

February 26, 2015

MEMORANDUM TO THE TRUSTEES

FROM THE PRESIDENT and CHIEF EXECUTIVE OFFICER

**SUBJECT: Contract for the Sale of Preservation Power –
Transmittal to the Governor**

SUMMARY

The Trustees are requested to approve the proposed final contract (“Contract”) for the sale of Preservation Power to Corning, Inc., the business described in Exhibit “A,” and authorize transmittal of the Contract to the Governor for his review and to request his authorization for the Authority to execute the Contract, pursuant to Public Authorities Law (“PAL”) §1009. The Contract is attached as Exhibit “B.”

BACKGROUND

Under PAL §1005(13), the Authority may allocate and sell directly or by sale for resale, 250 megawatts (“MW”) of EP and 445 MW of RP to businesses located within 30 miles of the Niagara Power Project, provided that the amount of EP allocated to businesses in Chautauqua County on January 1, 1987 shall continue to be allocated in such county. Under PAL §1005(13), the Authority may allocate and sell directly or by sale for resale, 490 megawatts (“MW”) of Preservation Power (“PP”) to businesses located in Jefferson, Franklin and St. Lawrence Counties.

At their meeting on July 29, 2014, the Trustees awarded an allocation of 2,100 kW of PP to Corning, Inc., as described in Exhibit “A.” The Trustees also authorized a public hearing pursuant to PAL §1009 on the Contract that would effectuate the sale of power and energy for the allocation to Corning, Inc.

The Contract before the Board would provide for the sale of this allocation to Corning, Inc. The sale of this allocation would be made under a direct sale arrangement. Transmission and delivery service would be provided by the company’s local utility in accordance with the utility’s Public Service Commission-filed delivery service tariff. The following is a summary of some pertinent provisions of the Contract:

- The Contract would provide for the direct billing of all production charges (*i.e.* demand and energy) as well as all New York Independent System Operator, Inc. (“NYISO”) charges, plus taxes or any other required assessments, as set forth in the Trustee approved Service Tariff No.10 (“ST-10”).
- The Contract includes the company’s agreed-upon commitments with respect to employment, power utilization and capital investment. The Authority would retain

the right to reduce or terminate the allocation if employment, power utilization, or capital investment commitments are not met.

- To accommodate non-payment risk that could result from the direct billing arrangement with the Authority, the Contract form includes commercially reasonable provisions concerning, among other things, the ability to require deposits in the event of a customer's failure to make payment for any two monthly bills. This is consistent with recent Authority contracts that incorporate direct billing, including the Authority's Recharge New York sales contracts.
- The Contract requires that the company perform an energy efficiency audit at least once within five years at the facility receiving the low-cost power to help ensure the hydropower is utilized as effectively as possible.

The Authority has discussed the Contract with Corning, Inc. and has received its consent to its respective Contract. Corning, Inc. has also acknowledged application of the appropriate tariff discussed above to its allocation.

As required by PAL §1009, when the Authority has reached agreement with its co-party on such a Contract, it is required to transmit the Contract to the Governor and other elected officials and hold a public hearing on the Contract. At least 30-days' notice of the hearing must be given by publication once in each week during such period in each of six selected newspapers. Following the public hearing, the Contract may be modified, if advisable.

Upon approval of the Contract by the Authority, the Authority must "report" the Contract, along with its recommendations and the public hearing record, to the Governor and other elected officials. Upon approval by the Governor, the Authority may execute the Contract.

DISCUSSION

As noted above, the Trustees, at their July 29, 2014 meeting, awarded the aforementioned allocation to Corning, Inc., and also authorized the Corporate Secretary to schedule a public hearing on the Contract.

A public hearing on the Contract was held on October 23, 2014 at the Frank S. McCullough, Jr. Hawkins Point Visitors' Center at the St. Lawrence/FDR Power Project in Massena. No oral statements were given at the public hearing. Two written statements were submitted. The official transcript of the public hearing and the written submittals are attached as Exhibit "C."

