

Power Authority Hearing

April 25, 2013



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New York State Power Authority
Thursday, April 25, 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

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

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

9 As required by hearing procedures set forth in
10 the New York State Public Authorities Law, Section
11 1009, a notice of the hearing was published in six
12 newspapers once a week for the four weeks leading up
13 to this hearing.

14 The notice of this hearing appeared in the
15 following newspapers:

- 16 1. Niagara Gazette
- 17 2. Buffalo News
- 18 3. Buffalo Business First
- 19 4. Lewiston Porter Sentinel
- 20 5. Albany Times Union
- 21 6. Dunkirk Observer

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

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

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

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

16 Your written statement may be of any length and
17 will appear in the record of the hearing in addition
18 to your oral statement. The record of the hearing
19 will remain open for additional comments or statements
20 through close of business Friday, April 26.

21 Any additional submissions should be mailed to
22 the Authority's Corporate Secretary at:
23 123 Main Street, 11-P.
24 White Plains, NY 10601;
25 or

1 faxed to (914) 390-8040;

2 or

3 e-mailed to secretarys.office@nypa.gov.

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

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

14 After the Trustee's final review, the contract
15 will be forwarded to the Governor for his
16 consideration and approval.

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

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

24 Thank you.

25 MR. PASQUALE: Thank you, Ms. Delince. Good

1 afternoon. My name is James F. Pasquale and I am the
2 Senior Vice-President of Economic Development and
3 Energy Efficiency at the New York Power Authority. I
4 am here today to present an overview of the proposed
5 form of contract applicable to hydropower allocations
6 held by six companies for the direct sale of Expansion
7 Power or Replacement Power, from the Niagara Power
8 Project commencing July 1, 2013.

9 Under Public Authorities Law Section 1005
10 Subsection 13, the Authority may allocate and sell
11 directly or by sale-for-resale, 250 MW of Expansion
12 Power, known as EP, and 445 MW of Replacement Power,
13 known as RP, to businesses located within 30 miles of
14 the Niagara Power Project, provided that the amount of
15 EP allocated to businesses in Chautauqua County on
16 January 1, 1987 shall continue to be allocated in
17 Chautauqua County.

18 Since the late 1980s, the Authority's sales of EP
19 and RP have been handled almost exclusively under
20 agreements with the local electric utilities - Niagara
21 Mohawk Power Corporation doing business as National
22 Grid, New York State Electric and Gas Corporation,
23 also known as NYSEG - both of which facilitated the
24 provision of Authority hydropower to end-use customers
25 on a sale-for-resale basis. These contractual

1 arrangements between the Authority and the utilities
2 expire January -- or June 30, 2013, necessitating new
3 direct sale contracts to facilitate the sale of
4 hydropower to customers having allocations with terms
5 expiring beyond that date.

6 This public hearing addresses the proposed
7 contracts for six such customers with allocations
8 whose terms extend beyond June 30, 2013. The
9 allocations are currently being delivered under
10 existing sale-and-resale contracts, and commencing
11 July 1, 2013, the proposed new contracts would cover
12 the remaining terms of the customers' allocations.
13 The six allocations totaling 6,900 kilowatts are:

- 14 * 1200 kilowatts to Buffalo Shredding and
15 Recovery, LLC located in Buffalo
- 16 * 1,100 kilowatts to Citigroup Technology,
17 Inc. located in Amherst.
- 18 * 2,000 kilowatts to Galvstar, LLC located in
19 Buffalo
- 20 * 2,000 kilowatts to Klein Steel Service,
21 Inc. located in Tonawanda.
- 22 * 400 kilowatts to MOD-PAC Corporation located in
23 Buffalo, and
- 24 * 200 kilowatts to Niagara Coating Services, Inc.
25 located in Niagara Falls.

1 In aggregate, the companies have committed to the
2 capital expansion of \$65 million to their Western New
3 York facilities while creating 657 jobs and retaining
4 421 existing jobs.

5 To summarize some of the pertinent provisions of
6 the proposed contracts, first, the contracts provide
7 for the direct billing of all hydropower supply
8 charges, all New York Independent System Operator,
9 Inc., also known as NYISO, charges and taxes.

10 Each contract would include customer's previously
11 agreed-upon commitments with respect to employment and
12 capital investment. The contract retains the
13 Authority's right to reduce or terminate customers'
14 allocations if employment, power utilization or
15 capital investment commitments are not met. For
16 example, the contracts include an annual job reporting
17 requirement and a job compliance threshold of 90
18 percent. Should a company's average annual employment
19 fall below the compliance threshold of 90 percent of
20 the employment commitment, the Authority has the right
21 to reduce the allocation on a pro rata basis.

