

January 27, 2015

**MEMORANDUM TO THE TRUSTEES**

**FROM THE PRESIDENT and CHIEF EXECUTIVE OFFICER**

**SUBJECT: Recharge New York Power Allocations**

**SUMMARY**

The Trustees are requested to approve allocations of Recharge New York (“RNY”) Power available for “retention” purposes to the businesses listed in Exhibit “A.” The allocations were recommended by the Economic Development Power Allocation Board (“EDPAB”) at its December 15, 2014 meeting.

**BACKGROUND**

On April 14, 2011, Governor Andrew M. Cuomo signed into law the RNY Power Program as part of Chapter 60 (Part CC) of the Laws of 2011 (“Chapter 60”). The program makes available 910 megawatts (“MW”) of “RNY Power,” 50% of which will be provided by the Authority’s hydropower resources and 50% of which will be procured by the Authority from other sources. RNY Power contracts can be for a term of up to seven years in exchange for job and capital investment commitments.

RNY Power is available to businesses and not-for-profit corporations for job retention and business expansion and attraction purposes. Specifically, Chapter 60 provides that at least 350 MW of RNY Power shall be dedicated to facilities in the service territories served by the New York State Electric and Gas, National Grid and Rochester Gas and Electric utility companies; at least 200 MW of RNY Power shall be dedicated to the purpose of attracting new businesses and encouraging expansion of existing businesses statewide; and up to 100 MW shall be dedicated for eligible not-for-profit corporations and eligible small businesses statewide.

Under the statute, “eligible applicant” is defined to mean an eligible business, eligible small business, or eligible not-for-profit corporation; however, an eligible applicant shall not include retail businesses as defined by EDPAB, including, without limitation, sports venues, gaming or entertainment-related establishments or places of overnight accommodations. At its meeting on April 24, 2012, EDPAB defined a retail business as a business that is primarily used in making retail sales of goods or services to customers who personally visit such facilities to obtain goods or services, consistent with the rules previously promulgated by EDPAB for implementation of the Authority’s Economic Development Power program.

Prior to entering into a contract with an eligible applicant for the sale of RNY Power, and prior to the provision of electric service relating to a RNY Power allocation, the Authority must offer each eligible applicant that has received an award of RNY Power the option to decline to purchase the RNY Market Power component of such award. If the applicant declines to

purchase the RNY Market Power component from the Authority, the Authority has no responsibility for supplying the RNY Market Power component of the award.

RNY, as the new economic development power program unrelated to the previous Power for Jobs (“PFJ”) and Energy Cost Savings Benefit (“ECSB”) programs, required customers participating in such programs on its sunset date on June 30, 2012, to apply for RNY in order to be considered for a RNY Power allocation. All RNY applications are considered solely on their merits under the criteria established by the RNY legislation.

PFJ and ECSB customers who submitted applications prior to June 30, 2012 and who did not receive a RNY Power allocation were considered for the transitional electricity discount (“TED”). Pursuant to section 188-a of the economic development law, the Authority is authorized, as deemed feasible and advisable by the Trustees, to provide such TED as recommended by EDPAB. The amount of the TED for the period July 1, 2012 through June 30, 2014 shall be equivalent to 66% of the unit (per kilowatt-hour) value of the savings received by the applicant under the PFJ or ECSB during the 12 months ending on December 31, 2010. The amount of the TED for the period July 1, 2014 through June 30, 2016 shall be equivalent to 33% of the unit (per kilowatt-hour) value of the savings received by the applicant under the PFJ or ECSB during the 12 months ending on December 31, 2010.

As part of Governor Andrew M. Cuomo’s initiative to foster business activity and streamline economic development, applications for all statewide economic development programs, including the RNY Power Program, have been incorporated into a single on-line Consolidated Funding Application (“CFA”) marking a fundamental shift in how State economic development resources are marketed and allocated. Beginning in September 2011, the CFA was available to applicants. The CFA continues to serve as an efficient and effective tool to streamline and expedite the State’s efforts to generate sustainable economic growth and employment opportunities. All applications that are considered for an RNY Power allocation are submitted through the CFA process.

