levels as business demand increases.

Recommendation: *Staff recommends that the Trustees take no action at this time.*

Rosina Food Products, Inc., Cheektowaga (Erie County)
Allocation: 200 kW of EP
Jobs Commitment: 270 jobs
Jobs Reported: 226 jobs, or 84% of commitment

Background: Rosina Food Products Inc., ('Rosina Food') manufactures food products that are distributed nationally from its production facility in Buffalo. In 2012, this facility operated less than a normal 5-day work. As a result, the company participated in a shared work program with NYS Department of Labor. The company also made operational improvements at this facility and as a result it has slightly reduced the need for manpower. Rosina has two other allocations that are reporting well above commitment levels. The Trustees previously approved a reduction to its job commitment to 235 jobs, commencing July 2013, as part of the WNY contract extension initiative. Although the company reported jobs below its commitment level, this allocation is compliant when considered against the WNY job reduction in effect as of July 1, 2013.

Recommendation: *Staff recommends that the Trustees take no action at this time.*

RubberForm Recycled Products, LLC (Lockport, Niagara County)
Allocation: 500 kW of EP – *reduced to 100 kW*
Job Commitment: 18 jobs
Jobs Reported: 16 jobs, or 89% of commitment

Background: RubberForm Recycled Products, LLC ('RubberForm') manufacturers products made from 100% New York recycled crumb rubber, such as traffic sign bases, parking lot wheel stops, speed bumps, dock bumpers, and various other products. It is important to note that the company was selected for the year 2012 ESD review at the December 18, 2012 Trustee meeting. The Trustees approved a job commitment reduction from 30 to 18 and an allocation reduction from 500kW to 100kW.

Recommendation: *Staff recommends that the Trustees take no action at this time.*

Saint-Gobain Structural Ceramics (Niagara Falls, Niagara County)
Allocations: 300kW, 100kW and 1400kW of RP
Job Commitments: 165, 186 and 169 job commitments respectively
Jobs Reported: 138 jobs, or 84%, 74% and 82 % of commitments respectively

Background: Saint-Gobain Structural Ceramics produces a multitude of building products. The company's armor business is one of its main business sectors, and it expects to obtain government contracts in the near future. In addition, the company has received quotes from numerous armor markets and expects to boost business. Saint-Gobain has other allocations that are reporting well above commitment levels.

Recommendation: *Staff recommends that the Trustees take no action at this time.*

TAM Ceramics Group of New York, LLC (Niagara Falls, Niagara County)

Allocations:	7,000 kW of RP & 500 kW of EP
Job Commitments:	100 jobs
Jobs Reported:	69 jobs, or 69% of commitment

Background: TAM Ceramics Group of New York, LLC ('TAM') is a supplier of dielectric powder to the passive electronic component industry and zirconia-based ceramic powders to industry. These two allocations are 'vintage' contracts with an 80% job ratio based on a two-year average. The company has expanded into further research and development and recently acquired grants from NYSERDA. It is important to note that the company was selected for the year 2012 ESD review at the December 18, 2012 Trustee meeting. The Trustees took no action on TAM's job commitment or allocations.

Recommendation: *Staff recommends that the Trustees take no action at this time.*

The Carriage House Companies - Dunkirk Facility (Dunkirk, Chautauqua County)

Allocation:	500 kW of EP
Job Commitment:	199 jobs
Jobs Reported:	151 jobs, or 76% of commitment

Background: The Carriage House Companies ('Carriage House/Lakeside') is a storage facility for both raw materials and finished products associated with syrups. The company operates a sister facility in nearby Fredonia, which also has a hydropower allocation. Taken together, the company's commitment is 639 jobs and actual jobs reported for both were 592 jobs for 2012, representing a combined average of 93%.

Recommendation: *Staff recommends that the Trustees take no action at this time.*

Tulip Corporation (Niagara Falls, Niagara County)

Allocations:	300 kW of EP and 1,200 kW of RP
Job Commitments:	110 jobs and 122 jobs respectively
Jobs Reported:	85 jobs or 77% of its EP commitment and 70% if its RP commitment

Background: Tulip Corporation ('Tulip') is an injection-molding company that recycles rubber and plastic and manufactures battery cases for the major battery manufacturers. The RP allocation is a 'vintage' contract with an 80% ratio threshold. Tulip stated that the company is continuing its aggressive pursuit of growth in the battery vent and industrial jar areas. The company's access to low-cost hydropower is a key factor in achieving employment growth and its future success in New York State. Although reporting below its commitment level, Tulip's allocations are compliant when considered against the reduced July 2013 commitment of 70 jobs that was approved by the Trustees as part of the WNY contract extension initiative.

Recommendation: *Staff recommends that the Trustees take no action at this time.*

Washington Mills Electro Minerals Corp. (Niagara Falls, Niagara County)

Allocation:	9,700 kW of RP
Job Commitment:	171 jobs
Jobs Reported:	106 jobs, or 62% of commitment

Background: Washington Mills Electro Minerals Corp. ('Washington Mills Electro') manufactures abrasive grains for sandpaper and grinding wheels. Washington Mills Electro has reported that the company has expended a significant amount of capital in streamlining and improving its production capabilities. Although reporting below its compliant levels, the allocation is compliant when considered against the reduced July 1, 2013 commitment of 107 jobs that was approved by the Trustees as part of the WNY contract extension initiative.

Recommendation: *Staff recommends that the Trustees take no action at this time.*

Washington Mills Tonawanda (Tonawanda, Erie County)

Allocation:	300 kW of RP
Job Commitment:	70 jobs
Jobs Reported:	38 jobs, or 55% of commitment

Background: Washington Mills Tonawanda ('Washington Mills Tonawanda') has been in existence since 1914. Washington Mills Tonawanda has not recovered since the downturn in economic conditions in 2009. The company has seen some growth in certain market segments and plans to add employees as its needs increase. Although reporting below the company's compliance levels, the allocation is compliant when considered against the reduced July 1, 2013 commitment of 38 jobs that was approved by the Trustees as part of the WNY contract extension initiative.

Recommendation: *Staff recommends that the Trustees take no action at this time.*

RECOMMENDATION

The Vice President – Marketing and Economic Development recommends that the Trustees take no action on 24 customers holding 32 allocations, as described in Section I above, and as set forth in Exhibit '2l-B' attached hereto.

For the reasons stated, I recommend the approval of the above-requested action by adoption of a resolution in the form of the attached draft resolution."

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

> **RESOLVED, That the Trustees hereby take no action with respect to companies and power allocations as set forth in Exhibit "2l-B," and as described in the foregoing report of the President and Chief Executive Officer, and be it further**
>
> **RESOLVED, That the Chairman, the Vice Chairman, the President and Chief Executive Officer, the Chief Operating 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.**

DISCUSSION AGENDA

3. a. Report of the President and Chief Executive Officer

President Quiniones reported that, based on the Performance Scorecard, the Authority is performing well, to date. He said, based on a recommendation from the Enterprise Risk Management group, a "Risk Range" directional indicator will be added to the performance metrics. This will report projected risk ranges "forward-looking" to the year 2014. As of the fall, the Performance Scorecard will include not only the "Trend" directional arrows, but also a projection of where the Authority stands as it approaches the year 2014. He continued that non-numerical key initiatives will also be added to the Performance Scorecard.

Transmission

President Quiniones said because of the failure of the Y-49 transmission line earlier this year, the transmission system reliability continues to reflect a downward trend. Taking this into account, the Transmission Business Unit will adjust the system reliability threshold on the Balanced Scorecard within an overall acceptable performance range.

Heat Wave

President Quiniones said that the previous week's heat wave was record-breaking for peak demand in the state. He said the Authority, however, instituted its demand response program whereby it asks its customers to lower their electricity usage in return for a rebate. He said the utilities should be commended for their performance during the heat wave which was very wide in scope and resulted in extreme pressure on all the grids making it very difficult to sustain the load. President Quiniones said the Authority also instituted a Peak Load Management Program. President Quiniones said he wanted to commend Mr. Edward Welz and the Operations team for the astounding work performed during the heat wave. He said the Authority's assets played a crucial role in supporting the reliability of the Grid and were available to the New York Independent Systems Operator ("NYISO"). He ended by saying that the Authority's prudent investments in the maintenance of its assets allowed the Authority to be prepared for events such as this heat wave.

In response to a question from Trustee Mahoney, President Quiniones said the demand response program is not a voluntary program. Customers are required to participate by contract; there are penalties if they do not comply, however, they receive rebates when they do. Also, the Governor had issued a public appeal to

reduce consumption during the heat wave. Accordingly, working through the PSC, large utilities asked their largest customers to reduce consumption in order to keep the grid reliable and as safe as possible.

Responding to a question from Trustee Flynn, President Quiniones said the Authority's Peak Load Management Program was instituted to request its largest governmental customers such as NYC, MTA and the Port Authority, to reduce their load during periods of critical heat waves.

<u>NYS Energy Plan</u>

President Quiniones said the Authority has been asked to take the lead and serve as Project Manager in putting together the state's energy plan. He said the State Energy Plan is required by statute and various energy agencies are involved in putting together a number of programs for this effort. Ms. Jill Anderson, the Authority's Chief of Staff and Director of Energy Policy, will serve as the Project Manager working with an interagency team from NYSERDA, DEC, PSC, DOT, et al., in formulating the Energy Plan. The first draft is scheduled to be completed by the end of the year and, subject to legislation, final approval the first quarter of next year. As required by law, public hearings will be held across the state in order to create the best Energy Plan. He ended by saying that outreach to various stakeholder interest groups in the energy industry across the US has begun, also with the goal of producing the best energy plan the team can put together for the state.

b. Report of the Chief Operating Officer

Mr. John Canale, Vice President, Project Management, provided highlights of the Chief Operating Officer's report to the Trustees.

Performance Measures

Generation Market Readiness

- ***Systemwide Net Generation was above projections.***
- ***Generation market readiness exceeded projection for June, 99.47%; target was 99.40%.***
- ***Year-to-date generation market readiness is 99.44%; this is above the target for the year, 99.4%.***
- ***One significant generation event occurred in June:***
  - ***Blade damage at Pouch Terminal Gas Turbine resulting in 124 hours out of service. The failure occurred on June 6; Pouch Terminal was returned to Service on June 11.***

Transmission Reliability

- ***No significant transmission events occurred in June.***
- ***Transmission reliability for June was 98.88%; this is below the target of 99.65%.***
- ***Year-to-date transmission reliability is 95%; this is below the target of 95.81%. The transmission reliability is below target because of the Y-49 failure which occurred earlier this year. In order to ensure appropriate reporting of this measure, going forward, the Authority will track this measure taking this into account. For the month of June this would result in transmission reliability of 97.49%.***

Generation

- ***St. Lawrence Unit 17 – Life Extension and Modernization ("LEM") Automation Completed; Unit was returned to service on June 29th.***
- ***St Lawrence Unit 27 was removed from Service on July 1 for repairs; unit slated to return to service in April 2014.***
- ***Niagara Unit 13 Standardization Completed – Unit was returned to service on July 15th.***
- ***Lewiston Pump Generating Plant ("LPGP") LEM Unit 11 Nears Completion – schedule to return to service on August 16th.***

Safety

- ***There were two DART recordable incidents for June.***
- ***The DART rate for June, the measure of the Authority's safety performance, was 1.54%; the annual target is .78%.***

Environmental

- ***There were eight reportable environmental incidents for June; monthly target is 3.***
- ***Staff continues to strive for continuous improvement in this area.***

Emergency Management – Storm Preparations

During the period June – July, seven counties in the central region of the state were in a declared state of emergency due to flooding. The Authority's emergency management team maintained communication with all of

the appropriate agencies during this time. None of the Authority's facilities experienced any operational impacts from the storms and subsequent flooding.

In response to a question from Trustee Nicandri, Mr. Canale said the Authority's work on the LEM project at the St. Lawrence Power Project is essentially completed; staff is in the process of closing-out the project. Responding to further questioning from Trustee Nicandri, Mr. Canale said the St. Lawrence LEM Program was a 16-year project.

c. Report of the Chief Financial Officer

Mr. Brian McElroy, Treasurer, provided highlights of the financial report to the Trustees. He said the financial performance for the month of June and year-to-date shows a positive trend and remains very strong.

Net Income

- ***Net Income for the month of June was $22 million.***
- ***Net income through June, prior to the recognition of the State contribution was $143.9 million, which was $25.0 million higher than the budget due to a higher net margin on sales ($37.1 million) and lower other operating expenses ($6.5 million) partially offset by lower non-operating income ($16 million).***
    - ***Net income for the six months with the inclusion of the initial $40 million contribution was $103.9 million.***
    - ***The Authority budgeted $65 million for contribution to the state for 2013, $40 million of which was released in January following Trustee authorization. At the request of the NYS Division of the Budget, the Authority has deferred the release of the remaining $25 million, which was originally schedule for June. At this meeting, staff will be requesting Trustee authorization to release this remaining $25 million.***
- ***Positive variances in net margins at the generating facilities ($31.2 million) were substantially attributable to higher capacity and energy prices on market-based sales.***
- ***Transmission facility results were also higher than budgeted ($8.7 million).***
- ***Non-operating income included a higher than anticipated mark-to-market loss ($16.5 million) on the Authority's investment portfolio due to a sharp increase in market interest rates.***

Cash losses will not be realized as long as investments are held to maturity, which is generally the case

Year-End Projection

- ***Net Income is expected to remain at levels above budget for the year with firmer capacity and energy prices and higher hydro generation, partially offset by a decline in the mark-to-market value of the Authority's investment portfolio.***
- ***Capacity Prices – With higher than expected capacity prices, Staff took steps to lock in these revenues by selling approximately half of the surplus capacity in the NYISO 6-month summer strip auction, thereby protecting these revenues from any potential downturn in the market***

- ***Energy Prices – Wholesale electricity prices have increased with a rise in natural gas prices. Upstate prices are approximately 12% higher than the budget and New York City prices are up over 11%, having a positive effect on the Authority's net income.***
- ***Hydro Flows – After significant rainfall in June, precipitation over the Great Lakes is running slightly higher than average for the year. The result is the combined net generation for the Niagara and St. Lawrence facilities currently projected to be 19.05 Twh, up from 18.45 Twh in the budget, positively impacting the Authority's net income.***
- ***Mark-to-Market Value – The current environment of rising interest rates is having a negative effect on the mark-to-market value of the Authority's fixed rate investments in its portfolio, decreasing net income on an accrual basis.***
- ***At the projected levels, the business requirements for cash flow and liquidity are expected to be met.***

Responding to a question from Chairman Koelmel, President Quiniones said although the Authority performed well financially, to date, the heat wave or hurricane season is not over as yet, therefore, the Authority continues to be in a state of readiness for any potential heat wave or storm events and also to assist other utilities in the state until the end of the season. In terms of operations, the Authority will continue be on high alert. He continued that because of strong capacity and energy prices, the Authority should continue to see strong financial performance up to the end of the year. It is therefore prudent for the Authority to take this opportunity to strengthen its risk management as it embarks on its strategic planning process to ensure that it takes advantage of this trend in the energy and capacity markets.

d. Report of the Chief Risk Officer

President Quiniones said that based on a recommendation from Chairman Koelmel, going forward, Authority staff will provide an update on its enterprise risk and strategic planning process to the Trustees.

Mr. William Nadeau provided an update on the Authority's Risk Management Activity, to date. He said, as discussed at the Audit Committee meeting earlier, the risk management team currently has a number of ongoing activities in alignment with its goals for 2013. The Team is actively engaged in a NYPA-wide Risk Assessment. To that end, the Team will reassess the Authority's risk profile by conducting a review of risks under a consistent and formal framework under which risks are constructed. The objective of this reassessment is to refresh the entire NYPA risk inventory under a more rigorous framework and structured approach, with a common definition of Risk. Eighteen (18) Risk workshops have been scheduled with all Authority business units. To date, 16 workshops have been completed and it is expected that all 18 will be completed by the end of July. On completion of the workshops, the Audit Committee and Board of Trustees will be provided with an updated Enterprise Risk Report and a presentation of the results will be made at the September 24th meetings. The Report will assist the Risk Group with facilitating the development of mitigation plans by Risk Owners in their respective business units scheduled to be completed by the end of the year. The Report will also be available as an informational resource in the development of the Authority's Strategic Plan. In addition, Key Risk Indicators ("KRIs") will be included in the Balance Scorecard of the Chief Executive Officer's Report. Concurrently, the Risk Management staff has engaged a consultant, Delloite & Touche, to assist in developing KRIs as leading indicators of risk. Staff expects to report on the progress of the development of the KRIs in the fall of this year.

In response to a question from Trustee Flynn regarding common themes of industry-wide risks, Mr. Nadeau said there is an emergence of cyber security risk for the Authority and other power utilities across the country. Attempts are made to breach the Authority's cyber security system on a daily basis. While the Authority has been successful in preventing entry into its systems, this emergence is of great concern for the Authority.

e. Report of the Senior Vice President - Strategic Planning

Mr. Robert Lurie provided an update on the Authority's strategic planning process. He said the Strategic Planning staff is presently undertaking an outreach process to seek information from experts and stakeholders on trends in the energy industry that could be incorporated in the Authority's Strategic Plan. In developing the Plan, staff will look at the major uncertainties and drivers in the energy industry and marketplace that could present major risks that the Authority will be measuring or major opportunities for the Authority to expand the service it provides to its customers and the value it provides to the state. This outreach will be coordinated with the State Energy Plan initiative led by President Quiniones and Ms. Jill Anderson, and include all the state agencies and the energy industry.

Outreach

Along with staff from the Strategic Planning department, a strategy team comprising staffs of various levels from departments throughout the Authority have been assembled for this outreach which will be done throughout the summer.

As part of the outreach, staff will be talking to experts from other agencies that develop planning and energy delivery in New York; some of the Authority's major customers; the rating agencies at the major banks that finance energy projects in the state; renewables and environmental organizations of the utilities; and universities that have provided the Authority with ideas of the trends and drivers in the industry.

Strategy Drivers

- ***Low Gas Prices: Continued or expanded availability of low priced gas over the long term.***
- ***Technology Advances: Increasing technical and financial viability of distributed generation, combined heat and power ("CHP"), smart grid, energy storage and microgrids.***
- ***Climate Change: Significant climate changes will increase the need for hardening of infrastructure and may shift load patterns.***
- ***Changes in Policies and Environmental Regulations: New legislation intended to lessen or reverse the change.***

As part of the process, staff will be looking at risk and how the drivers might cause the Authority to make a decision to change course in the middle of that strategy. Using the Authority's mission and vision statements, staff will identify goals over a 3 – 5 year period and how those goals will be measured each year.

Outreach will be done during the months of September and October and preliminary results will be presented to the Trustees in November. Following the outreach, staff will conduct management planning sessions. The goal is to complete and release the Plan by the end of the year and use that Plan to cascade down to the Authority's business units so that they can use it to develop their own business plans and performance reviews using those goals, strategies and metrics.

In response to a question from Trustee Mahoney, Mr. Lurie said the exercise will result in the implementation of major projects that will direct the Authority's investments strategies in the future. Responding to further questioning from Trustee Mahoney, Mr. Lurie said the Trustees will be provided with a written document that will include a list of capital projects to be implemented over the next several years.

Responding to a question from Chairman Koelmel, Mr. Lurie said he is comfortable with the sequence of the timeline for the Plan. He said staff is cognizant of the challenges ahead, and he is working with the Risk Management, Operations and Finance staffs to ensure that the metrics and variables are consistent with the Plan and has concrete steps associated with them.

Chairman Koelmel suggested that Mr. Lurie provide the Board with additional information on the preliminary Plan and allow an opportunity for dialogue with the Trustees at the September meeting. Mr. Lurie said he would work with Mr. Nadeau and provide the Trustees with information indicating how the Plan will be integrated and give the Trustees an opportunity to review the Plan and provide feedback on it.

In response to a question from Trustee LeChase, Mr. Lurie said one of the key component of the Strategic Plan that will be addressed as part of the goals and strategies is workforce development and continuity to make sure that the Authority can retain people with the right skills needed to implement the Plan.

4. a. Power Allocations Under the Recharge New York Program

The President and Chief Executive Officer submitted the following report:

"SUMMARY

The Trustees are requested to:

1. Approve allocations of Recharge New York ('RNY') Power available for 'retention' purposes to the businesses listed in Exhibit '4a-A;'

2. Approve allocations of RNY Power available for 'expansion' purposes to the businesses listed in Exhibit '4a-B;'

3. Approve the transfer of the RNY Power allocation identified in Exhibit '4a-E;' and

4. Approve the withdrawal of two RNY Power allocations identified in Exhibit '4a-F.'

These actions have been recommended by the Economic Development Power Allocation Board ('EDPAB') at its July 22, 2013 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.

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.

The basic application for the RNY Power Program was approved by EDPAB at its meeting on September 26, 2011. Staff has gained valuable and practical experience through each evaluation period and as a result implemented question modifications to improve the efficiency of the application. The revised application includes changes to simplify and clarify questions, particularly to help reduce potential double counting of jobs and/or capital investment figures. 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 five prior occasions – in April, June, September and December of 2012, and March of this year. There is currently 18.4 MW of unallocated RNY Power of the 710 MW available for business 'retention' purposes. Of that 710 MW retention block, 100 MW was set aside for not-for-profit corporations and small businesses, of which 4.3 MW is available to allocate to such entities. Lastly, there is 152.1 MW of unallocated RNY Power of the 200 MW available for business 'expansion' purposes. These figures include allocations that were awarded, modified, declined, and withdrawn prior to today's recommendations.

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 22, 2013 meeting that RNY Power retention allocations be awarded to the businesses listed in Exhibit '4a-A.' Each business has stated a willingness to create or retain jobs in New York State. Additionally, these applicants will be committing to 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. 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 expansion-based allocations, having satisfied the criteria for both components of the RNY Power Program.

2. Expansion-Based RNY Power Allocations– Action Item

The Trustees are 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 22, 2013 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.

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 applicants listed on Exhibit '4a-C' propose projects that constitute a retail business as defined by EDPAB, and therefore are ineligible for RNY Power. No action by the Trustees is required on these applications.

4. Applications Not Recommended or Not Considered – Informational Item

As indicated on Exhibit '4a-D,' EDPAB decided not to recommend two applications for an expansion-based RNY Power allocation, and further decided not to consider other applications for an RNY Power allocation.

The applications that were not recommended for an expansion-based RNY Power allocation proposed expansion projects that did not result in direct job growth, therefore not meeting the job creation requirement set internally by the Authority for RNY expansion-based Power allocations. However, these companies are being recommended for a retention allocation.

EDPAB did not consider the other applications listed on Exhibit '4a-D' for one or more of the following reasons: (i) the application was withdrawn; (ii) the application was not sufficiently complete to permit evaluation and/or applicants were unresponsive to requests from Authority staff for more information necessary to fully evaluate the applications; and in the case of expansion-based requests for RNY Power, the applicant had proposed projects that were too premature to enable the applicant to make commitments necessary for an allocation of RNY Power. No action by the Trustees is required on these applications.

5. Transfer of RNY Power – Action Item

At its July 22, 2013 meeting, EDPAB approved and recommended that the Trustees approve a transfer of a RNY Power allocation due to a corporate restructuring and name change. The transfer is described in Exhibit '4a-E.' The new company will agree to the job and capital investment commitments of the original applicant. The Trustees have previously authorized transfers of RNY Power and other Authority power products like Economic Development Power in similar circumstances.

6. Request to Withdraw Allocations – Action Item

At its July 22, 2013 meeting, EDPAB recommended the withdrawal of two RNY Power allocations previously awarded by the Authority. Upon the receipt of additional information, staff determined that one applicant (Hopshire Farms) was proposing a project that fell within the definition of retail business, and therefore was ineligible to receive RNY Power. The second allocation was made to Hunts Point Cooperative Market. However, it was subsequently determined that Hunts Point was already receiving Authority power through the Authority's governmental service contract with New York City. These two awards are described in Exhibit '4a-F.' Accordingly, the Trustees are requested to approve the withdrawal of RNY Power awards previously made to the two businesses listed on Exhibit '4a-F.'

7. Allocations Declined by Applicants– Informational Item

For various reasons, eighteen applicants have declined to accept all or part of the RNY Power allocations awarded to them, adding to the twenty-six applicants reported last year at the December 18, 2012 Trustee meeting. These applicants are listed on Exhibit '4a-F.' No action by the Trustees is required on these applications.

8. Customers by Industry Classification – Informational Item

In response to an inquiry at the March 21, 2013 meeting of the Board of Trustees, staff has conducted a review of the types of businesses and organizations that have been awarded allocations of RNY Power. Staff analyzed the distribution of customers in twenty different industry classifications based on the North American Industry Classification System. The high-level breakout in Exhibit '4a-G' shows where the types of customers are located among the ten Regional Economic Development Councils within the State.

RECOMMENDATION

The Manager – Business Power Allocations and Compliance recommends that the Trustees (1) approve the allocations of Recharge New York ('RNY') Power for retention purposes to the businesses listed in Exhibit '4a-A' as indicated therein; (2) approve the allocations of RNY Power for expansion purposes to the businesses listed in Exhibit '4a-B' as indicated therein; (3) authorize the transfer of the RNY Power allocation identified in Exhibit '4a-E' and (4) approve the withdrawal of previously awarded RNY Power allocations to the two businesses listed in Exhibit '4a-F' as indicated therein.

For the reasons stated, I recommend the approval of the above requested action by adoption of a resolution in the form of the attached draft resolution."

Mr. Michael Huvane provided highlights of staff's recommendation to the Trustees. In response to a question from Trustee Mahoney, Mr. Huvane said the original application from Hopshire Farms gave the impression that the proposed project qualified as "non-retail;" however, the specifics revealed that the majority of the benefits would go to the retail side of the business. Since RNY allocations are not intended for retail businesses, the company was therefore ineligible to receive this benefit.

The following resolution, as submitted by the President and Chief Executive Office was adopted with Trustee LeChase being recused from the vote as it relates to Garlock Sealing Technologies, Syracuse University and Billitier Electric, Inc.; Trustee Flynn as it relates to Albany International Corporation; Trustee Mahoney as it relates to Agrana Fruit US, Inc., Byrne Dairy, and Ultra Dairy LLC; and Trustees Flynn and LeChase as it relates to Corning Incorporated**.**

> **WHEREAS, the Economic Development Power Allocation Board ("EDPAB") has recommended that the Authority approve the Recharge New York ("RNY") Power allocations for retention purposes to the applicants listed in Exhibit "4a-A"; and**
>
> **WHEREAS, EDPAB has recommended that the Authority approve the RNY Power allocations for expansion purposes to the applicants listed in Exhibit "4a-B"; and**
>
> **WHEREAS, EDPAB has recommended that the Authority authorize the transfer of the RNY Power allocation identified in Exhibit "4a-E"; and**

WHEREAS, EDBAB has recommended that the Authority approve the withdrawal of RNY Power allocations to the two applicants listed in Exhibit "4a-F";

NOW THEREFORE BE IT RESOLVED, That the Authority hereby authorizes the allocations of RNY Power for retention purposes to the applicants listed on Exhibit "4a-A" in accordance with the terms described in the foregoing report of the President and Chief Executive Officer; and be it further

RESOLVED, That the Authority hereby authorizes the allocations of RNY Power for expansion purposes to the applicants listed on Exhibit "4a-B" in accordance with the terms described in the foregoing report of the President and Chief Executive Officer; and be it further

RESOLVED, That the Authority hereby authorizes transfer of allocation of RNY Power identified in Exhibit "4a-E" in accordance with the terms described in the foregoing report of the President and Chief Executive Officer; and be it further

RESOLVED, That the Authority hereby authorizes the withdrawal of the allocations of RNY Power to the two applicants listed on Exhibit "4a-F" in accordance with the terms described in the foregoing report of the President and Chief Executive Officer; and be it further

RESOLVED, That the Chairman, the Vice 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. Allocations of Hydropower 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 600 kW of Replacement Power ('RP') to Republic Steel ('Republic') and an allocation of 700 kW of Expansion Power ('EP') to Saturn Petcare, Inc. ('Saturn') as further described herein and in Exhibit '4b-A.' These allocations of available hydropower, totaling 1,300 kW, collectively will support capital expansion of $25.9 million and the creation of 106 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 the allocation to Saturn, the current form of which is attached as Exhibit '4b-B.'

BACKGROUND

In summary, under PAL §1005(13), the Authority may contract to allocate up to 250 megawatts ('MW') of firm hydroelectric power as EP and up to 445 MW as 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). 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 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 Corporation ('ESD'), the Buffalo Niagara Enterprise, the Niagara County Center for Economic Development and Erie County Industrial Development Agency ('ECIDA') to coordinate other economic development incentives that may help bring projects 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. The following recommendations have been discussed with each of these entities and each has indicated support for the proposed recommendation.

DISCUSSION

At this time, there are 7,395 kW of unallocated EP and 37,853 kW of unallocated RP available for eligible businesses under the criteria set forth in PAL §1005(13)(a). The following companies have submitted applications for hydropower to support proposed expansion projects as described below.

Republic Steel

The Republic Lackawanna, Erie County, facility dates back to 1906 and was once a part of the large Bethlehem Steel integrated steel plant located along Lake Erie. Through several ownership changes beginning in the mid-1970s, the Republic's bar mill complex has remained operational and is currently a wholly-owned subsidiary of Industrias CH, a Mexican steel company owned by Grupo Simec, a publicly traded corporation. Aside from Lackawanna, Republic has facilities in Ohio, Indiana, and Ontario.

Republic's facility specializes in producing Special Bar Quality ('SBQ') steel bars, which refers to a set of physical, chemical and process standards for high performance steel. The facility receives steel billets from its facilities in Ohio. The billets are heated and rolled into rounds or hexagons in either straight bar or coil form. A long-time Authority customer, Republic has 9,400 kW of hydropower under contract through June 30, 2020. The company is job compliant in its most recent filing for 2012, and currently has 283 employees in Lackawanna. Also, working with National Grid, Republic recently invested more than $500,000 in lighting upgrades and other energy efficiency measures within its facility.

Republic has submitted a request for 800 kW of hydropower with plans to relocate an existing non-destructive testing line from Republic's Ohio plant and add it to an existing testing line in Lackawanna, doubling its testing capacity. The current testing line, operating since 1999, is capable of testing about 12,000 tons per month, thus currently forcing about 8,000 tons per month to be shipped to Ohio for testing. The relocation would alleviate this issue and give Lackawanna the ability to test 20,000 tons per month. The company expects to start operations of the second testing line this winter.

Republic would commit to creating 26 new jobs at its facility as a result of the proposed project and invest $5 million to relocate, refurbish, construct and add material handling equipment relating to the testing line. The calculated job creation/MW ratio for a 600 kW allocation is 43 new jobs per MW. This ratio is above the historic average of 18 new jobs per MW over the last four years. The total project investment of $5 million, which includes $1 million for the new material handling equipment, would result in a capital investment/MW ratio of $8.3 million per MW. This ratio is below the four-year historic average of $20.8 million per MW.

This additional hydropower allocation would ensure that Republic relocate the testing line to Lackawanna and reduce its operating costs at the Lackawanna facility, thus helping to add and preserve good manufacturing jobs in WNY.

Staff recommends an allocation of RP in the amount of 600 kW be awarded to Republic based on Republic's commitments to make capital investments of approximately $5 million and create 26 jobs.

Saturn Petcare, Inc.

Saturn was formed by Heristo, its parent, Germany-based, privately-held food manufacturing company, to produce pet care products. After renovating an existing building formerly occupied by Fairbanks Farms in Ashville, Chautauqua County, the company plans to install machinery and equipment to begin production by this fall.

Saturn has submitted an application requesting 1.2 MW of hydropower. Saturn's initial plans are to produce wet dog and cat food. Based on market trends, it could also venture into producing dry pet foods and treats. At the start of production, the plant would operate one shift; however, Saturn plans to expand operations to accommodate three shifts and three production lines.

The company plans to invest $20.9 million in the first three years to renovate the existing structure, purchase and install new machinery and equipment, and upgrade the utilities to meet its production requirements. Once fully operational, by the winter of 2014, the possibility exists to expand the existing structure by up to 20,000-square-feet as demand for the product increases.

Saturn would commit to creating 80 positions at its new facility as a result of the proposed allocation. The calculated job creation/MW ratio for a 700 kW allocation is 114 new jobs per MW. This ratio is above the historic average of 18 new jobs per MW over the last four years. The total project investment of $20.9 million proposed by Saturn would result in a capital investment/MW ratio of $29.85 million per MW. This ratio is above the four-year historic average of $20.8 million per MW.

Other locations considered by Saturn include Michigan, which has good access to raw materials, a suitable larger building with existing sterilization equipment that could be used for the production line, and a low-cost power incentive; and Missouri, which is centrally located for distribution purposes, and offers a low-cost power incentive, good access to raw materials and sited in a pet food industrial corridor. The company stated that a low-cost power

allocation will be a 'major factor' in not only locating this business in New York State, but in future plans to expand and be competitive in the pet food industry in the United States.

ESD, the Chautauqua County IDA and other state and local agencies are also working with Saturn in support of this project.

As indicated above, Saturn intends to locate its operations in a recently-closed facility in Chautauqua County. The impact of the closing on the local economy has been significant with potential long-lasting impacts. The EP allocation would support a major initiative to alleviate the economic impact of the Fairbanks Farms closure, and will bring into full use the EP available to Chautauqua County under PAL §1005(13).

Staff recommends an allocation of EP in the amount of 700 kW be awarded to Saturn based on Saturn's commitments to make capital investments of approximately $20.9 million and create 80 jobs.

In summary, staff recommends that an RP allocation be awarded to Republic (600 kW) and an EP allocation be awarded to Saturn (700 kW), in exchange for $25.9 million of capital investment and the creation of 106 new jobs at the proposed facilities. The recommendations are described in Exhibit '4b-A' showing, among other things, the amount of power requested by each applicant, the recommended allocation amounts, and each applicant's proposed commitment to job creation and capital investment. Additional information on the projects is contained in the application summaries attached as Exhibits '4b-A-1' and '4b-A-2.'

CONTRACT INFORMATION

The Authority is in the process of discussing the proposed contract with Saturn and anticipates receiving customer approval of a contract form substantially similar to Exhibit '4b-B.' The Trustees are requested to authorize a public hearing pursuant to PAL §1009 on the negotiated direct sale contract for these recommended allocations. A new contract is not necessary for the allocation to Republic which has a long-term contract with provisions for adding additional allocations, and terms and conditions similar to, and consistent with, the proposed contract to Saturn.

As required by PAL §1009, when the Authority believes it has reached agreement with its co-party, 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 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 records, to the Governor and other elected officials. Upon approval by the Governor, the Authority may execute the contract.

The general form of the contract being proposed is consistent with recently approved contracts for the sale of EP and RP. Some pertinent provisions of the proposed form of 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 recent Recharge New York Power Program contracts.

In all cases of Authority hydropower allocations, the amounts 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 Saturn's actual jobs reported fall below the compliance threshold, the Authority has the right to reduce the allocation on a pro-rata basis. The allocation would be sold to Saturn pursuant to the Authority's Service Tariff No. WNY-1, which applies to all allocations of EP and RP commencing July 1, 2013. Transmission and delivery service would be provided by National Grid or New York State Electric & Gas Corporation ('NYSEG'), as applicable, and in accordance with each utility's filed service tariffs.

RECOMMENDATION

The Manager – Business Power Allocations and Compliance recommends that the Trustees approve the allocation of 600 kW of Replacement Power to Republic Steel and an allocation of 700 kW of Expansion Power to Saturn Petcare, Inc., as detailed in Exhibit '4b-A.' It is also recommended that the Trustees authorize the Corporate Secretary to convene a public hearing on the form of the proposed contract finally negotiated with Saturn, the current form of which is attached as Exhibit '4b-B,' and transmit copies of such proposed form of contract to the Governor and legislative leaders pursuant to PAL §1009.

For the reasons stated, I recommend the approval of the above-requested action by adoption of a resolution in the form of the attached draft resolution."

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

RESOLVED, That allocations totaling 1,300 kW of Authority hydropower to Saturn Petcare Inc. ("Saturn") and Republic Steel ("Republic") as detailed in Exhibit "4b-A," be, and hereby are, approved on the terms set forth in the foregoing report of the President and Chief Executive Officer; and be it further

RESOLVED, That the Trustees hereby authorize a public hearing on the terms of the proposed form of direct sale contract for the sale of hydropower and energy finally negotiated with Saturn (the "Contract"), subject to rates previously approved by the Trustees; and be it further

RESOLVED, That the Corporate Secretary be, and hereby is, authorized to transmit copies of the proposed Contract 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 Public Authorities Law ("PAL") §1009; and be it further

RESOLVED, That 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, all done in accordance with the provisions of PAL §1009 of the Public Authorities Law; and be it further

RESOLVED, That the Chairman, the Vice 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. Awards of Fund Benefits from the Western New York Economic Development Fund Recommended by the Western New York Power Proceeds Allocation Board

The President and Chief Executive Officer submitted the following report:

"SUMMARY

The Trustees are requested to accept the recommendations of the Western New York Power Proceeds Allocation Board ('WNYPPAB') and approve the award of Fund Benefits from the Western New York Economic Development Fund to the eligible applicants, Ascension Industries, Inc. and 425 Michigan Avenue, LLC, listed in Exhibit '5-A,' and authorize the other actions described herein with respect to such applicants and awards.

For informational purposes, Exhibit '5-B' lists (1) projects and applicants the WNYPPAB has determined are ineligible for Fund Benefits; (2) projects the WNYPPAB has determined are not being recommended for an award of Fund Benefits; (3) applications for Fund Benefits that have been withdrawn and (4) applications that were deferred for future consideration. No action by the Trustees is required on any of these matters.

BACKGROUND

1. Western New York Power Proceeds Allocation Act

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 will be provided to successful eligible applicants in the form of grants. It is anticipated that Fund Benefits will be disbursed as reimbursement for expenses incurred by an Eligible Applicant for an Eligible Project.

At least 15% percent of Fund Benefits must be dedicated to eligible projects which are 'energy-related projects, programs and services,' that are '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 Preservation Power ('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 '5-C.'

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.

3. Application Process

In an effort to provide for the efficient review of applications and disbursement of Fund Benefits, the WNYPPAB established a series of application due dates coupled with a schedule of dates through the end of 2013 on which the WNYPPAB would meet to consider applications. 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. Additionally, ESD and the Authority hosted a meeting on June 25, 2013 in Buffalo with a plethora of Western NY economic development agencies to further educate them on the Fund and how they can continue to market the Fund to their constituents.

As of May 7, 2013, the second application due date, the WNYPPAB had received 45 applications seeking over $100 million in Fund Benefits. WNYPPAB's staff analyzed the applications and made recommendations to WNYPPAB concerning each of the applications based on eligibility requirements and Program Criteria. Copies of the recommendations from WNYPPAB staff to the WNYPPAB can be found in 'Exhibit '5-D.'

At its June 26, 2013 meeting, the WNYPPAB took the following actions on applications for Fund Benefits:

1. Recommendations for Awards of Fund Benefits

The WNYPPAB is recommending to the Trustees that the two applications listed on Exhibit '5-A,' each receive an award of Fund Benefits in the amount indicated. The applicants have indicated that the proposed projects would directly create or retain 146 jobs in Western New York. The total to be expended on the proposed projects is expected to exceed $23 million. These are the recommendations that are presently before the Trustees for consideration.

2. Other Determinations

For your information, Exhibit '5-B' lists those applications for which the WNYPPAB has determined will not receive a recommendation for Fund Benefits. These applications fall into four categories: (1) applications that WNYPPAB has determined will not receive a recommendation of Fund Benefits based on the application of Program Criteria; (2) applications that WNYPPAB has determined propose a project that is not an eligible project because it is a retail business as defined by WNYPPAB; (3) applications that have been withdrawn; and (4) applications that have been deferred for future consideration. This information is being provided to the Trustees for their information only. No action by the Trustees is required with respect to these matters.

DISCUSSION

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.

Given the nascent stage of the proposed projects, it was not possible at this time to identify all of the terms and conditions that would be applicable to each 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 successful applicants after receipt of more detailed information concerning the projects and proposed schedules. In addition to appropriate business terms, staff anticipates that Award Contracts will contain provisions for periodic audits of the successful applicant 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 the 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 recommendations of the WNYPPAB and authorize the awards of Fund Benefits to the applicants and in the amounts listed in Exhibit '5-A,' conditioned upon an agreement to be negotiated with each applicant on the final terms and conditions that would be applicable to each 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 ESD, be authorized to negotiate with the applicants concerning such final terms and conditions; and

(3) the Senior Vice President – Economic Development and Energy Efficiency, or his designee, be authorized to execute Award Contracts on behalf of the Authority for each of the awards listed on Exhibit '5-A' subject to the forgoing conditions.