RECOMMENDATION

The Manager – Business Power Allocations and Compliance recommends that the Trustees approve the Contract for the sale of Preservation Power to Corning, Inc. that is attached as Exhibits "B," and authorize the transmittal of this Contract to the Governor for his review pursuant to PAL §1009.

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

RESOLVED, That the proposed final contract for the sale of Preservation Power to Corning, Inc. (“Contract”), is in the public interest and in accordance with Public Authorities Law §1009 and should be submitted to the Governor for his review, and that copies of the Contract, along with the record of the public hearing thereon, be forwarded to the Speaker of the Assembly, the Minority Leader of the Assembly, the Chairman of the Assembly Ways and Means Committee, the Temporary President of the Senate, the Minority Leader of the Senate and the Chairman of the Senate Finance Committee; and be it further

RESOLVED, That the Chairman and the Corporate Secretary be authorized and directed to execute such Contract in the name of, and on behalf of, the Authority if the Contract is approved by the Governor; and be it further

RESOLVED, That the Senior Vice President – Economic Development and Energy Efficiency, or his designee, be, and hereby is, authorized, subject to the approval of the form thereof by the Executive Vice President and General Counsel, to negotiate and execute any and all documents necessary or desirable to implement the Contract with the business as set forth 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.

New York Power Authority
Contracts for the Sale of Preservation Power - Transmittal to the Governor

Exhibit "A"
February 26, 2015

Line	Company Name	Program	City	County	Trustee Public Hearing Authorization Date	Allocation (kW)	New Jobs	Total Job Commitment	Capital Investment	Proposed Direct Sale Contract Term
1	Corning, Inc.	PP	Canton	St. Lawrence	7/29/2014	2,100	40	274	\$21,750,000	7 Years

POWER AUTHORITY
OF THE
STATE OF NEW YORK

30 South Pearl Street
10th Floor
Albany, New York 12207-3425

**AGREEMENT FOR THE SALE OF
PRESERVATION POWER AND ENERGY**
to
CORNING INCORPORATED

The Power Authority of the State of New York (“Authority”), created pursuant to Chapter 772 of the New York Laws of 1931 and existing under Title 1 of Article 5 of the New York Public Authorities Law (“PAL”), having its office and principal place of business at 30 South Pearl Street, 10th Floor, Albany, New York 12207-3425, hereby enters into this Agreement for the Sale of Preservation Power and Energy (“Agreement”) to Corning Incorporated, having facilities at 334 County Road 16, Canton, NY 13617 (“Customer”). The Authority and the Customer are from time to time referred to in this Agreement individually as a “Party” or collectively as the “Parties” and agree as follows:

RECITALS

WHEREAS, the Authority is authorized to sell hydroelectric power produced by the St. Lawrence-FDR Power Project known as Preservation Power (or “PP”), as further defined in this Agreement, to qualified businesses in New York State in accordance with PAL § 1005(5) and (13);

WHEREAS, PP consists of 490 megawatts (“MW”) of firm hydroelectric power and associated energy produced by the St. Lawrence-FDR Power Project;

WHEREAS, St. Lawrence-FDR Power Project hydroelectric power plays an important role in providing competitively priced power for sale to attract and retain business investment and to promote economic development in New York State;

WHEREAS, the Authority has the authority under PAL § 1005(13)(a) to award allocations of PP based on, among other things, the criteria listed in the PAL, including but not limited to an applicant’s long-term commitment to the region as evidenced by the current and planned capital investment; the type and number of jobs supported or created by the allocation; and the state, regional and local economic development strategies and priorities supported by local units of governments in the area in which the recipient’s facilities are located;

WHEREAS, the Customer has applied for an allocation of PP for use at facilities located at 334 County Road 16, Canton, NY 13617 (defined in Article I of this Agreement as the “Facility”) to be received upon completion of an expansion of the Facility as provided for in the Capital Expansion Program described in this Agreement;

