

*NYS Power Authority Hearing*

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*October 3, 2013*

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New York State Power Authority  
Thursday, October 3, 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's Board of Trustees on the proposed  
4 contract for the sale of hydropower to M&T Bank  
5 Corporation.

6 My name is Karen Delince and I'm the Authority's  
7 Corporate Secretary.

8 Procedures for certain contracts negotiated by  
9 the Authority, is set forth in New York State Public  
10 Authorities Law, Section 1009.

11 Section 1009 requires that notice of the hearing  
12 be provided to the Governor, legislative leaders and  
13 the general public.

14 As required, a notice and a copy of the proposed  
15 contract was sent to Governor Cuomo and the following  
16 legislative leaders:

17 The Senate's President Pro Temp

18 The Speaker of the Assembly

19 The Chairman of the Senate Finance Committee

20 Chairman of the Assembly Ways and Means Committee

21 The Senate Minority Leader and

22 The Assembly Minority Leader

23

1           In addition, once a week, for the four weeks  
2           leading up to this hearing, notices appeared in the  
3           following newspapers:

4           Niagara Gazette

5           Buffalo News

6           Buffalo Business First

7           Lewiston Porter Sentinel

8           Albany Times Union

9           Dunkirk Observer

10           The public was given access to the proposed  
11           contract on the Authority's website and at the  
12           Authority's White Plains office during the 30-day  
13           period prior to today's hearing. The public will also  
14           be given access to the hearing transcript at  
15           www.nypa.gov and at the White Plains office once it is  
16           completed.

17           The proposed contract will be reconsidered by the  
18           NYPA Trustees at their next meeting, in light of  
19           public comments. Once the Trustees have completed  
20           their final review, the contract will be forwarded to  
21           the Governor for his consideration and approval.

22           If you plan to make an oral statement at this  
23           hearing, I ask that you please see Lorna Johnson at

1 the sign-in table and fill out a card. Also, if you  
2 have a written statement, please give a copy to Ms.  
3 Johnson and one to the reporter.

4 Your written statement may be of any length and  
5 will appear in the record of the hearing in addition  
6 to your oral statement.

7 The record of the hearing will remain open for  
8 additional comments or statements through close of  
9 business, Friday, October 4.

10 Any additional submissions should be mailed,  
11 faxed or e-mailed to the Corporate Secretary at:  
12 123 Main Street, 11-P,  
13 White Plains, NY 10601;  
14 or  
15 (914) 390-8040;  
16 or  
17 secretarys.office@nypa.gov.

18  
19 At this point, I would like to introduce Mr.  
20 James Pasquale, the Authority's Senior Vice President  
21 of Economic Development and Energy Efficiency, who  
22 will provide additional details on the proposed direct  
23 sale contract.

1 Thank you.

2 Mr. Pasquale...

3 MR. PASQUALE: Thank you, Ms. Delince. Good  
4 afternoon. My name is James F. Pasquale and I am the  
5 Senior Vice President of Economic Development and  
6 Energy Efficiency at the New York Power Authority. I  
7 am here today to present a summary of a proposed  
8 contract for the direct sale of Expansion Power -  
9 hydropower that is generated here at the Authority's  
10 Niagara Power Project - to M&T Bank in Amherst.

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

20 On July 26, 2011, the Authority's Trustees  
21 awarded 3 megawatts of Expansion Power to M&T Bank for  
22 a term of 5 years in return for commitments made to  
23 expand its business in Western New York.

1           Specifically, M&T proposed to acquire the vacant  
2 former HSBC data center facility in Amherst to  
3 ultimately serve as its primary data center. In  
4 return for the hydropower allocation, the company  
5 committed to spending over \$51 million, comprised of  
6 an upfront investment of \$13.6 million for needed  
7 infrastructure and cooling equipment upgrades, and new  
8 uninterruptible power supply equipment, along with \$38  
9 million invested in new computer equipment (data  
10 servers, routers, storage devices and related hardware  
11 and software) over 5 years. M&T committed to create  
12 124 new jobs as a result of this project.

13           To summarize the proposed contract's pertinent  
14 provisions, first, it provides for the direct billing  
15 of all hydropower supply charges, all New York  
16 Independent System Operator, Inc. ("NYISO") charges  
17 and taxes.

18           The contract includes M&T's agreed-upon  
19 commitments with respect to employment and capital  
20 investment. The contract retains the Authority's  
21 right to reduce or terminate the allocation if  
22 employment, power utilization or capital investment  
23 commitments are not met. For example, the contract

1 includes an annual job reporting requirement and a job  
2 compliance threshold of ninety percent. Should M&T's  
3 average annual employment at the Amherst facility fall  
4 below the compliance threshold of 90% of the  
5 employment commitment, the Authority has the right to  
6 reduce the allocation on a pro rata basis.

7 Additionally, to accommodate non-payment risk  
8 that could result from the direct billing arrangement,  
9 the contract includes commercially reasonable  
10 provisions concerning the Authority's ability to  
11 charge late payment fees and to require deposits in  
12 the event of customer failure to make payment for any  
13 two monthly bills. These contract provisions are  
14 consistent with recent Authority direct sale contracts  
15 including the Authority's Recharge New York sales  
16 contracts.

17 The contract will serve the allocation in  
18 accordance with the Authority's Service Tariff WNY-1  
19 which specifies the rates and which is applicable to  
20 all EP and RP allocations. The Service Tariff  
21 specifies a three-year rate phase-in to a target rate  
22 based on the rate of the Authority's other hydropower  
23 program - Preservation Power - to ultimately ensure

1 consistency among the Authority's three hydropower  
2 programs. Transmission and delivery service for the  
3 allocation will be provided by National Grid in  
4 accordance with its Public Service Commission-approved  
5 delivery service tariffs.

6 As Ms. Delince stated earlier, the Authority will  
7 accept your comments on the proposed contract until  
8 the close of business on Friday, October 4th. I will  
9 now turn the forum back to Ms. Delince.

10 MS. DELINCE: Thank you, Mr. Pasquale. At this  
11 point we will recess and reconvene once speakers are  
12 present. Thank you.

13 (Recess.)

14 MS. DELINCE: This hearing is now closed.  
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