For the reasons stated, I recommend the approval of the above requested action by adoption of a resolution in the form of the attached draft resolution."

Mr. John Giumarra provided highlights of staff's recommendation to the Trustees. In response to a question from Trustee Nicandri, Mr. Giumarra said 20% is the threshold used when evaluating projects. The Authority is not providing 100% of project requirements; the companies usually receive capital from other

resources. Responding to further questioning from Trustee Nicandri, Mr. Giumarra said the Western New York Power Proceeds Allocation Board has approved the recommendations before the Board for consideration.

In response to a question from Trustee Mahoney, Ms. Judith McCarthy said the Western New York Power Proceeds Allocation Board is separate from the Authority's Board. It has five members: three appointed by the Governor, one by the Senate and one by the Assembly. There is also a requirement in the legislation that three of the Board members have to live within a 30-mile radius of the Niagara project. The Board has designated the ESD as their staff to review the applications and make recommendations for fund award. However, the Authority's Trustees have to approve that Board's recommendations before any funds can be disbursed. Mr. Huvane added that the Authority's Trustees have the right by legislation to modify the recommendations. ESD serves as staff for the Proceeds Board, but NYPA has a representative, John Giumarra, who works with them on a daily basis looking out for the Authority's interest. The NYPA representative oversees the Proceeds Board activities to ensure that the recommendations are consistent with the legislation.

Responding to a question from Trustee Mahoney, Mr. Huvane said the Trustees can only make a modification to what is being recommended by the Proceeds Board for approval and Ms. McCarthy added that, under the statute, the Trustees have the authority to make a modification to the award recommendation or refer it back to the Proceeds Board for further review.

In response to a question from Trustee Nicandri, Mr. Huvane said the Regional Economic Development Council of Western New York works with the ESD which acts as staff to the Proceeds Board, during the review process of the applications.

In response to a question from Trustee Mahoney, Mr. Giumarra said the Board members are privy to the principals of the companies being recommended for an award. Ms. McCarthy added that the members do the same conflicts of interest check on the applicants.

Responding to a question from Trustee LeChase, Mr. Huvane said members of the Proceeds Board take their responsibility very seriously and work closely with Authority staff to make sure their recommendations are in line with the requirements for allocating an award.

Trustee Flynn added that Mr. Giumarra had briefed him and the other Trustee on the operations of the Proceeds Board and also the allocations that are being recommended today for the Trustees' approval. He said he met with the Chairman and other officers of the Proceeds Board. The members are active in other

development Boards, so they do understand the issues on hand. They understand their custodial role and also that the Trustees have oversight of the Board from a fiduciary aspect. He continued that, from another aspect, the legislature and the local Senate and Assembly are very interested in what this Board is doing and is expecting the Authority's Trustees to do oversight on them. Also, he has received positive feedback regarding the ESD staff managing the program.

Chairman Koelmel said, as evidenced by the fact that the Trustees are considering two recommendations as outlined by Mr. Huvane and Giumarra, the Trustees are proceeding slowly and cautiously to make sure they have a good process in place and we can work with ESD to address the process. Ms. McCarthy added that Karen Delince and the Corporate Secretary's office have been providing the Proceeds Board with Corporate Secretary support. The Legal Department also provides assistance to the Board in evaluating and determining eligibility for awards.

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 awards of Fund Benefits from the Western New York Economic Development Fund ("Fund") to the eligible applicants listed in Exhibit "5-A";**
>
> **NOW THEREFORE BE IT RESOLVED, That the Authority hereby accepts the recommendations of the WNYPPAB and authorizes the awards of Fund Benefits to the applicants and in the amounts listed in Exhibit "5-A," conditioned upon an agreement between the Authority with each applicant on the final terms and conditions that would be applicable to each award and set forth in a written award contract ("Award Contract") between the Authority and each 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 successful applicants concerning such final terms and conditions; 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 Award Contracts for each of the awards listed on Exhibit "5-A" subject to the forgoing conditions; and be it further**

RESOLVED, That the Chairman, the Vice 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.

6. Contribution of Funds to the State Treasury

The President and Chief Executive Officer submitted the following report:

"SUMMARY

The Trustees are requested to approve a State contribution in the amount of $25 million with (i) $20 million being provided directly to the State's general fund to support energy-related initiatives of the state or for economic development purposes and (ii) $5 million provided to the Empire State Development Corporation ('ESD') in further support of ESD's Statewide economic development initiatives, as authorized by legislation approving the 2013-14 Budget of the State of New York (Chapter 57 of the Laws of 2013).

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

The State's fiscal year ('SFY') 2013-14 Budget legislation 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, the Budget legislation specified that up to $25 million is to be considered for payment by June 30, 2013 and with the remainder of any such contribution considered for payment by March 31, 2014.

New York State Division of Budget representatives initially requested that the Authority defer its decision on the initial 'up to $25 million' amount. More recently, the Director of the Budget formally requested that, with respect to the authorized $25 million amount, (i) $20 million be transferred to the State's general fund and (ii) $5 million be transferred to ESD in furtherance of ESD's statewide economic development initiatives, and (iii) that such transfers occur by September 2013. With regard to the remaining amount contemplated in the SFY 2013-14 Budget ($65 million), staff is not recommending any action at this time, but will return to the Board by the end of the State's fiscal year on March 31, 2014 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.

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.

An example of the Authority's previous support of EDS's statewide economic development initiatives is the Open for Business campaign. This campaign was initiated to market New York State as an ideal place for businesses to invest and create jobs and is being administered by the ESD. A central component of this business development campaign is to promote the advantages of doing business in the State in order to retain and grow New York businesses as well as attract other businesses to New York from across the country and around the world. The central tenet fits well with the Authority's Mission to promote economic development and job creation based directly on its legislatively authorized Expansion Power, Replacement Power, Preservation Power, and Recharge New York Power Programs, among the other economic development programs in which the Authority is authorized and directed to engage.

Based on a recognition of the mutual goals of the Authority and ESD with respect to economic development, and based on discussions with staff from ESD and the Division of Budget, it has been suggested that the Authority consider using a portion of the $90 million authorized for a voluntary contribution to provide funding to directly support ESD's statewide economic development initiatives. The Authority and ESD can work collaboratively to support the initiatives and the parties can also monitor and evaluate them to determine their impact on the Authority's low-cost power 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 State 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 transfers pursuant to the SFY 2013-14 Budget legislation was anticipated and is within the amount reflected in the Power Authority's 2013 Operating Budget approved by the Trustees at their December 8, 2012 meeting.

RECOMMENDATION

The Treasurer recommends that the Trustees affirm that the transfer to the State's general fund of $20 million and the transfer to Empire State Development Corporation of $5 million is feasible and advisable and authorize such payments.

For the reasons stated, I recommend the approval of the above-requested action by adoption of a resolution in the form of the attached draft resolution."

Mr. Brian McElroy provided highlights of staff's recommendation to the Trustees. In response to a question from Trustee Nicandri, Mr. McElroy said $20 million of the $25 million is going to the state general fund. Responding to further questioning from Trustee Nicandri, Mr. McElroy said the $20 million contribution is slated for energy related initiatives and this is in keeping with the Authority's mission statement, but he does not have any information on the specific initiatives for which the state will use the $20 million. Mr. Russak added that he spoke with personnel from the Budget Division on the intent of the legislation to use the funds for economic development and energy efficiency and they are mindful of this requirement. Responding to further

comment from Trustee Nicandri, Mr. Russak said the language in this year's Budget Bill specifies the use of the Authority's contribution for economic development and energy efficiency.

Responding to a question from Chairman Koelmel, Mr. Russak said the total $25 million contribution amount is consistent with the 2013 operating budget. There was a change in the timing of the release of the funds to the state because the State Budget Division requested it be postponed.

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

> **RESOLVED, That the Trustees hereby authorize payments to the State's general fund in the amount of $20 million and to Empire State Development Corporation ("ESD") in the amount of $5 million from the Operating Fund as authorized by Chapter 57 of the Laws of 2013 as discussed in the foregoing report of the President and Chief Executive Officer; and be it further**
>
> **RESOLVED, That the amount of $20 million to be used for the contributions to the State's general fund and $5 million to ESD 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 payments specified in the foregoing resolution, on the day of such payments, 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 Vice 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.**

7. Informational Item: Authority Cyber Security Overview

The Chief Information Security Officer submitted the following report:

"SUMMARY

This memorandum provides an informational item to the Trustees on the Authority's cyber security activities.

BACKGROUND

At the request of the President and Chief Executive Officer, the Chief Information Security Officer is providing this update on the Authority's cyber security activities.

DISCUSSION

The PowerPoint presentation (Exhibit "A") represents an informational update on the cyber security activities."

President Quiniones said last week he attended a classified briefing on cyber security risks with other CEOs of large Public power utilities in the US. The briefing was led by the Department of Homeland Security along with the Department of Defense, FERC and the US Department of Energy. As previously mentioned by Mr. Nadeau, this is an emerging risk, not only to NYPA but the entire utility industry. It is very clear that perpetrators of cyber security are no longer focused on corporate networks but are starting to go after controlled networks, such as utility networks. To that end, he has asked Ms. Lena Smart, Chief Information Security Officer, to give the Board a report on the current issues with cyber security and how the Authority is addressing these issues.

Ms. Smart provided a report on the Authority's cyber Security. She said she is the Energy Sector Chief for the FBI Infragard – a collaboration between public and private sectors – and the Cyber Security staff are all members of FBI Infragard. The Authority's cyber security group was created approximately ten years ago and is staffed by qualified cyber security subject matter experts in computer forensics, data recovery, data security and network security. The cyber security staff and contractors are given mandatory annual cyber awareness training and work closely with the New York State cyber security staff. The Cyber Security Team publishes monthly security bulletins for all staff.

The group practices layered security.

Tools used for Layered Security:

- ***Firewalls – can block entire countries from knowing that the Authority exists.***

- ***Security Operations Center – monitors the Authority's critical assets 24x7x365 and alert the cyber security staff to anomalies.***
- ***Intrusion Prevention Devices – stops viruses or malware at a specific site and doesn't allow it to infect the rest of the Authority's network.***
- ***Antivirus software runs on all servers and desktops, constantly checking for malware.***
- ***Cyber Security staff performs penetration tests and vulnerability assessments, and also engage third parties to try and "hack" the Authority's systems.***
- ***Recently installed hardware and software to mitigate against Distributed Denial of Service attacks.***
- ***Working with National Labs on desktop security solutions.***

8. <u>Motion to Conduct an Executive Session</u>

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 (d)(e) and (f) to discuss matters leading to the promotion or demotion of a particular person. Upon motion made and seconded an Executive Session was held.

9. <u>Motion to Resume Meeting in Open Session</u>

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

10. Next Meeting

The Regular Meeting of the Trustees will be held on **September 24, 2013, at 11:00 a.m., at the Niagara Power Project,** 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 1:00 p.m.

Karen Delince
Corporate Secretary

EXHIBITS

For

July 23, 2013

Regular
Trustees' Meeting

New York Power Authority
Expansion and Replacement Power Allocations
Direct Sale Contracts - Transmittal to the Governor

July 23, 2013
Exhibit "2b-A"

Number	Company Name	Program	City	County	Trustee Approval Date	Approved Allocation(s) (kW)	New Jobs	Total Job Commitment	Capital Investment (1)	Proposed Direct Sale Contract Term
A-1	Ceres Crystal Industries, Inc.	RP	Buffalo	Erie	3/21/13	4,600	N/A	50	$1,000,000	6/30/2018
A-2	Delaco AMTB LLC	RP	Tonawanda	Erie	3/21/13	250	N/A	16	$2,425,000	6/30/2018
A-3	Hammond Manufacturing Co. Inc.	RP	Buffalo	Erie	3/21/13	100	N/A	27	$25,000	6/30/2018
A-4	Greenpac Mill, LLC	RP	Niagara Falls	Niagara	6/29/10	10,000	108	108	$380,000,000	5 Years
A-5	Nulife Glass NY Inc.	EP	Dunkirk	Chautauqua	3/27/12	500	25	25	$3,750,000	7 Years
A-6	Welded Tube USA, Inc.	EP	Lackawanna	Erie	6/26/12	4,000	121	121	$48,250,000	7 Years
A-7	Yahoo! Inc.	EP	Lockport	Niagara	3/21/13	7,200	115	115	$170,000,000	7 Years
	Totals					**26,650**	**369**	**462**	**$605,450,000**	

(1) For Ceres Crystal, Delaco AMTB, and Hammond Manufacturing, the capital investment commitment is total over the 5 year term of the contract extension.

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
Ceres Crystal Industries 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 Ceres Crystal Industries Inc. ("Customer"), with offices at 2250 Liberty Drive, 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, Niagara Power Project hydroelectric power plays an important role in providing competitively priced power for sale to attract and retain business investment and to promote economic development in western New York State.

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, PAL § 1005(11) provides that the Authority is authorized to "[t]o exercise all the powers necessary or convenient to carry out and effectuate the purposes and provisions of … title [1 of article 5 of the PAL] … and as incidental thereto to . . . sell … electric power, and generally to do any and every thing necessary or convenient to carry out the purposes of … title [1 of article 5 of the PAL] …";

WHEREAS, the Authority has previously awarded the Customer one or more allocations of EP or RP (collectively, the "Allocation") which expired on "Initial Expiration Date" specified in Schedule A;

WHEREAS, the Customer has applied for an extension of the Allocation;

WHEREAS, (i) the Authority has continued to provide electric service to the Customer on a month-to-month basis after the Initial Expiration Date to avoid a lapse of such electric service and potential hardship to the Customer as the Authority reviews the Customer's application for an extension of the Allocation, and (ii) such electric service has been provided on the basis of the terms and conditions that were applicable as of the Initial Expiration Date;

WHEREAS, on March 21, 2013 the Authority's Trustees approved an extension of the Customer's Allocation until the "Extended Expiration Date" specified in Schedule A of this Agreement;

WHEREAS, the Parties have reached an agreement on the terms and conditions that will be applicable to the sale of the Allocation commencing July 1, 2013;

WHEREAS, for avoidance of doubt, the Parties acknowledge that the Parties have separately agreed that the Authority will continue to provide electric service to the Customer for the period prior to July 1, 2013 on the basis of the terms and conditions that were applicable to the Allocation as of the Initial Expiration Date, subject to any necessary approvals of the Customer's local electric utility;

WHEREAS, the Authority has complied with requirements of PAL § 1009 which specifies the approval process for 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(s) of EP and/or RP set forth 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 further described in 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)** is 445 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 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. Commencing July 1, 2013, the Authority shall make available Electric Service to enable the Customer to receive the Allocation in accordance with this Agreement, Service Tariff No. WNY-1and 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. Commencing July 1, 2013, 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 and/or Replacement Power Commitments

A. Schedule B sets forth the Customer's specific "Expansion 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. The Authority shall have the right to reduce the Allocations based on reductions in the Contract Demand made pursuant to Schedule B if the Customer fails to meet such commitments.

B. The Authority will provide written notice to the Customer of any reduction made pursuant to this Article within thirty (30) days of such determination and will furnish the Customer with a revised Schedule A which reflects the reduced Allocation.

C. 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 Schedule B.

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, 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: MED-BPAC@nypa.gov
Facsimile: 914-390-8156
Attention: Manager – Business Power Allocations and Compliance

To: The Customer

Ceres Crystal Industries
2250 Liberty Drive
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:

Ceres Crystal Industries 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: Ceres Crystal Industries

Type of Allocation (EP or RP)	Amount (kW)	Facility	Initial Expiration Date	Extended Expiration Date	Trustee Approval Date
RP	1,300	2250 Liberty Drive, Niagara Falls, New York 14304	12/31/2012	6/30/18	3/21/13
RP	1,600	2250 Liberty Drive, Niagara Falls, New York 14304	12/31/2012	6/30/18	3/21/13
RP	1,700	2250 Liberty Drive, Niagara Falls, New York 14304	12/31/2012	6/30/18	3/21/13

SCHEDULE B TO AGREEMENT FOR THE SALE OF EXPANSION POWER AND ENERGY TO CUSTOMER

EXPANSION POWER AND/OR REPLACEMENT POWER COMMITMENTS

I. Customer Commitments and Related Matters

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.

C. Capital Investment

The provision of EP and/or RP to the Customer hereunder is in consideration of, among other things, the Customer's capital investment commitments set forth in the Appendix of this Schedule B.

The Customer shall furnish to the Authority records and other proof of the Customer's capital investments in the Facility for purposes of allowing the Authority to calculate a three-year historical average of the Customer's capital investments at the Facility ("Historical Average") that will serve as the minimum level of capital investment that the Customer must satisfy each year as provided in the Appendix to this Schedule B, provided, however, that the Authority shall take due regard for extraordinary capital investments by the Customer during this three-year period and reduce the Historical Average upon Customer demonstration satisfactory to Authority.

In addition, each year beginning with the first calendar year after the year in which this Agreement becomes effective, the Customer shall record its annual capital investments at the Facility, and provide such information to the Authority on or before the last day of February following the end of the most recent calendar year. The Authority will use such information for the purpose of calculating a rolling three-year average ("Rolling Average") that shall be used to determine compliance with the Historic Average as provided in the Appendix to this Schedule B.

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 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 Levels

If the Customer's Rolling Average in any year is less than 90% of its Historical Average, the Contract Demand may be reduced by the Authority 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 Rolling Average divided by the Historical Average. 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.

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 facilities 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

Beginning on July 1, 2013 through the Extended Expiration Date as provided for in Schedule A, the Customer agrees to maintain a Base Employment Level of fifty (50) persons at the Customer's Facility located at 2250 Liberty Drive, Niagara Falls, New York 14304 in accordance with Article I of this Schedule B.

CAPITAL INVESTMENT

Beginning three years after the year in which this Agreement becomes effective and for each year thereafter, the Customer's Rolling Average of capital investments at the Facility as calculated by the Authority on the basis of the Customer's capital investments at the Facility during each of the previous three years shall be no less than the Historic Average of $200,000.

SCHEDULE C TO AGREEMENT FOR THE SALE OF EXPANSION POWER AND ENERGY 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		Leaf No.
I.	Applicability	3
II.	Abbreviations and Terms	3
III.	Monthly Rates and Charges	
	A. New Expansion Power and Replacement Power Base Rates	5
	B. EP and RP Rates no Lower than Rural/Domestic Rate	6
	C. Monthly Base Rates Exclude Delivery Service Charges	6
	D. Minimum Monthly Charge	6
	E. Billing Period	6
	F. Billing Demand	6
	G. Billing Energy	7
	H. Contract Demand	7
IV.	General Provisions	
	A. Character of Service	8
	B. Availability of Energy	8
	C. Delivery	8
	D. Adjustment of Rates	8
	E. Billing Methodology and Billing	9
	F. Payment by Customer to Authority	
	1. Demand and Energy Rates, Taxes	9
	2. Transmission Charge	10
	3. NYISO Transmission and Related Charges	10
	4. Taxes Defined	11
	5. Substitute Energy	11
	6. Payment Information	11
	G. Adjustment of Charges	
	1. Distribution Losses	11
	2. Transformer Losses	11
	3. Power Factor	11
	H. Conflicts	12
	I. Customer Resales Prohibited	12
V.	Annual Adjustment Factor	13

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

A. The following abbreviations are used:

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

B. The term “Agreement” means an executed “Agreement for the Sale of Expansion and/or Replacement Power and Energy” between the Authority and the Customer (each as defined below).

C. The term “Annual Adjustment Factor” or “AAF” shall have the meaning set forth in Section V herein.

D. The term “Authority” means 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.”

E. The term “Customer” means 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.

F. The term “Electric Service” means the power and energy provided to the Customer in accordance with the Agreement, this Service Tariff and the Rules.

G. The term “Expansion Power and/or Replacement Power” means 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).

H. The term “Firm Power” means 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.

I. The term “Firm Energy” means energy (kWh) associated with Firm Power.

J. The term “Load Serving Entity” or “LSE” shall have the meaning set forth in the Agreement.

K. The term “Project” means the Authority’s Niagara Power Project, FERC Project No. 2216.

L. The term “Rate Year” or “RY” means the period from July 1 through June 30 starting July 1, 2013, and for any year thereafter.

M. The term “Rules” means the Authority’s rules and regulations set forth in 21 NYCRR § 450 *et seq*., as they may be amended from time to time.

N. The term “Service Tariff” means this Service Tariff No. WNY-1.

O. The term “Target Rate” 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. 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.

F. 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.

G. 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.

H. 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 – Unless separately metered, the billing demand charged by the Authority to each Customer will be the highest 15-minute integrated demand during each billing period recorded on the Customer's meter multiplied by a percentage based on load factor sharing, as applicable.

3. Billing Energy – Unless separately metered, 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 load factor sharing, as applicable.

F. Payment by Customer to Authority

1. Demand and Energy Charges, Taxes

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. Transmission Charge

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. NYISO Transmission and Related Charges (“NYISO Charges”)

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.

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. Adjustment of Charges

1. Distribution Losses

The Authority will make appropriate adjustments to compensate for distribution losses of the local electric utility.

2. Transformer Losses

If delivery is made at transmission voltage but metered on the low-voltage side of the Customer's substation, the meter readings will be increased two percent to compensate for transformer losses.

3. Power Factor

Power factor is the ratio of real power (kW) to apparent power (kVa) for any given load and time. The Authority may require the Customer to maintain a power factor of not less than 90%, lagging or leading, at the point of delivery, or as may otherwise be imposed upon the Authority by the local electric utility providing delivery and/or NYISO.

H. 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.

I. 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	Energy
	$/kW-mo.	$/MWh
Current Rate Year Base Rate	7.56	12.91
New Rate Year Base Rate	7.68	13.12

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 DELACO AMTB, 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 Delaco AMTB, LLC ("Customer"), with offices at 55 Milens Road, Tonawanda, NY 14150. 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, Niagara Power Project hydroelectric power plays an important role in providing competitively priced power for sale to attract and retain business investment and to promote economic development in western New York State.

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, PAL § 1005(11) provides that the Authority is authorized to "[t]o exercise all the powers necessary or convenient to carry out and effectuate the purposes and provisions of … title [1 of article 5 of the PAL] … and as incidental thereto to . . . sell … electric power, and generally to do any and every thing necessary or convenient to carry out the purposes of … title [1 of article 5 of the PAL] …";

WHEREAS, the Authority has previously awarded the Customer an allocation of EP and/or RP (the "Allocation") which expired on "Initial Expiration Date" specified in Schedule A;

WHEREAS, electric service provided to the Customer thereafter terminated;

WHEREAS, the Customer has applied for an extension of the Allocation beginning July 1, 2013;

WHEREAS, on March 21, 2013 the Authority's Trustees approved an extension of the Customer's Allocation for the period from July 1, 2013 through the "Extended Expiration Date" specified in Schedule A of this Agreement;

WHEREAS, the Parties have reached an agreement on the terms and conditions that will be applicable to the sale of the Allocation commencing July 1, 2013;

WHEREAS, the Authority has complied with requirements of PAL § 1009 which specifies the approval process for 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(s) of EP and/or RP set forth 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 further described in 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)** is 445 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 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. Commencing July 1, 2013, the Authority shall make available Electric Service to enable the Customer to receive the Allocation in accordance with this Agreement, Service Tariff No. WNY-1and 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. Commencing July 1, 2013, 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 and/or Replacement Power Commitments

A. Schedule B sets forth the Customer's specific "Expansion 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. The Authority shall have the right to reduce the Allocations based on reductions in the Contract Demand made pursuant to Schedule B if the Customer fails to meet such commitments.

B. The Authority will provide written notice to the Customer of any reduction made pursuant to this Article within thirty (30) days of such determination and will furnish the Customer with a revised Schedule A which reflects the reduced Allocation.

C. 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 Schedule B.

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, 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: MED-BPAC@nypa.gov
Facsimile: (914) 390-8156
Attention: Manager – Business Power Allocations and Compliance

To: The Customer

Delaco AMTB, LLC
175 Ensminger Road
Tonawanda, New York 14150
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:

CUSTOMER

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: Delaco AMTB, LLC

Type of Allocation (EP or RP)	Amount (kW)	Facility	Initial Expiration Date	Extended Expiration Date	Trustee Approval Date
RP	250	55 Milens Road, Tonawanda, NY 14150	8/31/12	6/30/18	3/21/13

SCHEDULE B TO AGREEMENT FOR THE SALE OF EXPANSION POWER AND ENERGY TO CUSTOMER

EXPANSION POWER AND/OR REPLACEMENT POWER COMMITMENTS

I. Customer Commitments and Related Matters

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.

C. Capital Investment

The provision of EP and/or RP to the Customer hereunder is in consideration of, among other things, the Customer's capital investment commitments set forth in the Appendix of this Schedule B.

The Customer shall furnish to the Authority records and other proof of the Customer's capital investments in the Facility for purposes of allowing the Authority to calculate a three-year historical average of the Customer's capital investments at the Facility ("Historical Average") that will serve as the minimum level of capital investment that the Customer must satisfy each year as provided in the Appendix to this Schedule B, provided, however, that the Authority shall take due regard for extraordinary capital investments by the Customer during this three-year period and reduce the Historical Average upon Customer demonstration satisfactory to Authority.

In addition, each year beginning with the first calendar year after the year in which this Agreement becomes effective, the Customer shall record its annual capital investments at the Facility, and provide such information to the Authority on or before the last day of February following the end of the most recent calendar year. The Authority will use such information for the purpose of calculating a rolling three-year average ("Rolling Average") that shall be used to determine compliance with the Historic Average as provided in the Appendix to this Schedule B.

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 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 Levels

If the Customer's Rolling Average in any year is less than 90% of its Historical Average, the Contract Demand may be reduced by the Authority 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 Rolling Average divided by the Historical Average. 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.

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 facilities 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

Beginning on July 1, 2013 through the Extended Expiration Date as provided for in Schedule A, the Customer agrees to maintain a Base Employment Level of sixteen (16) persons at the Customer's Facility located at 55 Milens Road, Tonawanda, NY 14150, in accordance with Article I of this Schedule B.

CAPITAL INVESTMENT

Beginning three years after the year in which this Agreement becomes effective and for each year thereafter, the Customer's Rolling Average of capital investments at the Facility as calculated by the Authority on the basis of the Customer's capital investments at the Facility during each of the previous three years shall be no less than the Historic Average of $485,000.

SCHEDULE C TO AGREEMENT FOR THE SALE OF EXPANSION POWER AND ENERGY 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		Leaf No.
I.	Applicability	3
II.	Abbreviations and Terms	3
III.	Monthly Rates and Charges	
	A. New Expansion Power and Replacement Power Base Rates	5
	B. EP and RP Rates no Lower than Rural/Domestic Rate	6
	C. Monthly Base Rates Exclude Delivery Service Charges	6
	D. Minimum Monthly Charge	6
	E. Billing Period	6
	F. Billing Demand	6
	G. Billing Energy	7
	H. Contract Demand	7
IV.	General Provisions	
	A. Character of Service	8
	B. Availability of Energy	8
	C. Delivery	8
	D. Adjustment of Rates	8
	E. Billing Methodology and Billing	9
	F. Payment by Customer to Authority	
	1. Demand and Energy Rates, Taxes	9
	2. Transmission Charge	10
	3. NYISO Transmission and Related Charges	10
	4. Taxes Defined	11
	5. Substitute Energy	11
	6. Payment Information	11
	G. Adjustment of Charges	
	1. Distribution Losses	11
	2. Transformer Losses	11
	3. Power Factor	11
	H. Conflicts	12
	I. Customer Resales Prohibited	12
V.	Annual Adjustment Factor	13

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

A. The following abbreviations are used:

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

B. The term “Agreement” means an executed “Agreement for the Sale of Expansion and/or Replacement Power and Energy” between the Authority and the Customer (each as defined below).

C. The term “Annual Adjustment Factor” or “AAF” shall have the meaning set forth in Section V herein.

D. The term “Authority” means 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.”

E. The term “Customer” means 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.

F. The term “Electric Service” means the power and energy provided to the Customer in accordance with the Agreement, this Service Tariff and the Rules.

G. The term “Expansion Power and/or Replacement Power” means 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).

H. The term “Firm Power” means 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.

I. The term “Firm Energy” means energy (kWh) associated with Firm Power.

J. The term “Load Serving Entity” or “LSE” shall have the meaning set forth in the Agreement.

K. The term “Project” means the Authority’s Niagara Power Project, FERC Project No. 2216.

L. The term “Rate Year” or “RY” means the period from July 1 through June 30 starting July 1, 2013, and for any year thereafter.

M. The term “Rules” means the Authority’s rules and regulations set forth in 21 NYCRR § 450 *et seq*., as they may be amended from time to time.

N. The term “Service Tariff” means this Service Tariff No. WNY-1.

O. The term “Target Rate” 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. 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.

F. 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.

G. 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.

H. 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 – Unless separately metered, the billing demand charged by the Authority to each Customer will be the highest 15-minute integrated demand during each billing period recorded on the Customer's meter multiplied by a percentage based on load factor sharing, as applicable.

3. Billing Energy – Unless separately metered, 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 load factor sharing, as applicable.

F. Payment by Customer to Authority

1. Demand and Energy Charges, Taxes

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. Transmission Charge

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. NYISO Transmission and Related Charges (“NYISO Charges”)

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.

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. Adjustment of Charges

1. Distribution Losses

The Authority will make appropriate adjustments to compensate for distribution losses of the local electric utility.

2. Transformer Losses

If delivery is made at transmission voltage but metered on the low-voltage side of the Customer's substation, the meter readings will be increased two percent to compensate for transformer losses.

3. Power Factor

Power factor is the ratio of real power (kW) to apparent power (kVa) for any given load and time. The Authority may require the Customer to maintain a power factor of not less than 90%, lagging or leading, at the point of delivery, or as may otherwise be imposed upon the Authority by the local electric utility providing delivery and/or NYISO.

H. 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.

I. 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	Energy
	$/kW-mo.	$/MWh
Current Rate Year Base Rate	7.56	12.91
New Rate Year Base Rate	7.68	13.12

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

Hammond Manufacturing Company 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 Hammond Manufacturing Company Inc. ("Customer"), with offices at 475 Cayuga Road Suite 100, Cheektowaga, New York 14225. 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, Niagara Power Project hydroelectric power plays an important role in providing competitively priced power for sale to attract and retain business investment and to promote economic development in western New York State.

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, PAL § 1005(11) provides that the Authority is authorized to "[t]o exercise all the powers necessary or convenient to carry out and effectuate the purposes and provisions of … title [1 of article 5 of the PAL] … and as incidental thereto to . . . sell … electric power, and generally to do any and every thing necessary or convenient to carry out the purposes of … title [1 of article 5 of the PAL] …";

WHEREAS, the Authority has previously awarded the Customer one or more allocations of EP or RP (collectively, the "Allocation") which expired on "Initial Expiration Date" specified in Schedule A;

WHEREAS, the Customer has applied for an extension of the Allocation;

WHEREAS, (i) the Authority has continued to provide electric service to the Customer on a month-to-month basis after the Initial Expiration Date to avoid a lapse of such electric service and potential hardship to the Customer as the Authority reviews the Customer's application for an extension of the Allocation, and (ii) such electric service has been provided on the basis of the terms and conditions that were applicable as of the Initial Expiration Date;

WHEREAS, on March 21, 2013 the Authority's Trustees approved an extension of the Customer's Allocation until the "Extended Expiration Date" specified in Schedule A of this Agreement;

WHEREAS, the Parties have reached an agreement on the terms and conditions that will be applicable to the sale of the Allocation commencing July 1, 2013;

WHEREAS, for avoidance of doubt, the Parties acknowledge that the Parties have separately agreed that the Authority will continue to provide electric service to the Customer for the period prior to July 1, 2013 on the basis of the terms and conditions that were applicable to the Allocation as of the Initial Expiration Date, subject to any necessary approvals of the Customer's local electric utility;

WHEREAS, the Authority has complied with requirements of PAL § 1009 which specifies the approval process for 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(s) of EP and/or RP set forth 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 further described in 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)** is 445 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 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. Commencing July 1, 2013, the Authority shall make available Electric Service to enable the Customer to receive the Allocation in accordance with this Agreement, Service Tariff No. WNY-1and 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. Commencing July 1, 2013, 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 and/or Replacement Power Commitments

A. Schedule B sets forth the Customer's specific "Expansion 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. The Authority shall have the right to reduce the Allocations based on reductions in the Contract Demand made pursuant to Schedule B if the Customer fails to meet such commitments.

B. The Authority will provide written notice to the Customer of any reduction made pursuant to this Article within thirty (30) days of such determination and will furnish the Customer with a revised Schedule A which reflects the reduced Allocation.

C. 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 Schedule B.

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, 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: MED-BPAC@nypa.gov
Facsimile: 914-390-8156
Attention: Manager – Business Power Allocations and Compliance

To: The Customer

Hammond Manufacturing Company Inc.
475 Cayuga Road Suite 100
Cheektowaga, New York 14225
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:

Hammond Manufacturing Company 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: Hammond Manufacturing Company Inc.

Type of Allocation (EP or RP)	Amount (kW)	Facility	Initial Expiration Date	Extended Expiration Date	Trustee Approval Date
RP	100	475 Cayuga Road - Suite 100, Cheektowaga, NY 14225	12/31/2012	6/30/18	3/21/13

SCHEDULE B TO AGREEMENT FOR THE SALE OF EXPANSION POWER AND ENERGY TO CUSTOMER

EXPANSION POWER AND/OR REPLACEMENT POWER COMMITMENTS

I. Customer Commitments and Related Matters

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.

C. Capital Investment

The provision of EP and/or RP to the Customer hereunder is in consideration of, among other things, the Customer's capital investment commitments set forth in the Appendix of this Schedule B.

The Customer shall furnish to the Authority records and other proof of the Customer's capital investments in the Facility for purposes of allowing the Authority to calculate a three-year historical average of the Customer's capital investments at the Facility ("Historical Average") that will serve as the minimum level of capital investment that the Customer must satisfy each year as provided in the Appendix to this Schedule B, provided, however, that the Authority shall take due regard for extraordinary capital investments by the Customer during this three-year period and reduce the Historical Average upon Customer demonstration satisfactory to Authority.

In addition, each year beginning with the first calendar year after the year in which this Agreement becomes effective, the Customer shall record its annual capital investments at the Facility, and provide such information to the Authority on or before the last day of February following the end of the most recent calendar year. The Authority will use such information for the purpose of calculating a rolling three-year average ("Rolling Average") that shall be used to determine compliance with the Historic Average as provided in the Appendix to this Schedule B.

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 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 Levels

If the Customer's Rolling Average in any year is less than 90% of its Historical Average, the Contract Demand may be reduced by the Authority 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 Rolling Average divided by the Historical Average. 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.

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 facilities 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

Beginning on July 1, 2013 through the Extended Expiration Date as provided for in Schedule A, the Customer agrees to maintain a Base Employment Level of twenty four (27) persons at the Customer's Facility located at 475 Cayuga Road Suite 100, Cheektowaga, New York 14225 in accordance with Article I of this Schedule B.

CAPITAL INVESTMENT

Beginning three years after the year in which this Agreement becomes effective and for each year thereafter, the Customer's Rolling Average of capital investments at the Facility as calculated by the Authority on the basis of the Customer's capital investments at the Facility during each of the previous three years shall be no less than the Historic Average of $5,000.

SCHEDULE C TO AGREEMENT FOR THE SALE OF EXPANSION POWER AND ENERGY 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		Leaf No.
I.	Applicability	3
II.	Abbreviations and Terms	3
III.	Monthly Rates and Charges	
	A. New Expansion Power and Replacement Power Base Rates	5
	B. EP and RP Rates no Lower than Rural/Domestic Rate	6
	C. Monthly Base Rates Exclude Delivery Service Charges	6
	D. Minimum Monthly Charge	6
	E. Billing Period	6
	F. Billing Demand	6
	G. Billing Energy	7
	H. Contract Demand	7
IV.	General Provisions	
	A. Character of Service	8
	B. Availability of Energy	8
	C. Delivery	8
	D. Adjustment of Rates	8
	E. Billing Methodology and Billing	9
	F. Payment by Customer to Authority	
	1. Demand and Energy Rates, Taxes	9
	2. Transmission Charge	10
	3. NYISO Transmission and Related Charges	10
	4. Taxes Defined	11
	5. Substitute Energy	11
	6. Payment Information	11
	G. Adjustment of Charges	
	1. Distribution Losses	11
	2. Transformer Losses	11
	3. Power Factor	11
	H. Conflicts	12
	I. Customer Resales Prohibited	12
V.	Annual Adjustment Factor	13

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

A. The following abbreviations are used:

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

B. The term “Agreement” means an executed “Agreement for the Sale of Expansion and/or Replacement Power and Energy” between the Authority and the Customer (each as defined below).

C. The term “Annual Adjustment Factor” or “AAF” shall have the meaning set forth in Section V herein.

D. The term “Authority” means 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.”

E. The term “Customer” means 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.

F. The term “Electric Service” means the power and energy provided to the Customer in accordance with the Agreement, this Service Tariff and the Rules.

G. The term “Expansion Power and/or Replacement Power” means 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).

H. The term “Firm Power” means 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.

I. The term “Firm Energy” means energy (kWh) associated with Firm Power.

J. The term “Load Serving Entity” or “LSE” shall have the meaning set forth in the Agreement.

K. The term “Project” means the Authority’s Niagara Power Project, FERC Project No. 2216.

L. The term “Rate Year” or “RY” means the period from July 1 through June 30 starting July 1, 2013, and for any year thereafter.

M. The term “Rules” means the Authority’s rules and regulations set forth in 21 NYCRR § 450 *et seq*., as they may be amended from time to time.

N. The term “Service Tariff” means this Service Tariff No. WNY-1.

O. The term “Target Rate” 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. 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.

F. 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.

G. 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.

H. 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 – Unless separately metered, the billing demand charged by the Authority to each Customer will be the highest 15-minute integrated demand during each billing period recorded on the Customer's meter multiplied by a percentage based on load factor sharing, as applicable.

3. Billing Energy – Unless separately metered, 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 load factor sharing, as applicable.

F. Payment by Customer to Authority

1. Demand and Energy Charges, Taxes

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. Transmission Charge

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. NYISO Transmission and Related Charges (“NYISO Charges”)

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.

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. Adjustment of Charges

1. Distribution Losses

The Authority will make appropriate adjustments to compensate for distribution losses of the local electric utility.

2. Transformer Losses

If delivery is made at transmission voltage but metered on the low-voltage side of the Customer's substation, the meter readings will be increased two percent to compensate for transformer losses.

3. Power Factor

Power factor is the ratio of real power (kW) to apparent power (kVa) for any given load and time. The Authority may require the Customer to maintain a power factor of not less than 90%, lagging or leading, at the point of delivery, or as may otherwise be imposed upon the Authority by the local electric utility providing delivery and/or NYISO.

H. 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.

I. 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	Energy
	$/kW-mo.	$/MWh
Current Rate Year Base Rate	7.56	12.91
New Rate Year Base Rate	7.68	13.12

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
Greenpac Mill, 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 Greenpac Mill, LLC ("Customer"), with offices at 4400 Royal Avenue, Niagara Falls, New York, 14303. 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, PAL § 1005(11) provides that the Authority is authorized to "[t]o exercise all the powers necessary or convenient to carry out and effectuate the purposes and provisions of … title [1 of article 5 of the PAL] … and as incidental thereto to . . . sell … electric power, and generally to do any and every thing necessary or convenient to carry out the purposes of … title [1 of article 5 of the PAL] …";

WHEREAS, the Customer applied to the Authority for an allocation of RP to support operations at the Facility;

WHEREAS, on June 29, 2010 the Authority's Board of Trustees ("Trustees") approved a 10,000 kilowatt ("kW") allocation of RP to the Customer for a five (5) year term in connection with the construction and operation of the Facility (defined in Section I of this Agreement as the "Allocation") as further described in this Agreement;

WHEREAS, on June 29, 2010, 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 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 further described in 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)** is 445 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 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-1and 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 and/or Replacement Power Commitments

A. Schedule B sets forth the Customer's specific "Expansion 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 and/or the committed improvements thereto which has resulted in such Facility and/or such improvements 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 and/or the committed improvements thereto, provided that the Customer demonstrates that the amount of requested Electric Service is needed to support the operations of the partially completed Facility and/or such improvements.