Applications for RNY Power are subject to a competitive evaluation process and are evaluated based on the following criteria set forth in the statutes providing for the RNY Power Program (the “RNY Statutes”):

- “(i) the significance of the cost of electricity to the applicant's overall cost of doing business, and the impact that a recharge New York power allocation will have on the applicant's operating costs;
- (ii) the extent to which a recharge New York power allocation will result in new capital investment in the state by the applicant;
- (iii) the extent to which a recharge New York power allocation is consistent with any regional economic development council strategies and priorities;
- (iv) the type and cost of buildings, equipment and facilities to be constructed, enlarged or installed if the applicant were to receive an allocation;

(v) the applicant's payroll, salaries, benefits and number of jobs at the facility for which a recharge New York power allocation is requested;

(vi) the number of jobs that will be created or retained within the state in relation to the requested recharge New York power allocation, and the extent to which the applicant will agree to commit to creating or retaining such jobs as a condition to receiving a recharge New York power allocation;

(vii) whether the applicant, due to the cost of electricity, is at risk of closing or curtailing facilities or operations in the state, relocating facilities or operations out of the state, or losing a significant number of jobs in the state, in the absence of a recharge New York power allocation;

(viii) the significance of the applicant's facility that would receive the recharge New York power allocation to the economy of the area in which such facility is located;

(ix) the extent to which the applicant has invested in energy efficiency measures, will agree to participate in or perform energy audits of its facilities, will agree to participate in energy efficiency programs of the authority, or will commit to implement or otherwise make tangible investments in energy efficiency measures as a condition to receiving a recharge New York power allocation;

(x) whether the applicant receives a hydroelectric power allocation or benefits supported by the sale of hydroelectric power under another program administered in whole or in part by the authority;

(xi) the extent to which a recharge New York power allocation will result in an advantage for an applicant in relation to the applicant's competitors within the state; and

(xii) in addition to the foregoing criteria, in the case of a not-for-profit corporation, whether the applicant provides critical services or substantial benefits to the local community in which the facility for which the allocation is requested is located.”

Based on the evaluation of these criteria, the applications were scored and ranked. Evaluations also considered scores provided by the relevant Regional Economic Development Council under the third and eighth criteria.

In arriving at recommendations for RNY Power for EDPAB's consideration, staff, among other things, attempted to maximize the economic benefits of low-cost NYPA hydropower, the critical state asset at the core of the RNY Power Program, while attempting to ensure that each recipient receives a meaningful RNY Power allocation.

Business applicants with relatively high scores were recommended for allocations of retention RNY Power of 50% of the requested amount or average historic demand, whichever was lower. These allocations were capped at 10 MW for any recommended allocation. Not-for-

profit corporation applicants that scored relatively high were recommended for allocations of 33% of the requested amount or average historic demand, whichever was lower. These allocations were capped at 5 MW. Applicants currently receiving hydropower allocations under other Authority power programs were recommended for allocations of RNY Power of 25% of the requested amount, subject to the caps as stated above.

RNY Power allocations have been awarded by the Trustees on ten prior occasions spanning from April 2012 through December 2014. There is currently 41.2 MW of unallocated RNY Power of the 710 MW block made available for business “retention” purposes. Of that 710 MW retention block, 100 MW was set aside for not-for-profit corporations and small businesses, of which 2.3 MW is available to allocate to such entities. Lastly, there is 103.7 MW of unallocated RNY Power of the 200 MW block made available for business “expansion” purposes. These figures reflect Trustee actions on RNY Power applications taken prior to any actions the Trustees take today.

## DISCUSSION

The Trustees are asked to address applications submitted via the CFA process for RNY Power “retention” based allocations. Consistent with the evaluation process as described above, EDPAB recommended at its December 15, 2014 meeting that RNY Power retention allocations be awarded to the businesses listed in Exhibit “A.” Each business has committed to retain jobs in New York State and to make capital investments in exchange for the recommended RNY Power allocations.