22 Additionally, to accommodate non-payment risk
23 that could result from the direct billing arrangement,
24 the contract includes commercially reasonable
25 provisions concerning the Authority's ability to

1 charge late payment fees and to require deposits in
2 the event of customer failure to make payment for any
3 two monthly bills. These contract provisions are
4 consistent with recent Authority direct sale contracts
5 including the Authority's Recharge New York sales
6 contracts.

7 The contracts will serve the allocations in
8 accordance with the Authority's Service Tariff WNY-1
9 which specifies the rates and which is applicable to
10 all EP and RP allocations effective July 1, 2013. The
11 Service Tariff specifies a three-year rate phase-in to
12 a target rate based on the rate of the Authority's
13 other hydropower program, Preservation Power, to
14 ultimately ensure consistency among the Authority's
15 three hydropower programs. All six companies are
16 located in National Grid delivery service territory,
17 and therefore transmission and delivery service for
18 these allocations would continue to be provided by
19 National Grid in accordance with its Public Service
20 Commission-approved delivery service tariffs.

21 As Ms. Delince stated, the Authority will accept
22 your comments on the proposed contract until the close
23 of business on Friday, April 26th, 2013. I will now
24 turn the forum back to Ms. Delince.

25 MS. DELINCE: We have Mr. Frank?

1 MR. FRANK: Yes.

2 MS. DELINCE: Would you like to make an oral
3 statement?

4 MR. FRANK: Yes, if I could.

5 MS. DELINCE: Please state your name and your
6 affiliation for the record.

7 MR. FRANK: My name is Thomas Frank. I'm a
8 resident of the Village of Williamsville within the
9 Town of Amherst, and I'm working on a project for the
10 Western New York Power Proceeds Allocation Board as
11 far as the application for Western New York Economic
12 Development Fund Benefits having to do with the
13 Niagara National Heritage area, the Path Through
14 History Project. It's what the governor is calling
15 for to promote the tourism, this as a tourism
16 destination for the state. And what we're doing is
17 putting together -- I have a -- having to do with the
18 Western New York -- the three-year plan, the
19 transportation plan, what they're calling for as far
20 as the Niagara National Heritage Area is to have some
21 welcome centers that will be in conjunction with the
22 New York State Thruway. There are actually four
23 different or five different authorities that are
24 involved in this project having to do with Western New
25 York -- the Niagara Frontier Transportation Authority,

1 the Niagara Power Authority, the Thruway Authority,
2 and the Bridge Authority. That there's -- and this is
3 a part of the Western New York, the TIP, the
4 Transportation Improvement Plan, and the idea is to
5 upgrade, to do a part of one reaching forward for
6 Western New York's sustainability is to put together a
7 public/private sector partnership which will involve
8 the Seneca Nation as far as the Two Row Wampum Belt
9 Program, and hopefully with the Delaware North
10 Corporation to redesign and redevelop the travel plaza
11 in Clarence. And what they're doing is a study of the
12 transportation on Main Street in Williamsville and the
13 Town of Amherst, and it has to do with the -- they're
14 doing a study that will include the Niagara Falls
15 Boulevard, but also extend into the Ransom Road in
16 Clarence, and the idea, this is connected with a
17 relocation of the Williamsville thruway toll barrier
18 to Clarence to mitigate some of the negative impact of
19 the transportation, but also because the first Niagara
20 Power Project started back in the early 19th century
21 on the Onondaga Escarpment with the Williams Mill, and
22 this has to do with the historic preservation of
23 properties having to do with the -- much of history
24 and the connection to the bicentennial of the War of
25 1812. Thank you very much.

1 MS. DELINCE: Thank you. Do we have a copy of
2 your written statement, please?

3 MR. FRANK: I tried to get it off your website
4 and I've got a May 7th deadline, so I was putting
5 together the various components and I will e-mail it
6 to you if I can.

7 MS. DELINCE: The deadline is Friday.

8 MR. FRANK: Right.

9 MS. DELINCE: Thank you.

10 MR. FRANK: That's good.

11 MS. DELINCE: We will be here until 6:30.

12 (Whereupon, the hearing was open for further public
13 comment.)

14 MS. DELINCE: It is now 6:30. We have no
15 additional speakers, therefore this hearing is now
16 closed.

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