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 and/or the

committed improvements thereto. The Authority will inspect the Facility for the purpose of verifying the completion status of the Facility and/or such improvements 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 and/or the committed improvements thereto by June 29, 2013, 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 and/or such improvements, 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: MED-BPAC@nypa.gov
Facsimile: (914) 390-8156
Attention: Manager – Business Power Allocations and Compliance

To: The Customer

Greenpac Mill, LLC
4400 Royal Avenue
Niagara Falls, New York 14303
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:

Greenpac Mill, 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: Greenpac Mill, LLC

Type of Allocation	Allocation Amount (kW)	Facility	Trustee Approval Date	Expiration Date
RP	10,000	4400 Royal Avenue Niagara Falls, New York 14303	June 29, 2010	Five (5) years from commencement of Electric Service of any portion of this Allocation.

SCHEDULE B TO AGREEMENT FOR THE SALE OF EXPANSION POWER AND ENERGY 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 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 facilities 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 and continuing through the term of the Allocation, the Customer shall employ at least one hundred and eight (108) full-time employees ("Base Employment Level") at the Customer's Facility. The Base Employment Level shall be maintained for the term of the Allocation.

A "full-time employee" shall mean an individual who works at least thirty-five (35) hours per week at the Facility. For the purpose of calculating the Base Employment Level, an individual working less than thirty-five (35) hours per week shall not be counted as a full-time employee; provided, however, that two individuals each working at least twenty (20) hours per week but less than thirty-five (35) hours per week at the Facility shall be counted as one full-time employee.

The Base Employment Level may not be created or maintained by transfers of employees from previously held positions with the Customer or from any of 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.

CAPITAL INVESTMENT

The Customer shall build the Facility and/or make the committed improvements at the Facility as described in this Appendix, and make a capital investment of at least $380 million therefor (the "Capital Investment"). The Capital Investment for the Facility and/or such improvements is expected to consist of the following specific expenditures:

Construct a new state-of-the-art facility to manufacture green corrugated packaging, purchase and install new machinery and equipment as well as train employees.

Construction Costs:	$65,000,000
Machinery and Equipment Acquisition:	$185,000,000
Machinery and Equipment Installation:	$55,000,000
Remediation and Demolition:	$15,000,000
Other/Contingency Costs:	$60,000,000
Total Estimated Cost:	**$380,000,000**

The Capital Investment shall be made, and the Facility and/or the improvements thereto shall be completed and fully operational, no later than June 29, 2013 (*i.e.*, within three (3) years of the Authority's award of the Allocation). Upon request of the Customer, such date may be extended by the Authority in its sole discretion.

SCHEDULE C TO AGREEMENT FOR THE SALE OF EXPANSION POWER AND ENERGY 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		Leaf No.
I.	Applicability	3
II.	Abbreviations and Terms	3
III.	Monthly Rates and Charges	
	A. New Expansion Power and Replacement Power Base Rates	5
	B. EP and RP Rates no Lower than Rural/Domestic Rate	6
	C. Monthly Base Rates Exclude Delivery Service Charges	6
	D. Minimum Monthly Charge	6
	E. Billing Period	6
	F. Billing Demand	6
	G. Billing Energy	7
	H. Contract Demand	7
IV.	General Provisions	
	A. Character of Service	8
	B. Availability of Energy	8
	C. Delivery	8
	D. Adjustment of Rates	8
	E. Billing Methodology and Billing	9
	F. Payment by Customer to Authority	
	1. Demand and Energy Rates, Taxes	9
	2. Transmission Charge	10
	3. NYISO Transmission and Related Charges	10
	4. Taxes Defined	11
	5. Substitute Energy	11
	6. Payment Information	11
	G. Adjustment of Charges	
	1. Distribution Losses	11
	2. Transformer Losses	11
	3. Power Factor	11
	H. Conflicts	12
	I. Customer Resales Prohibited	12
V.	Annual Adjustment Factor	13

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

A. The following abbreviations are used:

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

B. The term “Agreement” means an executed “Agreement for the Sale of Expansion and/or Replacement Power and Energy” between the Authority and the Customer (each as defined below).

C. The term “Annual Adjustment Factor” or “AAF” shall have the meaning set forth in Section V herein.

D. The term “Authority” means 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.”

E. The term “Customer” means 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.

F. The term “Electric Service” means the power and energy provided to the Customer in accordance with the Agreement, this Service Tariff and the Rules.

G. The term “Expansion Power and/or Replacement Power” means 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).

H. The term “Firm Power” means 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.

I. The term “Firm Energy” means energy (kWh) associated with Firm Power.

J. The term “Load Serving Entity” or “LSE” shall have the meaning set forth in the Agreement.

K. The term “Project” means the Authority’s Niagara Power Project, FERC Project No. 2216.

L. The term “Rate Year” or “RY” means the period from July 1 through June 30 starting July 1, 2013, and for any year thereafter.

M. The term “Rules” means the Authority’s rules and regulations set forth in 21 NYCRR § 450 *et seq*., as they may be amended from time to time.

N. The term “Service Tariff” means this Service Tariff No. WNY-1.

O. The term “Target Rate” 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. 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.

F. 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.

G. 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.

H. 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 – Unless separately metered, the billing demand charged by the Authority to each Customer will be the highest 15-minute integrated demand during each billing period recorded on the Customer's meter multiplied by a percentage based on load factor sharing, as applicable.

3. Billing Energy – Unless separately metered, 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 load factor sharing, as applicable.

F. Payment by Customer to Authority

1. Demand and Energy Charges, Taxes

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. Transmission Charge

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. NYISO Transmission and Related Charges (“NYISO Charges”)

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.

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. Adjustment of Charges

1. Distribution Losses

The Authority will make appropriate adjustments to compensate for distribution losses of the local electric utility.

2. Transformer Losses

If delivery is made at transmission voltage but metered on the low-voltage side of the Customer's substation, the meter readings will be increased two percent to compensate for transformer losses.

3. Power Factor

Power factor is the ratio of real power (kW) to apparent power (kVa) for any given load and time. The Authority may require the Customer to maintain a power factor of not less than 90%, lagging or leading, at the point of delivery, or as may otherwise be imposed upon the Authority by the local electric utility providing delivery and/or NYISO.

H. 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.

I. 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	Energy
	$/kW-mo.	$/MWh
Current Rate Year Base Rate	7.56	12.91
New Rate Year Base Rate	7.68	13.12

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
Nulife Glass NY 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 Nulife Glass NY Inc. ("Customer"), with offices at 3213 Middle Road, Dunkirk, New York 14048. 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, PAL § 1005(11) provides that the Authority is authorized to "[t]o exercise all the powers necessary or convenient to carry out and effectuate the purposes and provisions of … title [1 of article 5 of the PAL] … and as incidental thereto to . . . sell … electric power, and generally to do any and every thing necessary or convenient to carry out the purposes of … title [1 of article 5 of the PAL] …";

WHEREAS, the Customer applied to the Authority for an allocation of EP to support operations at the Facility;

WHEREAS, on March 27, 2012 the Authority's Board of Trustees ("Trustees") approved a 500 kilowatt ("kW") allocation of EP to the Customer for a seven (7) year term in connection with the construction and operation of the Facility (defined in Section I of this Agreement as the "Allocation") as further described in this Agreement;

WHEREAS, on March 27, 2012, 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 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 further described in 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)** is 445 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 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-1and 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 and/or Replacement Power Commitments

A. Schedule B sets forth the Customer's specific "Expansion 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 and/or the committed improvements thereto which has resulted in such Facility and/or such improvements 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 and/or the committed improvements thereto, provided that the Customer demonstrates that the amount of requested Electric Service is needed to support the operations of the partially completed Facility and/or such improvements.

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 and/or the

committed improvements thereto. The Authority will inspect the Facility for the purpose of verifying the completion status of the Facility and/or such improvements 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 and/or the committed improvements thereto by March 27, 2015, 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 and/or such improvements, 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: MED-BPAC@nypa.gov
Facsimile: (914) 390-8156
Attention: Manager – Business Power Allocations and Compliance

To: The Customer

Nulife Glass NY Inc.
3213 Middle Road
Dunkirk, New York 14048
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:

Nulife Glass NY 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: Nulife Glass NY Inc.

Type of Allocation	Allocation Amount (kW)	Facility	Trustee Approval Date	Expiration Date
EP	500	3213 Middle Road, Dunkirk, New York 14048	March 27, 2012	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 ENERGY 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 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 facilities 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 and continuing through the term of the Allocation, the Customer shall employ at least twenty five (25) full-time employees ("Base Employment Level") at the Customer's Facility. The Base Employment Level shall be maintained for the term of the Allocation.

A "full-time employee" shall mean an individual who works at least thirty-five (35) hours per week at the Facility. For the purpose of calculating the Base Employment Level, an individual working less than thirty-five (35) hours per week shall not be counted as a full-time employee; provided, however, that two individuals each working at least twenty (20) hours per week but less than thirty-five (35) hours per week at the Facility shall be counted as one full-time employee.

The Base Employment Level may not be created or maintained by transfers of employees from previously held positions with the Customer or from any of 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.

CAPITAL INVESTMENT

The Customer shall build the Facility and/or make the committed improvements at the Facility as described in this Appendix, and make a capital investment of at least $3.75 million therefor (the "Capital Investment"). The Capital Investment for the Facility and/or such improvements is expected to consist of the following specific expenditures:

The project includes purchasing and refurbishing a building, as well as installing a glass melting furnace, dust control system, mixing plant, control system, water cooling pumps, air cooling system, X-ray separator and magnets to remove steel from glass. The company will also install a roller crusher, screens, crusher belts and basic handling equipment.

Purchase Site:	$1,000,000
Basic Handling Equipment:	$50,000
Additional Equipment – Crushers, Conveyer Belts, Separators:	$700,000
Additional Equipment – Furnace, Feed System, Cooling System:	$2,000,000
Total Investment:	**$3,750,000**

The Capital Investment shall be made, and the Facility and/or the improvements thereto shall be completed and fully operational, no later than March 27, 2015 (*i.e.*, within three (3) years of the Authority's award of the Allocation). Upon request of the Customer, such date may be extended by the Authority in its sole discretion.

SCHEDULE C TO AGREEMENT FOR THE SALE OF EXPANSION POWER AND ENERGY 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		Leaf No.
I.	Applicability	3
II.	Abbreviations and Terms	3
III.	Monthly Rates and Charges	
	A. New Expansion Power and Replacement Power Base Rates	5
	B. EP and RP Rates no Lower than Rural/Domestic Rate	6
	C. Monthly Base Rates Exclude Delivery Service Charges	6
	D. Minimum Monthly Charge	6
	E. Billing Period	6
	F. Billing Demand	6
	G. Billing Energy	7
	H. Contract Demand	7
IV.	General Provisions	
	A. Character of Service	8
	B. Availability of Energy	8
	C. Delivery	8
	D. Adjustment of Rates	8
	E. Billing Methodology and Billing	9
	F. Payment by Customer to Authority	
	1. Demand and Energy Rates, Taxes	9
	2. Transmission Charge	10
	3. NYISO Transmission and Related Charges	10
	4. Taxes Defined	11
	5. Substitute Energy	11
	6. Payment Information	11
	G. Adjustment of Charges	
	1. Distribution Losses	11
	2. Transformer Losses	11
	3. Power Factor	11
	H. Conflicts	12
	I. Customer Resales Prohibited	12
V.	Annual Adjustment Factor	13

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

A. The following abbreviations are used:

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

B. The term “Agreement” means an executed “Agreement for the Sale of Expansion and/or Replacement Power and Energy” between the Authority and the Customer (each as defined below).

C. The term “Annual Adjustment Factor” or “AAF” shall have the meaning set forth in Section V herein.

D. The term “Authority” means 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.”

E. The term “Customer” means 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.

F. The term “Electric Service” means the power and energy provided to the Customer in accordance with the Agreement, this Service Tariff and the Rules.

G. The term “Expansion Power and/or Replacement Power” means 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).

H. The term “Firm Power” means 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.

I. The term “Firm Energy” means energy (kWh) associated with Firm Power.

J. The term “Load Serving Entity” or “LSE” shall have the meaning set forth in the Agreement.

K. The term “Project” means the Authority’s Niagara Power Project, FERC Project No. 2216.

L. The term “Rate Year” or “RY” means the period from July 1 through June 30 starting July 1, 2013, and for any year thereafter.

M. The term “Rules” means the Authority’s rules and regulations set forth in 21 NYCRR § 450 *et seq*., as they may be amended from time to time.

N. The term “Service Tariff” means this Service Tariff No. WNY-1.

O. The term “Target Rate” 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. 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.

F. 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.

G. 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.

H. 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 – Unless separately metered, the billing demand charged by the Authority to each Customer will be the highest 15-minute integrated demand during each billing period recorded on the Customer's meter multiplied by a percentage based on load factor sharing, as applicable.

3. Billing Energy – Unless separately metered, 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 load factor sharing, as applicable.

F. Payment by Customer to Authority

1. Demand and Energy Charges, Taxes

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. Transmission Charge

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. NYISO Transmission and Related Charges (“NYISO Charges”)

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.

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. Adjustment of Charges

1. Distribution Losses

The Authority will make appropriate adjustments to compensate for distribution losses of the local electric utility.

2. Transformer Losses

If delivery is made at transmission voltage but metered on the low-voltage side of the Customer's substation, the meter readings will be increased two percent to compensate for transformer losses.

3. Power Factor

Power factor is the ratio of real power (kW) to apparent power (kVa) for any given load and time. The Authority may require the Customer to maintain a power factor of not less than 90%, lagging or leading, at the point of delivery, or as may otherwise be imposed upon the Authority by the local electric utility providing delivery and/or NYISO.

H. 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.

I. 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	Energy
	$/kW-mo.	$/MWh
Current Rate Year Base Rate	7.56	12.91
New Rate Year Base Rate	7.68	13.12

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
Welded Tube USA, 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 Welded Tube USA, Inc. ("Customer"), with offices at Tecumseh Business Park/Lackawanna Site Parcel 3, Route 5 & Ridge Road, Lackawanna, New York 14218. 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, PAL § 1005(11) provides that the Authority is authorized to "[t]o exercise all the powers necessary or convenient to carry out and effectuate the purposes and provisions of … title [1 of article 5 of the PAL] … and as incidental thereto to . . . sell … electric power, and generally to do any and every thing necessary or convenient to carry out the purposes of … title [1 of article 5 of the PAL] …";

WHEREAS, the Customer applied to the Authority for an allocation of EP to support operations at the Facility;

WHEREAS, on June 26, 2012 the Authority's Board of Trustees ("Trustees") approved a 4,000 kilowatt ("kW") allocation of EP to the Customer for a seven (7) year term in connection with the construction and operation of the Facility (defined in Section I of this Agreement as the "Allocation") as further described in this Agreement;

WHEREAS, on June 26, 2012, 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 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 further described in 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)** is 445 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 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-1and 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 and/or Replacement Power Commitments

A. Schedule B sets forth the Customer's specific "Expansion 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 and/or the committed improvements thereto which has resulted in such Facility and/or such improvements 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 and/or the committed improvements thereto, provided that the Customer demonstrates that the amount of requested Electric Service is needed to support the operations of the partially completed Facility and/or such improvements.

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 and/or the

committed improvements thereto. The Authority will inspect the Facility for the purpose of verifying the completion status of the Facility and/or such improvements 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 and/or the committed improvements thereto by June 26, 2015, 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 and/or such improvements, 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: MED-BPAC@nypa.gov
Facsimile: (914) 390-8156
Attention: Manager – Business Power Allocations and Compliance

To: The Customer

Welded Tube USA, Inc.
111 Rayette Road
Ontario, Canada L4K 2E9
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:

Welded Tube USA, 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: Welded Tube USA, Inc.

Type of Allocation	Allocation Amount (kW)	Facility	Trustee Approval Date	Expiration Date
EP	4,000	Tecumseh Business Park/Lackawanna Site Parcel 3, Route 5 & Ridge Road, Lackawanna, New York 14218	June 26, 2012	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 ENERGY 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 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 facilities 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 and continuing through the term of the Allocation, the Customer shall employ at least one hundred and twenty one (121) full-time employees ("Base Employment Level") at the Customer's Facility. The Base Employment Level shall be maintained for the term of the Allocation.

A "full-time employee" shall mean an individual who works at least thirty-five (35) hours per week at the Facility. For the purpose of calculating the Base Employment Level, an individual working less than thirty-five (35) hours per week shall not be counted as a full-time employee; provided, however, that two individuals each working at least twenty (20) hours per week but less than thirty-five (35) hours per week at the Facility shall be counted as one full-time employee.

The Base Employment Level may not be created or maintained by transfers of employees from previously held positions with the Customer or from any of 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.

CAPITAL INVESTMENT

The Customer shall build the Facility and/or make the committed improvements at the Facility as described in this Appendix, and make a capital investment of at least $48.25 million therefor (the "Capital Investment"). The Capital Investment for the Facility and/or such improvements is expected to consist of the following specific expenditures:

Construct a new high speed steel tube production facility.

New Building Construction, land acquisition and site improvements:	$14,200,000
Purchase of machinery and equipment:	$27,550,000
Building expansion (30,000 sq. ft.):	$2,300,000
Purchase hydrotester:	$2,100,000
Construct new building (30,000 sq. ft.):	$2,100,000
Total investment:	**$48,250,000**

The Capital Investment shall be made, and the Facility and/or the improvements thereto shall be completed and fully operational, no later than June 26, 2015 (*i.e.*, within three (3) years of the Authority's award of the Allocation). Upon request of the Customer, such date may be extended by the Authority in its sole discretion.

SCHEDULE C TO AGREEMENT FOR THE SALE OF EXPANSION POWER AND ENERGY 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		Leaf No.
I.	Applicability	3
II.	Abbreviations and Terms	3
III.	Monthly Rates and Charges	
	A. New Expansion Power and Replacement Power Base Rates	5
	B. EP and RP Rates no Lower than Rural/Domestic Rate	6
	C. Monthly Base Rates Exclude Delivery Service Charges	6
	D. Minimum Monthly Charge	6
	E. Billing Period	6
	F. Billing Demand	6
	G. Billing Energy	7
	H. Contract Demand	7
IV.	General Provisions	
	A. Character of Service	8
	B. Availability of Energy	8
	C. Delivery	8
	D. Adjustment of Rates	8
	E. Billing Methodology and Billing	9
	F. Payment by Customer to Authority	
	1. Demand and Energy Rates, Taxes	9
	2. Transmission Charge	10
	3. NYISO Transmission and Related Charges	10
	4. Taxes Defined	11
	5. Substitute Energy	11
	6. Payment Information	11
	G. Adjustment of Charges	
	1. Distribution Losses	11
	2. Transformer Losses	11
	3. Power Factor	11
	H. Conflicts	12
	I. Customer Resales Prohibited	12
V.	Annual Adjustment Factor	13

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

A. The following abbreviations are used:

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

B. The term “Agreement” means an executed “Agreement for the Sale of Expansion and/or Replacement Power and Energy” between the Authority and the Customer (each as defined below).

C. The term “Annual Adjustment Factor” or “AAF” shall have the meaning set forth in Section V herein.

D. The term “Authority” means 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.”

E. The term “Customer” means 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.

F. The term “Electric Service” means the power and energy provided to the Customer in accordance with the Agreement, this Service Tariff and the Rules.

G. The term “Expansion Power and/or Replacement Power” means 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).

H. The term “Firm Power” means 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.

I. The term “Firm Energy” means energy (kWh) associated with Firm Power.

J. The term “Load Serving Entity” or “LSE” shall have the meaning set forth in the Agreement.

K. The term “Project” means the Authority’s Niagara Power Project, FERC Project No. 2216.

L. The term “Rate Year” or “RY” means the period from July 1 through June 30 starting July 1, 2013, and for any year thereafter.

M. The term “Rules” means the Authority’s rules and regulations set forth in 21 NYCRR § 450 *et seq*., as they may be amended from time to time.

N. The term “Service Tariff” means this Service Tariff No. WNY-1.

O. The term “Target Rate” 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. 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.

F. 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.

G. 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.

H. 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 – Unless separately metered, the billing demand charged by the Authority to each Customer will be the highest 15-minute integrated demand during each billing period recorded on the Customer's meter multiplied by a percentage based on load factor sharing, as applicable.

3. Billing Energy – Unless separately metered, 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 load factor sharing, as applicable.

F. Payment by Customer to Authority

1. Demand and Energy Charges, Taxes

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. Transmission Charge

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. NYISO Transmission and Related Charges (“NYISO Charges”)

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.

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. Adjustment of Charges

1. Distribution Losses

The Authority will make appropriate adjustments to compensate for distribution losses of the local electric utility.

2. Transformer Losses

If delivery is made at transmission voltage but metered on the low-voltage side of the Customer's substation, the meter readings will be increased two percent to compensate for transformer losses.

3. Power Factor

Power factor is the ratio of real power (kW) to apparent power (kVa) for any given load and time. The Authority may require the Customer to maintain a power factor of not less than 90%, lagging or leading, at the point of delivery, or as may otherwise be imposed upon the Authority by the local electric utility providing delivery and/or NYISO.

H. 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.

I. 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	Energy
	$/kW-mo.	$/MWh
Current Rate Year Base Rate	7.56	12.91
New Rate Year Base Rate	7.68	13.12

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 YAHOO! 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 Energy ("Agreement") with YAHOO! INC. ("Customer"), with offices at 701 First Avenue, Sunnyvale, California 94089. 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, Federal Energy Regulatory Commission ("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, PAL § 1005(11) provides that the Authority is authorized to "[t]o exercise all the powers necessary or convenient to carry out and effectuate the purposes and provisions of … title [1 of article 5 of the PAL] … and as incidental thereto to . . . sell … electric power, and generally to do any and every thing necessary or convenient to carry out the purposes of … title [1 of article 5 of the PAL] …";

WHEREAS, the Customer currently operates a data center in Lockport, New York, the operation of which is supported by an allocation of EP in the amount of 15,000 kilowatts ("kW") awarded by the Authority on May 19, 2009 (the "Existing Data Center");

WHEREAS, the 15,000 kW allocation is the subject of a contract between the Parties entered into in December 2010 (the "2010 Contract");

WHEREAS, the Customer applied to the Authority for an additional allocation of EP to support the operations of (1) a supplemental data center to be constructed adjacent to the Existing Data Center (the "Supplemental Data Center") in Lockport, New York, and (2) a contact center to be operated at a location yet to be determined within 30 miles of the Authority's Niagara Power Project (the "Contact Center") (collectively defined in Section I of this Agreement as the "Facilities");

WHEREAS, on March 21, 2013, the Authority's Board of Trustees ("Trustees") approved a 7,200 kW allocation of EP to the Customer for a seven (7) year term in connection with the construction and operation of the Facilities (defined in Section I of this Agreement as the "Allocation") as further described in this Agreement;

WHEREAS, on March 21, 2013, 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;

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 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 7,200 kW of EP awarded to the Customer for a term of seven (7) years 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. **Facilities** means the Customer's (1) Supplemental Data Center and (2) Contact Center, as further described in 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)** is 445 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-1and 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 Facilities 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. The Authority will use reasonable efforts to provide at least thirty (30) days prior written notice to the Customer of any such modification unless such notice is inconsistent with 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 and/or Replacement Power Commitments

A. Schedule B sets forth the Customer's specific "Expansion 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 Facilities which has resulted in such Facilities 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 Facilities, provided that the Customer demonstrates that the amount of requested Electric Service is needed to support the operations of the partially completed Facilities.

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 Facilities. The Authority will inspect the Facilities for the purpose of verifying the completion status of the Facilities 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 Facilities by March 21, 2016 (*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 Facilities, 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.

E. Nothing in this Agreement shall prevent the Customer from procuring energy from a supplier other than the Authority in the event that the delivery of Firm Power and Firm Energy to which the Customer is entitled is curtailed pursuant to Section VIII.A of this Agreement, or from generating its own power and energy for use at the Facilities under any circumstances.

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. The Authority will use reasonable efforts to notify Customer of any proceeding before any regulatory or judicial body of competent jurisdiction that the Authority has knowledge of and that could result in the cancellation or modification of Electric Service under this Agreement. The Authority shall also provide at least thirty (30) days prior written notice to the Customer of such modification or cancellation unless such notice is inconsistent with such ruling, order or decision, or Service Tariff No. WNY-1 or the Rules provide for a shorter notice.

X. 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

Yahoo! Inc.
701 First Avenue
Sunnyvale, CA 94089
Email: _____
Facsimile: _____
Attention: _____

With copy to:

Yahoo! Inc.
701 First Avenue
Sunnyvale, CA 94089
Email: _____
Facsimile: _____
Attention:_____

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.

XI. 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).

XII. 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.

XIII. Successors and Assigns; Resale of Hydropower

A. This Agreement shall be binding upon, shall inure to the benefit of, and may be performed by, the legal successors and assigns of either Party hereto; provided, however, that the Customer may not assign or otherwise transfer an interest in this Agreement without written approval by the Authority whose approval shall not be unreasonably withheld.

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

XIV. 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. 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.

XV. 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.

XVI. 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.

XVII. Confidentiality

A. The Parties recognize that information the Customer furnishes to the Authority in connection with this Agreement may comprise (1) a record which in whole or in part constitutes a trade secret, (2) information which if disclosed would cause substantial injury to the competitive position of the Customer, or (3) information that is otherwise exempted from disclosure pursuant to New York's Freedom of Information Law, New

York Public Officers Law, Article 6 ("FOIL"), as determined by the Authority ("Confidential Information").

B. The Authority agrees not to disclose Confidential Information to a third-party without the advance written consent of the Customer except to the extent disclosure is required: (1) pursuant to a court order; (2) pursuant to an order of a regulatory body having jurisdiction over the matter; or (3) pursuant to a law or regulation requiring such disclosure.

C. Except as otherwise prohibited by law, in the event of a request to the Authority for Confidential Information by as third party, the Authority shall: (1) timely notify the Customer of the request; (2) keep the Customer informed of the status of its processing of the request; and (3) afford the Customer the rights and remedies otherwise available to a third party whose Confidential Information is in the Authority's possession, including the rights and remedies available under FOIL and 21 NYCRR Part 453.

D. The Authority shall not object to a Customer seeking protection from a court of competent jurisdiction to protect information from disclosure to a third party the Customer contends is Confidential Information.

E. Nothing in this Article shall be construed as a waiver by the Authority of its obligations under FOIL to make a determination regarding disclosure, determine an appeal under FOIL, or make any other determination required pursuant to FOIL.

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.

XIX. Federal Contractor Status

The Customer represents that it is an equal employment opportunity employer and is a federal contractor. Neither this representation nor the Customer's represented status as an equal opportunity employer or a federal contractor is intended to impose, and shall not be construed to impose, any obligations on the Authority beyond the specific obligations provided for under this Agreement.

XX. Use of Name, Trademarks and Service Marks

The Authority shall not use the Customer's name, trademarks, or service marks for the purpose of promoting any commercial services the Authority offers or proposes to offer without the Customer's prior written consent. For avoidance of doubt, the forgoing provision shall not preclude or otherwise limit the Authority from using the Customer's name, trademarks, or service marks or other descriptions of the Customer in: (a) any report, document, disclosure or other communication (collectively, "communication") made pursuant to any law, rule, regulation, request made pursuant to litigation or other legal process; or (b) any communication intended to inform any government official, any government agency or the public (individually or generally) of the Authority's activities.

[SIGNATURES FOLLOW ON NEXT PAGE]

AGREED:

YAHOO! 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 YAHOO! INC.

EXPANSION POWER AND/OR REPLACEMENT POWER ALLOCATIONS

Customer: Yahoo! Inc.

Type of Allocation	Allocation Amount (kW)	Facility	Trustee Approval Date	Expiration Date
1. Expansion Power	7,200*	1. Supplemental Data Center, Lockport, NY 2. Contact Center (within thirty (30) miles of the Niagara Power Project; precise location to be determined)	March 21, 2013	Seven (7) years from commencement of Electric Service of any portion of this Allocation.

*The Allocation applies to both listed Facilities collectively.

SCHEDULE B TO AGREEMENT FOR THE SALE OF EXPANSION POWER AND ENERGY TO YAHOO! INC.

EXPANSION POWER AND/OR REPLACEMENT POWER COMMITMENTS

I. Employment Commitments

A. Employment Levels

The Customer agrees to create and maintain the employment levels (the "Base Employment Level") set forth in the Appendix to this Schedule B.

B. Employment Records and Reports

Records shall be kept monthly by the Customer, and provided on a calendar year basis to the Authority, of the total number of employees at the (1) Supplemental Data Center and (2) Contact Center, 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 records 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. In addition, 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 at the (1) Supplemental Data Center and (2) Contact Center is less than 90% of the Base Employment Level set forth in this Schedule B for the subject calendar year, the Contract Demand may be reduced by Authority subject to Paragraph II.C of this Schedule B. 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, this 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 Facilities receiving the power covered by this Agreement. If the average of the Customer's six (6) highest billing demands for expansion power is less than 90% of the Customer's Contract Demand in such calendar year, the Authority may reduce the Contract Demand. 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 expansion power 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. Notice of Intent to Reduce Contract Demand

In the event that the Authority determines that the Contract Demand will be wholly or partially reduced as provided above, at least ninety (90) days prior written notice of such reduction shall be given to the Customer, specifying the amount of the reduction of the Contract Demand and the reason therefore provided, however, that before making the reduction, the Authority may consider the Customer's scheduled or unscheduled maintenance or facilities upgrading periods when such events temporarily reduce plant employment levels or electrical demand as well as business cycle.

III. 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 Supplemental Data Center and Contact Center, 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.

IV. Energy Efficiency Audits; Information Requests

Unless otherwise agreed to by the Authority in writing, the Customer shall undergo an energy efficiency audit of its Facilities 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 Facilities.

The Customer agrees to cooperate to make its Facilities 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

Beginning no later than January 1, 2017, and continuing through the term of the Allocation, the Customer shall employ: (1) at least fifteen (15) full-time employees at the Supplemental Data Center; and (2) at least one hundred (100) full-time employees at the Contact Center. (Collectively, these one hundred fifteen (115) employees shall constitute the "Base Employment Level"). The Base Employment Level shall be maintained for the term of the Allocation.

A "full-time employee" shall mean an individual who works at least thirty-five (35) hours per week at the Facilities. For the purpose of calculating the Base Employment Level, an individual working less than thirty-five (35) hours per week shall not be counted as a full-time employee; provided, however, that two individuals each working at least twenty (20) hours per week but less than thirty-five (35) hours per week at the Facilities shall be counted as one full-time employee.

The Base Employment Level may not be created or maintained by transfers of employees from previously held positions with the Customer or from any of 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. In addition, the Base Employment Level may not be created or maintained with any of the same employees used to satisfy the Customer's "Base Employment Level" under the 2010 Contract, including the component of such "Base Employment Level" applicable to "Other NYS Facilities" as provided for in the 2010 Contract.

CAPITAL INVESTMENT

The Customer shall build the Facilities as defined in Section I of the Agreement, specifically (1) a Supplemental Data Center in Lockport, New York, and (2) a Contact Center to be operated at a location yet to be determined but within 30 miles of the Authority's Niagara Power Project.

The Customer will make a capital investment of at least $170.0 million for the Facilities (the "Capital Investment"). The Capital Investment for the Facilities is expected to consist of the following specific expenditures:

Supplemental Data Center

Components	Amount
A. Basic Construction:	$53 million
B. Data Center "Fit Out":	$8 million

C. Initial Server, Network And Storage Equipment: $100 million

D. Furniture, Fixtures and Admin Equipment: $2.7 million

Contact Center

Complete Project	**Amount**
	$6.3 million

Total Capital Investment: $170.0 million

The Capital Investment shall be made and the Facilities shall be completed and fully operational no later than March 21, 2016 (*i.e.*, within three (3) years of the Authority's award of the Allocation). Upon request of the Customer, such date may be extended by the Authority in its sole discretion.

SCHEDULE C TO AGREEMENT FOR THE SALE OF EXPANSION POWER AND ENERGY TO YAHOO! INC.

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		Leaf No.
I.	Applicability	3
II.	Abbreviations and Terms	3
III.	Monthly Rates and Charges	
	A. New Expansion Power and Replacement Power Base Rates	5
	B. EP and RP Rates no Lower than Rural/Domestic Rate	6
	C. Monthly Base Rates Exclude Delivery Service Charges	6
	D. Minimum Monthly Charge	6
	E. Billing Period	6
	F. Billing Demand	6
	G. Billing Energy	7
	H. Contract Demand	7
IV.	General Provisions	
	A. Character of Service	8
	B. Availability of Energy	8
	C. Delivery	8
	D. Adjustment of Rates	8
	E. Billing Methodology and Billing	9
	F. Payment by Customer to Authority	
	1. Demand and Energy Rates, Taxes	9
	2. Transmission Charge	10
	3. NYISO Transmission and Related Charges	10
	4. Taxes Defined	11
	5. Substitute Energy	11
	6. Payment Information	11
	G. Adjustment of Charges	
	1. Distribution Losses	11
	2. Transformer Losses	11
	3. Power Factor	11
	H. Conflicts	12
	I. Customer Resales Prohibited	12
V.	Annual Adjustment Factor	13

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

A. The following abbreviations are used:

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

B. The term “Agreement” means an executed “Agreement for the Sale of Expansion and/or Replacement Power and Energy” between the Authority and the Customer (each as defined below).

C. The term “Annual Adjustment Factor” or “AAF” shall have the meaning set forth in Section V herein.

D. The term “Authority” means 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.”

E. The term “Customer” means 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.

F. The term “Electric Service” means the power and energy provided to the Customer in accordance with the Agreement, this Service Tariff and the Rules.

G. The term “Expansion Power and/or Replacement Power” means 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).

H. The term “Firm Power” means 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.

I. The term “Firm Energy” means energy (kWh) associated with Firm Power.

J. The term “Load Serving Entity” or “LSE” shall have the meaning set forth in the Agreement.

K. The term “Project” means the Authority’s Niagara Power Project, FERC Project No. 2216.

L. The term “Rate Year” or “RY” means the period from July 1 through June 30 starting July 1, 2013, and for any year thereafter.

M. The term “Rules” means the Authority’s rules and regulations set forth in 21 NYCRR § 450 *et seq*., as they may be amended from time to time.

N. The term “Service Tariff” means this Service Tariff No. WNY-1.

O. The term “Target Rate” 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. 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.

F. 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.

G. 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.

H. 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 – Unless separately metered, the billing demand charged by the Authority to each Customer will be the highest 15-minute integrated demand during each billing period recorded on the Customer's meter multiplied by a percentage based on load factor sharing, as applicable.

3. Billing Energy – Unless separately metered, 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 load factor sharing, as applicable.

F. Payment by Customer to Authority

1. Demand and Energy Charges, Taxes

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. Transmission Charge

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. NYISO Transmission and Related Charges (“NYISO Charges”)

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.

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. Adjustment of Charges

1. Distribution Losses

The Authority will make appropriate adjustments to compensate for distribution losses of the local electric utility.

2. Transformer Losses

If delivery is made at transmission voltage but metered on the low-voltage side of the Customer's substation, the meter readings will be increased two percent to compensate for transformer losses.

3. Power Factor

Power factor is the ratio of real power (kW) to apparent power (kVa) for any given load and time. The Authority may require the Customer to maintain a power factor of not less than 90%, lagging or leading, at the point of delivery, or as may otherwise be imposed upon the Authority by the local electric utility providing delivery and/or NYISO.

H. 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.

I. 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	Energy
	$/kW-mo.	$/MWh
Current Rate Year Base Rate	7.56	12.91
New Rate Year Base Rate	7.68	13.12

NYS Power Authority

Hearing

June 20, 2013

Original File 062013dcd.TXT

Min-U-Script® with Word Index

New York State Power Authority

Thursday, June 20, 2013

2:30 p.m. - 6:30 p.m.

Niagara Power Project Visitors' Center

5777 Lewiston Road

Lewiston, New York 14092

Debra Doron, RPR, Notary Public

SPEAKERS PAGE

MS. DELINCE.....3
MR. PASQUALE.....6
MS. DELINCE.....12

MS. DELINCE: Good afternoon. This is a public hearing required by law and authorized by the New York Power Authority Board of Trustees on the proposed direct sale contracts for the sale of Western New York hydropower to certain Expansion Power and Replacement Power customers.

My name is Karen Delince and I'm the Corporate Secretary of the New York Power Authority.

As required by hearing procedures set forth in the New York State Public Authorities Law, Section 1009, a notice of the hearing was published in six newspapers once a week for the four weeks leading up to this hearing.

The notice of this hearing appeared in the following newspapers:

1. Niagara Gazette
2. Buffalo News
3. Buffalo Business First
4. Lewiston Porter Sentinel
5. Albany Times Union
6. Dunkirk Observer.

Also, pursuant to the Public Authorities Law, notice of this hearing and a copy of the proposed contract were sent to Governor Andrew Cuomo and the following legislative leaders:

1. President Pro Temp of the New York State Senate
2. Speaker of the Assembly
3. Chairman of the Senate Finance Committee
4. Chairman of the Assembly Ways and Means Committee
5. Senate Minority Leader
6. Assembly Minority Leader.

During the 30-day period prior to today's hearing, a copy of the proposed contract was made available for inspection at the Authority's White Plains office, as well as on the Authority's website.

If you plan to make an oral statement at this hearing, I ask that you please see Lorna Johnson at the sign-in table and fill out a card. Also, if you have written statements, please give a copy to Ms. Johnson and one to the reporter.

Your written statement may be of any length and will appear in the record of the hearing in addition

to your oral statement. The record of the hearing will remain open for additional comments or statements through close of business Friday, June 21.

Any additional submissions should be mailed to the Authority's Corporate Secretary at:
123 Main Street, 11-P.
White Plains, NY 10601;
or
faxed to (914) 390-8040;
or
e-mailed to secretarys.office@nypa.gov.

A complete transcript of the hearing, along with all written submissions, will be submitted to the Authority's Trustees, who shall reconsider the terms of the proposed contract and make changes as they deem necessary or advisable in light of the comments received.

The transcript of this hearing will also be made available to the public for review at the Authority's White Plains office and on the Authority's website (www.nypa.gov).

After the Trustees' final review, the contract will be forwarded to the Governor for his

consideration and approval.

If you have additional questions, please see Ms. Johnson at the sign-in table.

At this point, I would like to introduce Mr. James Pasquale, Senior Vice President of Economic Development and Energy Efficiency at the Authority, who will provide additional details on the proposed direct sale contract.

Thank you. Mr. Pasquale?

MR. PASQUALE: Thank you, Ms. Delince. Good afternoon. My name is James F. Pasquale and I am the Senior Vice President of Economic Development and Energy Efficiency at the New York Power Authority. I am here today to present a summary of the proposed contracts to seven companies for the direct sale of Expansion Power or Replacement Power - hydropower that is generated here at the Authority's Niagara Power Project.

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.

Four of the 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:

* Greenpac Mill was awarded 10,000 kilowatts to build a containerboard mill in Niagara Falls, committing $380 million in capital investment and creating 108 jobs.
* Nulife Glass was awarded 500 kilowatts to build a glass recycling facility in Dunkirk (Chautauqua County), committing $3.75 million in capital investment and creating 25 jobs.
* Welded Tube USA was awarded 4,000 kilowatts to build a tubular pipe facility in Lackawanna, committing $48.25 million in capital spending and creating 121 jobs, and
* Yahoo! was awarded 7,200 kilowatts to create a 100-person call center operation and a second data center in Lockport, committing a total of $170

million in capital spending and creating 115 jobs.

Also, on March 21, 2013, the Authority's Trustees approved extensions to the terms of hydropower allocations held by three companies in return for commitments made to maintain employment and invest in their facilities in Western New York. Specifically:

* 4,600 kilowatts to Ceres Crystal Industries in Buffalo, as an extension of their current contract for the retention of 50 jobs and an annual capital investment of $200,000 over a term of five years.
* 250 kilowatts to Delaco AMTB in Tonawanda as an extension of their current contract for the retention of 16 jobs and an annual capital investment of $485,000 over a term of five years.
* 100 kilowatts to Hammond Manufacturing in Cheektowaga as an extension of their current contract for the retention of 24 jobs and an annual capital investment of $5,000 over a term of five years.

In aggregate, the companies have committed to capital spending of over $605 million in their Western New York facilities while creating or retaining 459 jobs.