The RNY Power allocations identified in Exhibit “A” are each recommended for a term of seven years except where otherwise indicated. An allocation recommended by EDPAB qualifies the subject applicant to enter into a contract with the Authority for the purchase of the RNY Power. The Authority’s standard RNY Power contract template, approved by the Trustees at their March 27, 2012 meeting, contains provisions addressing such things as effective periodic audits of the recipient of an allocation for the purpose of determining contract and program compliance, and for the partial or complete withdrawal of an allocation if the recipient fails to maintain mutually agreed-upon commitments, relating to, among other things, employment levels, power utilization, and capital investments. In addition, there is a requirement that a recipient of an allocation perform an energy efficiency audit at its facility not less than once during the first five years of the term of the allocation.

## RECOMMENDATION

The Manager – Business Power Allocations and Compliance recommends that the Trustees approve the allocations of RNY Power for retention purposes to the businesses listed in Exhibit “A” as indicated therein.

For the reasons stated, I recommend the approval of the above-requested action by adoption of the resolution below.

Gil C. Quiniones  
President and Chief Executive Officer

## **RESOLUTION**

WHEREAS, the Economic Development Power Allocation Board (“EDPAB”) has recommended that the Authority award Recharge New York (“RNY”) Power allocations for retention purposes to the applicants listed in Exhibit “A” in the amounts indicated;

NOW THEREFORE BE IT RESOLVED, That the Authority hereby authorizes the allocations of RNY Power for retention purposes to the applicants listed on Exhibit “A” in accordance with the terms described in the foregoing memorandum of the President and Chief Executive Officer; and be it further

RESOLVED, That the Chairman, the Vice Chair, the President and Chief Executive Officer, the Chief Operating Officer and all other officers of the Authority are, and each of them hereby is, authorized on behalf of the Authority to do any and all things, take any and all actions and execute and deliver any and all agreements, certificates and other documents to effectuate the foregoing resolution, subject to the approval of the form thereof by the Executive Vice President and General Counsel.

Line	Company	City	County	Economic Development Region	IOU	Description	kW Request	kW Recommendation	Jobs Retained	Jobs Created	Total Job Commitment	Capital Investment (\$)	Contract Term (years)
1	Century Mold Company, Inc.	Rochester	Monroe	Finger Lakes	RGE	Plastic components manufacturing	1,055	526	119	0	119	\$5,000,000	7
2	Diamond Packaging Holdings LLC	Rochester	Monroe	Finger Lakes	RGE	Manufacturer of paperboard and plastic folding cartons	1,871	936	220	0	220	\$2,500,000	7
3	Nicholas H. Noyes Memorial Hospital, Inc.	Dansville	Livingston	Finger Lakes	NYSEG	Hospital	623	206	170	0	170	\$1,000,000	7
<b>Finger Lakes Region Sub-totals:</b>							<b>3,549</b>	<b>1,668</b>	<b>509</b>	<b>0</b>	<b>509</b>	<b>\$8,500,000</b>	
4	HSBC USA, Inc.	New York City	New York	New York City	CONED	Banking and Financial Services	1,600	800	452	0	452	\$5,600,000	7
<b>New York City Region Sub-totals:</b>							<b>1,600</b>	<b>800</b>	<b>452</b>	<b>0</b>	<b>452</b>	<b>\$5,600,000</b>	
5	HSBC USA, Inc.	Depew	Erie	Western New York	NYSEG	Banking and Financial Services	719	356	1,574	0	1,574	\$4,750,000	7
6	HSBC USA, Inc.	Buffalo	Erie	Western New York	NGRID	Banking and Financial Services	880	440	1,454	0	1,454	\$1,400,000	7
7	Wendt Corporation	Buffalo	Erie	Western New York	NGRID	Manufactures automobile shredders	199	96	100	0	100	\$500,000	7
<b>Western New York Region Sub-totals:</b>							<b>1,798</b>	<b>892</b>	<b>3,128</b>	<b>0</b>	<b>3,128</b>	<b>\$6,650,000</b>	

Totals

<b>3,360</b>	<b>4,089</b>	<b>0</b>	<b>4,089</b>	<b>\$ 20,750,000</b>
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