

*NYPA Hearing*

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*July 25, 2013*

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New York State Power Authority  
Thursday, July 25th, 2013  
2:30 p.m. - 6:30 p.m.  
Niagara Power Project Visitors' Center  
5777 Lewiston Road  
Lewiston, New York 14092

Amy Campobello, Notary Public

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1 MS. DELINCE: Good afternoon. This is a  
2 public hearing required by law and authorized by the  
3 New York Power Authority Board of Trustees on the  
4 proposed direct sale contracts for the sale of  
5 hydropower to Advance 2000, Inc. and Niagara  
6 Refining LLC.

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

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

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

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

23

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

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

13

14           During the 30 days prior to today's hearing,  
15 a copy of the proposed contracts were made available  
16 for inspection at the Authority's White Plains  
17 office, as well as on the Authority's website.

18           If you plan to make an oral statement at this  
19 hearing, I ask that you please see Lorna Johnson at  
20 the sign-in table and fill out a card.

21           Also, if you have a written statement, please  
22 give a copy to Ms. Johnson and one to the reporter.

23           Your written statement may be of any length

1 and will appear in the record of the hearing in  
2 addition to your oral statement.

3 Record of this hearing will remain open for  
4 additional comments through close of business,  
5 Friday, July 26.

6 Any additional submissions should be mailed  
7 to the Authority's Corporate Secretary at:  
8 123 Main Street, 11-P  
9 White Plains, New York 10601;  
10 or  
11 faxed to 914-390-8040;  
12 or  
13 e-mail to [secretarys.office@nypa.gov](mailto:secretarys.office@nypa.gov).

14 A complete transcript of the hearing, along  
15 with all written submissions, will be submitted to  
16 the Authority's Trustee, who shall reconsider the  
17 terms of the proposed contracts and make changes as  
18 they deem necessary or advisable in light of  
19 comments received.

20 The transcript of this hearing will also be  
21 made available for the public to review at the  
22 Authority's White Plains office and on the  
23 Authority's website ([www.nypa.gov](http://www.nypa.gov)).

1           After the Trustees' final review, the  
2 contracts will be forwarded to the Governor for his  
3 consideration and approval.

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

6           At this point, I would like to introduce  
7 Mr. James Pasquale, Senior Vice President of  
8 Economic Development and Energy Efficiency at the  
9 Authority who will provide additional details on the  
10 proposed direct sale contracts. Thank you.

11           Mr. Pasquale?

12           MR. PASQUALE: Thank you, Ms. Delince. Good  
13 afternoon. My name is James F. Pasquale and I am  
14 the Senior Vice President of Economic Development  
15 and Energy Efficiency at the New York Power  
16 Authority.

17           I am here today to present a summary of the  
18 proposed contracts to two companies, Advance 2000,  
19 Inc. and Niagara Refining LLC, for the direct sale  
20 of Replacement Power -- hydropower that is generated  
21 here at the Authority's Niagara Power Project.

22           Under the Public Authorities Law, Section  
23 1005, Subsection 13, the Authority may allocate and

1 sell directly or by sale-for-resale, 250 Megawatts  
2 of Expansion Power, known as EP, and 445 Megawatts  
3 of replacement power, known as RP, to businesses  
4 located within 30 miles of the Niagara Power  
5 Project, provided that the amount of EP allocated to  
6 businesses in Chautauqua County on January 1st, 1987  
7 shall continue to be allocated in Chautauqua County.

8           On May 21st, 2013, Advance 2000 and Niagara  
9 Refining were awarded hydropower allocations by the  
10 Authority's Trustees in return for commitments made  
11 to create or expand their businesses in Western New  
12 York.

13 Specifically:

14           \* Advance 2000, Inc. is planning to purchase a  
15 74,000-square-foot building in Amherst to expand  
16 operations due to increased demand for hosted voice,  
17 data services and cloud computing for various  
18 companies nationwide.

19           In return for the 2.9 megawatts of  
20 Replacement Power, the company commits to spending  
21 \$21.3 million and creating 67 jobs.

22           \* Niagara Refining LLC plans to create a new  
23 tungsten refining plant in Depew by refurbishing and

1 upgrading a 100,000-square-foot existing facility.

2 In return for 2.7 megawatts of Replacement  
3 Power, the company commits to spending \$29.6 million  
4 and creating 50 jobs.

5 In aggregate, the companies have committed to  
6 capital spending of over \$50 million in their  
7 Western New York facilities while creating 117 new  
8 jobs.

9 To summarize some of the pertinent provisions  
10 of the proposed contracts, first, the contracts  
11 provide for the direct billing of all hydropower  
12 supply charges and all New York Independent System  
13 Operator, Inc., as known as "NYISO", charges and  
14 taxes.

15 Each contract includes the customer's  
16 agreed-upon commitments with respect to employment  
17 and capital investment.

18 The contract retains the Authority's right to  
19 reduce or terminate customers' allocations if  
20 employment, power utilization or capital investment  
21 commitments are not met.

22 For example, the contracts include an annual  
23 job reporting requirement and a job compliance

1 threshold of 90 percent.

2           Should a company's average annual employment  
3 fall below the compliance threshold of 90 percent of  
4 the employment commitment, the Authority has the  
5 right to reduce the allocation on a pro rata basis.

6           Additionally, to accommodate non-payment risk  
7 that could result from the direct billing  
8 arrangement, the contract includes commercially  
9 reasonable provisions concerning the Authority's  
10 ability to charge late payment fees and to require  
11 deposits in the event of customer failure to make  
12 payment for any two monthly bills.

13           These contract provisions are consistent with  
14 recent Authority direct sale contracts, including  
15 the Authority's Recharge New York sales contracts.

16           The contracts will serve the allocations in  
17 accordance with the Authority's Service Tariff  
18 WNY-1, which specifies the rates and which is  
19 applicable to all EP and RP allocations effective  
20 July 1, 2013.

21           The Service Tariff specifies a three-year  
22 rate phase-in to a target rate based on the rate of  
23 the Authority's other hydropower program --

1 Preservation Power -- to ultimately ensure  
2 consistency among the Authority's three hydropower  
3 programs.

4 The transmission and delivery service for  
5 these allocations will be provided by National Grid  
6 in accordance with the utilities' Public Service  
7 Commission approved delivery service tariffs.

8 As Ms. Delince stated earlier, the Authority  
9 will accept your comments on the proposed contract  
10 until the close of business Friday, July 26th.

11 I will now turn the hearing back to  
12 Ms. Delince.

13 MS. DELINCE: Thank you, Mr. Pasquale.

14 We will wait for speakers.

15 (There was a recess.)

16 MS. DELINCE: The hearing is now closed.  
17  
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