Regarding the proposed contracts, since the late 1980s, the Authority's sales of EP and RP have been handled almost exclusively under agreements with the local electric utilities - Niagara Mohawk Power Corporation doing business as National Grid, and New York State Electric and Gas Corporation, also known as NYSEG - both of which facilitated the provision of Authority hydropower to end-use customers on a sale-for-resale basis. These contractual arrangements between the Authority and the utilities expire on June 30, 2013, necessitating new direct sale contracts to facilitate the sale of hydropower to customers beyond that date.

To summarize some of the pertinent provisions of the proposed contracts, first, the contracts provide for the direct billing of all hydropower supply charges, all New York Independent System Operator, Inc. ("NYISO") charges and taxes.

Each contract includes the customer's agreed-upon commitments with respect to employment and capital investment. The contract retains the Authority's right to reduce or terminate customers' allocations 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.

Additionally, to accommodate non-payment 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 bills. These contract provisions are consistent with recent Authority direct sale contracts including the Authority's Recharge New York sales contracts.

The contracts will serve the allocation in accordance with the Authority's Service Tariff WNY-1, which specifies the rates and which is applicable to all EP and RP allocations effective July 1, 2013. The Service Tariff specifies a three-year rate phase-in to a target rate based on the rate of the Authority's

other hydropower program - 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 in the case of Yahoo, NYSEG, in accordance with the utilities' Public Service Commission approved delivery service tariffs.

Lastly, Ceres Crystal, Hammond Manufacturing, and Delaco AMTB, having already been served their allocations under resale contracts, require service to be uninterrupted July 1, 2013. Greenpac's new project is nearing completion and the company has requested service as soon as July 1, 2013. In order to continue or start service July 1st, the Authority is working with these four companies on short-term "interim" agreements whereby the Authority would sell the hydropower until such time as the public hearing process for the long-term contract concludes.

As Ms. Delince stated earlier, the Authority will accept your comments on the proposed contracts until the close of business on Friday, June 21st. I will now turn the Hearing back to Ms. Delince.

MS. DELINCE: Thank you, Mr. Pasquale. We will

now recess temporarily until individuals wishing to make a statement arrive.

(Recess.)

MS. DELINCE: The hearing is now adjourned.

$

$170 (1)
7:23
$200,000 (1)
8:10
$3.75 (1)
7:15
$380 (1)
7:11
$48.25 (1)
7:19
$485,000 (1)
8:14
$5,000 (1)
8:18
$605 (1)
8:21

A

ability (1)
10:11
accept (1)
11:20
accommodate (1)
10:8
accordance (2)
10:19;11:6
addition (1)
4:23
additional (4)
5:2,4;6:2,7
Additionally (1)
10:8
adjourned (1)
12:4
advisable (1)
5:16
afternoon (2)
3:1;6:11
aggregate (1)
8:20
agreed-upon (1)
9:19
agreements (2)
9:3;11:16
Albany (1)
3:21
allocate (1)
6:20
allocated (2)
7:2,3
allocation (2)
10:7,18
allocations (6)
7:6;8:4;9:22;
10:21;11:4,10
almost (1)
9:3
along (1)
5:12
among (1)
11:2
amount (1)
7:1
AMTB (2)
8:11;11:9
Andrew (1)
4:3
annual (5)
8:9,13,17;10:2,4
appear (1)
4:23
appeared (1)
3:14
applicable (1)
10:20
approval (1)
6:1
approved (2)
8:3;11:7
arrangement (1)
10:9
arrangements (1)
9:9
arrive (1)
12:2
Assembly (3)
4:7,9,11
Authorities (3)
3:10;4:1;6:19
Authority (12)
3:3,8;6:6,13,20;
9:8,10;10:6,15;11:14,
16,19
Authority's (16)
4:15,16;5:5,14,19,
20;6:17;7:6;8:2;9:2,
21;10:11,16,19,23;
11:2
authorized (1)
3:2
available (2)
4:15;5:19
average (1)
10:4
awarded (5)
7:5,9,13,17,21

B

back (1)
11:22
based (1)
10:23
basis (2)
9:9;10:7
below (1)
10:4
beyond (1)
9:12
billing (2)
9:16;10:9
bills (1)
10:14
Board (1)
3:3
both (1)
9:7
Buffalo (3)
3:18,19;8:8
build (3)
7:9,13,17
Business (4)
3:19;5:3;9:5;11:21
businesses (3)
6:23;7:2,8

C

call (1)
7:22
capital (10)
7:11,15,19;8:1,9,
13,18,21;9:20,23
card (1)
4:19
case (1)
11:5
center (2)
7:22,23
Ceres (2)
8:7;11:8
certain (1)
3:5
Chairman (2)
4:8,9
changes (1)
5:15
charge (1)
10:12
charges (2)
9:17,18
Chautauqua (3)
7:2,4,14
Cheektowaga (1)
8:16
close (2)
5:3;11:21
comments (3)
5:2,16;11:20
commercially (1)
10:10
Commission (1)
11:7
commitment (1)
10:6
commitments (4)
7:7;8:5;9:20;10:1
committed (1)
8:20
Committee (2)
4:8,9
committing (4)
7:10,15,18,23
companies (5)
6:15;7:5;8:4,20;
11:15
company (1)
11:12
company's (1)
10:4
complete (1)
5:12
completion (1)
11:12
compliance (2)
10:3,5
concerning (1)
10:11
concludes (1)
11:18
consideration (1)
6:1
consistency (1)
11:2
consistent (1)
10:15
containerboard (1)
7:10
continue (2)
7:3;11:13
contract (13)
4:3,14;5:15,22;6:8;
8:8,12,17;9:19,21;
10:10,14;11:18
contracts (12)
3:4;6:15;9:1,11,15,
15;10:2,15,17,18;
11:10,20
contractual (1)
9:9
copy (3)
4:2,14,20
Corporate (2)
3:7;5:5
Corporation (2)
9:5,6
County (3)
7:2,4,15
create (2)
7:7,21
creating (5)
7:11,16,19;8:1,22
Crystal (2)
8:7;11:8
Cuomo (1)
4:3
current (3)
8:8,12,16
customer (1)
10:13
customers (3)
3:6;9:8,12
customer's (1)
9:19
customers' (1)
9:22

D

data (1)
7:22
date (1)
9:13
deem (1)
5:15
Delaco (2)
8:11;11:9
DELINCE (7)
3:1,7;6:10;11:19,
22,23;12:4
delivery (2)
11:3,7
deposits (1)
10:12
details (1)
6:7
Development (2)
6:6,12
direct (7)
3:4;6:8,15;9:11,16;
10:9,15
directly (1)
6:21
Dunkirk (2)
3:22;7:14
During (1)
4:13

E

earlier (1)
11:19
Economic (2)
6:5,12
effective (1)
10:21
Efficiency (2)
6:6,13
electric (2)
9:4,6
e-mailed (1)
5:11
employment (5)
8:5;9:20,23;10:4,5
end-use (1)
9:8
Energy (2)
6:6,13
ensure (1)
11:2
EP (4)
6:22;7:2;9:2;10:21
event (1)
10:13
example (1)
10:1
exclusively (1)
9:3
expand (1)

7:7
Expansion (3) 3:5;6:16,21
expire (1) 9:10
extension (3) 8:8,12,16
extensions (1) 8:3

F

facilitate (1) 9:12
facilitated (1) 9:7
facilities (2) 8:6,22
facility (2) 7:14,18
failure (1) 10:13
fall (1) 10:4
Falls (1) 7:10
faxed (1) 5:9
fees (1) 10:12
fill (1) 4:19
final (1) 5:22
Finance (1) 4:8
First (2) 3:19;9:15
five (3) 8:10,14,18
following (2) 3:15;4:4
forth (1) 3:9
forwarded (1) 5:23
four (3) 3:12;7:5;11:15
Friday (2) 5:3;11:21

G

Gas (1) 9:6
Gazette (1) 3:17
generated (1) 6:17
Glass (2) 7:13,14
Good (2) 3:1;6:10
Governor (2) 4:3;5:23
Greenpac (1) 7:9
Greenpac's (1) 11:11
Grid (2) 9:5;11:5

H

Hammond (2) 8:15;11:8
handled (1) 9:3
hearing (15) 3:2,9,11,13,14;4:2, 14,18,23;5:1,12,18; 11:17,22;12:4
held (1) 8:4
hydropower (10) 3:5;6:16;7:6;8:3; 9:8,12,16;11:1,3,17

I

Inc (1) 9:18
include (1) 10:2
includes (2) 9:19;10:10
including (1) 10:16
Independent (1) 9:17
individuals (1) 12:1
Industries (1) 8:7
inspection (1) 4:15
interim (1) 11:15
introduce (1) 6:4
invest (1) 8:5
investment (7) 7:11,16;8:10,14, 18;9:21;10:1

J

James (2) 6:5,11
January (1) 7:3
job (2) 10:2,3
jobs (8) 7:12,16,20;8:1,9, 13,17,23
Johnson (3) 4:18,21;6:3
July (4) 10:21;11:11,13,14
June (3) 5:3;9:10;11:21

K

Karen (1) 3:7
kilowatts (7) 7:9,13,17,21;8:7, 11,15
known (3) 6:22,23;9:6

L

Lackawanna (1) 7:18
Lastly (1) 11:8
late (2) 9:1;10:12
law (4) 3:2,10;4:1;6:19
Leader (2) 4:10,11
leaders (1) 4:4
leading (1) 3:12
legislative (1) 4:4
length (1) 4:22
Lewiston (1) 3:20
light (1) 5:16
local (1) 9:4
located (1) 6:23
Lockport (1) 7:23
long-term (1) 11:18
Lorna (1) 4:18

M

mailed (1) 5:4
Main (1) 5:6
maintain (1) 8:5
Manufacturing (2) 8:15;11:8
March (1) 8:2
may (2) 4:22;6:20
Means (1) 4:9
met (1) 10:1
miles (1) 6:23
Mill (2) 7:9,10
million (5) 7:11,15,19;8:1,21
Minority (2) 4:10,11
Mohawk (1) 9:4
monthly (1) 10:14
MW (2) 6:21,22

N

name (2) 3:7;6:11
National (2) 9:5;11:5
nearing (1) 11:12
necessary (1) 5:16
necessitating (1) 9:11
New (14) 3:2,4,8,10;4:6; 6:13;7:8;8:6,22;9:5, 11,17;10:16;11:11
News (1) 3:18
newspapers (2) 3:12,15
Niagara (5) 3:17;6:17;7:1,10; 9:4
non-payment (1) 10:8
notice (3) 3:11,14;4:2
Nulife (1) 7:13
NY (1) 5:7
NYISO (1) 9:18
NYSEG (2) 9:7;11:5

O

Observer (1) 3:22
office (2) 4:16;5:20
once (1) 3:12
one (1) 4:21
open (1) 5:2
operation (1) 7:22
Operator (1) 9:17
oral (2) 4:17;5:1
order (1) 11:13
out (1) 4:19
over (4) 8:10,14,18,21

P

Pasquale (5) 6:5,9,10,11;11:23
payment (2) 10:12,13
percent (2) 10:3,5
period (1) 4:13
pertinent (1) 9:14
phase-in (1) 10:22
pipe (1) 7:18
Plains (3) 4:16;5:7,20
plan (1) 4:17
please (3) 4:18,20;6:2
point (1) 6:4
Porter (1) 3:20
Power (14) 3:3,5,6,8;6:13,16, 16,17,22,22;7:1;9:4, 23;11:1
present (1) 6:14
Preservation (1) 11:1
President (3) 4:6;6:5,12
prior (1) 4:13
Pro (2) 4:6;10:7
procedures (1) 3:9

process (1)
11:18
program (1)
11:1
programs (1)
11:3
Project (3)
6:18;7:1;11:11
proposed (9)
3:3;4:2,14;5:15;
6:7,14;9:1,15;11:20
provide (2)
6:7;9:15
provided (2)
7:1;11:4
provision (1)
9:7
provisions (3)
9:14;10:11,14
public (7)
3:1,10;4:1;5:19;
6:19;11:6,17
published (1)
3:11
pursuant (1)
4:1

R

rata (1)
10:7
rate (3)
10:22,23,23
rates (1)
10:20
reasonable (1)
10:10
received (1)
5:17
recent (1)
10:15
recess (2)
12:1,3
Recharge (1)
10:16
reconsider (1)
5:14
record (2)
4:23;5:1
recycling (1)
7:14
reduce (2)
9:22;10:6
Regarding (1)
9:1
remain (1)
5:2
Replacement (3)
3:5;6:16,22
reporter (1)
4:21
reporting (1)
10:2
requested (1)
11:12
require (2)
10:12;11:10
required (2)
3:2,9
requirement (1)
10:2
resale (1)
11:10
respect (1)
9:20
result (1)
10:9
retaining (1)
8:22
retains (1)
9:21
retention (3)
8:9,13,17
return (2)
7:7;8:4
review (2)
5:19,22
right (2)
9:22;10:6
risk (1)
10:8
RP (3)
6:23;9:2;10:21

S

sale (7)
3:4,4;6:8,15;9:11,
12;10:15
sale-for-resale (2)
6:21;9:9
sales (2)
9:2;10:16
second (1)
7:22
Secretary (2)
3:8;5:5
secretarysoffice@nypagov (1)
5:11
Section (2)
3:10;6:19
sell (2)
6:20;11:16
Senate (3)
4:6,8,10
Senior (2)
6:5,12
sent (1)
4:3
Sentinel (1)
3:20
serve (1)
10:18
served (1)
11:9
Service (8)
10:19,22;11:4,6,7,
10,13,14
set (1)
3:9
seven (1)
6:15
shall (2)
5:14;7:3
short-term (1)
11:15
sign-in (2)
4:19;6:3
six (1)
3:11
soon (1)
11:13
Speaker (1)
4:7
Specifically (2)
7:8;8:6
specifies (2)
10:20,22
spending (3)
7:19;8:1,21
start (1)
11:14
State (3)
3:10;4:6;9:6
stated (1)
11:19
statement (4)
4:17,22;5:1;12:2
statements (2)
4:20;5:2
Street (1)
5:6
submissions (2)
5:4,13
submitted (1)
5:13
Subsection (1)
6:20
summarize (1)
9:14
summary (1)
6:14
supply (1)
9:16
System (1)
9:17

T

table (2)
4:19;6:3
target (1)
10:23
Tariff (2)
10:19,22
tariffs (1)
11:7
taxes (1)
9:18
Temp (1)
4:6
temporarily (1)
12:1
term (3)
8:10,14,18
terminate (1)
9:22
terms (2)
5:14;8:3
three (2)
8:4;11:3
three-year (1)
10:22
threshold (2)
10:3,5
Times (1)
3:21
today (1)
6:14
today's (1)
4:13
Tonawanda (1)
8:11
total (1)
7:23
transcript (2)
5:12,18
Transmission (1)
11:3
Trustees (4)
3:3;5:14;7:6;8:2
Trustees' (1)
5:22
Tube (1)
7:17
tubular (1)
7:18
turn (1)
11:22
two (1)
10:14

U

ultimately (1)
11:2
Under (3)
6:19;9:3;11:10
uninterrupted (1)
11:11
Union (1)
3:21
up (1)
3:12
USA (1)
7:17
utilities (2)
9:4,10
utilities' (1)
11:6
utilization (1)
9:23

V

Vice (2)
6:5,12

W

Ways (1)
4:9
website (2)
4:16;5:20
week (1)
3:12
weeks (1)
3:12
Welded (1)
7:17
Western (4)
3:4;7:8;8:6,21
whereby (1)
11:16
White (3)
4:15;5:7,20
wishing (1)
12:1
within (1)
6:23
WNY-1 (1)
10:19
working (1)
11:14
written (3)
4:20,22;5:13
wwwnypagov (1)
5:21

Y

Yahoo (1)
11:5
Yahoo! (1)
7:21
years (3)
8:10,14,19
York (12)
3:2,4,8,10;4:6;
6:13;7:8;8:6,22;9:6,
17;10:16

1

1 (6)
3:17;4:6;7:3;
10:21;11:11,13
10,000 (1)
7:9
100 (1)
8:15
1005 (1)
6:19
1009 (1)
3:11

100-person (1)
7:22
10601 (1)
5:7
108 (1)
7:11
115 (1)
8:1
11-P (1)
5:6
121 (1)
7:19
123 (1)
5:6
13 (1)
6:20
16 (1)
8:13
1980s (1)
9:2
1987 (1)
7:3
1st (1)
11:14

2

2 (2)
3:18;4:7
2013 (5)
8:2;9:11;10:21;
11:11,13
21 (2)
5:3;8:2
21st (1)
11:21
24 (1)
8:17
25 (1)
7:16
250 (2)
6:21;8:11

3

3 (2)
3:19;4:8
30 (2)
6:23;9:11
30-day (1)
4:13
390-8040 (1)
5:9

4

4 (2)
3:20;4:9
4,000 (1)
7:17
4,600 (1)
8:7
445 (1)
6:22
459 (1)
8:22

5

5 (2)
3:21;4:10
50 (1)
8:9
500 (1)
7:13

6

6 (2)
3:22;4:11

7

7,200 (1)
7:21

9

90 (2)
10:3,5
914 (1)
5:9

New York Power Authority
Expansion and Replacement Power Allocations
Direct Sale Contract and Notice of Public Hearing

July 23, 2013
Exhibit "2b-C"

Number	Company Name	Program	City	County	Trustee Approval Date	Approved Allocation (kW)	Existing Jobs	New Jobs	Total Job Commitment	Expansion Project Capital Investment	Proposed Direct Sale Contract Term
C-1	M&T Bank Corporation	EP	Amherst	Erie	7/26/11	3,000	45	124	169	$51,625,000	5 Years
	Totals					**3,000**		**124**	**169**	**$51,625,000**	

* M&T will move 45 existing data center employees to the new facility and create 124 new jobs at the 191 Park Club Lane site.

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

M&T Bank Corporation

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 M&T Bank Corporation ("Customer"), with offices and/or facilities at 191 Park Club Lane, Amherst, New York 14221. 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 EP to support an expansion/upgrade at the Facility;

WHEREAS, on July 26, 2011 the Authority's Board of Trustees ("Trustees") approved a 3,000 kilowatt ("kW") allocation of EP to the Customer for a five (5) year term in connection with the construction and operation of the Facility (defined in Section I of this Agreement as the "Allocation") as further described in this Agreement;

WHEREAS, on July 26, 2011, 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 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.

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)** is 445 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 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-1and 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 and/or Replacement Power Commitments

A. Schedule B sets forth the Customer's specific "Expansion 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 and/or the committed improvements thereto which has resulted in such Facility and/or such improvements 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 and/or the committed improvements thereto, provided that the Customer demonstrates that the amount of requested Electric Service is needed to support the operations of the partially completed Facility and/or such improvements.

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 and/or the

committed improvements thereto. The Authority will inspect the Facility for the purpose of verifying the completion status of the Facility and/or such improvements 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 and/or the committed improvements thereto by the date(s) specified in the Appendix to Schedule B, 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 and/or such improvements, provided that in such event, and upon request of the Customer, such date(s) 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: MED-BPAC@nypa.gov
Facsimile: (914) 390-8156
Attention: Manager – Business Power Allocations and Compliance

To: The Customer

M&T Bank Corporation
191 Park Club Lane
Amherst, New York 14221
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:

M&T Bank Corporation

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: M&T Bank Corporation

Type of Allocation	Allocation Amount (kW)	Facility	Trustee Approval Date	Expiration Date
EP	3,000	191 Park Club Lane, Amherst, New York 14221	July 26, 2011	Five (5) years from commencement of Electric Service of any portion of this Allocation.

SCHEDULE B TO AGREEMENT FOR THE SALE OF EXPANSION POWER AND ENERGY 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 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 facilities 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 and continuing through the term of the Allocation, the Customer shall employ at least one hundred and sixty nine (169) full-time employees ("Base Employment Level") at the Customer's Facility. The Base Employment Level shall be maintained for the term of the Allocation. The Base Employment Level is derived from: (1) a stipulation by the Customer at the time of the award of the Allocation that 45 existing jobs that will be transferred to the Facility; and (2) a commitment by the Customer to create 124 new jobs at the Facility.

CAPITAL INVESTMENT

The Customer shall build the Facility and/or make the committed improvements at the Facility as described in this Appendix, and make a capital investment of at least $51.625 million (the "Capital Investment"). The Capital Investment for the Facility and/or such improvements is expected to consist of the following specific expenditures:

(1)	Infrastructure upgrades (building and power):	$7.1 million
(2)	Cooling equipment/upgrades:	$4.05 million
(3)	Uninterruptable power supply and misc. equipment	$2.475 million
(4)	The purchase and installation at the Facility of computer equipment (data servers, routers, related hardware and software):	$38.0 million
	Capital Investment	$51.625 million

The portion of the Capital Investment related to items (1), (2), and (3), or $13.625 million, shall be made, and the Facility and/or the improvements thereto shall be completed and fully operational, no later than July 26, 2014 (*i.e.*, within three (3) years of the Authority's award of the Allocation), and the portion of the Capital Investment related to item (4), or $38 million, shall be made within five (5) years of commencement of Electric Service of any portion of the Allocation.. Upon request of the Customer, such dates may be extended by the Authority in its sole discretion.

SCHEDULE C TO AGREEMENT FOR THE SALE OF EXPANSION POWER AND ENERGY TO CUSTOMER

TAKEDOWN SCHEDULE

N/A

2012 Amendment to 1990 Service Agreement

This 2012 Amendment to 1990 Service Agreement, dated this ___ day of _____, 2012 is made between Niagara Mohawk Power Corporation, d/b/a National Grid ("Company") and the Power Authority of the State of New York ("Authority").

WHEREAS, the Company and the Authority are parties to an agreement dated February 22, 1989 under which the Authority has sold certain quantities of hydroelectric power and energy in accordance with Authority Service Tariff ("ST") No. 41 and ST. No. 42 from Authority's Niagara and St. Lawrence Projects to Company for resale to its rural and residential consumers (the "1990 Service Agreement").

WHEREAS, Company and Authority have previously modified and extended the 1990 Service Agreement, most recently by the "2011 Amendment to and Extension of Service Agreement of Niagara Mohawk Power Corporation under Service Tariff No. 41 and ST No. 42" (the "2011 Amendment").

WHEREAS, by letter dated June 29, 2011, Authority withdrew all 189 MW of Firm Hydroelectric Power and Energy allocated under ST No. 41 and terminated service under the 1990 Service Agreement under ST No. 41 with respect to all 189 MW of Firm Hydroelectric Power and Energy, effective August 1, 2011, for use in the Recharge New York Power Program created pursuant to Chapter 60 (Part CC) of the Laws of 2011 (the "Firm Power and Energy Withdrawal/Termination").

WHEREAS, Company and Authority agree to further modify and extend certain terms of the 1990 Service Agreement as follows:

1) As a result of the Authority's Firm Power and Energy Withdrawal/Termination, the amount of Firm Hydroelectric Power and Energy allocated to Company under ST No. 41 is zero (0), and the Firm Peaking Power allocation of 175 MW under ST No. 42 will remain unchanged.

2) Article E - Rates. The current text is deleted in its entirety and is replaced with the following text.

> "The rates charged by the Authority under this Agreement shall be established In accordance with this Article.
>
> The Authority shall charge and Company shall pay the preference power rates adopted by the Authority on November 15, 2011, as such rates may be revised from time to time. Company waives any and all objections, suits, appeals or other challenges to the preference power rates adopted by the Authority on November 15, 2011, except as otherwise provided for below.
>
> Company waives any challenges to any of the following methodologies and principles used by the Authority to set future preference power rates, numbers (i)

through (vii) as set forth in the "January 2003 Report on Hydroelectric Production Rates" as modified by the April 2003 "Staff Analysis of Public Comments and Recommendations":

(i) The principles set forth in the March 5, 1986 Settlement Agreement settling *Auer v. Dyson*, No, 81-124 (Sup. Ct. Oswego Co.), *Auer v. Power Authority*, index No. 11999-84 (Sup. Ct. N.Y. Co.) and *Delaware County Electric Cooperative, Inc. v. Power Authority*, 82 Civ. 7256 (S.D.N.Y.) (the "*Auer* Settlement").

(ii) Recovery of capital costs using Trended Original Cost and Original Cost methodologies.

(iii) Treatment of sales to third parties, including the New York independent System Operator.

(iv) Allocation of Indirect Overheads.

(v) Melding of costs of the Niagara Power Project and St. Lawrence-FDR Power Project for ratemaking.

(vi) Post-employment benefits other than pensions (i.e., retiree health benefits).

(vii) Rate Stabilization Reserve (RSR) methodology.

In the event the Authority ceases to employ any of the methodologies and principles enumerated above, the Company shall have the right to take any position whatsoever with respect to such methodology or principle, but shall not have the right to challenge any of the remaining methodologies and principles that continue to be employed by the Authority."

3) Article F - Transmission. The current text is deleted in its entirety and is replaced with the following text.

"In accordance with the terms of the existing transmission service agreement, which by its terms will expire on August 31, 2007, Company will cease taking transmission service from Authority and will instead take transmission service under the New York Independent System Operator's ("NYISO") Open Access Transmission Tariff. Company agrees to settle any outstanding transmission charges that may apply prior to September 1, 2007 including any subsequent NYISO true up settlements."

4) Article G - Notification. In the contact address for Authority replace "10 Columbus Circle, New York, NY 10019" with 123 Main Street, White Plains, NY 10601".

5) Article J- Cancelation or Reduction. The following sentence is added at the end of Article J:

> Company may also cancel or reduce such service during the period from January 1, 2014 through December 31, 2014, for any reason upon thirty (30) days' prior written notice to the Authority.

6) Article K - Restoration of Withdrawn Power and/or Energy is deleted in its entirety.

7) Article L - Term of Service, is revised to read as follows:

> "Service under this contract shall commence at 12:01 A.M. on January 1, 1990 and shall continue unless cancelled as provided for In the "Withdrawals of Power and/or Energy" or the "Cancellation or Reduction" provisions until December 31, 2014, subject to earlier termination by the Authority at any time with respect to any or all of the quantities of power and energy provided hereunder on at least thirty (30) days' prior written notice to Company."

8) Article M - Availability of Energy - Firm and Firm Peaking Hydroelectric Power Service. In the third paragraph, line 1, starting with the words "In the event that..." through "... minimize the impact of such reductions." on line 10, replace with the following:

> "The Authority will have the right to reduce on a pro rata basis the amount of energy provided to Company under Service Tariff No. 42 if such reductions are necessary due to low flow (i.e. hydrologic) conditions at the Authority's Niagara Project hydroelectric generating station. In the event that hydrologic conditions require the Authority to reduce the amount of energy provided to Company, reductions as a percentage of the otherwise required, energy deliveries will be the same for all firm Niagara Project customers. The Authority shall be under no obligation to deliver and will not deliver any such curtailed energy to Company in later billing periods. The offer of Energy for delivery shall fulfill Authority's obligations for purposes of this Provision whether or not the Energy is taken by Company. The Authority shall provide reasonable notice to Company of any condition or activities that could result, or have resulted, in low flow conditions consistent with the notice provided to other similarly affected customers."

9) This amendment shall be referred to as the "2012 Amendment to the 1990 Service Agreement".

10) Continuation of service under this 2012 Amendment to the 1990 Service Agreement shall be subject to ultimate approval by the Governor of the State of New York pursuant to Public Authorities Law § 1009. If the Governor disapproves this 2012 Amendment to the 1990 Service Agreement, service will cease on the last day of the month following the month during which the Governor disapproved this 2012 Amendment to the 1990 Service

Agreement. If the Governor takes no action within the time frame provided for in Public Authorities Law § 1009, service will cease on the last day of the month following the month during which such timeframe expired.

Except as expressly provided in this 2012 Amendment to the 1990 Service Agreement, the 1990 Service Agreement shall remain unchanged and in full force and effect.

This 2012 Amendment to the 1990 Service Agreement shall be governed by and construed in accordance with the laws of the State of New York applicable to contracts and to be performed in such state, without regard to conflict of laws principles.

This 2012 Amendment to the 1990 Service Agreement may be signed in any number of counterparts, each of which shall be an original, with the same effect as if the signature thereto and hereto were upon the same instrument.

Upon approval of the Governor of the State of New York pursuant to Public Authorities Law § 1009, and upon execution by the Chairman of the Authority, this 2012 Amendment to the 1990 Service Agreement shall come into full force and effect, provided however that pending such gubernatorial approval and execution, this 2012 Amendment to the 1990 Service Agreement shall take effect upon the expiration of the 2011 Amendment and continue on a month to month basis.

AGREED:

Niagara Mohawk Power Corporation, d/b/a National Grid

By: _____

Title: _____

Date: _____

Power Authority of the State of New York

By: _____
Name: John R. Koelmel
Title: Chairman

Date: _____

2012 Amendment to 1990 Hydropower Contract

This 2012 Amendment to 1990 Hydropower Contract, dated this ___ day of _____, 2012 is made between New York State Electric & Gas Corporation ("Company") and the Power Authority of the State of New York ("Authority").

WHEREAS, the Company and the Authority are parties to an agreement dated February 22, 1989 under which the Authority sells certain quantities of hydroelectric power and energy from Authority's Niagara and St, Lawrence Projects to Company for resale to its rural and residential consumers (the "1990 Hydropower Contract").

WHEREAS, Authority, Rochester Gas and Electric Corporation ("RGE") and Company are also parties to a letter agreement dated February 14, 2008 ("February 14, 2008 Letter Agreement") which modified Article D - Regulation of Rates and Charges as it pertained to the calculation of the monthly savings realized by the customers of Company and RGE from the purchase of Authority hydropower.

WHEREAS, Company and Authority have previously modified and extended the 1990 Hydropower Contract, most recently by the "2011 Amendment to 1990 Hydropower Contract" (the "2011 Amendment").

WHEREAS, by letter dated June 29, 2011, Authority withdrew all 167 MW of Firm Hydroelectric Power and Energy allocated under Service Tariff No. 41 and terminated service under the 1990 Hydropower Contract with respect to all 167 MW of Firm Hydroelectric Power and Energy, effective August 1, 2011, for use in the Recharge New York Power Program created pursuant to Chapter 60 (Part CC) of the Laws of 2011 (the "Firm Power and Energy Withdrawal/Termination").

WHEREAS, Company and Authority agree to further modify and extend certain terms of 1990 Hydropower Contract as follows:

1) As a result of the Authority's Firm Power and Energy Withdrawal/Termination, the amount of Firm Hydroelectric Power and Energy allocated to Company under Service Tariff No. 41 is zero (0). The Firm Peaking Power allocation of 150 MW under Service Tariff No. 42 will remain unchanged.

2) Article E - Rates. The current text is deleted in its entirety and is replaced with the following text.

> "The rates charged by the Authority under this Agreement shall be established In accordance with this Article.
>
> The Authority shall charge and Company shall pay the preference power rates adopted by the Authority on November 15, 2011, as such rates may be revised from time to time. Company waives any and all objections, suits, appeals or other

challenges to the preference power rates adopted by the Authority on November 15, 2011, except as otherwise provided for below.

Company waives any challenges to any of the following methodologies and principles used by the Authority to set future preference power rates, numbers (i) through (vii) as set forth in the "January 2003 Report on Hydroelectric Production Rates" as modified by the April 2003 "Staff Analysis of Public Comments and Recommendations":

(i) The principles set forth in the March 5, 1986 Settlement Agreement settling *Auer v. Dyson*, No, 81-124 (Sup. Ct. Oswego Co.), *Auer v. Power Authority*, index No. 11999-84 (Sup. Ct. N.Y. Co.) and *Delaware County Electric Cooperative, Inc. v. Power Authority*, 82 Civ. 7256 (S.D.N.Y.) (the "*Auer* Settlement").

(ii) Recovery of capital costs using Trended Original Cost and Original Cost methodologies.

(iii) Treatment of sales to third parties, including the New York independent System Operator.

(iv) Allocation of Indirect Overheads.

(v) Melding of costs of the Niagara Power Project and St. Lawrence-FDR Power Project for ratemaking.

(vi) Post-employment benefits other than pensions (i.e., retiree health benefits).

(vii) Rate Stabilization Reserve (RSR) methodology.

In the event the Authority ceases to employ any of the methodologies and principles enumerated above, the Company shall have the right to take any position whatsoever with respect to such methodology or principle, but shall not have the right to challenge any of the remaining methodologies and principles that continue to be employed by the Authority."

3) Article F - Transmission. The current text is deleted in its entirety and is replaced with the following text.

"In accordance with the terms of the existing transmission service agreement, which by its terms will expire on August 31, 2007, Company will cease taking transmission service from Authority and will instead take transmission service under the New York Independent System Operator's ("NYISO") Open Access Transmission Tariff. Company agrees to settle any outstanding transmission charges that may apply prior to September 1, 2007 including any subsequent

NYISO true up settlements."

4) Article G - Notification. In the contact address for Authority replace "10 Columbus Circle, New York, NY 10019" with 123 Main Street, White Plains, NY 10601". For Company, delete the current reference in its entirety and replace with the following "Dave Kimiecik, Vice President, Energy Supply, New York State Electric & Gas Corporation, 18 Link Drive, P.O. Box 5224, Binghamton, New York 13902-5224".

5) Article J- Cancelation or Reduction. The following sentence is added at the end of Article J:

   Company may also cancel or reduce such service during the period from January 1, 2014 through December 31, 2014, for any reason upon thirty (30) days' prior written notice to the Authority.

6) Article K - Restoration of Withdrawn Power and/or Energy is deleted in its entirety.

7) Article L - Term of Service, is revised to read as follows:

   "Service under this contract shall commence at 12:01 A.M. on January 1, 1990 and shall continue unless cancelled as provided for in the "Withdrawals of Power and/or Energy" or the "Cancellation or Reduction" provisions until December 31, 2014, subject to earlier termination by the Authority at any time with respect to any or all of the quantities of power and energy provided hereunder on at least thirty (30) days' prior written notice to Company."

8) Article M - Availability of Energy - Firm and Firm Peaking Hydroelectric Power Service. In the third paragraph, line 1, starting with the words "In the event that..." through "... minimize the impact of such reductions," on line 10, replace with the following:

   "The Authority will have the right to reduce on a pro rata basis the amount of energy provided to Company under Service Tariff No. 42 if such reductions are necessary due to low flow (i.e. hydrologic) conditions at the Authority's Niagara Project hydroelectric generating station. In the event that hydrologic conditions require the Authority to reduce the amount of energy provided to Company, reductions as a percentage of the otherwise required, energy deliveries will be the same for all firm Niagara Project customers. The Authority shall be under no obligation to deliver and will not deliver any such curtailed energy to Company in later billing periods. The offer of Energy for delivery shall fulfill Authority's obligations for purposes of this Provision whether or not the Energy is taken by Company. The Authority shall provide reasonable notice to Company of any condition or activities that could result, or have resulted, in low flow conditions consistent with the notice provided to other similarly affected customers."

9) This amendment shall be referred to as the "2012 Amendment to the 1990 Hydropower

Contract".

10) Continuation of service under this 2012 Amendment to the 1990 Hydropower Contract shall be subject to ultimate approval by the Governor of the State of New York pursuant to Public Authorities Law § 1009. If the Governor disapproves this 2012 Amendment to the 1990 Hydropower Contract, service will cease on the last day of the month following the month during which the Governor disapproved this 2012 Amendment to the 1990 Hydropower Contract. If the Governor takes no action within the time frame provided for in Public Authorities Law § 1009, service will cease on the last day of the month following the month during which such timeframe expired.

Except as expressly provided in this 2012 Amendment to the 1990 Hydropower Contract, the 1990 Hydropower Contract as modified by the February 14, 2008 Letter Agreement shall remain unchanged and in full force and effect.

This 2012 Amendment to the 1990 Hydropower Contract shall be governed by and construed in accordance with the laws of the State of New York applicable to contracts and to be performed in such state, without regard to conflict of laws principles.

This 2012 Amendment to the 1990 Hydropower Contract may be signed in any number of counterparts, each of which shall be an original, with the same effect as if the signature thereto and hereto were upon the same instrument.

Upon approval of the Governor of the State of New York pursuant to Public Authorities Law § 1009, and upon execution by the Chairman of the Authority, this 2012 Amendment to the 1990 Hydropower Contract shall come into full force and effect, provided however that pending such gubernatorial approval and execution this 2012 Amendment to the 1990 Hydropower Contract shall take effect upon the expiration of the 2011 Amendment and continue on a month to month basis.

AGREED:

New York State Electric & Gas Corporation

By: _____
Name: Joseph J. Syta
Title: Vice President, Controller and Treasurer
Date: _____

By: _____
Name: Mark S. Lynch
Title: President
Date: _____

Power Authority of the State of New York

ACCEPTED:

By: _____
Name: John R. Koelmel
Title: Chairman

Date: _____

2012 Amendment to 1990 Hydropower Contract

This 2012 Amendment to 1990 Hydropower Contract, dated this ___ day of _____, 2012 is made between Rochester Gas and Electric Corporation ("Company") and the Power Authority of the State of New York ("Authority").

WHEREAS, the Company and the Authority are parties to an agreement dated February 22, 1989 under which the Authority sells certain quantities of hydroelectric power and energy from Authority's Niagara and St. Lawrence Projects to Company for resale to its rural and residential consumers (the "1990 Hydropower Contract").

WHEREAS, Authority, New York State Electric & Gas Corporation ("NYSEG") and Company are also parties to a letter agreement dated February 14, 2008 ("February 14, 2008 Letter Agreement") which modified Article D - Regulation of Rates and Charges as it pertained to the calculation of the monthly savings realized by the customers of Company and NYSEG from the purchase of Authority hydropower.

WHEREAS, Company and Authority have previously modified and extended the 1990 Hydropower Contract, most recently by the "2011 Amendment to 1990 Hydropower Contract" (the "2011 Amendment").

WHEREAS, by letter dated June 29, 2011, Authority withdrew all 99 MW of Firm Hydroelectric Power and Energy allocated under Service Tariff No. 41 and terminated service under the 1990 Hydropower Contract with respect to all 99 MW of Firm Hydroelectric Power and Energy, effective August 1, 2011, for use in the Recharge New York Power Program created pursuant to Chapter 60 (Part CC) of the Laws of 2011 (the "Firm Power and Energy Withdrawal/Termination").

WHEREAS, Company and Authority agree to further modify and extend certain terms of 1990 Hydropower Contract as follows:

1) As a result of the Authority's Firm Power and Energy Withdrawal/Termination, the amount of Firm Hydroelectric Power and Energy allocated to Company under Service Tariff No. 41 is zero (0). The Firm Peaking Power allocation of 35 MW under Service Tariff No. 42 will remain unchanged.

2) Article E - Rates. The current text is deleted in its entirety and is replaced with the following text.

> "The rates charged by the Authority under this Agreement shall be established In accordance with this Article.
>
> The Authority shall charge and Company shall pay the preference power rates adopted by the Authority on November 15, 2011, as such rates may be revised from time to time. Company waives any and all objections, suits, appeals or other

challenges to the preference power rates adopted by the Authority on November 15, 2011, except as otherwise provided for below.

Company waives any challenges to any of the following methodologies and principles used by the Authority to set future preference power rates, numbers (i) through (vii) as set forth in the "January 2003 Report on Hydroelectric Production Rates" as modified by the April 2003 "Staff Analysis of Public Comments and Recommendations":

(i) The principles set forth in the March 5, 1986 Settlement Agreement settling *Auer v. Dyson*, No, 81-124 (Sup. Ct. Oswego Co.), *Auer v. Power Authority*, index No. 11999-84 (Sup. Ct. N.Y. Co.) and *Delaware County Electric Cooperative, Inc. v. Power Authority*, 82 Civ. 7256 (S.D.N.Y.) (the "*Auer* Settlement").

(ii) Recovery of capital costs using Trended Original Cost and Original Cost methodologies.

(iii) Treatment of sales to third parties, including the New York independent System Operator.

(iv) Allocation of Indirect Overheads.

(v) Melding of costs of the Niagara Power Project and St. Lawrence-FDR Power Project for ratemaking.

(vi) Post-employment benefits other than pensions (i.e., retiree health benefits).

(vii) Rate Stabilization Reserve (RSR) methodology.

In the event the Authority ceases to employ any of the methodologies and principles enumerated above, the Company shall have the right to take any position whatsoever with respect to such methodology or principle, but shall not have the right to challenge any of the remaining methodologies and principles that continue to be employed by the Authority."

3) Article F - Transmission. The current text is deleted in its entirety and is replaced with the following text.

