

*Public Hearing*  
*New York State Power Authority*

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*July 30, 2014*

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New York State Power Authority  
Wednesday, July 30, 2014  
2:30 p.m. - 6:30 p.m.  
Niagara Power Project Visitors' Center  
5777 Lewiston Road  
Lewiston, New York 14092

Patricia A. Schreier

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RS :

MS . DELINCE ..... 3, 9

MR . PASQUALE ..... 5

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 direct sale contracts for the sale of hydropower to  
5 Captive Plastics, LLC (d/b/a Berry Plastics) and Durez  
6 Corporation.

7 My name is Karen Delince and I'm the Authority's  
8 corporate secretary.

9 New York State Public Authorities Law, Section  
10 1009, sets forth procedures for executing certain  
11 contracts negotiated by the Authority.

12 First, prior to the hearing, it requires that  
13 notice of the hearing be provided. Therefore, a notice  
14 was sent to the Governor, the Senate's President Pro  
15 Temp, the Senate Minority Leader and the Senate Finance  
16 Committee Chair, the Assembly Speaker, the Assembly  
17 Minority Leader, the Assembly Ways and Means Committee  
18 Chair.

19 In addition, notices appeared in the following  
20 newspapers once a week for the four weeks leading up to  
21 this hearing.

22 Niagara Gazette, Buffalo News, Buffalo Business  
23 First, Lewiston Porter Sentinel, Albany Times Union,

1 Dunkirk Observer.

2 The public was also given access to the proposed  
3 contracts on the Authority's website and at the  
4 Authority's White Plains office during the 30 day period  
5 prior to today's hearing.

6 After the hearing, the public will be given access  
7 to the hearing transcript at [www.nypa.gov](http://www.nypa.gov) and at the  
8 White Plains office once it is completed.

9 The next step in the process set forth in Section  
10 1009 will be for the NYPA Trustees to reconsider the  
11 proposed contracts, in light of public comments.

12 Once the Trustees have completed their final  
13 review, the contracts will be forwarded to the Governor  
14 for his consideration and approval.

15 If you plan to make an oral statement at this  
16 hearing, I ask that you so indicate on the sign-in  
17 sheet.

18 Also, if you have a written statement, please give  
19 a copy to Lorna Johnson at the sign-in table and one to  
20 the reporter.

21 Written statements may be of any length and will  
22 appear in the record of the hearing in addition to oral  
23 statements.

1           The record of the hearing will remain open for  
2 additional comments through close of business, Thursday,  
3 July 31.

4           Additional comments should be mailed, faxed or  
5 e-mailed to the Corporate Secretary at 123 Main Street,  
6 11-P, White Plains, New York, 10601 or (914)390-8040 or  
7 secretarys.office@nypa.gov.

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

13           Thank you. Mr. Pasquale.

14           MR. PASQUALE: Thank you, Ms. Delince. Good  
15 afternoon. My name is James F. Pasquale and I'm the  
16 Senior Vice President of Economic Development and Energy  
17 Efficiency at the New York State Power Authority. I'm  
18 here today to present a summary of the proposed  
19 contracts to two companies for the direct sale of  
20 Expansion Power or Replacement Power hydropower that is  
21 generated here at the Authority's Niagara Power Project.

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

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

8 Two companies have been awarded hydropower  
9 allocations by the Authority's Trustees in return for  
10 commitments made to create or expand their businesses in  
11 Western New York. Specifically:

12 Captive Plastics LLC (d/b/a Berry Plastics) was  
13 awarded 500 kilowatts to expand its existing Dunkirk  
14 based (Chautauqua County) facility by 20,000 square feet  
15 to facilitate the production of food bottles, committing  
16 to \$17.8 million in capital investment and the creation  
17 of ten new jobs.

18 Durez Corporation was awarded 100 kilowatts for an  
19 on-site expansion to repurpose unused production  
20 equipment for the manufacturing of a new product at its  
21 Niagara Falls facility, creating six new jobs and  
22 investing \$800,000.

23 In aggregate, the two companies have committed to

1 capital spending of over \$18 million in their Western  
2 New York facilities while creating 16 jobs.

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

8 Each contract includes the customer's agreed upon  
9 commitments with respect to employment and capital  
10 investment. The contracts retain the Authority's right  
11 to reduce or terminate a customer's allocation if  
12 employment, power utilization or capital investment  
13 commitments are not met.

14 For example, the contracts include an annual job  
15 reporting requirement and a job compliance threshold of  
16 90 percent. Should a company's average annual  
17 employment fall below the compliance threshold of  
18 90 percent of the employment commitment, the Authority  
19 has the right to reduce the allocation on a pro rata  
20 basis.

21 The contract compels the company to perform an  
22 energy audit at the facility at least once within five  
23 years, helping to ensure the customer uses the

1           hydropower efficiently. Additionally, to accommodate  
2           nonpayment risk that could result from the direct  
3           billing arrangement, the contract includes commercially  
4           reasonable provisions concerning the Authority's ability  
5           to charge late payment fees and to require deposits in  
6           the event of customer failure to make payment for any  
7           two monthly bills. These contract provisions are  
8           consistent with other Authority direct sale contracts,  
9           including the Recharge New York Sales contracts.

10           The contracts will serve the allocations in  
11           accordance with the Authority's Service Tariff WNY-1  
12           which specifies the rates and other terms applicable to  
13           all EP and RP allocations. The Service Tariff specifies  
14           a three year rate phase-in to a target rate based on the  
15           rate of the Authority's other hydropower program -  
16           Preservation Power - to ultimately ensure consistency  
17           among the Authority's three hydropower programs.  
18           Transmission and delivery service for these allocations  
19           will be provided by the National Grid or NYSEG in  
20           accordance with the utilities' Public Service Commission  
21           approved delivery service tariffs.

22           As Ms. Delince stated earlier, the Authority will  
23           accept your comments on the proposed contracts until the

1 close of business on Thursday, July 31. I will now turn  
2 the forum back to Ms. Delince.

3 MS. DELINCE: Thank you, Mr. Pasquale. We will  
4 recess now and reconvene when the first speaker arrives.

5 (recess)

6 MS. DELINCE: The public hearing on the  
7 proposed direct sale contracts for the sale of  
8 hydropower to Captive Plastics, LLC, (d/b/a Berry  
9 Plastics) and Durez Corporation is now officially  
10 closed.

11 Thank you and good night.

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14 (Hearing closed at 6:30 p.m.)

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