

NEW YORK STATE POWER AUTHORITY
Public Hearing

January 5, 2016



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NEW YORK STATE POWER AUTHORITY

Tuesday, January 5, 2016

2:30 P.M. - 6:30 P.M.

Niagara Power Project Visitors' Center

5777 Lewiston Road

Lewiston, New York 14092

APPEARANCES:

LORNA JOHNSON,
NYSPA Senior Associate Corporate Secretary

KAREN DELINCE,
NYSPA Corporate Secretary

MARIBEL CRUZ-BROWN,
NYSPA Manager of Business Power Allocations
and Compliance

PRESENT:

BARBARA BUYERS, CSR, RPR,
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's Board of Trustees on the
4 proposed direct sale contract for the sale of
5 hydropower to RockTenn CP, LLC.

6 My name is Karen Delince and I'm the
7 authority's corporate secretary.

8 New York State Public Authorities Law Section
9 1009 sets forth procedures for executing certain
10 contracts negotiated by the authority. First, prior
11 to the hearing it requires that notice of the hearing
12 be provided. Therefore, a notice was sent to the
13 governor, the senate's president pro temp, the
14 senate's minority leader, the senate's finance
15 committee chair, the assembly speaker, the assembly
16 minority leader and the assembly ways and means
17 committee chair.

18 In addition, notices appeared in the following
19 newspapers once a week for the four weeks leading up
20 to this hearing: Niagara Gazette, Buffalo News,
21 Buffalo Business First, Lewiston-Porter Sentinel,
22 Albany Times-Union and the Dunkirk Observer.

23 The public was also given access to the

1 proposed contract on the authority's Web site and at
2 the authority's White Plains office during the
3 thirty-day period prior to today's hearing.

4 After the hearing, the public will be given
5 access to the hearing transcript once it is
6 completed at www.nypa.gov and at the White Plains
7 office. The next step in the process set forth in
8 Section 1009 will be for NYPA's trustees to
9 reconsider the proposed contract in light of public
10 comments. Once the trustees have completed their
11 final review, the contract will be forwarded to the
12 governor for his consideration and approval.

13 If you plan to make an oral statement at this
14 hearing, I ask that you so indicate on the sign-in
15 sheet. Also, if you have a written statement,
16 please give a copy to Lorna Johnson and one to the
17 reporter. Written statements may be of any length
18 and will appear in the record of the hearing in
19 addition to oral statements. The record of the
20 hearing will remain open for additional comments
21 through close of business Wednesday, January 6,
22 2016.

23 Additional comments should be mailed, faxed

1 or e-mailed to the corporate secretary at 123 Main
2 Street, 11-P, White Plains, New York, 10601 or
3 914-390-8040 or secretarys.office@nypa.gov.

4 At this point, I would like to introduce
5 Maribel Cruz-Brown, the authority's business power
6 allocations and compliance manager, who will provide
7 additional details on the proposed direct sale
8 contract. Thank you.

9 Ms. Brown?

10 MS. CRUZ-BROWN: Thank you, Ms. Delince.
11 Good afternoon. My name is Maribel Cruz-Brown and
12 I'm the manager of the business power allocations
13 and compliance group within NYPA's Economic
14 Development and Energy Efficiency Department. I'm
15 here today to present a summary of one proposed
16 hydropower contract.

17 Regarding the contract, under the Public
18 Authorities Law Section 1005, Subsection 13, the
19 authority may allocate and sell directly or by
20 sale-for-resale 250 megawatts of expansion power,
21 known as EP, and 445 megawatts of replacement power,
22 known as RP, to businesses located within thirty
23 miles of the Niagara Power Project provided that the

1 amount of EP allocated to businesses in Chautauqua
2 County on January 1st, 1987 shall continue to be
3 allocated in Chautauqua County.

4 One company has been awarded a hydropower
5 allocation by the authority's trustees in return for
6 commitments made to create or expand their
7 businesses in Western New York. Specifically,
8 RockTenn CP, LLC, a producer of container board
9 packaging, was awarded 300 kilowatts of EP in
10 support of upgrading its manufacturing equipment at
11 its North Tonawanda facility in Niagara County.
12 RockTenn will invest at least seven point five
13 million dollars and create at least nine new jobs,
14 above its base jobs of 119.

15 To summarize some of the pertinent provisions
16 of the proposed contract, first, the contract
17 provides for the direct billing of all hydropower
18 supply charges, all New York Independent System
19 Operator, Inc., New York ISO, charges and taxes.

20 The contract includes the customer's
21 agreed-upon commitments with respect to employment
22 and capital investment. The contract retains the
23 authority's right to reduce or terminate a

1 customer's allocation if employment, power
2 utilization or capital investment commitments are
3 not met.