"In accordance with the terms of the existing transmission service agreement, which by its terms will expire on August 31, 2007, Company will cease taking transmission service from Authority and will instead take transmission service under the New York Independent System Operator's ("NYISO") Open Access Transmission Tariff. Company agrees to settle any outstanding transmission charges that may apply prior to September 1, 2007 including any subsequent

NYISO true up settlements."

4) Article G - Notification. In the contact address for Authority replace "10 Columbus Circle, New York, NY 10019" with 123 Main Street, White Plains, NY 10601". For Company, delete the current reference in its entirety and replace with the following "Dave Kimiecik, Vice President, Energy Supply, New York State Electric & Gas Corporation, 18 Link Drive, P.O. Box 5224, Binghamton, New York 13902-5224".

5) Article J- Cancelation or Reduction. The following sentence is added at the end of Article J:

   Company may also cancel or reduce such service during the period from January 1, 2014 through December 31, 2014, for any reason upon thirty (30) days' prior written notice to the Authority.

6) Article K - Restoration of Withdrawn Power and/or Energy is deleted in its entirety.

7) Article L - Term of Service, is revised to read as follows:

   "Service under this contract shall commence at 12:01 A.M. on January 1, 1990 and shall continue unless cancelled as provided for in the "Withdrawals of Power and/or Energy" or the "Cancellation or Reduction" provisions until December 31, 2014, subject to earlier termination by the Authority at any time with respect to any or all of the quantities of power and energy provided hereunder on at least thirty (30) days' prior written notice to Company."

8) Article M - Availability of Energy - Firm and Firm Peaking Hydroelectric Power Service. In the third paragraph, line 1, starting with the words "In the event that..." through "... minimize the impact of such reductions," on line 10, replace with the following:

   "The Authority will have the right to reduce on a pro rata basis the amount of energy provided to Company under Service Tariff No. 42 if such reductions are necessary due to low flow (i.e. hydrologic) conditions at the Authority's Niagara Project hydroelectric generating station. In the event that hydrologic conditions require the Authority to reduce the amount of energy provided to Company, reductions as a percentage of the otherwise required, energy deliveries will be the same for all firm Niagara Project customers. The Authority shall be under no obligation to deliver and will not deliver any such curtailed energy to Company in later billing periods. The offer of Energy for delivery shall fulfill Authority's obligations for purposes of this Provision whether or not the Energy is taken by Company. The Authority shall provide reasonable notice to Company of any condition or activities that could result, or have resulted, in low flow conditions consistent with the notice provided to other similarly affected customers."

9) This amendment shall be referred to as the "2012 Amendment to the 1990 Hydropower Contract".

10) Continuation of service under this 2012 Amendment to the 1990 Hydropower Contract shall be subject to ultimate approval by the Governor of the State of New York pursuant to Public Authorities Law § 1009. If the Governor disapproves this 2012 Amendment to the 1990 Hydropower Contract, service will cease on the last day of the month following the month during which the Governor disapproved this 2012 Amendment to the 1990 Hydropower Contract. If the Governor takes no action within the time frame provided for in Public Authorities Law § 1009, service will cease on the last day of the month following the month during which such timeframe expired.

Except as expressly provided in this 2012 Amendment to the 1990 Hydropower Contract, the 1990 Hydropower Contract as modified by the February 14, 2008 Letter Agreement shall remain unchanged and in full force and effect.

This 2012 Amendment to the 1990 Hydropower Contract shall be governed by and construed in accordance with the laws of the State of New York applicable to contracts and to be performed in such state, without regard to conflict of laws principles.

This 2012 Amendment to the 1990 Hydropower Contract may be signed in any number of counterparts, each of which shall be an original, with the same effect as if the signature thereto and hereto were upon the same instrument.

Upon approval of the Governor of the State of New York pursuant to Public Authorities Law § 1009, and upon execution by the Chairman of the Authority, this 2012 Amendment to the 1990 Hydropower Contract shall come into full force and effect, provided however that pending such gubernatorial approval and execution this 2012 Amendment to the 1990 Hydropower Contract shall take effect upon the expiration of the 2011 Amendment and continue on a month to month basis.

AGREED:

Rochester Gas and Electric Corporation

By: _____
Name: Joseph J. Syta
Title: Vice President, Controller and Treasurer
Date: _____

By: _____
Name: Mark S. Lynch
Title: President
Date: _____

Power Authority of the State of New York

ACCEPTED:

By: _____
Name: John R. Koelmel
Title: Chairman

Date: _____

POWER AUTHORITY OF THE STATE OF NEW YORK

In the Matter of

Proposed Hydropower Contract Extensions

PUBLIC HEARING in the above matter conducted at the Syracuse University Schine Student Center, Room 228B, 300 University Place, Syracuse, New York before, JOHN F. DRURY, CSR, RPR, Notary Public in and for the State of New York, on February 7, 2013, 3:00 p.m. to 7:00 p.m.

A p p e a r a n c e s:

JAMES PASQUALE, Senior VP Economic Development and Energy Efficiency at NYS Power Authority

KAREN DELINCE, Corporate Secretary, NYS Power Authority

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INDEX TO SPEAKERS

SPEAKERS	PAGES
KAREN DELINCE	3
JAMES PASQUALE	6

Ms. Delince

MS. DELINCE: Good afternoon. This is a public hearing required by law and authorized by the New York Power Authority Board of Trustees on proposed hydropower contract extensions with: Niagara Mohawk Power Corporation, doing business as National Grid, New York State Electric and Gas Corporation and Rochester Gas and Electric Corporation.

My name is Karen Delince and I'm Corporate Secretary of the New York Power Authority. As required by hearing procedures set forth in the New York State Public Authorities Law, Section 1009, a notice of the hearing was published in six newspapers once a week for the four weeks leading up to this hearing.

The notice of this hearing appeared in the following newspapers: Buffalo News, Massena Daily Courier-Observer, Syracuse Post Standard, Rochester Democrat and Chronicle, Albany Times Union, Utica Observer Dispatch.

1 Ms. Delince

2 Also pursuant to the Public

3 Authorities Law, notices of this hearing

4 and copies of the proposed contracts

5 were sent to the Governor, Andrew Cuomo

6 and the following legislative leaders:

7 The President Pro Temp of the New York

8 State Senate, the Speaker of the

9 Assembly, the Chairman of the State

10 Finance Committee, the Chairman of the

11 Assembly Ways and Means Committee, the

12 Senate Minority Leader, the Assembly

13 Minority Leader.

14 During the thirty days prior to

15 today's hearing, copies of the proposed

16 contracts were made available for

17 inspection at the Authority's White

18 Plains office, as well as on the

19 Authority's website.

20 If you plan to make an oral

21 statement at this hearing, I ask that

22 you please see Lorna Johnson at the

23 sign-in table and fill out a card. Also

24 if you have written statements, please

25 give a copy to Ms. Johnson and one to

1 Ms. Delince

2 the reporter.

3 Your written statements may be of

4 any length and will appear in the record

5 of this hearing in addition to your oral

6 statements. The record of the hearing

7 will remain open for additional comments

8 or statements through close of business

9 Friday, February 8th.

10 Any additional submission should be

11 mailed to the Authority's Corporate

12 Secretary at 123 Main Street, 11-P,

13 White Plains, New York, 10601 or faxed

14 to (914) 390-8040 or e-mailed to

15 secretarys.office@nypa.gov.

16 A complete transcript of the

17 hearing, along with all written

18 submissions, will be submitted to the

19 Authority's trustees, who shall

20 reconsider the terms of the proposed

21 contracts and make changes as they deem

22 necessary or advisable in light of your

23 comments. The transcript of this

24 hearing will also be available to the

25 public for review at the Authority's

1 Mr. Pasquale
2 White Plains office and on the
3 Authority's website, www.nypa.gov.
4 After the Trustees' final review,
5 the contracts will be forward to the
6 Governor for his consideration and
7 approval.
8 If you have additional questions
9 please see Ms. Johnson at the sign-in
10 table.
11 At this point I would like to
12 introduce Mr. James Pasquale, Senior
13 Vice-President of Economic Development
14 and Energy Efficiency at the Authority
15 who will provide additional details on
16 the proposed contract extensions. Thank
17 you. Mr. Pasquale.
18 MR. PASQUALE: Ms. Delince, good
19 afternoon. As Ms. Delince stated my
20 name is James Pasquale, I am a Senior
21 Vice-President of Economic Development
22 and Energy Efficiency at the New York
23 State Power Authority.
24 I am here today to present an
25 overview of extensions of contracts for

1 Mr. Pasquale

2 the sale of hydropower to three Upstate
3 investor-owned utilities for resale to
4 rural and domestic or R&D consumers.
5 Due to legislation enacted in 2011, the
6 proposed contract extensions would
7 continue the sale of firm peaking
8 hydropower to the utilities for resale
9 to rural and domestic consumers, but
10 will no longer include the sale of firm
11 hydropower.
12 These three utilities: National
13 Grid, formerly Niagara Mohawk Power
14 Corporation, New York State Electric and
15 Gas or NYSEG, and Rochester Gas and
16 Electric Corporation or RG&E, have been
17 receiving firm peaking hydropower from
18 the Niagara project for resale to R&D
19 consumers since 1990, with subsequent
20 annual renewals since 2007.
21 Pursuant to Section 1009 of the
22 Public Authority's law, this contract
23 extension process is subject to public
24 notice, hearing, and approval by the
25 Governor. The contract extensions are

1 Mr. Pasquale
2 for 360 megawatts of firm peaking
3 hydropower to be sold to the three
4 utilities.
5 The power is purchased by the
6 utilities at the Authority's cost-based
7 hydropower rate and these rates are
8 passed on to the utilities' residential
9 and small farm customers, without
10 markup, under the Public Service
11 Commission tariffs.
12 Specifically, the proposed contracts
13 continue the sale of 175 megawatts of
14 firm peaking power to National Grid, 150
15 megawatts of firm peaking power to NYSEG
16 and 35 megawatts of firm peaking power
17 to RG&E. These peaking power
18 allocations would continue to allow the
19 Authority to pass on the benefits of the
20 firm peaking power to the utilities' R&D
21 consumers.
22 These amounts would be sold to the
23 utilities through December 31, 2014,
24 subject to withdrawal upon thirty days
25 written notice by the Authority for

1 Mr. Pasquale
2 reallocation as may be authorized by law
3 or as otherwise may be determined by the
4 Authority's Trustees. The utilities may
5 each terminate their allocation after
6 one year upon thirty days written
7 notice. The multi-year term provides
8 further stability for the utilities and
9 the Authority, while the Authority's
10 withdrawal provisions of the proposed
11 contracts will allow the consideration
12 of the use of the subject block of power
13 for economic development or other
14 purposes.
15 As Ms. Delince stated earlier, the
16 Power Authority will accept your
17 comments on the proposed contracts until
18 close of business Friday, February 8,
19 2013. I will now turn the forum back
20 over to Ms. Delince.
21 MS. DELINCE: Thank you, Mr. Pasquale.
22 We will now recess and reconvene when
23 speakers arrive.
24 (Waited until 7 o'clock, for speakers
25 who never came)

1 Mr. Pasquale

2 MS. DELINCE: On February 7, 2013,

3 New York Power Authority hearing on

4 proposed hydropower contract extension

5 is now closed.

6 [Conclusion of public hearing].

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REPORTER'S CERTIFICATE

I, JOHN F. DRURY, Court Reporter and Notary Public, certify:

That the foregoing proceedings were taken before me at the time and place therein set forth, at which time the witness was put under oath by me;

That the testimony of the witness and all objections made at the time of the examination were recorded stenographically by me and were thereafter transcribed;

That the foregoing is a true and correct transcript of my shorthand notes so taken;

I further certify that I am not a relative or employee of any attorney or of any of the parties nor financially interested in the action.

John F. Drury

JOHN F. DRURY, CSR, RPR

Notary Public

A

accept 9:16
addition 5:5
additional 5:7,10 6:8,15
advisable 5:22
afternoon 3:2 6:19
Albany 3:24
allocation 9:5
allocations 8:18
allow 8:18 9:11
amounts 8:22
Andrew 4:5
annual 7:20
appear 5:4
appeared 3:20
approval 6:7 7:24
arrive 9:23
Assembly 4:9,11,12
attended 11:6
Authorities 3:15 4:3
Authority 1:2,19 1:21 3:5,13 6:14 6:23 8:19,25 9:9 9:16 10:3
Authority's 4:17,19 5:11,19,25 6:3 7:22 8:6 9:4,9
authorized 3:4 9:2
available 4:16 5:24

B

back 9:19
benefits 8:19
block 9:12
Board 3:5
Buffalo 3:21
business 3:8 5:8 9:18

C

c 1:15 11:2,2
card 4:23
Center 1:9
Certified 11:4
certify 11:3
Chairman 4:9,10
changes 5:21
Chronicle 3:24
close 5:8 9:18
closed 10:5
comments 5:7,23 9:17
Commission 8:11
Committee 4:10,11
compared 11:8
complete 5:16
Conclusion 10:6
conducted 1:8
consideration 6:6 9:11
consumers 7:4,9,19 8:21
continue 7:7 8:13 8:18
contract 1:5 3:6 6:16 7:6,22,25 10:4
contracts 4:4,16 5:21 6:5,25 8:12 9:11,17
copies 4:4,15
copy 4:25
Corporate 1:20 3:12 5:11
Corporation 3:7,9 3:10 7:14,16
correct 11:10
cost-based 8:6
Courier-Observer 3:22
CSR 1:11 11:14
Cuomo 4:5
customers 8:9

D

Daily 3:22
Dated 11:16
days 4:14 8:24 9:6
December 8:23
deem 5:21
Delince 1:20 2:4 3:1 3:2,11 4:1 5:1 6:18,19 9:15,20 9:21 10:2
Democrat 3:24
details 6:15
determined 9:3
development 1:17 6:13,21 9:13
Dispatch 3:25
doing 3:7
domestic 7:4,9
Drury 1:11 11:14
Due 7:5

E

e 1:15,15 11:2,2
earlier 9:15
economic 1:17 6:13 6:21 9:13
Efficiency 1:18 6:14,22
Electric 3:9,10 7:14 7:16
enacted 7:5
Energy 1:18 6:14 6:22
entitled 11:7
extension 7:23 10:4
extensions 1:5 3:6 6:16,25 7:6,25
e-mailed 5:14

F

F 1:11 11:2,14
farm 8:9
faxed 5:13
February 1:13 5:9 9:18 10:2 11:16
fill 4:23
final 6:4
Finance 4:10
firm 7:7,10,17 8:2 8:14,15,16,20
following 3:21 4:6
foregoing 11:8
formerly 7:13
forth 3:14
forum 9:19
forward 6:5
four 3:18
Friday 5:9 9:18
further 9:8

G

Gas 3:9,10 7:15,15
give 4:25
good 3:2 6:18
Governor 4:5 6:6 7:25
Grid 3:8 7:13 8:14

H

hearing 1:8 3:3,13 3:16,19,20 4:3,15 4:21 5:5,6,17,24 7:24 10:3,6
hydropower 1:5 3:6 7:2,8,11,17 8:3,7 10:4

I

include 7:10
INDEX 2:2
inspection 4:17
introduce 6:12
investor-owned 7:3

J

James 1:17 2:5 6:12 6:20
John 1:11 11:14
Johnson 4:22,25 6:9

K

Karen 1:20 2:4 3:11

L

law 3:3,15 4:3 7:22 9:2
Leader 4:12,13
leaders 4:6
leading 3:18
legislation 7:5
legislative 4:6
length 5:4
light 5:22
longer 7:10
Lorna 4:22

M

mailed 5:11
Main 5:12
markup 8:10
Massena 3:22
matter 1:4,8
Means 4:11
megawatts 8:2,13 8:15,16
Minority 4:12,13
minutes 11:9
Mohawk 3:7 7:13
multi-year 9:7

N

n 1:15
name 3:11 6:20
National 3:8 7:12 8:14
necessary 5:22
never 9:25
New 1:2,10,12 3:4,8 3:12,14 4:7 5:13 6:22 7:14 10:3 11:5
News 3:22
newspapers 3:17,21
Niagara 3:7 7:13,18
Notary 1:11 11:4
notice 3:16,20 7:24 8:25 9:7
notices 4:3
NYS 1:18,20
NYSEG 7:15 8:15

O

Observer 3:25
office 4:18 6:2
once 3:17
open 5:7
oral 4:20 5:5
original 11:8
overview 6:25
o'clock 9:24

P

p 1:15,15
PAGES 2:3
Pasquale 1:17 2:5 6:1,12,17,18,20 7:1 8:1 9:1,21 10:1 11:1
pass 8:19
passed 8:8
peaking 7:7,17 8:2 8:14,15,16,17,20
Place 1:10
Plains 4:18 5:13 6:2
plan 4:20
please 4:22,24 6:9
point 6:11
Post 3:23

power 1:2,19,21 3:4 3:7,13 6:23 7:13 8:5,14,15,16,17 8:20 9:12,16 10:3
present 6:24
President 4:7
prior 4:14
Pro 4:7
procedures 3:14
proceedings 11:7 11:11
process 7:23
project 7:18
proposed 1:5 3:5 4:4,15 5:20 6:16 7:6 8:12 9:10,17 10:4
provide 6:15
provides 9:7
provisions 9:10
public 1:8,12 3:3,15 4:2 5:25 7:22,23 8:10 10:6 11:5
published 3:17
purchased 8:5
purposes 9:14
pursuant 4:2 7:21
p.m 1:13,13

Q

questions 6:8

R

r 1:15 11:2
rate 8:7
rates 8:7
reallocation 9:2
receiving 7:17
recess 9:22
reconsider 5:20
reconvene 9:22
record 5:4,6
remain 5:7
renewals 7:20
reported 11:6
reporter 5:2 11:4
required 3:3,13
resale 7:3,8,18
residential 8:8
review 5:25 6:4
RG&E 7:16 8:17
Rochester 3:10,23 7:15
Room 1:10
RPR 1:11 11:14
rural 7:4,9
R&D 7:4,18 8:20

S

s 1:15
sale 7:2,7,10 8:13
Schine 1:9
Secretary 1:20 3:12 5:12
secretarys.office... 5:15
Section 3:15 7:21
see 4:22 6:9
Senate 4:8,12
Senior 1:17 6:12,20
sent 4:5
Service 8:10
set 3:14
Shorthand 11:4
sign-in 4:23 6:9
six 3:17
small 8:9
sold 8:3,22
Speaker 4:8
speakers 2:2,3 9:23 9:24
Specifically 8:12
stability 9:8
Standard 3:23
State 1:2,12 3:9,15 4:8,9 6:23 7:14 11:5
stated 6:19 9:15
statement 4:21
statements 4:24 5:3 5:6,8
Street 5:12
Student 1:9
subject 7:23 8:24 9:12
submission 5:10
submissions 5:18
submitted 5:18
subsequent 7:19
Syracuse 1:9,10 3:23

T

T 11:2,2
table 4:23 6:10
taken 11:9
tariffs 8:11
Temp 4:7
term 9:7
terminate 9:5
terms 5:20
Thank 6:16 9:21
thereof 11:10
thirty 4:14 8:24 9:6
three 7:2,12 8:3
Times 3:24
today 6:24
today's 4:15
transcript 5:16,23 11:10
true 11:10
trustees 3:5 5:19 6:4 9:4
turn 9:19

U

Union 3:25
University 1:9,10
Upstate 7:2
use 9:12
Utica 3:25
utilities 7:3,8,12 8:4 8:6,8,20,23 9:4,8

V

Vice-President 6:13,21
VP 1:17

W

Waited 9:24
Ways 4:11
website 4:19 6:3
week 3:17
weeks 3:18
White 4:17 5:13 6:2
withdrawal 8:24 9:10
written 4:24 5:3,17 8:25 9:6
www.nypa.gov 6:3

Y

year 9:6
York 1:2,11,12 3:4 3:8,12,14 4:7 5:13 6:22 7:14 10:3 11:5

1

1009 3:16 7:21
10601 5:13
11-P 5:12
123 5:12
150 8:14
175 8:13
1990 7:19

2

2007 7:20
2011 7:5
2013 1:13 9:19 10:2 11:16
2014 8:23
228B 1:10

3

3 2:4
3:00 1:13
300 1:10
31 8:23
35 8:16
360 8:2
390-8040 5:14

6

6 2:5

7

7 1:13 9:24 10:2
7:00 1:13

8

8 9:18 11:16
8th 5:9

9

914 5:14

Procurement (Services) Contracts – Awards
(For Description of Contracts See "Discussion")

EXHIBIT "2j-A"
July 23, 2013

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
CSS / ESS	**Q13-5440; 2 awards:** **1. PENDA AIKEN, INC. ♦** Brooklyn, NY **2. REINHARD-MADISON APPROACH STAFFING, INC. dba MADISON APPROACH STAFFING ♦** White Plains, NY (PO#s TBA)	08/01/13 (on or about)	Provide for the services of temporary administrative personnel for WPO, on an "as needed" basis	07/31/18	B/S	*Note: represents aggregate total for up to 5-year term		**$1,000,000***
CSS / ESS – HR	**TOTAL ADMINISTRATIVE SERVICES CORP.** Madison, WI (Q13-5431; PO# TBA)	01/01/14 (on or about)	Provide for third-party administration services for continuation of benefits under COBRA	12/31/18	B/S	*Note: represents total for up to 5-year term		**$75,000***
INTERNAL AUDIT	**DANNIBLE & MCKEE LLP** Syracuse, NY (Q13-5461; PO# TBA)	08/01/13 (on or about)	Provide for Customer Compliance Audits re job commitments in connection with Economic Development Power programs	07/31/16	B/P	*Note: represents total for up to 3-year term		**$330,000***

♦	**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 – Awards
(For Description of Contracts See "Discussion")

EXHIBIT "A"
July 23, 2013

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	**Q12-5364; 8 awards:**	08/01/13 (on or about)	Provide for environ-mental support services (asbestos and lead consulting) for Energy Efficiency projects, on an "as required" basis	07/31/18	B/P	*Note: represents aggregate total for up to 5-year term		**$15,000,000***
	1. ADELAIDE ENVIRON-MENTAL HEALTH ASSOCIATES, INC. ♦ Brewster, NY		**For Downstate, Capital, Central, Northern and Western NY Regions**					
	2. AIRTEK ENVIRON-MENTAL CORP. Long Island City, NY		**For Downstate Region**					
	3. CORE ENVIRONMENTAL CONSULTANTS, INC. ♦ Maspeth, NY		**For Downstate and Western NY Regions**					
	4. JOSEPH C. LU ENGINEERING AND LAND SURVEY, P.C. d/b/a LU ENGINEERS Pittsford, NY		**For Central and Western NY Regions**					
	5. KAM CONSULTANTS CORP. Long Island City, NY		**For Downstate Region**					
	6. LiRo ENGINEERS, INC. Syosset, NY		**For Downstate, Capital, Central and Western NY Regions**					

[continued on next page]

♦	**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**

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
	Q13-5364 continued:							
	7. TRC ENVIRONMENTAL CORP. New York, NY		**For Downstate Region**					
	8. WARREN & PANZER ENGINEERS, P.C. New York, NY (PO#s TBA)		**For Capital, Central and Northern NY Regions**					
OPERATIONS - SCPPs	**AAF-McQUAY INC. dba McQUAY FACTORY SERVICE** Minneapolis, MN (HQ) Long Island City, NY (Factory Service Office) (RFQ 6000138865; PO# TBA)	10/06/13 (on or about)	Provide for preventive maintenance and repair services for centrifugal chillers at the Small Clean Power Plants	10/05/16	B/S	*Note: represents total for up to 3-year term		**$750,000***
OPERATIONS - SENY PLANTS	**CARRIER CORP.** Farmingdale, NY (Q13-5447; PO# TBA)	10/01/13 (on or about)	Provide for HVAC maintenance and repair services for SENY Plants (including the Flynn Plant and Brentwood SCPP)	09/30/18	B/S	*Note: represents total for up to 5-year term		**$2,000,000***
OPERATIONS - SENY PLANTS	**DRESSER-RAND COMPANY** Horsham, PA (Q13-5387; PO# TBA)	01/01/14 (on or about)	Provide for service, maintenance and engineering support for gas compressors at the SENY Power Plants	12/31/18	B/S	*Note: represents total for up to 5-year term		**$5,000,000***

♦ 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**

Procurement (Services) Contracts – Awards
(For Description of Contracts See "Discussion")

EXHIBIT "A"
July 23, 2013

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 - NIAGARA	**ISLE CHEM LLC** Grand Island, NY (N13-20077711 / 6000139741; PO# TBA)	08/01/13 (on or about)	Provide for SPDES sampling and analysis for the Niagara Project and benchmark monitoring services for the First Buffalo Marina and ice boom storage site	07/31/17	B/S	*Note: represents total for up to 4-year term		**$300,000***
OPERATIONS - SENY	**YABOO FENCE CO., INC. ♦** West Nyack, NY (RFQ 6000139152; PO# TBA)	08/01/13 (on or about)	Provide for repair services on fencing, gates, hinges, barbed wire, etc. and/or new installations at the Authority's SENY plants, on an "as needed" basis	07/31/16	B/S	*Note: represents total for up to 3-year term		**$175,000***

♦	**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 "2j-B"
July 23, 2013

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
CSS / ESS - IT	**INFORMATION TECHNOLOGY CORP.** Rochelle Park, NJ **4600002285**	08/02/10	Provide for maintenance and technical support of the Authority's Apple/Macintosh computer hardware and software for the Communications and Video Production Services groups	07/31/15	B/S	**$210,000** ("Target Value") *****Note: includes $210,000 previously approved by the Trustees **+ CURRENT INCREASE OF $150,000**	**$205,244** ("Released Amt")	**$360,000***
ECONOMIC DEVELOPMENT & ENERGY EFFICIENCY - ENERGY EFFICIENCY	2 related contracts: **1. PARSONS BRINCKERHOFF INC.** New York, NY **4600001998** **2. PRES SERVICES LLC** Getzville, NY **4600001985**	08/01/08	Provide for program management and implementation services for the Authority's Statewide Energy Services Program	12/31/17	B/C	**$90,000,000** (Aggregate Amount released & allocated to date) ***Note: represents aggregate amount previously approved by the Trustees.** **The REMAINING $90 million BALANCE WILL BE RELEASED & ALLOCATED, as needed, during the extended term.** **NO ADDITIONAL FUNDING REQUESTED.** **All costs will be recovered by the Authority.**		**$180,000,000***
LAW	**DUANE MORRIS LLP** Philadelphia, PA (HQ) New York, NY (Branch) **4500220355**	08/01/12	Provide outside counsel services in connection with the design and drafting of construction contract models to support new Energy Efficiency initiatives	07/31/16	C/L	**$300,000** *Note: represents originally approved amount; **NO ADDITIONAL FUNDING REQUESTED.**	**$97,408**	**$300,000***

♦	**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 23, 2013

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
OPERATiONS SUPP SERV - PROJECT MANAGEMENT on behalf of the EXECUTIVE OFFICES	**5 related contracts:**		Provide for consulting services in connection with power system hard-ening, operations and grid improvements	04/01/15	B/P	**$1,026,500** (Aggregate Amount released & allocated to date)		**$2,000,000***
	1. ICF RESOURCES, LLC Fairfax, VA **4600002662**	04/02/13						
	2. KEMA, INC. Burlington, MA **4600002665**	04/02/13						
	3. QUANTA TECH-NOLOGY, LLC Raleigh, NC **4600002661**	04/02/13						
	4. SIEMENS INDUS-TRY, INC. / SIEMENS POWER TECHNOLOGIES INTERNATIONAL Schenectady, NY **4600002663**	04/02/13						
	5. WORLEYPARSONS OF NEW YORK, INC. Reading, PA **4600002669**	04/08/13						

***Note: includes originally authorized aggregate amount of $995,000**
+ an additional $31,500 authorized per the EAPs
+ **CURRENT INCREASE OF $973,500**

♦	**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**

Compliant Allocations – To Continue With No Change

Company	Location	County	Type of Power	Allocation kW	Year 2012 Employment Commitment	Average Jobs Reported for Year 2012	Average Annual % Achieved during Year 2012
3M	Tonawanda	Erie	EP	500	330	317	96%
3M	Tonawanda	Erie	EP	1,000	290	317	109%
ADM Milling Co.	Buffalo	Erie	EP - vintage	1,500	84	83	99%
ADM Milling Co.	Buffalo	Erie	RP	1,900	70	83	119%
Alcoa (West)	Massena	St. Lawrence	PP	239,000	1,065	1,089	102%
Allied Frozen Storage, Inc. - Seneca	West Seneca	Erie	RP	600	54	58	107%
API Heat Transfer, Inc. (1)	Buffalo	Erie	RP	300	340	286	84%
APP Pharmaceuticals, LLC	Grand Island	Erie	RP	1,000	481	694	144%
APP Pharmaceuticals, LLC	Grand Island	Erie	RP	1,000	506	694	137%
Ascension Industries	North Tonawanda	Niagara	RP	150	135	149	110%
ATI Allvac	Lockport	Niagara	EP	200	46	74	161%
Aurubis Buffalo, Inc.	Buffalo	Erie	RP	250	16	655	4094%
Aurubis Buffalo, Inc.	Buffalo	Erie	RP	3,000	634	655	103%
Aurubis Buffalo, Inc.	Buffalo	Erie	RP - vintage	8,060	483	655	136%
Avery Dennison Information Systems	Buffalo	Erie	RP	250	82	117	143%
Brunner, Inc.	Medina	Orleans	EP	1,500	160	375	234%
Brunner, Inc.	Medina	Orleans	EP	300	160	375	234%
Brunner, Inc.	Medina	Orleans	RP	1,200	160	375	234%
Brunner, Inc.	Medina	Orleans	RP	2,500	160	375	23%
Buffalo Tungsten Incorporated	Depew	Erie	RP	800	62	74	119%
Buffalo Tungsten Incorporated	Depew	Erie	RP	1,250	40	74	185%
C&S Wholesale Grocers - Cheektowaga	Cheektowaga	Erie	EP	300	50	61	122%
C&S Wholesale Grocers - Lancaster	Lancaster	Erie	EP	550	682	625	92%
Carleton Technologies Inc.	Orchard Park	Erie	EP	700	140	294	210%
Ceres Crystal Industries Inc.	Niagara Falls	Niagara	RP	1,300	47	70	149%
Ceres Crystal Industries Inc.	Niagara Falls	Niagara	RP	1,600	47	70	149%
Ceres Crystal Industries Inc.	Niagara Falls	Niagara	RP	1,700	47	70	149%
CertainTeed Corporation	Buffalo	Erie	EP	3,100	157	142	90%
Citigroup Technology, Inc. - Amherst	Amherst	Erie	RP	1,100	500	960	192%
Cliffstar LLC	Dunkirk	Chautauqua	EP	500	455	580	127%
Confer Plastics Inc.	North Tonawanda	Niagara	RP	300	91	147	162%
Curtis Screw Co., Inc.	Buffalo	Erie	RP	300	150	179	119%
Curtis Screw Co., Inc.	Buffalo	Erie	RP	350	150	179	119%
Curtis Screw Co., Inc.	Buffalo	Erie	RP	1,100	150	179	119%
DKP Buffalo, LLC	Tonawanda	Erie	EP	750	57	95	167%
DLWB, LLC	Tonawanda	Erie	RP	250	14	15	107%
Dunkirk Specialty Steel, LLC	Dunkirk	Chautauqua	EP	5,800	180	268	149%
E.I. du Pont de Nemours & Co., Inc. - Buffalo	Buffalo	Erie	EP - vintage	1,800	390	600	154%
E.I. du Pont de Nemours & Co., Inc. - Buffalo	Buffalo	Erie	RP	500	264	600	227%
E.I. du Pont de Nemours & Co., Inc. - Buffalo	Buffalo	Erie	RP - vintage	1,300	285	600	211%
E.I. du Pont de Nemours & Co., Inc. - Buffalo	Buffalo	Erie	RP	675	605	600	99%

Company	Location	County	Type of Power	Allocation kW	Year 2012 Employment Commitment	Average Jobs Reported for Year 2012	Average Annual % Achieved during Year 2012
E.I. du Pont de Nemours & Co., Inc. - Niagara Falls	Niagara Falls	Niagara	RP	3,000	260	242	93%
E.I. du Pont de Nemours & Co., Inc. - Niagara Falls	Niagara Falls	Niagara	RP - vintage	31,700	177	242	137%
E.I. du Pont de Nemours & Co., Inc. - Niagara Falls	Niagara Falls	Niagara	EP - vintage	790	230	242	105%
Fieldbrook Foods Corporation	Dunkirk	Chautauqua	EP	1,000	420	521	124%
Fieldbrook Foods Corporation	Dunkirk	Chautauqua	EP	2,000	420	521	124%
Flexo Transparent, Inc.	Buffalo	Erie	RP	380	100	115	115%
FMC Corporation	Tonawanda	Erie	RP	2,500	161	183	114%
FMC Corporation	Tonawanda	Erie	RP	750	106	183	173%
FMC Corporation	Tonawanda	Erie	RP	5,500	71	183	258%
Ford Motor Company (1)	Buffalo	Erie	EP	1,500	950	671	71%
Galvstar LLC (1)	Lackawanna	Erie	RP	2,000	50	27	54%
GEICO	Getzville	Erie	EP	1,600	736	2,221	302%
General Mills	Buffalo	Erie	EP - vintage	1,000	520	460	88%
General Mills	Buffalo	Erie	RP - vintage	1,000	563	460	82%
General Mills	Buffalo	Erie	RP - vintage	3,100	432	460	106%
General Motors LLC	Buffalo	Erie	EP	13,800	500	1,287	257%
General Motors LLC	Buffalo	Erie	EP	800	500	1,287	257%
General Motors LLC	Buffalo	Erie	EP	5,000	500	1,287	257%
General Motors LLC	Buffalo	Erie	EP	1,100	500	1,287	257%
General Motors LLC	Buffalo	Erie	RP	725	500	1,287	257%
General Motors LLC	Buffalo	Erie	RP	2,000	500	1,287	257%
Global Abrasive Products, Inc.	Lockport	Niagara	EP	150	45	47	104%
Globe Metallurgical, Inc. (1)	Niagara Falls	Niagara	EP	7,353	500	111	22%
Globe Metallurgical, Inc. (1)	Niagara Falls	Niagara	RP	32,647	500	111	22%
GM Components Holdings LLC	Lockport	Niagara	EP	10,000	950	1,829	193%
GM Components Holdings LLC	Lockport	Niagara	EP - vintage	14,300	950	1,829	193%
Goodyear Dunlop Tires North America, Ltd.	Tonawanda	Erie	EP	6,000	1,412	1,329	94%
Goodyear Dunlop Tires North America, Ltd.	Tonawanda	Erie	RP	800	1,449	1,329	92%
Goodyear Dunlop Tires North America, Ltd.	Tonawanda	Erie	RP	850	1,422	1,329	93%
Goodyear Dunlop Tires North America, Ltd.	Tonawanda	Erie	RP - vintage	4,191	589	1,329	226%
Goodyear Dunlop Tires North America, Ltd.	Tonawanda	Erie	RP - vintage	250	1,422	1,329	93%
Graphic Controls Acquisition Corp.	Buffalo	Erie	RP	250	265	276	104%
Graphic Controls Acquisition Corp. (1)	Buffalo	Erie	RP	120	271	276	102%
Habasit America, Inc.	Buffalo	Erie	RP	200	80	73	91%
Hammond Manufacturing Company Inc.	Cheektowaga	Erie	RP	100	24	35	146%
Honeywell International	Buffalo	Erie	RP	300	168	167	99%
Hydro-Air Components, Inc.	Buffalo	Erie	EP	250	55	137	249%
I Squared R Element Co., Inc.	Akron	Erie	RP	500	60	78	130%
Ingram Micro, Inc.	Williamsville	Erie	EP	900	1,525	1,482	97%
International Imaging Materials	Amherst	Erie	EP	1,250	336	342	102%
International Imaging Materials (1)	Amherst	Erie	RP	700	336	342	102%

Company	Location	County	Type of Power	Allocation kW	Year 2012 Employment Commitment	Average Jobs Reported for Year 2012	Average Annual % Achieved during Year 2012
Life Technologies Corporation	Grand Island	Niagara	RP	400	398	565	142%
Life Technologies Corporation	Grand Island	Niagara	RP	375	488	565	116%
Linde LLC - Buffalo Facility	Buffalo	Erie	EP	10,500	40	37	93%
Mayer Brothers Apple Products	West Seneca	Erie	EP	200	113	143	127%
Metaullics Systems (2040 Cory Rd)	Sanborn	Niagara	RP	1,000	29	49	169%
Metaullics Systems (2050 Cory Rd) (1)	Sanborn	Niagara	EP	4,000	54	39	72%
Metaullics Systems (2050 Cory Rd)	Sanborn	Niagara	RP	500	8	39	488%
Moog Inc. (1)	East Aurora	Erie	RP	1,200	2,446	2,535	104%
Moog Inc.	East Aurora	Erie	EP	750	371	2,535	683%
Moog Inc.	East Aurora	Erie	EP	3,000	1,229	2,535	206%
Moog Inc.	East Aurora	Erie	EP	500	1,987	2,535	128%
Nestle Purina PetCare Company	Dunkirk	Chautauqua	EP	500	284	328	115%
Nestle Purina PetCare Company	Dunkirk	Chautauqua	EP	900	261	328	126%
Nestle Purina PetCare Company	Dunkirk	Chautauqua	EP	2,000	261	328	126%
Niacet Corporation (1)	Niagara Falls	Niagara	RP	500	92	96	104%
Niacet Corporation	Niagara Falls	Niagara	EP	500	82	96	117%
Niacet Corporation	Niagara Falls	Niagara	RP	1,000	54	96	178%
Niacet Corporation	Niagara Falls	Niagara	RP	400	66	96	145%
Niagara Coatings Services, Inc. (1)	Niagara Falls	Niagara	RP	200	17	19	112%
Niagara Sheets, LLC	Wheatfield	Niagara	RP	850	64	72	113%
Norampac Industries Inc. - Niagara Falls	Niagara Falls	Niagara	EP	1,600	126	127	101%
North American Hoganas	Niagara Falls	Niagara	EP	4,000	57	60	105%
North American Hoganas	Niagara Falls	Niagara	RP	1,000	53	60	113%
Occidental Chemical Corporation	Niagara Falls	Niagara	EP	38,700	214	203	95%
Occidental Chemical Corporation	Niagara Falls	Niagara	RP	56,000	206	206	100%
Olin Corporation	Niagara Falls	Niagara	RP	2,290	41	229	559%
Olin Corporation	Niagara Falls	Niagara	RP	15,000	135	229	170%
Olin Corporation	Niagara Falls	Niagara	RP	21,300	160	229	143%
Olin Corporation	Niagara Falls	Niagara	RP	40,860	160	229	143%
PCB Piezotronics, Inc. - 3395 Walden	Depew	Erie	RP	250	41	177	432%
Praxair, Inc. - Niagara Falls	Niagara Falls	Niagara	EP	2,000	68	89	131%
Praxair, Inc. - Niagara Falls	Niagara Falls	Niagara	RP - vintage	9,000	70	89	127%
Praxair, Inc. - Niagara Falls	Niagara Falls	Niagara	RP - vintage	37,050	70	89	127%
Praxair, Inc. - Tonawanda	Tonawanda	Erie	EP - vintage	2,000	900	1,362	151%
Praxair, Inc. - Tonawanda	Tonawanda	Erie	RP	750	1,352	1,362	101%
Praxair, Inc. - Tonawanda	Tonawanda	Erie	RP	2,000	1,000	1,362	136%
Precious Plate, Inc.	Niagara Falls	Niagara	RP	800	145	160	110%
Precious Plate, Inc.	Niagara Falls	Niagara	RP	400	164	160	98%
Protective Industries, Inc.	Buffalo	Erie	EP	250	310	321	104%
Republic Engineered Products, Inc.	Blasdell	Erie	EP	7,400	276	261	95%
Republic Engineered Products, Inc.	Blasdell	Erie	RP	2,000	276	261	95%
Reynolds Metals Company	Massena	St. Lawrence	PP	239,000	1,065	1,089	102%
RHI Monofrax, LTD	Falconer	Chautauqua	EP	2,082	250	237	95%
Rosina Food Products, Inc. -	Buffalo	Erie	EP	400	134	226	169%

Company	Location	County	Type of Power	Allocation kW	Year 2012 Employment Commitment	Average Jobs Reported for Year 2012	Average Annual % Achieved during Year 2012
(Cheektowaga)							
Rosina Food Products, Inc. - (W. Seneca)	West Seneca	Erie	EP	200	171	229	134%
Saint-Gobain Advanced Ceramics Boron Nitride	Amherst	Erie	RP	570	63	57	90%
Saint-Gobain Advanced Ceramics Boron Nitride	Amherst	Erie	RP	2,500	55	57	104%
Saint-Gobain Ceramics & Plastics, Inc.	Niagara Falls	Niagara	RP	1,100	69	66	96%
Saint-Gobain Ceramics & Plastics, Inc.	Niagara Falls	Niagara	RP	2,100	51	66	129%
Saint-Gobain Ceramics & Plastics, Inc.	Niagara Falls	Niagara	RP - vintage	100	51	66	129%
Saint-Gobain Structural Ceramics	Niagara Falls	Niagara	RP	3,450	112	138	123%
Servotronics, Inc.	Elma	Erie	EP	500	145	179	123%
Sorrento Lactalis, Inc.	Buffalo	Erie	RP	1,500	500	549	110%
Sorrento Lactalis, Inc.	Buffalo	Erie	RP	250	402	549	137%
Sotek Inc./Belrix Industries, Inc.	Buffalo	Erie	RP	100	53	76	143%
Special Metals Corporation	Dunkirk	Chautauqua	EP	1,000	81	74	91%
Steuben Foods Incorporated	Elma	Erie	EP	3,000	414	551	133%
Steuben Foods Incorporated	Elma	Erie	EP	5,000	500	551	110%
Steuben Foods Incorporated	Elma	Erie	EP	750	374	551	147%
Stollberg, Inc.	Niagara Falls	Niagara	EP	300	30	76	253%
The Carriage House Companies - (Fredonia)	Fredonia	Chautauqua	EP	750	440	440	100%
Time Release Sciences, Inc.	Buffalo	Erie	RP	250	70	110	157%
Time Release Sciences, Inc.	Buffalo	Erie	RP	200	70	110	157%
TitanX Engine Cooling, Inc.	Jamestown	Chautauqua	EP	1,000	310	400	129%
Treibacher Schleifmittel North America, Inc.	Niagara Falls	Niagara	RP	750	35	33	94%
Unifrax Corporation - Sanborn	Niagara Falls	Erie	RP - vintage	1,000	81	10	12%
Unifrax Corporation - Tonawanda (1)	Tonawanda	Erie	RP	3,500	238	231	97%
Unifrax Corporation - Tonawanda	Tonawanda	Erie	RP	1,000	147	231	157%
Unifrax Corporation - Tonawanda	Tonawanda	Erie	RP - vintage	2,600	55	231	420%
Upstate Niagara Cooperative - West Seneca	West Seneca	Erie	EP	1,000	134	174	130%
Western New York Energy, LLC	Medina	Orleans	RP	5,000	50	50	100%
Yahoo! Inc. (1)	Lockport	Niagara	EP	15,000	125	98	78%
Zemco Industries	Buffalo	Erie	EP	500	502	550	110%
Zemco Industries	Buffalo	Erie	EP	750	275	550	200%
Zemco Industries	Buffalo	Erie	EP	1,000	170	550	324%

EP = Expansion Power **RP** = Replacement Power **PP** = Preservation Power

(1) *These 12 customers with 13 allocations have more time to ramp up to their full commitment levels.*

July 23, 2013
Exhibit "2l-B"

Non-Compliant Allocations – To Continue with No Change

Company	Location	County	Date of Trustee Approval	Type of Power	Allocation kW	Year 2012 Employment Commitment	Average Jobs Reported for Year 2012	Average Annual % Achieved during Year 2012	WNY Ext. Job Commitment effective 7/1/13	2012 Reported Average Jobs % Based on WNY Ext. Job Commitment
Aurubis Buffalo, Inc. (1)	Buffalo	Erie	Apr-94	RP	250	831	655	79%	575	114%
Ashton Potter (USA) LTD	Cheektowaga	Erie	Oct-07	RP	450	48	38	80%		
Ashland Advanced Materials LLC	Niagara Falls	Niagara	May-08	EP	3,500	75	25	33%	2,500	
Bernzomatic – Worthington Cylinder)	Medina	Orleans	Nov-06	EP	600	210	179	85%		
Buffalo Newspress Inc. (2)	Buffalo	Erie	Jan-94	EP	200	138	123	89%		
Coyne Textile Services (Buffalo) (2)	Buffalo	Erie	Mar-95	EP	350	52	41	79%		
EPCO Carbondioxide Products, Inc.	Medina	Orleans	Dec-06	RP	1,000	20	8	40%		
Ford Motor Company	Buffalo	Erie	Feb-03	EP	2,900	950	671	71%		
Ford Motor Company	Buffalo	Erie	Dec-94	EP	4,300	950	671	71%		
Hurtubise Tire, Inc.	North Tonawanda	Erie	Oct-07	RP	180	18	8	44%		
International Imaging Materials (1)	Amherst	Erie	Jan-89	RP	250	393	342	87%	310	110%
International Imaging Materials (1)	Amherst	Erie	Mar-85	EP	1,000	499	342	69%	310	110%
Lockheed Martin Corporation	Niagara Falls	Niagara	Feb-93	RP	250	45	35	78%		
Moldtech, Inc. (1)	Lancaster	Erie	Apr-07	EP	250	75	63	84%		
Niagara Ceramics Corporation (2)	Buffalo	Erie	Mar-04	EP	250	140	86	61%		
Niagara Ceramics Corporation (2)	Buffalo	Erie	Jan-94	RP	850	140	86	61%		
Niagara LaSalle Corp (2)	Buffalo	Erie	Jan-04	RP	700	115	76	66%		
Niagara LaSalle Corp (2)	Buffalo	Erie	Jan-04	RP	700	115	76	66%		
Nuttall Gear Company (2)	Niagara Falls	Niagara	Feb-93	EP	350	108	96	89%		
Precision Electro Minerals Company	Niagara Falls	Niagara	Aug-89	RP	800	22	19	86%		

July 23, 2013
Exhibit "2l-B"

Company	Location	County	Date of Trustee Approval	Type of Power	Allocation kW	Year 2012 Employment Commitment	Average Jobs Reported for Year 2012	Average Annual % Achieved during Year 2012	WNY Ext. Job Commitment effective 7/1/13	2012 Reported Average Jobs % Based on WNY Ext. Job Commitment
Rosina Food Products, Inc. - (Cheektowaga) (1)	Cheektowaga	Erie	Apr-06	EP	200	270	226	84%	235	96%
Rubber Form Recycled Products, LLC (2)	Lockport	Niagara	Apr-06	EP	100	18	16	89%		
Saint-Gobain Structural Ceramics	Niagara Falls	Niagara	May-08	RP	300	165	138	84%		
Saint-Gobain Structural Ceramics	Niagara Falls	Niagara	May-07	RP	1,000	186	138	74%		
Saint-Gobain Structural Ceramics	Niagara Falls	Niagara	Jan-07	RP	1,400	169	138	82%		
Tulip Corporation (1)	Niagara Falls	Niagara	Oct-90	EP	300	110	85	77%	70	121%
Tulip Corporation (1)	Niagara Falls	Niagara	May-61	RP - vintage	1,200	122	85	70%	70	121%
TAM Ceramics Group of NY, LLC (3)	Niagara Falls	Niagara	Dec-88	EP - vintage	500	100	69	69%		
TAM Ceramics Group of NY, LLC (3)	Niagara Falls	Niagara	Oct-89	RP - vintage	7,000	100	69	69%		
The Carriage House Companies - (Dunkirk)	Dunkirk	Chautauqua	May-99	EP	500	199	151	76%		
Washington Mills Electro Minerals Corp (1)	Niagara Falls	Niagara	Dec-86	RP	9,700	171	106	62%	107	99%
Washington Mills Tonawanda, Inc. (1)	Tonawanda	Erie	Oct-06	RP	300	70	38	54%	38	99%

EP = Expansion Power **RP** = Replacement Power P**P** = Preservation Power

(1) These customers are compliant when considered against their reduced July 1, 2013 commitments that were approved by the Trustees as part of the WNY contract extension initiative in 2010.

(2) These customers were part of the ESD and NYPA outreach review conducted in September 2012, with findings presented at the December 18, 2012 Trustee Meeting. They were approved to report based on their WNY employment commitments as listed above.

*(3) These customers were part of the ESD and NYPA outreach review conducted in September 2012, with findings presented at the December 2012 Trustee Meeting, and were **not** part of the WNY employment commitments as listed above.*

New York Power Authority
Generating more than electricity

President & Chief Executive Officer Report

Gil Quiniones

July 23, 2013

Board of Trustees Meeting

New York Power Authority

Balanced Scorecard for 2nd Quarter/June2013

Goal	Measure	Year-to-Date 2013 Status	Trend	Target	Actual	Year 2014 Risk Range
Maintain Infrastructure	Generation Market Readiness *(%)*	▲	—	99.40	99.44	
	Transmission System Reliability *(%)*	▭	↘	95.80	95.00	Projected Risk Range 2014: 80% 85% 90% 95% 100%
Financial Management	Debt Coverage *(Ratio)*	▲	—	2.40	2.75*	Projected Risk Range 2014: 1.50 2.00 2.50 3.00 3.50 4.00
	O&M Budget Performance *($ Millions)*	▲	↗	169.3	165.7	
Energy Services	MMBTU's Saved	▲	↗	180.3	249.5	
	Energy Efficiency Investment in State Facilities *($ Millions)*	▲	↗	25.9	46.0	
Workforce Management	Retention *(# of Touchpoints)*	▲	↗	280	421*	
Safety Leadership	DART Rate *(Index)*	▲	↘	0.78	0.77	
Environmental Responsibility	Environmental Incidents *(Units)*	▲	↘	19	13	

Risk Range

- ◆ Year-to-Date Actual
- ▼ Risk Threshold

Projected risk ranges to be reported quarterly

Corporate Performance

Status	Trend
▲ Meeting or Exceeding Target	↗ Improving
▭ Below Target	— Stable
● Significantly Below Target	↘ Worsening

*Results updated quarterly

Milestone Measures for 2nd Quarter 2013

Goal	Measure	YTD Target	YTD Actual	Status	YTD Progress
Workforce Management	Skilled Workforce: Operations Technical Training	50%	**50%**	▲	0 25 50 75 100% Q1 Q2 Q3 Q4
Enterprise Risk	Enterprise Risk Management	50%	**50%**	▲	0 25 50 75 100% Q1 Q2 Q3 Q4
Compliance	Compliance Reporting	50%	**50%**	▲	0 25 50 75 100% Q1 Q2 Q3 Q4
	Compliance Training	50%	**50%**	▲	0 25 50 75 100% Q1 Q2 Q3 Q4
Energy Infrastructure	Energy Highway	50%	**50%**	▲	0 25 50 75 100% Q1 Q2 Q3 Q4

Note: Milestone-based measures are reported quarterly

Status

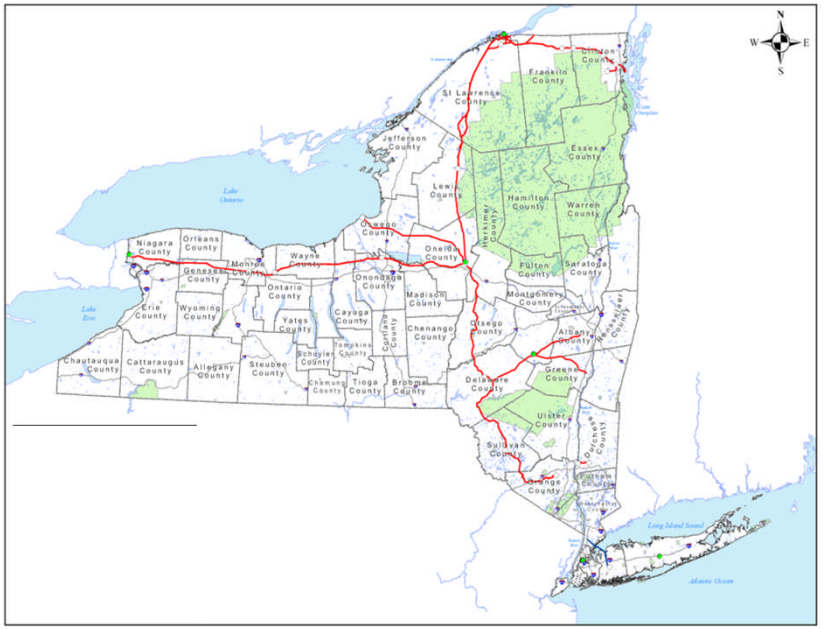
- ▲ On Schedule
- Slightly Behind Schedule
- Significantly behind schedule

Highlights

- Summer 2013
- NYS Energy Plan

Summer 2013

- Multiple heat waves experienced already in summer 2013
- New York Independent System Operator (NYISO) forecasts that New York's summer 2013 peak demand will reach 33,279 megawatts (MW)
  - 840MW higher than the 2012 summer peak of 32,439 MW
- The peak load so far this summer is 33,254 MW. It was reached on July 17.
- NYPA's Peak Reduction Program has been activated several times this summer
- NYPA's assets are all in service and are prepared for the summer demand



NYS Energy Plan

- Articulate the vision of energy in NY
- Tie together existing energy programs in the state
- Fill in the gaps with new recommendations
- Final plan expected to be issued by Spring of 2014

REBUILD NY NOW

NYS 2100 COMMISSION

The NY-Sun Initiative

The New NY WORKS for Energy

BUILD SMART NY

CHARGE NY

Building a New New York
Promises Made | Promises Kept

NEW YORK ENERGY HIGHWAY
The time for powerful ideas

New York Power Authority

Exhibit 3b-A
September 24, 2014

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White Plains, NY 10601-3170

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New York Power Authority

Edward Welz
Chief Operating Officer

TO: NYPA BOARD OF TRUSTEES

FROM: EDWARD WELZ, CHIEF OPERATING OFFICER

DATE: JULY 10, 2013

SUBJECT: MONTHLY REPORT FOR THE BOARD OF TRUSTEES

****

This report covers performance of the Operations group in June 2013.

Operations

Plant Performance

Systemwide net generation[1] was 1,968,032 megawatt-hours[2] (MWh) for June 2013 which is above the projected net generation of 1,934,903 MWh. For the year, net generation was 11,960,116 MWh which is above the projected target of 11,765,000 MWh.

The fleet availability factor[3] was 92.52 percent in June 2013 and 87.98 percent for the year. Generation market readiness factor[4] was 99.47 percent in June, which is better than the monthly target of 99.40 percent. Year-to-date generation market readiness factor was at 99.44 percent, which is above the annual target of 99.40%.

There was one significant forced outage during June:

1. Blade damage occurred on the Pouch Terminal GT which resulted in a 6-day long outage.

Generation net revenue in June was $27.2 million with a loss of revenue of $0.06 million. For the year, net revenue was $144.7 million while revenue loss was $1.4 million.

Niagara River flows in June 2013 remained below the historical average, and are expected to be below average for at least the next two years. St. Lawrence River flows during June 2013 were also below forecast. River flows are expected to be below historical levels beyond 2013.

Transmission Performance

Transmission reliability[i] in June was 98.88 percent, which was below the target of 99.65 percent. Year-to-date transmission reliability is 95.00 percent, below the target of 95.80 percent.

There were no significant unplanned transmission events in June to report.

Safety

The NYPA DART (Days Away, Restricted or Transferred) Rate for June 2013 is 1.54 compared to the target of 0.78. For the year, the DART Rate is 0.77.

The Operations DART Rate for June 2013 is 2.25 compared to the target of 1.08. For the year, the DART Rate is 0.93.

There were two lost time incidents in June that met the DART critieria. For the year, there have been 6 injuries that resulted in lost time and meet the DART criteria.

Environmental

There were eight reportable incidents in June 2013.

1. At Kent, a loss of 10 gallons of gas compression oil occurred when the pre-lube flange gasket failed.
2. At Astoria 500MW, ther e were three occurrences of R-22 refrigerant spills:
   a. A release of approximately 120 pounds of R-22 refrigerant.
   b. In the Administration Building, AC unit No. 5 lost full pressur which resulted in 200 pounds of coolant release.
   c. The turbine hall roof AC unit lost approzimately 3 punds of refrigerant.
3. The Niagara Plant had two oil spills:
   a. About 8 ounces of oil was released from the hydraulic fitting failure of a lawn mower when it hit a manhole cover.
   b. A failed pothead seal resulted in a loss of 21 gallons of mineral oil.
4. At Clark Energy Center, oil was found above the discharge piping.
5. During the deconstruction of the Poletti Plant, 3 gallons of oil leaked with the removal of the coupling capacitor.

For the year, there have been thirteen incidents. The annual target is 32 incidents.

Relicensing – Niagara Power Project

Construction of the Frog Island Habitat Improvement Project (HIP) has commenced. Bids for the vegetation planting phase are under evaluation. Preliminary studies to support design work on the Strawberry Island HIP, which is the last of the Niagara HIPs, continue.

Support continues to be provided for the Maid of the Mist project. Planning and coordination is being provided to minimize the disturbance and interruption of use of NYPA recreational facilities that will be impacted by this undertaking.

Relicensing – St. Lawrence-FDR Power Project

Construction of the Nichols Island Controlled Level Pond HIP was delayed this Spring due to high water levels. Work is back underway with finish work being completed at the eastern end of the project.

Construction on the Little Sucker Brook HIP is back underway. Construction of the new water control structure across Rt. 37 in Waddington will begin soon.

The new Coles Creek Marina building has been completed and is open. This is the last major Relicensing project at the State Park-operated facilities.

Relicensing – Blenheim-Gilboa Project

Preparation of the preliminary licensing documents continues. At this time, no significant regulatory issues that would impact relicensing have been identified.

Life Extension and Modernization Programs

St. Lawrence LEM Upgrade

Unit 17 was taken out of service on January 2, 2013 to start unit automation work. The St. Lawrence Electrical, Mechanical, and Test departments continue to work on the demolition/installation activities including pulling and terminating cable, installation of the distribution feedback assembly, and GCS offline testing. The unit generated first power on June 27, 2013. The 2013 scheduled completion date for the LEM Program remains unchanged.

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 and has been divided into several projects. The Program is estimated to cost $726 million and is comprised of several projects:

- St. Lawrence Breaker & Relay Replacement:
    - Breaker Installation: Engineering continues to design five breaker replacements and will issue an installation specification in August 2013
    - Breaker Procurement: Interim approval issued; Trustees will be requested to approve contract at the July meeting
    - Massena Substation Relay Replacement: Engineering is designing the relay installation packages ; project management and site staff are coordinating equipment outages
    - Alcoa Communications: Engineering issued new communications systems for three transmission lines MRG 1, MRG 2 & MR3
    - 100MVAR Capatitor Banks: CH2M continues to work on the conceptual design
- CEC Autotransformer Refurbishment:
    - The first autotransformer refurbishment is scheduled to conclude in July 2013
    - A kickoff with ABB Inc. for the remaining refurbishments was conducted in June 2013
- Massena Substation Reactor Refurbishment:
    - A kickoff with ABB Inc. for the reactor refurbishments was conducted in June 2013
- ADK Substation Spare Autotransformer Procurement:
    - The project team is continuing to review the proposals for the procurement of the spare auto-transformer.
- NIA, BG & CEC Relay Replacements:
    - The project teams continues to design, procure equipment and install relays
- Massena Substation Autotransformer Replacement:
    - Replacement of the spare auto-transformer at Massena Substation is in progress with equipment delivery expected in the fall of 2013.
    - Remaining auto-transformers are scheduled for delivery and installation in 2014.
- Tower Modeling:
    - Tower modeling of the weathering steel structures and gillage is in progress.
- Tower Painting
    - Tower painting will be rebid to include work on NATL starting in 2014.
- NIA, STL, CEC & BG Swithyard LEM & STL Substation LEM:
    - The project team continues to assess switchyard and substation equipment and determine the priority of equipment replacements
- PV-20 Submarine Cable Replacement:
    - Discussions ongoing with VELCO. Scope of work for preliminary engineering has been developed. Meeting being coordinated with VELCO to review proposal received.

LPGP LEM

The fabrication and the factory acceptance testing of the spare GSU was successfully completed and is scheduled to be delivered in October 2013. The assembly of the second turbine is well underway and the fabrication of the third turbine components were completed and are in transit to Hitachi's facility located in Japan for assembly. The components for the fourth turbine are in various stages of fabrication and portions of the fifth and sixth turbine components were released for fabrication.

As previously reported, a "partial stop work order" was issued to Andritz due to the issues regarding their stator coils. The "back-up plan" for the installation of the emergency spare set of stator coils that were fabricated by General Electric (GE) were also successfully installed by GE in the stator core; the entire stator has been installed in the unit. Andritz completed the installation of the new rotor poles and other ancillary work in accordance with the contract for the first unit and is in the process of installing the rotor in compliance with the unit re-assembly schedule. The first unit commissioning commenced and the unit return to service date of August 16, 2013 remains as scheduled. The LPGP LEM program is scheduled to be completed in 2020.

RMNPP Unit 13 Standardization

The outage for the standardization work commenced on September 14th, 2012. The new stator that was fabricated by Voith was successfully installed and the unit re-assembly work that is being performed by Niagara staff has been proceeding accordingly. The unit was returned to service on July 15, 2013 – four days ahead of schedule.

Technical Compliance – NERC Reliability Standards

In June, Technical Compliance continued to oversee compliance enforcement actions related to several of the NERC Reliability Standards that are applicable to NYPA's NERC registrations. There are currently active enforcement actions for six (6) self-reports of possible violations of the standards. The mitigation plans for three (3) of the self-reports have been completed and are under review by the Northeast Power Coordinating Council (NPCC) and the mitigation plans for the remainder are in progress. One (1) self-report related to the Protection and Control (PRC) standards was submitted to NPCC in June. NPCC notified NYPA that it intends to process the enforcement action for this self-report under NERC's "Find Fix and Track" process; a mitigation plan will not be required and there will be no penalty.

Technical Compliance is currently conducting investigations of five possible violations of the NERC Reliability Standards compliance that were identified by the staff, two of which were initiated in June. The compliance concerns were associated with the Voltage and Reactive (VAR), Critical Information Protection (CIP), and Protection and Control (PRC) NERC Reliability Standards. These investigations conclude with a recommendation to either self-report a possible violation to NPCC or not. This internal

process is viewed by the regulator as evidence that NYPA has a strong internal compliance program.

On June 7, NYPA received a spot check audit notice from the Northeast Power Coordinating Council (NPCC). The off-site spot check audit will be for the NERC reliability standard PRC-001-1.1 – System Protection Coordination for NYPA's registration as a Generator Operator (GOP). The evidence for the audit must be provided to NPCC by August 1. Two of NYPA's 2013 self-reports relate to two of the requirements of the PRC-001-1.1 standard. For those two requirements NPCC will audit the status of NYPA's mitigation plans.

The Federal Energy Regulatory Commission (FERC) approved the new Bulk Electric System (BES) definition in an order dated December 20, 2012 and further reaffirmed its order on April 18, 2013. The new definition will require transmission assets above 100 kV to be subject to the NERC Reliability Standards. In June, NYPA staff continued to engage with National Grid, Con Edison, LIPA, and New York State Electric and Gas to address projected gaps in compliance for the Transmission Owner (TO) standards for NYPA assets that either reside in other TO's substations or for substations owned by NYPA but that are operated and maintained by other TOs. In addition, NYPA continued to have discussions with these TOs regarding the Transmission Operator (TOP) and Transmission Planning (TP) responsibilities for NYPA's newly identified BES assets. NYPA continues to participate in meetings with the NYISO and the NY TOs to assess new functional registration and compliance management impacts and actions pursuant to the new BES definition.

FERC issued a Notice of Proposed Rulemaking (NOPR) regarding Critical Infrastructure Protection (CIP) Version 5 standards on April 18, 2013. Industry comments were submitted to FERC in June. Based on the NOPR, Version 4 of the CIP standards will not be enforced. Version 3 will be replaced with Version 5, which will become effective July 1, 2015. The pending approval and adoption of Version 5 of the Critical Infrastructure Protection (CIP) standards will have substantive impacts on NYPA's CIP compliance program. In June, staff continued its classification assessment of NYPA's cyber assets that will be affected by the revised standards to determine the scope and costs of the implementation plan that will ensure NYPA's compliance with the revised standards.

Energy Resource Management

NYISO Markets

In June, Energy Resource Management (ERM) bid 2.18 million MWh of NYPA generation into the NYISO markets, netting $47.02 million in power supplier payments to the Authority. Year-to-date net power supplier payments are $291.45 million.

Fuel Planning & Operations

In June, NYPA's Fuels Group transacted $26.6 million in natural gas and oil purchases, compared with $17.0 million in June 2012. Year-to-date natural gas and oil purchases are $182.6 million, compared with $95.2 million at this point in 2012. The total $87.4 million increase is mainly due to the higher cost of fuel and fuel consumption at the Astoria Energy II Plant ($35.7 million), Small Clean Power Plants ($11.5 million), Richard M. Flynn Power Plant ($6.4 million), and the 500-MW Combined Cycle Plant ($33.8 million).

Regional Greenhouse Gas Initiative

On June 5th, Auction 20 of the Regional Greenhouse Gas Initiative was held. During the auction, RGGI allowances cleared at $3.21/ton for Vintage 2013, which is well above the CPI-adjusted auction price floor of $1.98/ton and also above auction 19's price of $2.80/ ton. This price increase is mainly due to an updated RGGI Model Rule enacted earlier this year which reduced the budget by 45% along with other changes. NYPA bid on 3 million allowances and was awarded 1.75 million during this second auction of 2013. Since the inception of this program, NYPA has spent almost $35.5 million on 14.8 million RGGI allowances, or $2.40/ton on average. For the first two auctions in 2013, NYPA has spent $3.06/ton on average for Vintage 2013 allowances.

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] **Regional Greenhouse Gas Initiative (RGGI)** – A cooperative effort by Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New York, Rhode Island, and Vermont. These nine states have capped CO_2 emissions from the power sector, and will require a 10 percent reduction in these emissions by 2018. RGGI is composed of individual CO_2 Budget Trading Programs in each of the nine participating states. Regulated power plants can use a CO_2 allowance issued by any of the nine participating states to demonstrate compliance with the state program governing their facility. Taken together, the nine individual state programs function as a single regional compliance market for carbon emissions, the first mandatory, market-based CO_2 emissions reduction program in the United States. New Jersey was a tenth state within the RGGI program but New Jersey's governor pulled the state out of the program in 2011.

[i] **Transmission Reliability** – A measurement of the impact of forced and scheduled outages on the statewide system's ability to transmit power.

New York Power Authority

Report of the Chief Financial Officer

For the Seven Months Ended July 31, 2013

New York Power Authority

Report of the Chief Financial Officer
For the Seven Months Ended July 31, 2013
Executive Summary

Results of Operations

Net income through July, prior to the recognition of the State contribution, was $185.2 million, which was $42.7 million better than the budget due to a higher net margin on sales ($46.5 million) and lower other operating expenses ($8.2 million) partially offset by lower non-operating income ($13.2 million). Net margins on sales were higher than anticipated at Niagara ($4.3 million), Blenheim-Gilboa ($10.9 million), and at the SCPP's ($12.5 million) due to higher market-based sales resulting from higher capacity and energy prices. Higher market-based sales resulted in higher margins at St. Lawrence ($11.8 million) due to higher volumes sold (8% higher generation). Other operating expenses reflected lower than anticipated costs related to the Industrial Incentive awards, Western New York economic development fund and Solar and Energy Efficiency Market Acceleration programs. Non-operating income included a higher than anticipated mark-to-market loss on the Authority's investment portfolio ($15.2 million) due to a sharp increase in market interest rates. Cash losses will not be realized as long as investments are held to maturity, which is generally the case. With the inclusion of the State contribution ($65 million budget, $40 million actual), the Authority had net income of $145.2 million for the seven months ended July 31 compared to a budget of $77.5 million. In July, The Board approved an additional $25 million contribution which the Authority expects to pay in September 2013.

Net income for the seven months ended July 31, 2013 ($145.2 million) was $31.9 million higher than the comparable period last year ($113.3 million). Current year results reflect a lower voluntary contribution to New York State ($35 million) and a higher net margin on sales ($32.2 million), partially offset by lower non-operating income ($24.5 million) and O&M expenses related to the HTP project ($11 million). Voluntary contributions to the State were $40 million through July 2013 compared to $75 million through July 2012. Net margins on sales were higher at Blenheim-Gilboa and the SCCP's primarily due to higher market based sales resulting from higher prices. Higher net margins at the transmission facilities resulted from higher revenues earned by the Authority's FACTS project. These positives were partially offset by lower net margins at Niagara and St. Lawrence due to lower generation. Non-operating income in 2013 included a $19.7 million mark-to-market loss on the Authority's investment portfolio (due to higher market interest rates), compared to a slight loss in 2012, and lower income from Entergy (The final payment related to Entergy's purchase of IP2 was made in 2012).

Cash & Liquidity

The Authority ended the month of July with total operating funds of $1,378 million as compared to $1,350 million at the end of 2012. The increase ($28 million) is primarily attributable to net cash from operations ($244 million) and payment received from Entergy of $72 million substantially offset by Interconnection and related costs associated with the HTP project ($139 million), the $40 million State contribution, plant additions and debt service payments.

Year-end Projection

The Authority's 2013 net income is currently projected to be $184 million, $54 million above budget, primarily due to increased hydro generation and firmer capacity and energy prices, partially offset by a decline in the mark-to-market value of the Authority's investment portfolio.

- **Hydro Flows** – Continued above average rainfall in July has resulted in lake levels being higher than long term average for both Lake Erie and Lake Ontario. The result is a 19.40 Twh current projection for the combined net generation at the Niagara and St. Lawrence hydroelectric facilities compared to the 18.45 Twh estimate in the budget, positively impacting the Authority's net income

- **Capacity Prices** – With higher than expected capacity prices, Staff took steps to lock in these revenues by selling approximately half of the surplus capacity in the NYISO 6-month summer strip auction, thereby protecting these revenues from any potential downturn in the market.

- **Energy Prices** – Wholesale electricity prices have increased with a rise in natural gas prices. Upstate prices are approximately 5% higher than the budget and New York City prices are up 11%, having a positive effect on the Authority's net income.

- **Mark-to-Market Valuation** – The current environment of rising interest rates is having a negative effect on the mark-to-market value of the Authority's fixed rate investments in its portfolio, decreasing net income on an accrual basis. However, cash losses will not be realized as long as the individual investments are held to maturity, which is generally the case.

At currently projected levels, the Authority's business requirements for cash flow (debt service coverage) and liquidity are expected to be met.

Risk Management

In the months of June and July, the Risk Management staff conducted an intensive and comprehensive refresh of the entire NYPA risk inventory. The focus of this assessment was to enhance the quality of the inventory to allow for the bottom-up assessment process to identify and align risks to the top/enterprise risk topics raised by the Executive Risk Management Committee (ERMC). The results will be manifested in the next quarterly update to the Enterprise Risk Report which will be presented to the Audit Committee on September 24. In addition, several forward-looking Key Risk Indicators (KRIs) have been included in the July Corporate Balanced Scorecard report.

New York Power Authority

RESULTS OF OPERATIONS

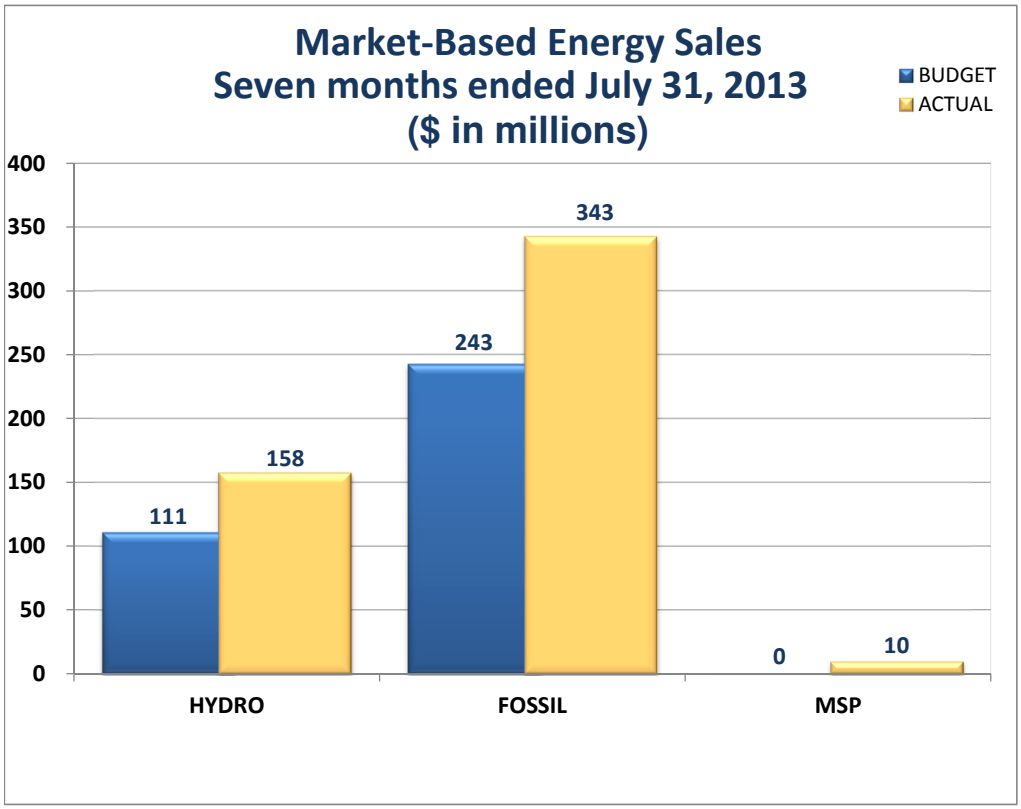
Net Income

Seven months ended July 31, 2013

($ in millions)

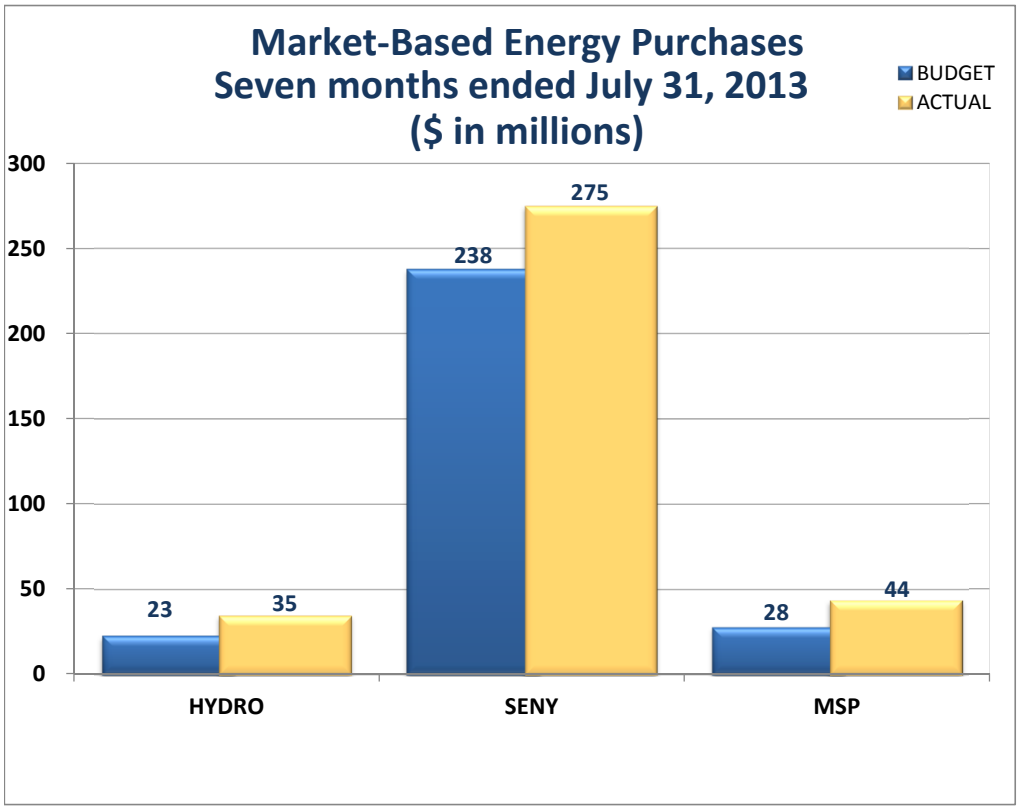
	Actual	Budget	Variance
Niagara	$87.8	$73.7	$14.1
St. Lawrence	32.0	19.3	12.7
Blenheim-Gilboa	12.6	2.9	9.7
SENY	24.1	24.6	(0.5)
SCPP	17.5	6.6	10.9
Market Supply Power	(66.3)	(62.7)	(3.6)
Flynn	13.4	7.9	5.5
Transmission	26.8	21.5	5.3
Non-facility	(2.7)	(16.3)	13.6
Total	**$145.2**	**$77.5**	**$67.7**

Major Factors	**Better (Worse)**
Niagara	$14.1
Higher net margin on sales ($4.3) resulting from higher capacity prices, lower expenses related to the timing of the industrial incentive awards ($5.2) and lower O&M ($3.1, timing, non-recurring projects).	
St. Lawrence	
Primarily higher net margin on sales ($11.8, 8% higher generation)	12.7
Blenheim-Gilboa	9.7
Higher capacity and energy revenues due to higher prices.	
SCPP	10.9
Higher volumes and price spreads on market-based sales	
Transmission	5.3
Higher revenues (primarily related to FACTS) partially offset by higher O&M (HTP Project). Proportionally higher energy prices in downstate markets increased congestion costs which had a positive impact on FACTS revenues. Higher O&M resulted from costs associated with the HTP line, which went into service one month ahead of schedule.	
Other facilities	1.4
Includes higher net margin at Flynn due to higher energy prices.	
Non-facility (including investment income)	13.6
Primarily due to budgeted $25 million State contribution, which the Authority expects to make in September; partially offset by higher market-to-market loss on the Authority's investment portfolio ($15.5) due to sharp increase in market interest rates.	
	$67.7



REVENUES		
SALES (MWH)		
	BUDGET	ACTUAL
Hydro*	1,907,397	2,638,674
Fossil	4,029,272	4,445,299
MSP	-	231,301
TOTAL	5,936,669	7,315,274
PRICES ($/MWH)		
Hydro*	$40.94	$38.81
Fossil	$54.03	$62.73
MSP	-	$42.77
AVERAGE	$49.82	$55.17