4 For example, the contract includes an annual
5 job reporting requirement and a job compliance
6 threshold of ninety percent. Should a company's
7 average annual employment fall below the compliance
8 threshold of ninety percent of the employment
9 commitment, the authority has the right to reduce
10 the allocation on a pro rata basis.

11 The contract compels the company to perform
12 an energy audit at the facility at least once within
13 five years, helping to ensure the customer uses the
14 hydropower efficiently. Additionally, to
15 accommodate nonpayment risk that could result from
16 the direct billing arrangement, the contract
17 includes commercially-reasonable provisions
18 concerning the authority's ability to charge late
19 payment fees and to require deposits in the event of
20 customer failure to make payments for any two
21 monthly bills. These contract provisions are
22 consistent with other authority direct sale
23 contracts, including the Recharge New York sales

1 contracts.

2 The contract will serve the allocations in
3 accordance with the authority's service tariff WNY-1
4 which specifically -- which specifies the rates and
5 other terms applicable to all EP and RP allocations.
6 The service tariff specifies a three-year rate
7 phase-in to a target rate based on the rate of the
8 authority's other hydropower program, Preservation
9 Power, to ultimately ensure consistency among the
10 authority's three hydropower programs. Transmission
11 and delivery service for these allocations will be
12 provided by National Grid or NYSEG in accordance
13 with the utilities' Public Service Commission
14 approved delivery service tariffs.

15 As Ms. Delince stated earlier, the authority
16 will accept your comments on the proposed contracts
17 until the close of business on Wednesday, January
18 6th, 2016.

19 I will now turn the floor back to Ms.
20 Delince.

21 MS. DELINCE: Thank you, Ms. Cruz-Brown. We
22 will recess now and reconvene when speakers arrive.

23 (A recess was then taken.)

1 MS. DELINCE: The January 5, 2016 public
2 hearing on the proposed direct sale contract to
3 RockTenn CP, LLC is now officially closed.

4 As I previously stated, the record of the
5 hearing will remain open for additional comments
6 through close of business Wednesday, January 6,
7 2016.

8 Thank you and good night.

9 (The hearing concluded at 6:30 P.M.)

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1 STATE OF NEW YORK
2 COUNTY OF ERIE

3 I, Barbara Buyers, a Notary Public in and for
4 the State of New York, do hereby certify:

5 That the witness whose testimony appears herein
6 before was, before the commencement of his
7 deposition, duly sworn to testify to the truth, the
8 whole truth and nothing but the truth; that such
9 testimony was taken pursuant to notice at the time
and place herein set forth; that said testimony was
taken down in shorthand by me and thereafter under
my supervision transcribed into the English
language, and I hereby certify the foregoing
testimony is a full, true and correct transcription
of the shorthand notes so taken.

10 I further certify that I am neither counsel for
11 nor related to any parties to said action, nor in
any way interested in the outcome thereof.

12 IN WITNESS WHEREOF, I have hereunto subscribed
13 my name this 12th day of January, 2016.

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Notary Public
State of New York

	<p>8:15 Authority's (11) 3:3,7;4:1,2;5:5;6:5, 23;7:18;8:3,8,10 authorized (1) 3:2 average (1) 7:7 awarded (2) 6:4,9</p>	<p>8:13 commitment (1) 7:9 commitments (3) 6:6,21;7:2 committee (2) 3:15,17 company (2) 6:4;7:11 company's (1) 7:6 compels (1) 7:11 completed (2) 4:6,10 compliance (4) 5:6,13;7:5,7 concerning (1) 7:18 concluded (1) 9:9 consideration (1) 4:12 consistency (1) 8:9 consistent (1) 7:22 container (1) 6:8 continue (1) 6:2 contract (17) 3:4;4:1,9,11;5:8, 16,17;6:16,16,20,22; 7:4,11,16,21;8:2;9:2 contracts (4) 3:10;7:23;8:1,16 copy (1) 4:16 corporate (2) 3:7;5:1 County (3) 6:2,3,11 CP (3) 3:5;6:8;9:3 create (2) 6:6,13 Cruz-Brown (4) 5:5,10,11;8:21 customer (2) 7:13,20 customer's (2) 6:20;7:1</p>	<p>deposits (1) 7:19 details (1) 5:7 Development (1) 5:14 direct (6) 3:4;5:7;6:17;7:16, 22;9:2 directly (1) 5:19 dollars (1) 6:13 Dunkirk (1) 3:22 during (1) 4:2</p>	<p>final (1) 4:11 finance (1) 3:14 First (3) 3:10,21;6:16 five (2) 6:12;7:13 floor (1) 8:19 following (1) 3:18 forth (2) 3:9;4:7 forwarded (1) 4:11 four (1) 3:19</p>
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