** Includes Niagara, St. Lawrence, B-G, and Small Hydro.*

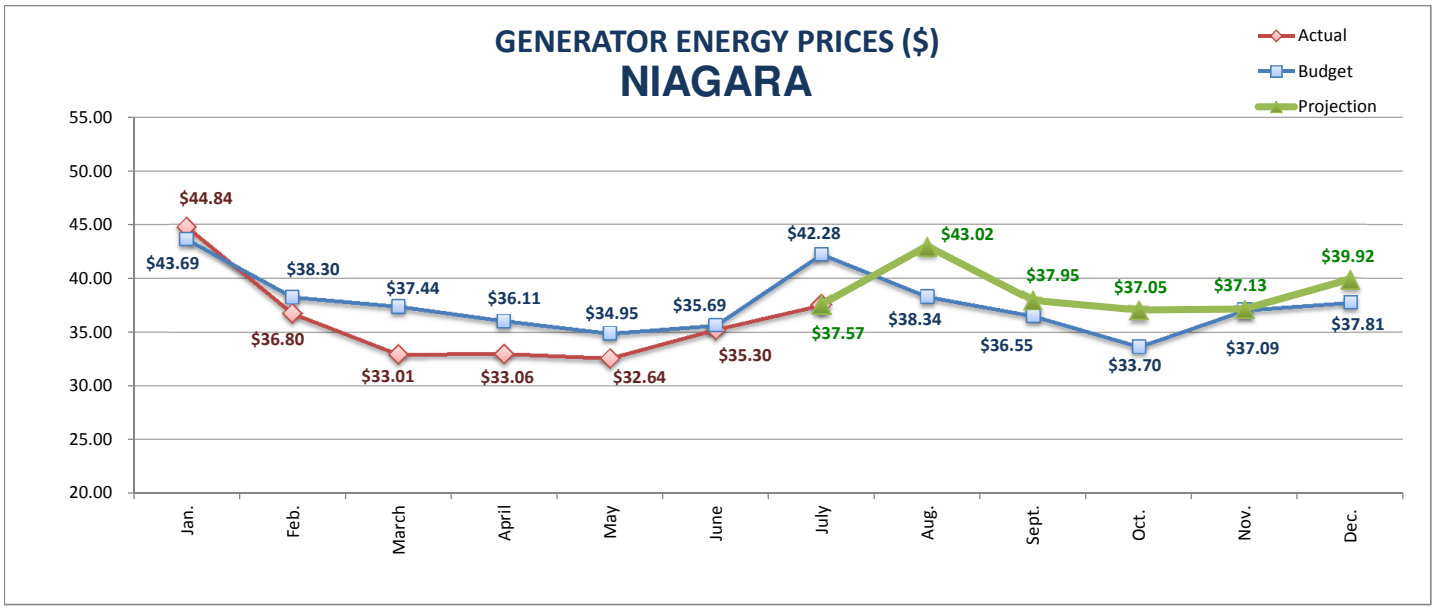


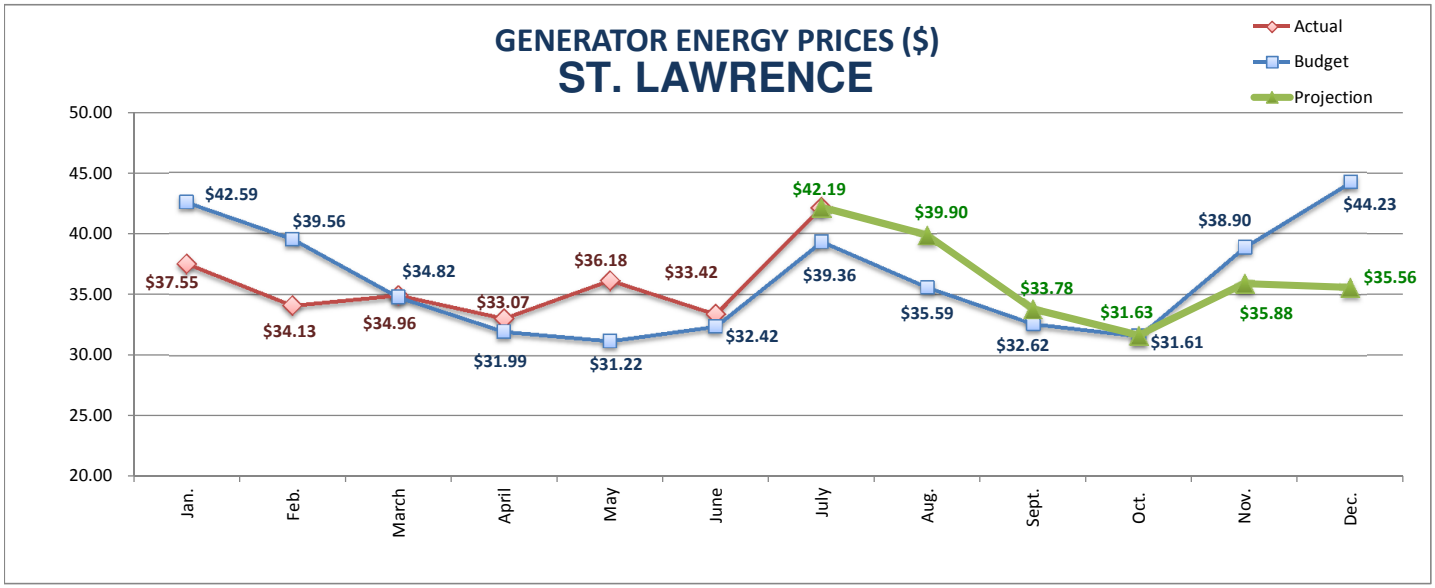
REVENUES		
SALES (MWH)		
	BUDGET	ACTUAL
Niagara	1,083,388	1,492,224
St. Law.	561,606	867,831
PRICES ($/MWH)		
Niagara	$37.84	$37.74
St. Law.	$35.07	$36.99

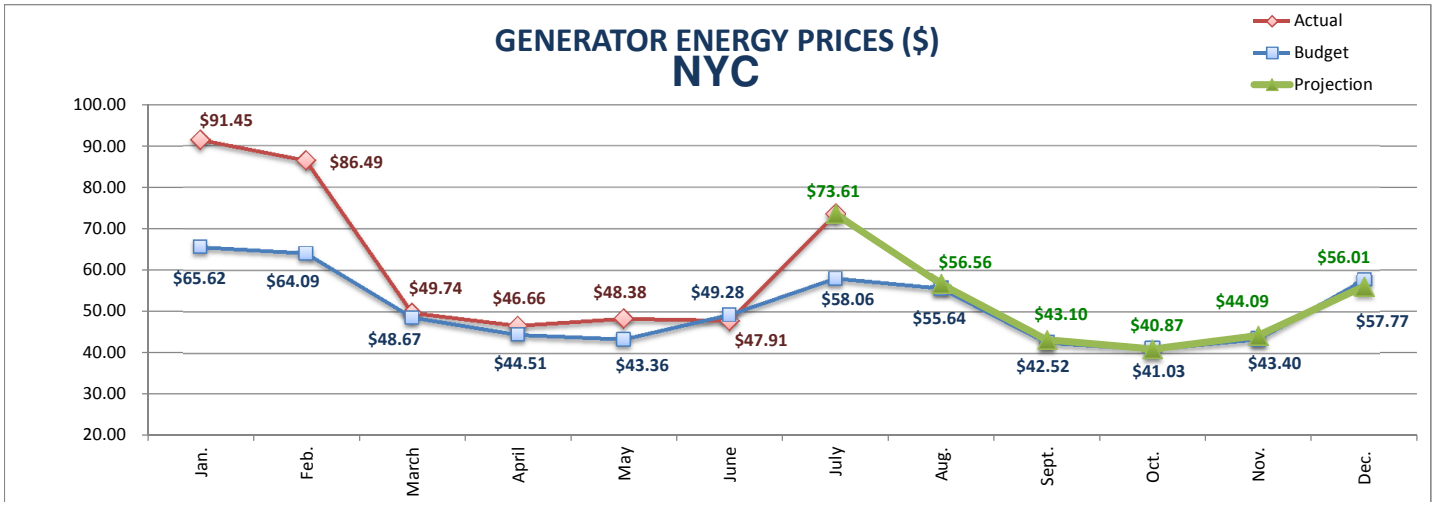
COSTS		
PURCHASES (MWH)		
	BUDGET	ACTUAL
Hydro	1,023,895	1,188,182
SENY	5,107,823	5,378,636
MSP	668,099	832,976
TOTAL	6,799,817	7,399,794
COSTS ($/MWH)		
Hydro	$22.33	$29.53
SENY	$46.51	$51.25
MSP	$42.76	$52.41
AVERAGE	$42.50	$47.90

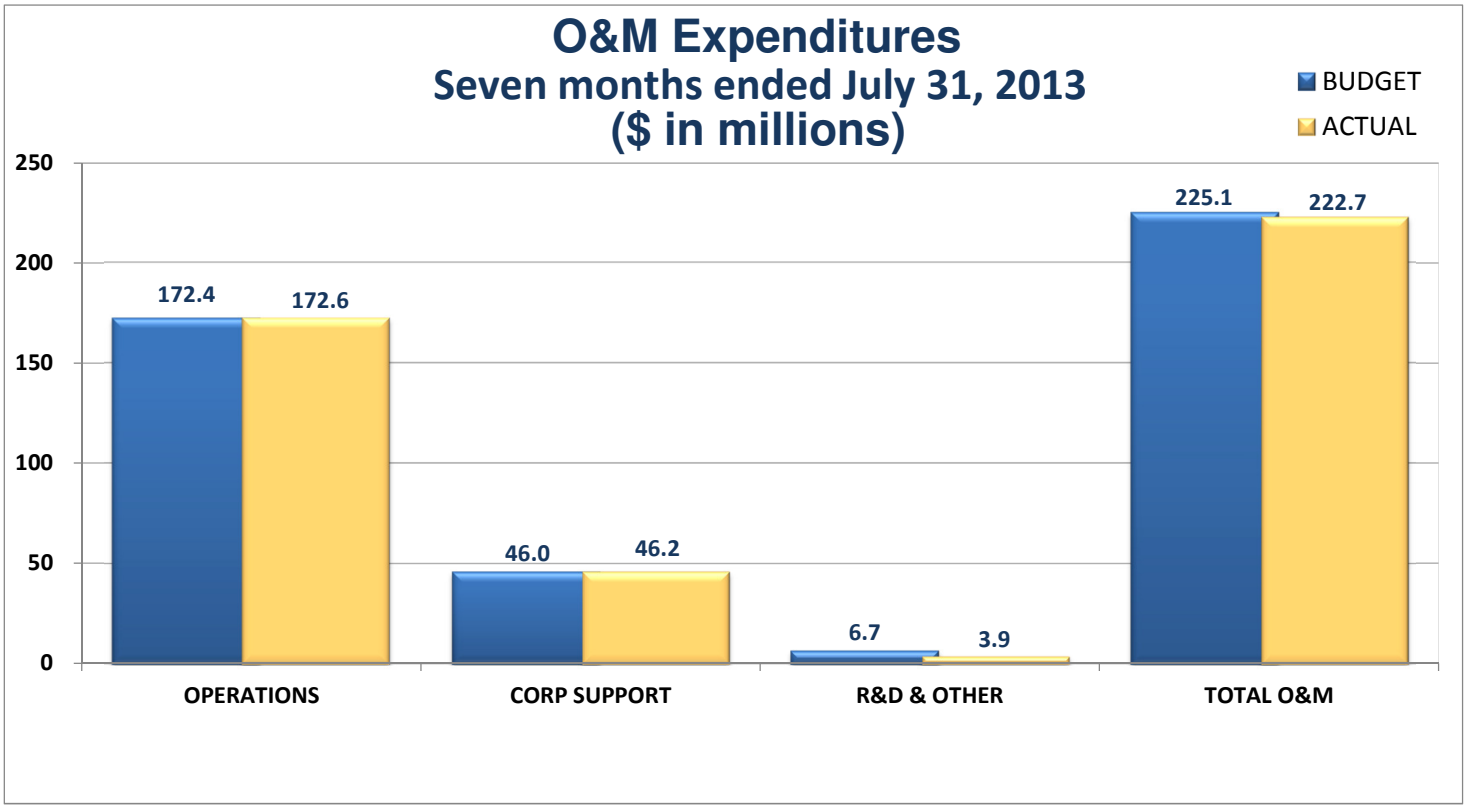
RESULTS OF OPERATIONS

Market Energy Prices







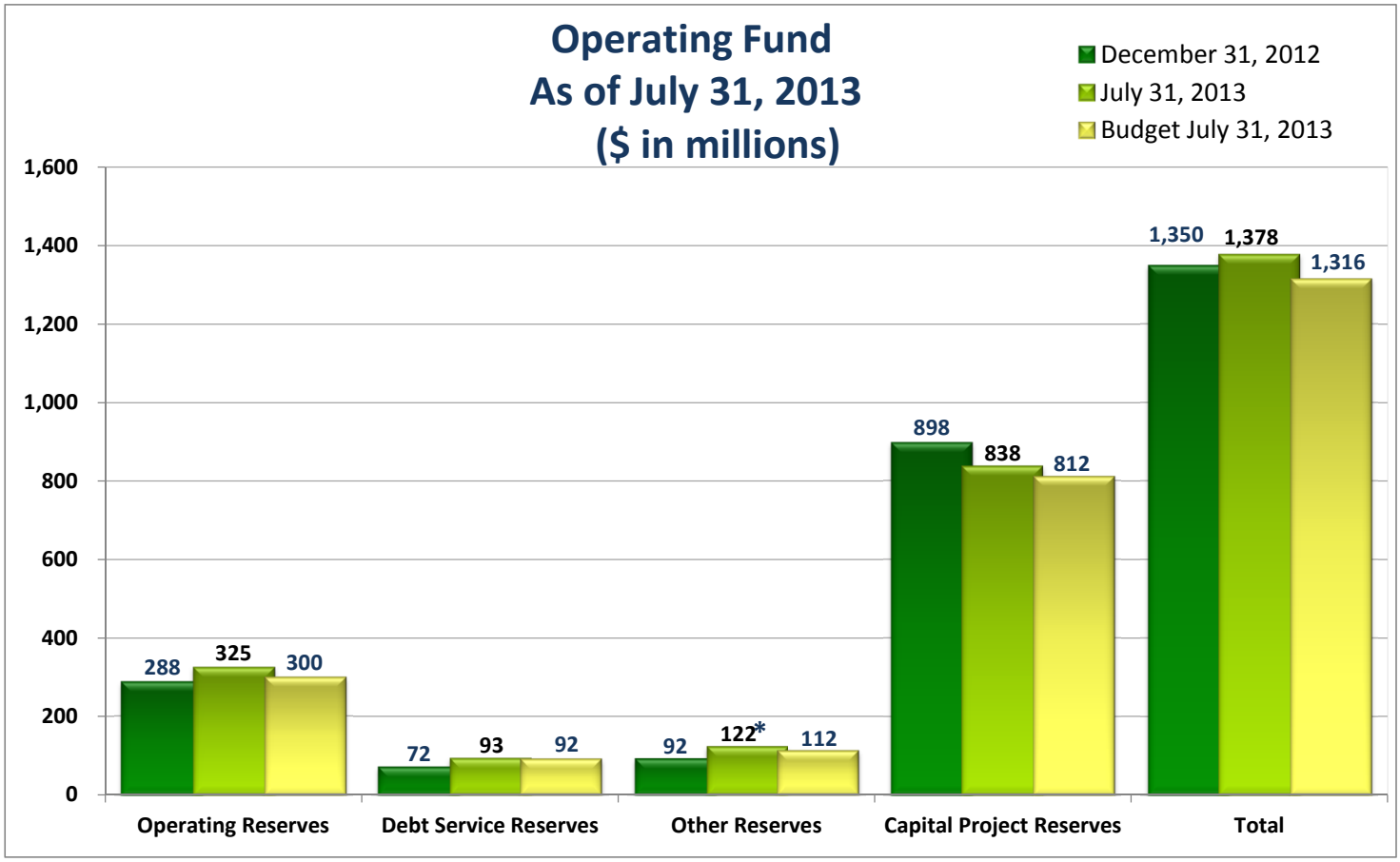


- For the seven months ended July 31, 2013, O&M expenses were $2.4 million lower than budgeted.

- Operations expenditures were slightly over budget through July. additional costs associated with the HTP line, which went into service a month ahead of schedule, and overruns in the SCPP'S were offset by under-runs at Niagara, St. Lawrence and the Small Hydro facilities. The Small Clean Power Plants included greater than expected spending for the Kent and Pouch outages, timing for the Gowanus Bulkhead repairs and emergent work for Brentwood Combustion Turbine repairs. Niagara was under budget due to timing for the Dam Face Repair and the Robert Moses Upper Headgate Rail Inspection and Repair. The underrun at St. Lawrence included less than expected recurring maintenance and delay in the unit 27 Stay Ring Crack Repairs. The small hydro facilities were under budget due to less than anticipated recurring maintenance and engineering consulting support for the Crescent Fish Guidance System.

- R&D and Other was below budget due to timing for NYSERDA and EPRI fees, Power Generation Technology, Transmission Technology and Electric Vehicle projects.

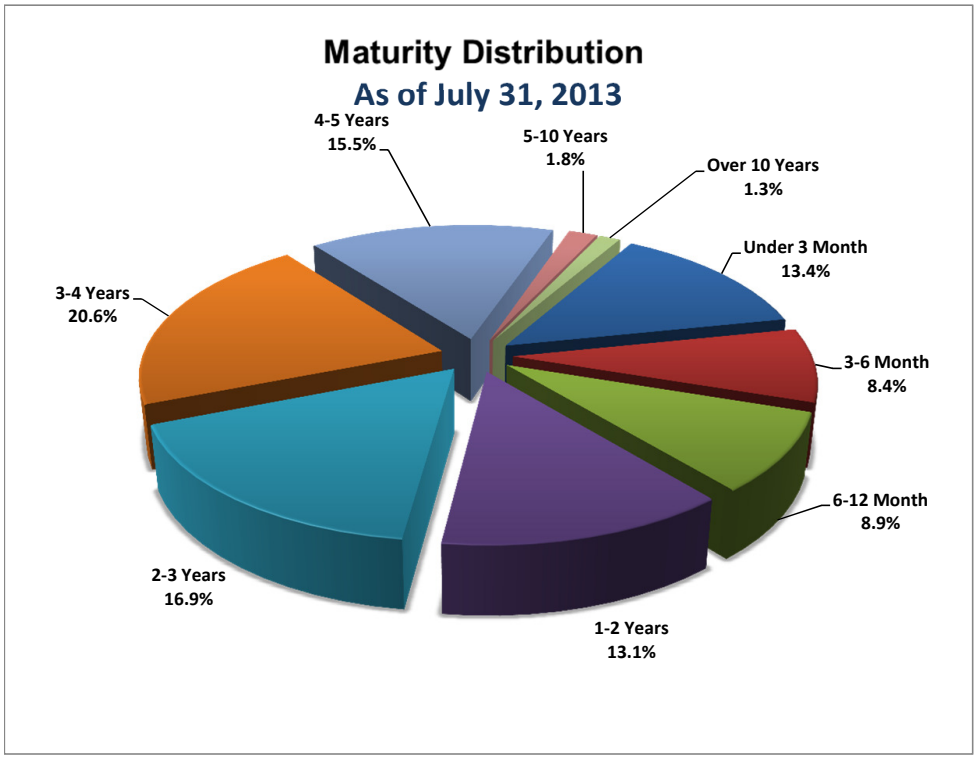
CASH AND LIQUIDITY



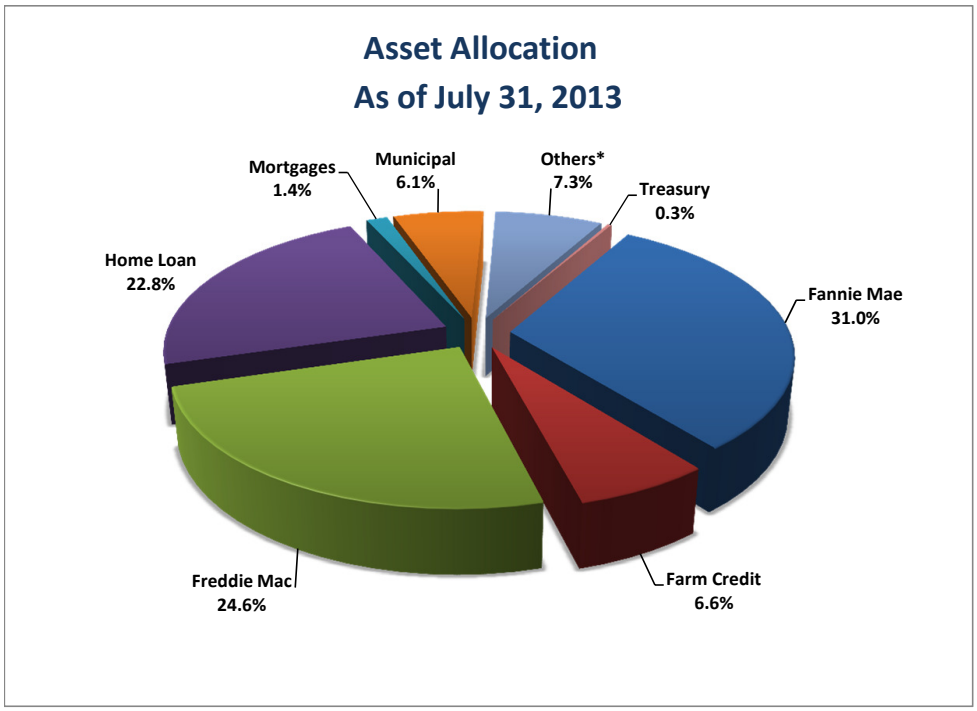
The $28 increase in the Operating Fund (from $1,350 to $1,378) was primarily attributable to positive net cash provided by operating activities $243.7 million, and a payment of $72 received from Entergy, substantially offset by interconnection and related costs associated with the HTP project ($139), the State contribution ($40), plant additions and debt service payments.

* Includes $71 in Energy Hedging/Fuel Reserves, $20 in the Western New York Economic Development Fund, $21 in NY State Parks Greenway Fund, and $10 in the North Country Economic Development Fund.

CASH AND LIQUIDITY INVESTMENT PORTFOLIO

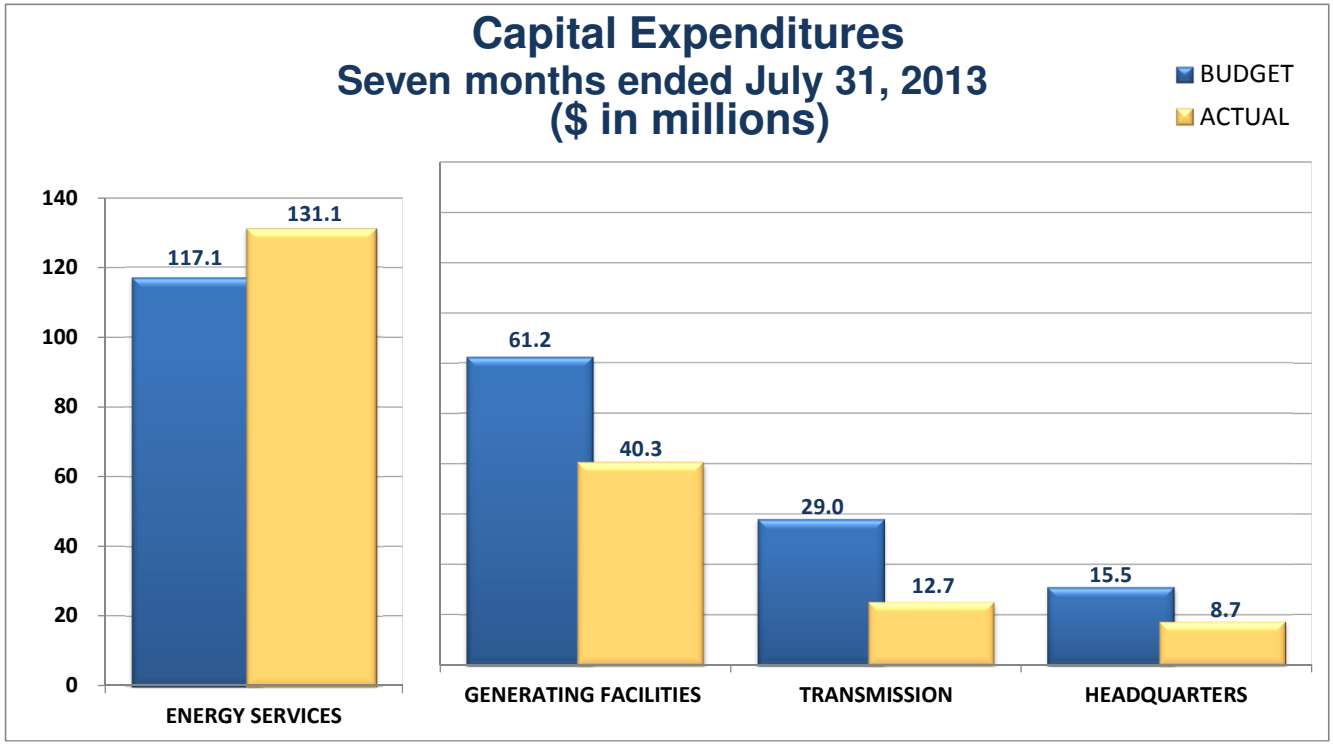


MATURITY DISTRIBUTION ($ in millions)	
Under 3 Month	$190.4
3-6 Month	118.6
6-12 Month	125.9
1-2 Years	185.3
2-3 Years	240.3
3-4 Years	292.7
4-5 Years	220.1
5-10 Years	25.8
Over 10 Years	19.0
Total	**$1,418.1**



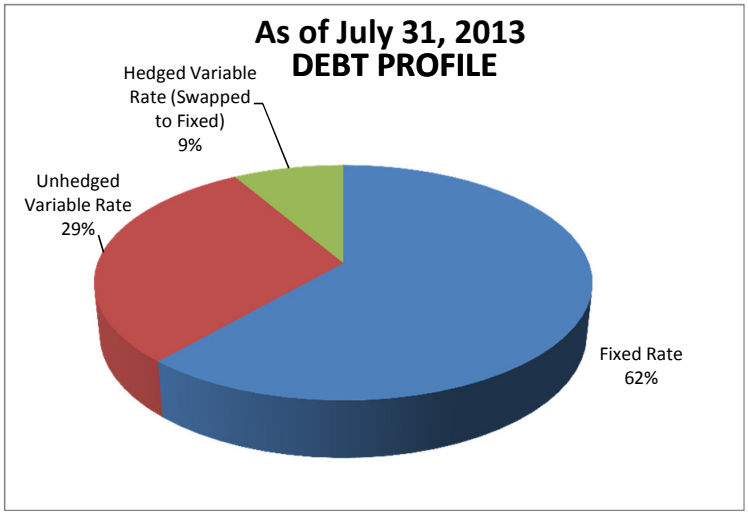
ASSET ALLOCATION ($ in millions)	
Fannie Mae	$439.5
Farm Credit	93.0
Freddie Mac	348.4
Home Loan	322.7
Mortgages	20.0
Municipal	86.9
Others*	103.9
Treasury	3.7
Total	**$1,418.1**

*Includes CDs and Repos



- Generating Facilities were under budget by $20.9 primarily due to scheduling delays for the Lewiston Pump Generation Plant-LEM.
- Transmission expenditures were under budget by $16.3 primarily due to delays for the St. Lawrence and Niagara relay replacement projects.
- Headquarters expenditures were under budget primarily due to delays and timing differences related to IT Initiative Projects.
- Energy Services expenditures were over budget by $14.0 due to greater than expected spending in the Governmental Services program.
- Under the expenditure authorization procedure, the President authorized new expenditures on budgeted capital projects of $21.2 through July. The following expenditure was authorized in July:

  St. Lawrence Nature Center $0.5



DEBT PROFILE	
($ in millions)	
Fixed Rate	$1,065.4
Unhedged Variable Rate	500.0
Hedged Variable Rate (Swapped)	146.1
Total	**$1,711.5**

ENERGY DERIVATIVES

Results

Year-to-date, preliminary energy derivative settlements have resulted in a net loss of $19.1 million. Gains and losses on these positions are substantially passed through to customers as resulting hedge settlements are incorporated into and recovered through customer rates.

Year-to-Date 2013 Energy Derivative Settlements & Fair Market Valuation of Outstanding Positions
($ in Millions)

	Settlements	Fair Market Value			
	YTD[1]	2013	2014	>=2015	Total
NYPA	$ (0.15)	$ (0.07)	$ 0.00	$ -	$ (0.07)
Customer Contracts	$ (18.94)	$ (23.91)	$ (53.47)	$ (19.36)	$ (96.74)
Total	$ (19.10)	$ (23.98)	$ (53.47)	$ (19.36)	$ (96.80)

[1] Reflects July preliminary settlements.

At the end of July, the fair market value of outstanding positions was at an unrealized loss of $96.8 million for positions extending through 2017.

Market Summary

Exhibit 1 shows the average price of futures contracts for August to December 2013 and how they have traded since November 30, 2010. Exhibit 2 shows the average price of futures contracts for entire year 2014 since November 30, 2011.

Exhibit 1: Average September to December 2013 Forward Price

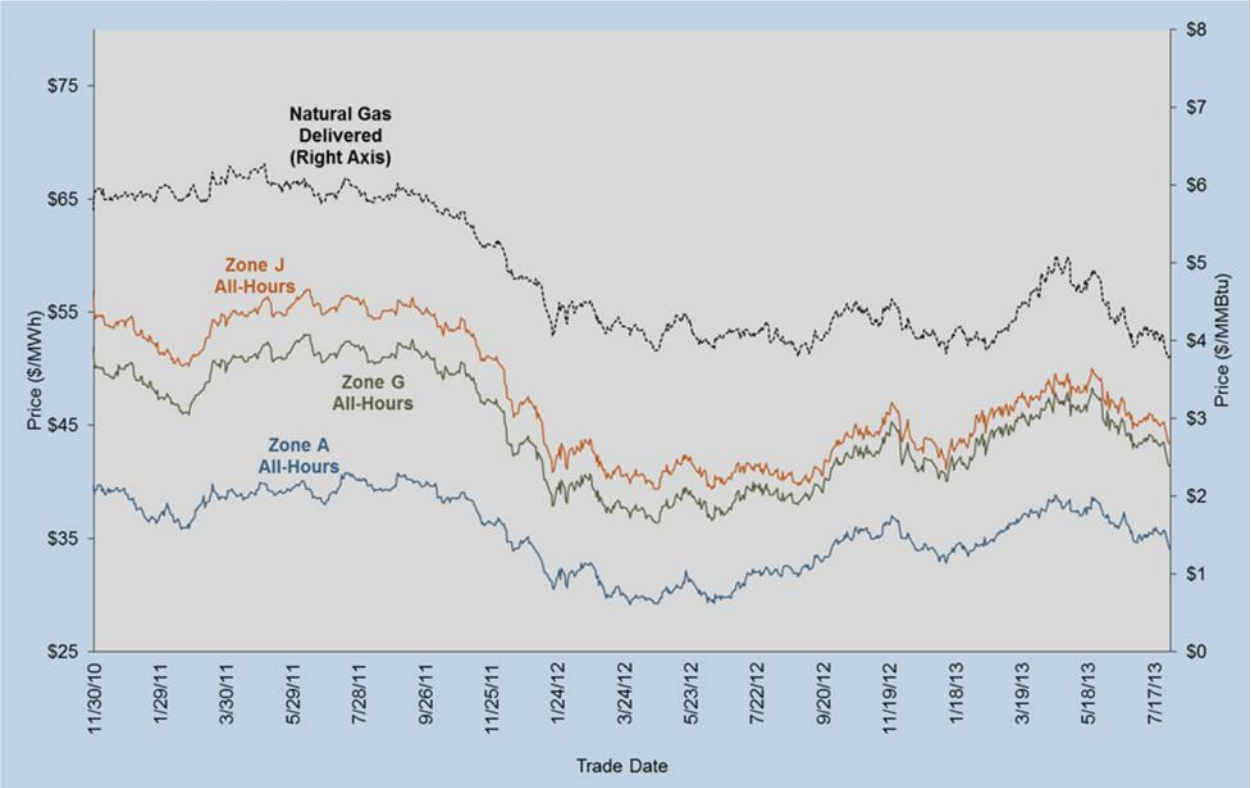
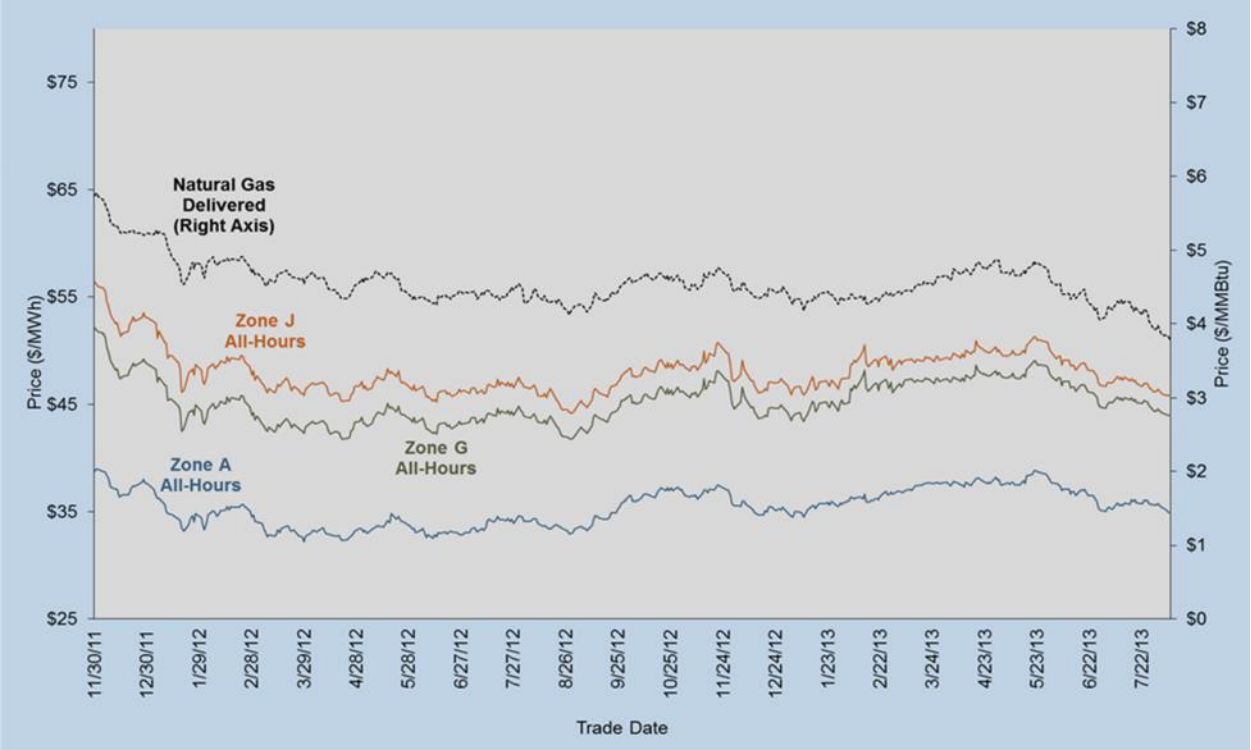


Exhibit 2: Average January to December 2014 Forward Price



STATEMENT OF NET INCOME
For the Seven Months Ended July 31, 2013

Annual Budget		Actual	Budget	Variance Favorable/ (Unfavorable)
	Operating Revenues			
$2,119.6	Customer	**$ 1,228.7**	**$ 1,213.7**	**$ 15.0**
524.2	Market-based power sales	481.8	325.3	156.5
27.9	Ancillary services	18.6	17.3	1.3
126.5	NTAC and other	81.3	75.5	5.8
678.6	Total	**581.7**	**418.1**	**163.6**
2,798.2	**Total Operating Revenues**	**1,810.4**	**1,631.8**	**178.6**
	Operating Expenses			
697.7	Purchased power	523.7	406.2	(117.5)
322.9	Fuel consumed - oil & gas	213.9	202.5	(11.4)
76.1	Ancillary services	36.6	44.3	7.7
583.0	Wheeling	340.8	329.7	(11.1)
426.4	Operations and maintenance	222.7	225.1	2.4
227.8	Depreciation and amortization	132.7	132.9	0.2
201.1	Other expenses	109.6	117.9	8.3
(13.0)	Allocation to capital	(6.1)	(7.4)	(1.3)
2,522.0	**Total Operating Expenses**	**1,573.9**	**1,451.2**	**(122.7)**
276.2	**Net Operating Income**	**236.5**	**180.6**	**55.9**
	Nonoperating Revenues			
75.8	Post nuclear sale income	52.7	52.7	-
37.4	Investment income	21.4	21.8	(0.4)
(9.0)	Mark to market - investments	(19.7)	(4.5)	(15.2)
104.2	**Total Nonoperating Revenues**	**54.4**	**70.0**	**(15.6)**
	Nonoperating Expenses			
65.0	Contributions to New York State	40.0	65.0	25.0
185.0	Interest and other expenses	105.7	108.1	2.4
250.0	**Total Nonoperating Expenses**	**145.7**	**173.1**	**27.4**
$130.4	**Net Income**	**$ 145.2**	**$ 77.5**	**$ 67.7**

New York Power Authority
Financial Reports

COMPARATIVE BALANCE SHEETS
July 31, 2013
($ in millions)

Assets		July 31, 2013	July 31, 2012	December 31, 2012
Current Assets				
	Cash	$0.1	$0.1	$0.1
	Investments in government securities	1,381.5	1,366.7	1,370.7
	Interest receivable on investments	5.7	6.2	5.7
	Accounts receivable - customers	280.3	264.6	223.0
	Materials and supplies, at average cost:			
	Plant and general	84.9	82.0	83.2
	Fuel	21.5	22.6	18.3
	Prepayments and other	116.4	117.8	135.9
	Total Current Assets	**1,890.4**	**1,860.0**	**1,836.9**
Noncurrent Assets				
Restricted Funds	Investment in decommissioning trust fund	1,250.4	1,163.6	1,186.1
	Other	61.1	73.4	62.1
	Total Restricted Funds	**1,311.5**	**1,237.0**	**1,248.2**
Capital Funds	Investment in securities and cash	55.4	78.0	58.0
	Total Capital Funds	**55.4**	**78.0**	**58.0**
Net Utility Plant	Electric plant in service, less accumulated depreciation	3,263.5	3,362.5	3,331.4
	Capital lease, less accumulated amortization	1,035.1	1,092.9	1,068.8
	Construction work in progress	211.2	142.0	177.8
	Net Utility Plant	**4,509.8**	**4,597.4**	**4,578.0**
Other Noncurrent Assets	Receivable - NY State	318.1	318.0	318.0
	Deferred charges, long-term receivables and other	788.6	580.5	615.9
	Notes receivable - nuclear plant sale	105.3	130.2	124.4
	Total other noncurrent assets	**1,212.0**	**1,028.7**	**1,058.2**
	Total Assets	**8,979.1**	**8,801.1**	**8,779.4**
Deferred Outflows	Accumulated decrease in fair value of hedging derivatives	**78.6**	**165.1**	**107.4**
	Total Assets and Deferred Outflows	**$ 9,057.7**	**$ 8,966.2**	**$ 8,886.8**
Liabilities and Net Assets				
Current Liabilities	Accounts payable and accrued liabilities	870.5	917.5	853.8
	Short-term debt	329.3	309.0	330.3
	Total Current Liabilities	**1,199.8**	**1,226.5**	**1,184.1**
Noncurrent Liabilities				
Long-term Debt	Revenue bonds	1,058.8	1,105.3	1,060.7
	Adjustable rate tender notes	131.1	114.8	139.9
	Commercial paper	210.9	265.8	235.4
	Total Long-term Debt	**1,400.8**	**1,485.9**	**1,436.0**
Other Noncurrent Liabilities	Nuclear plant decommissioning	1,250.4	1,163.6	1,186.1
	Disposal of spent nuclear fuel	216.5	216.3	216.4
	Capital lease obligation	1,232.4	1,239.1	1,236.4
	Deferred revenues and other	142.1	225.8	157.4
	Total Other Noncurrent Liabilities	**2,841.4**	**2,844.8**	**2,796.3**
Net Position		**3,615.7**	**3,409.0**	**3,470.4**
	Total Liabilities and Net Position	**$ 9,057.7**	**$ 8,966.2**	**$ 8,886.8**

SUMMARY OF OPERATING FUND CASH FLOWS
For the Seven Months Ended July 31, 2013
($ in millions)

Operating Fund	
Opening	$1,349.7
Closing	1,378.3
Increase	28.6
Cash Generated	
Net Operating Income	236.5
Adjustments to Reconcile to Cash Provided from Operations	
Depreciation & Amortization	132.7
Net Change in Receivables, Payables & Inventory	(122.1)
Other	(3.4)
Net Cash Generated from Operations	243.7
(Uses)/Sources	
Utility Plant Additions	(90.3)
Debt Service	
Commercial Paper 2	(24.6)
ART Notes	(8.9)
Investment income	14.6
Entergy Payment (Value Sharing Agreement)	71.7
Voluntary Contributions to NY State	(40.0)
HTP- Interconnection costs	(115.1)
HTP-Security deposit - tax gross-up	(23.9)
Other	1.4
Total (Uses)/Sources	(215.1)
Net Increase in Operating Fund	$28.6

STRATEGIC PLANNING PROCESS - 2013

Trustee Meeting

July 23, 2013

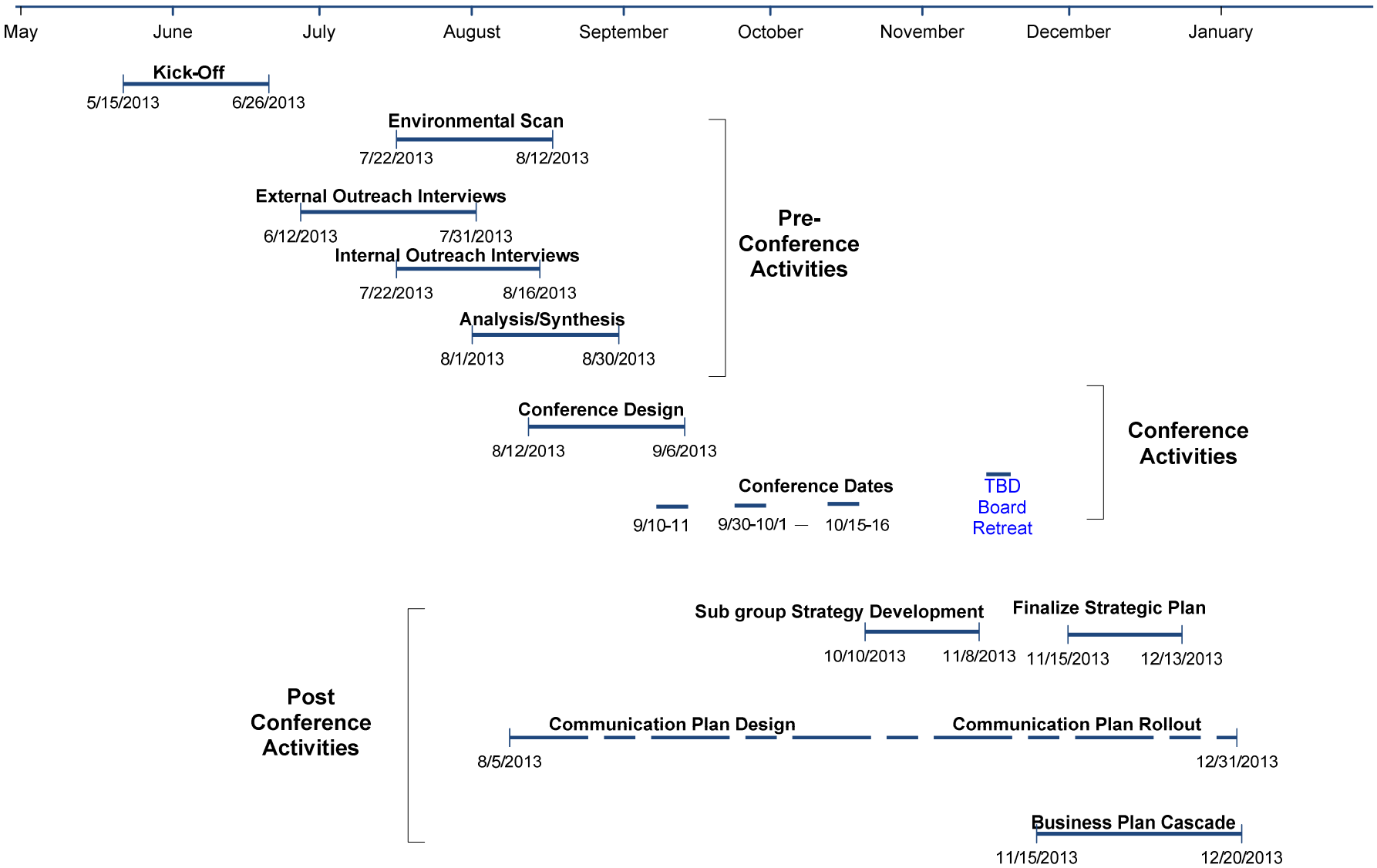
Bob Lurie

New York Power Authority

OVERALL PROCESS

Steps	Objective
Kick-Off	Develop and obtain approval for overall strategy process and schedule
Environmental Scan	Gather information on energy industry to augment and inform interview and planning processes
External Outreach	Clarify vision of the future in energy with subject matter experts in energy and government. Understand external view of NYPA's role.
Internal Outreach	Solicit internal expertise on energy issues and NYPA's role
Analysis and Synthesis	Develop major themes to be addressed in planning
Conference Design	Define a conference agenda which will achieve the planning objectives
Conference Events	Achieve consensus on strategic direction and tactical actions through a series of planning workshops
Strategy Communication	Inform and engage staff on the strategic plan
Cascade Strategy to Business Plans	Ensure business plans and performance measures align with and support the strategy

SCHEDULE



New York Power Authority

OUTREACH

- Survey on Trends and Forces in the Energy Industry
- External Interviews
  - Energy Experts
  - Other Energy Related Agencies and Authorities
  - Customers
  - Financial Institutions
  - Clean Energy/Renewables Oriented Organizations
  - Other Utilities
  - Energy Research Organizations
- Strategy Drivers
  - Low Gas Prices: Continued or expanded availability of low priced gas over the long term
  - Technology Advances: Increasing technical and financial viability of distributed generation, combined heat and power (CHP), smart grid, energy storage and microgrids
  - Climate Change: Significant climate changes will increase the need for hardening of infrastructure and may shift load patterns
  - Changes in Policies and Environmental Regulations: New legislation intended to lessen or reverse the change
- Coordinating Outreach with New York State Energy Plan Efforts

INTERNAL OUTREACH & CORE TEAM

- Internal Outreach will include all Business Unit executives and other subject matter experts throughout NYPA
  - Survey on Trends and Forces in the Energy Industry
  - Internal Interviews
  - Strategy Drivers

- Empaneled Core Team
  - Innovative high potential staff selected by their Business Unit executives to engage throughout the strategic planning process

DESIRED OUTCOME

- To prepare NYPA to continue to fulfill its mission in a transformed energy industry
- To set long-term goals and develop the roadmap to achieve them
- To align with and support the New York State Energy Plan
- To communicate our strategy to our stakeholders, staff and the public

New York Power Authority
ReCharge New York Retention Power Allocation Recommendations

Exhibit "4a-A"
July 23, 2013

Line	Company	City	County	Economic Development Region	IOU	Description	kW Request	kW Recommendation	Job Retention Commitment	Capital Investment ($)	Contract Term (years)
1	Jasco Tools	Rochester	Monroe	Finger Lakes	RG&E	Produces tools for auto, defense, aerospace industries	600	270	50	$250,000	7
2	Thermo Fisher Scientific, Inc.	Rochester	Monroe	Finger Lakes	RG&E	Designs, develops, manufactures products for life science	3,500	1,750	800	$36,000,000	7
	Finger Lakes Region Sub-totals:							2,020	850	$36,250,000	
3	Autronic Plastics, Inc.	Central Islip	Suffolk	Long Island	LIPA	Plastics manufacturing	492	246	85	$1,300,000 [1]	7
4	Big Apple Sign Corporation	Islandia	Suffolk	Long Island	LIPA	Architectural signage company	245	100	95	$0 [1]	7
5	Hanan Products Co., Inc.	Hicksville	Nassau	Long Island	LIPA	Manufacturing of frozen whipped toppings	259	126	24	$180,000 [2]	7
6	Work Market, Inc.	Huntington	Suffolk	Long Island	LIPA	Labor management software company	72	26	35	$150,000	7
	Long Island Region Sub-totals:							498	239	$1,630,000	
7	The Gap, Inc.	Fishkill	Dutchess	Mid-Hudson	Cen Hud	Regional distribution center	5,936	2,480	529	$4,900,000	7
8	Town Sports International, LLC	Elmsford	Westchester	Mid-Hudson	Con-Edison	Laundry facility/Linen services	393	196	110	$1,250,000	7
	Mid-Hudson Region Sub-totals:							2,676	639	$6,150,000	
9	HP Hood LLC	Vernon	Oneida	Mohawk Valley	National Grid	Dairy Processing Facility	1,693	846	105	$10,000,000	7
	Mohawk Valley Region Sub-totals:							846	105	$10,000,000	
10	The Gap, Inc.	New York City	New York	New York City	Con-Edison	Global brand headquarters	1,328	486	750	$2,000,000	7
	New York City Region Sub-totals:							486	750	$2,000,000	
11	Advance 2000, Inc.	Amherst	Erie	Western New York	National Grid	Data center, cloud computing	225	110	113	$900,000	7
12	Niagara Specialty Metals, Inc.	Akron	Erie	Western New York	National Grid	Steel manufacturer	1,501	750	39	$4,000,000	7
13	Triad Recycling and Energy Corp.	Tonawanda	Erie	Western New York	National Grid	Recycler of gypsum drywall	150	30	2	$150,000	7
	Western New York Region Sub-totals:							890	154	$5,050,000	
	Totals							**7,416**	**2,737**	**$61,080,000**	

[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.

[2] Represents a one year capital investment

New York Power Authority
ReCharge New York Expansion Power Allocation Recommendations

Exhibit "4a-B"
July 23, 2013

Line	Company	City	County	Economic Development Region	IOU	Description	kW Request	kW Recommendation (1)	Existing Employment (if applicable)	Job Creation Commitment	Project Capital Investment ($)	Contract Term (years)
1	Agrana Fruit US, Inc.	Baldwinsville	Onondaga	Central New York	National Grid	Fruit processing plant for yogurt	1,300	910	0	120	$49,600,000	7
2	Byrne Dairy	Cortlandville	Cortland	Central New York	National Grid	Greek Yogurt Manufacturing Facility	2,000	1,400	0	60	$20,000,000	7
3	Ultra Dairy LLC	East Syracuse	Onondaga	Central New York	National Grid	Dairy manufacturing facility	2,000	1,400	130	35	$27,500,000	7
	Central New York Region Sub-totals:							3,710		215	$97,100,000	
4	Autronic Plastics, Inc.	Central Islip	Suffolk	Long Island	LIPA	Plastics manufacturing	275	190	85	21	$2,700,000 (2)	7
5	Big Apple Sign Corporation	Islandia	Suffolk	Long Island	LIPA	Architectural signage company	100	70	95	8	$3,000,000 (2)	7
	Long Island Region Sub-totals:							260		29	$5,700,000	
6	Bloomberg, L.P.	Orangeburg	Rockland	Mid-Hudson	O&R	Data center	14,000	8,000	0	80	$245,000,000	7
	Mid-Hudson Region Sub-totals:							8,000		80	$245,000,000	
7	SAP America, Inc.	New York City	New York	New York City	Con-Edison	Software related services	331	230	320	130	$38,012,900	7
	New York City Region Sub-totals:							230		130	$38,012,900	
8	Corning Incorporated	Addison	Steuben	Southern Tier	NYSEG	Manufacturer of diesel exhaust filter	9,000	6,300	500	250	$260,000,000	7
	Southern Tier Region Sub-totals:							6,300		250	$260,000,000	
	Totals							**18,500**		**704**	**$645,812,900**	

(1) All Allocations are recommended to be up to the amount indicated based on the companies fulfillment of capital spending, job creation, and new electric load consistent with the ratio of recommended to requested amount.
(2) These companies are also recommended for retention-related allocations of RNY for separate and distinct job retention and capital investment commitments associated with retaining their existing businesses.

New York Power Authority
ReCharge New York Power Program
Ineligible Applicants

Exhibit "4a-C"
July 23, 2013

Line	Company	City	County	Economic Development Region	IOU	Description	Classification
1	Applebee's Bar & Grill	Rochester	Monroe	Finger Lakes	RG&E	Restaurant	Retail
2	E-Z Clean Laundromat, Inc.	College Point	New York	New York City	Con-Edison	Laundry facility/Linen services	Retail
3	Renegade Auto Repair	Cuba	Cattaraugus	Western New York	National Grid	Auto Repair Shop	Retail

New York Power Authority
ReCharge New York Power Program
Applications Not Considered or Not Recommended

Exhibit "4a-D"
July 23, 2013

Applications Not Considered

Line	Company	City	County	Economic Development Region	IOU	Description	Reason
1	425 Michigan Avenue LLC	Buffalo	Erie	Western New York	National Grid	Medical/Educational office building	Commercial landlord, tenants should apply separately
2	Applied Power Systems	Hicksville	Nassau	Long Island	LIPA	Power supply components company	Withdrawn
3	Billitier Electric, Inc.	Rochester	Monroe	Finger Lakes	RG&E	Commercial electrical contractor	Withdrawn
4	Empire State Building	New York	New York	New York City	Con-Edison	Commercial office building	Commercial landlord, tenants should apply separately
5	Jowonio School	Syracuse	Onondaga	Central New York	National Grid	Pre-school	Withdrawn
6	Rochester Technology Park	Rochester	Monroe	Finger Lakes	RG&E	Tech Park for multi-tenant use	Non-responsive
7	saturn petcare inc.	Ashville	Chautauqua	Western New York	National Grid	Food manufacturing	Received hydro allocation for project

Applications Not Recommended [1]

Line	Company	City	County	Economic Development Region	IOU	Description	Reason
8	Hanan Products Co., Inc.	Hicksville	Nassau	Long Island	LIPA	Manufacturing of frozen whipped toppings	Zero job creation related to expansion project
9	Niagara Specialty Metals, Inc.	Akron	Erie	Western New York	National Grid	Steel manufacturer	Zero job creation related to expansion project

(1) Both applicants are being recommended to receive retention allocations

Requests for Transfers of Recharge New York Power Allocations

Metro Terminals Corporation ("MTC"), with facilities located in Brooklyn, NY, received a 176 kW RNY Power allocation on June 26, 2012. Due to a corporate restructuring and name change, MTC is now called United Metro Energy Corporation ("UMEC"). MTC has requested that the 176 kW RNY Power allocation be transferred to UMEC.

New York Power Authority
ReCharge New York Power Program
Allocations Withdrawn or Declined

Exhibit "4a-F"
July 23, 2013

Allocations Withdrawn

Line	Company	City	County	Economic Development Region	IOU	Action	Reason
1	Hopshire Farms	Freeville	Tompkins	Southern Tier	NYSEG	Withdrawn	Retail business
2	Hunts Point Cooperative Market	Bronx	Bronx	New York City	Con-Edison	Withdrawn	DCAS power recipient

Allocations Declined

Line	Company	City	County	Economic Development Region	IOU	Action	kW Allocation Declined
3	Air Products	Glenmont	Albany	Capital District	National Grid	Declined	1000
4	Albany International Corp. - Homer	Homer	Cortland	Central New York	National Grid	Declined	1006
5	Alstom Signaling Inc	West Henrietta	Monroe	Finger Lakes	RG&E	Declined	346
6	Canfield Machine & Tool	Fulton	Oswego	Central New York	National Grid	Declined	70
7	Ford Motor Company	Buffalo	Erie	Western New York	National Grid	Declined	920
8	Garlock Sealing Technologies	Palmyra	Wayne	Finger Lakes	NYSEG	Declined	1950
9	Keymark Corp. - App. ID 5655	Fonda	Montgomery	Mohawk Valley	National Grid	Declined	10
10	Lamothermic Precision Investment Casting Corp	Brewster	Putnam	Mid-Hudson	NYSEG	Declined	396
11	Mindshift Technologies	Commack	Suffolk	Long Island	LIPA	Declined	500
12	Oldcastle Precast Inc.	Selkirk	Albany	Capital District	National Grid	Declined	166
13	Protective Lining Corporation	Brooklyn	Kings	New York City	Con-Edison	Declined	130
14	RR Donnelley	New York	New York	New York City	Con-Edison	Partial decline	36
15	Syracuse University	Syracuse	Onondaga	Central New York	National Grid	Declined	666
16	Teatown Lake Reservation	Ossining	Westchester	Mid-Hudson	Con-Edison	Declined	10
17	Tommy Hilfiger USA Inc.	New York	New York	New York City	Con-Edison	Declined	16
18	Trudeau Institute	Saranac Lake	Franklin	North Country	National Grid	Declined	176
19	Upstate Labs Inc	East Syracuse	Onondaga	Central New York	National Grid	Declined	16
20	Victoria Packing Corp. LLC	Brooklyn	Kings	New York City	Con-Edison	Declined	156

New York Power Authority
ReCharge New York Power Program
Customers by Industry Classification

Exhibit "4a-G"
July 23, 2013

As of June 10, 2013

	Long Island		New York City		Mid-Hudson		Capital District		North Country		Mohawk Valley		Central New York		Southern Tier		Finger Lakes		Western New York		Total	
	Number	Percentage	Number	Percentage	Number	Percentage	Number	Percentage	Number	Percentage	Number	Percentage	Number	Percentage	Number	Percentage	Number	Percentage	Number	Percentage	Number	Percentage
Agriculture	1	0.9%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	1	1.5%	0	0.0%	0	0.0%	4	6.5%	1	1.0%	7	1.0%
Education [1]	0	0.0%	7	6.9%	1	2.6%	1	1.8%	2	6.3%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	11	1.6%
Financial Services	3	2.7%	9	8.8%	0	0.0%	0	0.0%	0	0.0%	1	1.5%	1	1.1%	0	0.0%	3	4.8%	0	0.0%	17	2.4%
Healthcare [1]	10	8.8%	16	15.7%	7	18.4%	0	0.0%	6	18.8%	1	1.5%	3	3.4%	4	8.9%	1	1.6%	10	10.4%	58	8.3%
Information	4	3.5%	5	4.9%	2	5.3%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	1	2.2%	1	1.6%	1	1.0%	14	2.0%
Other [1] [2]	18	15.9%	17	16.7%	6	15.8%	9	16.4%	4	12.5%	10	15.2%	6	6.8%	3	6.7%	6	9.7%	11	11.5%	90	12.9%
Printing and Graphics	3	2.7%	3	2.9%	1	2.6%	2	3.6%	0	0.0%	2	3.0%	4	4.5%	0	0.0%	2	3.2%	2	2.1%	19	2.7%
Warehousing	3	2.7%	4	3.9%	1	2.6%	1	1.8%	1	3.1%	1	1.5%	2	2.3%	0	0.0%	1	1.6%	1	1.0%	15	2.2%
Wholesale Trade	11	9.7%	14	13.7%	1	2.6%	2	3.6%	0	0.0%	0	0.0%	6	6.8%	1	2.2%	3	4.8%	2	2.1%	40	5.7%
Beverage Manufacturers	0	0.0%	3	2.9%	1	2.6%	1	1.8%	0	0.0%	0	0.0%	3	3.4%	1	2.2%	2	3.2%	1	1.0%	12	1.7%
Chemical Manufacturers	8	7.1%	2	2.0%	5	13.2%	8	14.5%	0	0.0%	1	1.5%	2	2.3%	2	4.4%	5	8.1%	6	6.3%	39	5.6%
Electric Product Manufacturers	11	9.7%	1	1.0%	2	5.3%	5	9.1%	2	6.3%	4	6.1%	11	12.5%	9	20.0%	4	6.5%	5	5.2%	54	7.7%
Food Manufacturers	8	7.1%	7	6.9%	2	5.3%	1	1.8%	5	15.6%	6	9.1%	8	9.1%	5	11.1%	5	8.1%	12	12.5%	59	8.5%
Glass Manufacturers	1	0.9%	0	0.0%	1	2.6%	0	0.0%	1	3.1%	0	0.0%	1	1.1%	4	8.9%	1	1.6%	0	0.0%	9	1.3%
Machinery Manufacturers	2	1.8%	0	0.0%	2	5.3%	2	3.6%	0	0.0%	5	7.6%	5	5.7%	3	6.7%	7	11.3%	10	10.4%	36	5.2%
Metal Manufacturers	4	3.5%	5	4.9%	1	2.6%	4	7.3%	4	12.5%	19	28.8%	21	23.9%	2	4.4%	9	14.5%	18	18.8%	87	12.5%
Miscellaneous Manufacturers	8	7.1%	2	2.0%	1	2.6%	5	9.1%	0	0.0%	1	1.5%	4	4.5%	1	2.2%	1	1.6%	5	5.2%	28	4.0%
Paper Product Manufacturers	4	3.5%	2	2.0%	0	0.0%	12	21.8%	2	6.3%	1	1.5%	2	2.3%	1	2.2%	0	0.0%	2	2.1%	26	3.7%
Plastic and Rubber Manufacturers	3	2.7%	2	2.0%	4	10.5%	2	3.6%	1	3.1%	8	12.1%	5	5.7%	1	2.2%	5	8.1%	4	4.2%	35	5.0%
Transportation Equipment Manufacturers	11	9.7%	2	2.0%	0	0.0%	0	0.0%	1	3.1%	1	1.5%	2	2.3%	6	13.3%	2	3.2%	4	4.2%	29	4.2%
Wood Product Manufacturers	0	0.0%	1	1.0%	0	0.0%	0	0.0%	3	9.4%	4	6.1%	2	2.3%	1	2.2%	0	0.0%	1	1.0%	12	1.7%
Total	113	100%	102	100%	38	100%	55	100%	32	100%	66	100%	88	100%	45	100%	62	100%	96	100%	697	100%

(1) Includes not-for-profit customers

(2) The "other" category contains customers from various industries including but not limited to construction-related companies, community services, textile manufacturers, automotive component manufacturers, professional, scientific, and technical services, mineral processors, etc.

New York Power Authority
Recommendations for Allocations of Replacement and Expansion Power

Exhibit "4b-A"
July 23, 2013

Exhibit Number	Company Name	Program	City	County	Power Requested (kW)	Existing Jobs	New Jobs	Estimated Capital Investment	New Jobs Avg. Wage & Benefits	Power Recommended (kW)	Contract Term
A-1	Republic Steel	RP	Lackawanna	Erie	800	283	26	$5,000,000	$62,469	**600**	7 Years
A-2	Saturn Petcare, Inc.	EP	Ashville	Chautauqua	1,200	0	80	$20,900,000	$50,866	**700**	7 Years
	Total Hydropower Recommended						**106**	**$25,900,000**		**1,300**	

July 23, 2013
Exhibit 4b-A-1

APPLICATION SUMMARY
Replacement Power

Company:	Republic Steel
Location:	Lackawanna
County:	Erie
IOU:	National Grid
Business Activity:	Producer of Special Bar Quality steel bars
Project Description:	Republic Steel proposes to relocate a non-destructive testing line from its Ohio plant adding to an existing testing line at the Lackawanna facility.
Existing Allocation(s):	7,400 kW EP; 2,000 kW RP; 526 kW RNY
Power Request:	800kW
Power Recommended:	600 kW
Job Commitment:	
Existing:	283 jobs
New:	26 jobs
New Jobs/Power Ratio:	43/MW
New Jobs - Avg. Wage and Benefits:	$62,469
Capital Investment:	$5 million
Capital Investment/MW:	$8.3 million/MW
Other ED Incentives:	None
Summary:	The Republic Steel Lackawanna plant traces its history back to 1906 and remains a highly productive facility in the production of Special Bar Quality steel bars. The facility will be able to double its testing capacity by relocating this line from its Ohio plant and create 26 high-paying union jobs. An allocation of hydropower would support the creation of good paying jobs and help preserve Republic's manufacturing employment of 283 persons in Western New York.

July 23, 2013
Exhibit 4b-A-2

APPLICATION SUMMARY
Expansion Power

Company:	Saturn Petcare, Inc.
Location:	Ashville
County:	Chautauqua
IOU:	National Grid
Business Activity:	Pet food production
Project Description:	The company is planning to purchase and renovate an existing facility in Ashville, install new process equipment to create a pet food manufacturing plant.
Existing Allocation(s):	None
Power Request:	1,200 kW
Power Recommended:	700 kW Expansion Power
Job Commitment:	
Existing:	0 jobs
New:	80 jobs
New Jobs/Power Ratio:	114/MW
New Jobs - Avg. Wage and Benefits:	$50,866
Capital Investment:	$20.9 million
Capital Investment/MW:	$29.85 million/MW
Other ED Incentives:	About $1.6 million in incentives from Empire State Development Corporation and the Chautauqua County Industrial Development Agency. Applied for other incentives as well.
Summary:	Saturn Petcare is looking to renovate a vacant facility, the former Fairbanks Farms in Ashville, to create a pilot pet food production line with prospects for future investment and expansion. Additional benefits include supporting the local economy with the creation of 80 well-paying jobs and revitalizing an old manufacturing site. Michigan and Missouri are also being considered as potential locations.

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
SATURN PETCARE 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 Saturn Petcare Inc. ("Customer"), with offices at 5151 Fairbank Road, Ashville, NY, 14710. 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 facility the Customer intends to purchase and renovate (defined in Section I of this Agreement as the "Facility");

WHEREAS, on July 23, 2013, 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 July 23, 2013, 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 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)** is 445 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 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-1and 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 and/or Replacement Power Commitments

A. Schedule B sets forth the Customer's specific "Expansion 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 23, 2016 (*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 FirmEnergy 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

Saturn Petcare Inc.
5151 Fairbank Road
Ashville, NY 14710
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:

SATURN PETCARE 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 POWERTO CUSTOMER

EXPANSION POWER AND/OR REPLACEMENT POWERALLOCATIONS

Customer: SATURN PETCARE INC.

Type of Allocation	Allocation Amount (kW)	Facility	Trustee Approval Date	Expiration Date
Expansion Power	700 kW	5151 Fairbank Road, Ashville, NY 14710	July 23, 2013	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 ENERGY 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 employedat 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 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 eighty (80) 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 capital investment of at least $20.9 million to purchase, renovate and furnish the Facility (the "Capital Investment"). The Capital Investment for the Facility is expected to consist of the following specific expenditures:

1. Land & Building	$2.00 million
2. Renovation & Expansion (2013 & 2014)	$3.00 million
3. Machinery & Equipment (2013 & 2014)	$3.50 million
4. Machinery & Equipment (2015)	$8.00 million
5. Machinery & Equipment (2016)	$2.10 million
6. Engineering Costs	$2.30 million
Total	$20.9 million

The Capital Investment shall be made, and the Facility shall be completed and fully operational, not later than July 23, 2016 (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		Leaf No.
I.	Applicability	3
II.	Abbreviations and Terms	3
III.	Monthly Rates and Charges	
	A. New Expansion Power and Replacement Power Base Rates	5
	B. EP and RP Rates no Lower than Rural/Domestic Rate	6
	C. Monthly Base Rates Exclude Delivery Service Charges	6
	D. Minimum Monthly Charge	6
	E. Billing Period	6
	F. Billing Demand	6
	G. Billing Energy	7
	H. Contract Demand	7
IV.	General Provisions	
	A. Character of Service	8
	B. Availability of Energy	8
	C. Delivery	8
	D. Adjustment of Rates	8
	E. Billing Methodology and Billing	9
	F. Payment by Customer to Authority	
	1. Demand and Energy Rates, Taxes	9
	2. Transmission Charge	10
	3. NYISO Transmission and Related Charges	10
	4. Taxes Defined	11
	5. Substitute Energy	11
	6. Payment Information	11
	G. Adjustment of Charges	
	1. Distribution Losses	11
	2. Transformer Losses	11
	3. Power Factor	11
	H. Conflicts	12
	I. Customer Resales Prohibited	12
V.	Annual Adjustment Factor	13

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

A. The following abbreviations are used:

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

B. The term “Agreement” means an executed “Agreement for the Sale of Expansion and/or Replacement Power and Energy” between the Authority and the Customer (each as defined below).

C. The term “Annual Adjustment Factor” or “AAF” shall have the meaning set forth in Section V herein.

D. The term “Authority” means 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.”

E. The term “Customer” means 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.

F. The term “Electric Service” means the power and energy provided to the Customer in accordance with the Agreement, this Service Tariff and the Rules.

G. The term “Expansion Power and/or Replacement Power” means 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).

H. The term “Firm Power” means 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.

I. The term “Firm Energy” means energy (kWh) associated with Firm Power.

J. The term “Load Serving Entity” or “LSE” shall have the meaning set forth in the Agreement.

K. The term “Project” means the Authority’s Niagara Power Project, FERC Project No. 2216.

L. The term “Rate Year” or “RY” means the period from July 1 through June 30 starting July 1, 2013, and for any year thereafter.

M. The term “Rules” means the Authority’s rules and regulations set forth in 21 NYCRR § 450 *et seq*., as they may be amended from time to time.

N. The term “Service Tariff” means this Service Tariff No. WNY-1.

O. The term “Target Rate” 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. 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.

F. 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.

G. 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.

H. 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 – Unless separately metered, the billing demand charged by the Authority to each Customer will be the highest 15-minute integrated demand during each billing period recorded on the Customer's meter multiplied by a percentage based on load factor sharing, as applicable.

3. Billing Energy – Unless separately metered, 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 load factor sharing, as applicable.

F. Payment by Customer to Authority

1. Demand and Energy Charges, Taxes

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. Transmission Charge

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. NYISO Transmission and Related Charges (“NYISO Charges”)

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.

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. Adjustment of Charges

1. Distribution Losses

The Authority will make appropriate adjustments to compensate for distribution losses of the local electric utility.

2. Transformer Losses

If delivery is made at transmission voltage but metered on the low-voltage side of the Customer's substation, the meter readings will be increased two percent to compensate for transformer losses.

3. Power Factor

Power factor is the ratio of real power (kW) to apparent power (kVa) for any given load and time. The Authority may require the Customer to maintain a power factor of not less than 90%, lagging or leading, at the point of delivery, or as may otherwise be imposed upon the Authority by the local electric utility providing delivery and/or NYISO.

H. 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.

I. 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	Energy
	$/kW-mo.	$/MWh
Current Rate Year Base Rate	7.56	12.91
New Rate Year Base Rate	7.68	13.12

Western NY Power Proceeds Allocation Board

Exhibit "5-A"
July 23, 2013

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	Ascension Industries, Inc	North Tonawanda	Niagara	Western NY	Produce a skid mounted system that converts post recycled municipal waste into green power	Business Investment Innovation/Entrepreneur Development	$ 300,000	$ 2,700,000	131	15
2	425 Michigan Avenue, LLC	Buffalo	Erie	Western NY	Workforce development to train unemployed Buffalo residents in the healthcare industry	Workforce Development/Business Investment/Infrastructure/Downtown Investment	$ 500,000	$ 21,086,889	TBD	TBD
						Total:	**$ 800,000**			

Western NY Power Proceeds Allocation Board

Exhibit "5-B"
July 23, 2013

Projects Deemed Ineligible

Line	Business	City	County	Economic Development Region	Project Description	Classification
1	Kaleida Health	Buffalo	Erie	Western NY	Relocation of the Women and Children's Hospital of Buffalo to Buffalo Niagara Campus	Retail [1]
2	Marl Hutchinson	Buffalo	Erie	Western NY	Restaurant expansion	Retail [1]
3	Vazquez Family Service, LLC	Buffalo	Erie	Western NY	Establish a family medical practice	Retail [1]
4	Try-It Distributing Company, Inc.	Lancaster	Erie	Western NY	Compressed natural gas filling station open to the public and fleet conversion	Retail [1]

[1] In accordance with EDL § 189-a(5), the Board defines "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.

Applicants Not Recommended for an Award

Line	Business	City	County	Economic Development Region	Project Description	Project Type
5	Buffalo Niagara Riverkeeper	Buffalo	Erie	Western NY	Develop a boat launch	Infrastructure/Downtown Investment
6	Buffalo Olmsted Parks Conservnacy	Buffalo	Erie	Western NY	Train seasonal park employees	Workforce Development
7	Cleveland Biolabs	Buffalo	Erie	Western NY	Contribute to the support of opertions for the Cancer Immunotherapy Division	Innovation/Entrepreneurship
8	Cornell Cooperative Extension of Niagara County	Lockport	Niagara	Western NY	Create a website to support agro-businesses	Tourism/Marketing
9	Empire State Shipper's Association, Inc.	Cheektowaga	Erie	Western NY	Create a mixed-use incubator	Business Investment
10	Forest Lawn Heritage Foundation	Buffalo	Erie	Western NY	Rebuild a retaining wall	Infrastructure/Downtown Investment
11	Martin House Restoration Corporation	Buffalo	Erie	Western NY	Interior restoration of the Darwin D. Martin House	Infrastructure/Downtown Investment
12	SiGNa Chemistry, Inc.	Niagara Falls	Niagara	Western NY	Build a new manufacturing facility to produce stabilized reactive metals	Business Investment
13	Time Release Sciences	Buffalo	Erie	Western NY	Provide working capital to build materials inventory	Business Investment

Withdrawn Applications

Line	Business	Classification
14	Alita USA Holdings	Withdrawn by applicant
15	Western New York Technology Development Center, Inc. d/b/a Insyte Consulting	Withdrawn by applicant
16	Trek, Inc.	Withdrawn by applicant
17	Photolitec, LLC	Withdrawn by applicant
18	Eden Valley Growers, Inc.	Withdrawn by applicant
19	Niagara Label Company, Inc.	Withdrawn by applicant

Applications Deferred for Further Analysis

Line	Business	Classification
20	Global Outreach Mission, Inc.	Deferred for further analysis
21	Lockport Main Street, Inc.	Deferred for further analysis
22	Field and Fork Network	Deferred for further analysis
23	Niagara University	Deferred for further analysis
24	Aquarium of Niagara	Deferred for further analysis
25	Michigan Street African American Heritage Corridor Commission, Inc.	Deferred for further analysis

Western NY Power Proceeds Allocation Board
Exhibit C

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 operational relationships; promote the attractiveness of WNY as a hub for global trade.

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[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.

- 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.
9. The extent to which an award of Fund Benefits may result in a competitive disadvantage for other business in the State.

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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.

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 New York Power Proceeds Allocation Board

Western New York Economic Development Fund Recommendation Memo

Recommended Award: Exhibit "D"

Applicant Name:	425 Michigan Avenue LLC	REDC Region:	Western New York
Project Type:	Workforce Development/Business Investment/Infrastructure/Downtown Investment	County:	Erie
Industry:	Health/Life Sciences	Locality:	Buffalo
Amount Requested:	$3,449,663	Start Date:	May 2013
		Finish Date:	December 2014

RECOMMENDED OFFER	
Recommended Total Award:	$500,000
Total Project Cost:	$21,086,889
% of Project Cost Recommended:	2.37 %
REGIONAL IMPACT MEASUREMENTS	
Number of Jobs Retained:	TBD
Number of Jobs Created:	TBD
Average Salary of Jobs:	$20,000
Indirect Jobs Created	TBD
Other Impact	200-250 people trained and placed annually

PROJECT DESCRIPTION

This is a workforce development project that will focus on helping unemployed residents on the Eastside of Buffalo move into professions in the field of healthcare by putting them through CNA training. This project will include the construction of a 10,000 square foot educational facility located on the East side of the City of Buffalo. The facility will include a classroom setting, a care facility simulator, and an informational technology laboratory, each of which is critical to the successful education of a CNA.

OTHER ECONOMIC DEVELOPMENT BENEFITS RECEIVED FOR THIS PROJECT	
SOURCE	**AMOUNT**
N/A	**N/A**
PREVIOUS STATE ASSISTANCE OFFERED OR PROVIDED	
SOURCE	**AMOUNT**
N/A	**N/A**

BASIS FOR RECOMMENDATION

This applicant has demonstrated a strategy that will target an under-represented community and provide training and long term employment for those that are currently in need of such opportunities. By locating this training in a highly accessible area on the Eastside of Buffalo this project will create a much needed workforce development pipeline in the City of Buffalo.

The building this applicant is renovating to house this project is the gateway to the most distressed area in all of the City of Buffalo and it will serve as the first major connection between the African

American Heritage Corridor and Larkinville. This project represents a great opportunity for the neighborhood the building resides in and for the community on the Eastside of Buffalo.

Western New York Power Proceeds Allocation Board

Western New York Economic Development Fund Recommendation Memo

Recommended Award: Exhibit "D"

Applicant Name:	Ascension Industries, Inc.	REDC Region:	Western New York
Project Type:	Business Investment Innovation/Entrepreneur Development	County:	Niagara
Industry:	Advanced Manufacturing	Locality:	North Tonawanda
Amount Requested:	$600,000	Start Date:	11/01/2013
		Finish Date:	12/31/2014

RECOMMENDED OFFER	
Recommended Total Award:	$300,000
Total Project Cost:	$ 2,700,000
% of Project Cost Recommended:	11%
REGIONAL IMPACT MEASUREMENTS	
Number of Jobs Retained:	131
Number of Jobs Created:	15
Average Salary of Jobs:	$60,000
Indirect Jobs Created	
Other Impact	

PROJECT DESCRIPTION

Ascension has been presented with a manufacturing opportunity of a lifetime. We are the chosen builder of an innovative and patented technology developed in Ottawa that converts post recycled municipal waste into green power. We will produce the company's first skid mounted facility in North Tonawanda for shipment to a Canadian site where it will be deployed. This application supports the first build of this product and creates tremendous job growth opportunity for WNY.

OTHER ECONOMIC DEVELOPMENT BENEFITS RECEIVED FOR THIS PROJECT	
SOURCE	**AMOUNT**
N/A	**N/A**
PREVIOUS STATE ASSISTANCE OFFERED OR PROVIDED	
SOURCE	**AMOUNT**
ESD	26,070
ESD	40,000
ESD	100,000
ESD	50,000

BASIS FOR RECOMMENDATION

Western New York
Power Proceeds Allocation Board

Western New York Economic Development Fund Recommendation Memo

This applicant has demonstrated the ability to carry out a very progressive energy project that will lead to job creation in North Tonawanda. The project will create 15 new jobs with an average annual salary of $60,000. This award will allow the company to expand the current capacity of their facility, equipment and staff in order ramp up for this project.

This project is on the cutting edge of clean energy technology as it will revolutionize municipal waste remediation. This company has truly demonstrated that this is a golden opportunity for the company and the Western New York Region.

Western New York Economic Development Fund ("Fund") Update[1]

as of 06/30/2013

The Fund	
Fund Balance at the Time of the Previous	$23,210,204
Incremental Deposits to the Fund Since the Previous	$0
Administrative Expenses Withdrawn:	$0
Fund Benefits Disbursed to Date[2]:	$0
Fund Balance:	$23,210,204

Award Activity	
Amount of Total Approved Awards for Energy Related Projects to Date[3]:	$0
Awards for Energy Related Projects as a % of Total to Date [4] :	*0%*
Amount of Total Approved Awards for All Other Project Types to Date:	$6,200,000
Total Awards of Fund Benefits Approved by the Trustees to Date:	$6,200,000

Total Funds Available to be Awarded:	$17,010,204

Total Award Recommendations Before the NYPA Trustees Today:	$800,000

Unutilized EP and RP as of July 1, 2013 (MW)[5]:	94

[1] The "Fund", known as the "Western New York Economic Development Fund", is created and administered by the New York Power Authority ("NYPA"). It is funded with the aggregate excess of revenues ("Net Earnings") received by NYPA from the sale of Expansion and Replacement Power produced at NYPA's Niagara Power Project that was sold in the wholesale energy market over what revenues would have been received had such Power been sold on a firm basis to an eligible Expansion or Replacement Power customer.

[2] Fund monies paid to a successful applicants are known as "Fund Benefits."

[3] In accordance with EDL § 189-a(6), "energy-related projects, programs and services" means: (1) energy efficiency projects and services; (2) clean energy technology projects and services; (3) high performance and sustainable building programs and services; and (4) the construction, installation and/or operation of facilities or equipment done in connection with any such projects, programs or services.

[4] As dictated by the Western New York Power Proceeds Allocation Act, a minimum of 15% of the funds awarded will go to "energy-related projects, programs and services".

[5] Unutilized EP ("Expansioin Power") and RP ("Replacement Power") consists of an estimate of both allocated power that has not been taken down by customers and unallocated power.

Western New York Economic Development Fund ("Fund") Update[1]

as of 06/30/2013

The Fund	
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Cyber Security Overview

Lena Smart

Chief Information Security Officer

July 23rd, 2013

Board of Trustees Meeting

New York Power Authority

Cyber Security Overview

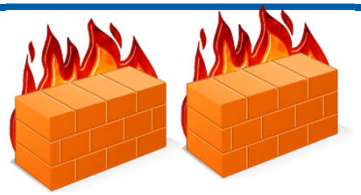
NYPA IT Cyber Security Group created 10 years ago

- Staffed by qualified cyber security subject matter experts
- Expertise in computer forensics, data recovery, data security, network security
- NYPA staff and contractors are given mandatory annual cyber awareness training
- Cyber Security Team publishes monthly security bulletins for all staff
- We work closely with the NY State cyber security staff
- I am the Energy Sector Chief for the FBI Infragard – a collaboration between public and private sectors and my staff are all members of FBI Infragard
- We practice layered security

Layered Security

The Internet

D M Z



Firewalls

Secure remote access

Internet filters

Security Operations Center Monitoring

Internal Network & Desktop Monitoring

I N T E R N A L

Cyber Awareness Training

Server & Desktop Firewalls

Server & Desktop Lockdown Policies

Anti Virus Software

New York Power Authority

Tools to help

- Firewalls – we can block entire countries from knowing that we exist
- Security Operations Center – they monitor our critical assets 24x7x365 and alert us to anomalies
- Intrusion Prevention Devices – stops viruses or malware at a specific site and doesn't allow it to infect the rest of NYPA network
- Anti virus software runs on all servers and desktops, constantly checking for malware
- We perform our own penetration tests and vulnerability assessments, and also engage 3rd parties to try and "hack us"
- Recently installed hardware and software to mitigate against Distributed Denial of Service attacks
- Working with National Labs on desktop security solutions