WHEREAS, on July 29, 2014, the Authority’s Board of Trustees (“Trustees”) approved a 2,100 kilowatt allocation of PP (defined in Article I of this Agreement as the “Allocation”) to the Customer for a seven year term, as further described in this Agreement;

WHEREAS, the provision of Electric Service (defined in Article I of this Agreement) associated with the Allocation is an unbundled service separate from the transmission and delivery service necessary for the Customer to receive the Allocation which will be performed by the Customer’s local utility company;

WHEREAS, the Authority has complied with requirements of PAL § 1009 which specifies the approval process for contracts negotiated by the Authority; and

WHEREAS, the Governor of the State of New York has approved the terms of this Agreement pursuant to PAL § 1009(3).

NOW THEREFORE, in consideration of the mutual covenants herein, the Authority and the Customer agree as follows:

Article I. Definitions

- A. **Agreement** means this Agreement as further described in the preamble, including all documents and other matters attached to and incorporated into the Agreement.
- B. **Allocation** refers to the total amount of PP and associated energy set forth in Schedule A to this Agreement awarded to the Customer.
- C. **Contract Demand** has the meaning set forth in the Service Tariff.
- D. **Electric Service** is Firm Power and Firm Energy associated with the Allocation and sold to the Customer in accordance with the provisions of this Agreement, the Service Tariff, and the Rules.
- E. **Energy Efficiency Audit** means a physical inspection of a building in a manner approved by the Authority that should include the following elements: (1) an assessment of a building's energy use, cost and efficiency which produces an energy utilization index for the building (such as an Energy Use Intensity or Energy Performance Indicator); (2) a comparison of the building's index to indices for similar buildings; (3) an analysis of low-cost/no-cost measures for improving energy efficiency; (4) a listing of potential capital improvements for improving energy consumption; and (5) an initial assessment of potential costs and savings from such measures and improvements.
- F. **Facility** means the Customer's facility identified in Schedule A.
- G. **Firm Energy** has the meaning set forth in the Service Tariff.
- H. **Firm Power** has the meaning set forth in the Service Tariff.
- I. **FERC** means the Federal Energy Regulatory Commission (or any successor organization).
- J. **FERC License** means the license issued by FERC to the Authority for the continued operation and maintenance of the St. Lawrence Project, pursuant to Section 15 of the Federal Power Act, which became effective October 22, 2003 after expiration of the Project's original license issued in 1953.
- K. **Hydro Projects** is a collective reference to the Authority's Niagara Project and St. Lawrence-FDR Project.

- L. **International Joint Commission** (or **IJC**) refers to the entity with responsibility to prevent and resolve disputes between the United States of America and Canada under the *1909 Boundary Waters Treaty* and pursues the common good of both countries as an independent and objective advisor to the two governments. The IJC rules upon applications for approval of projects affecting boundary or transboundary waters and may regulate the operation of these projects.
- M. **Load Serving Entity** (or **LSE**) means an entity designated by a retail electricity customer to provide capacity, energy and ancillary services to serve such customer, in compliance with NYISO Tariffs, rules, manuals and procedures.
- N. **NYISO** means the New York Independent System Operator, Inc. or any successor organization.
- O. **NYISO Charges** has the meaning set forth in the Service Tariff.
- P. **NYISO Tariffs** means the NYISO's Open Access Transmission Tariff or the NYISO's Market Administration and Control Area Services Tariff, as applicable, as such tariffs are modified from time to time, or any successor to such tariffs.
- Q. **PAL** means the New York Public Authorities Law.
- R. **Preservation Power** (or **PP**) has the meaning set forth in the Service Tariff.
- S. **Niagara Project** means the Authority's Niagara Power Project, FERC Project No. 2216.
- T. **Rules** refers to the Authority's Rules and Regulations for Power Service (Part 454 of Chapter X of Title 21 of the Official Compilation of Codes, Rules and Regulations of the State of New York), as may be modified from time to time by Authority.
- U. **Service Tariff** means the Authority's Service Tariff No. 10, as may be modified from time to time by the Authority, which contains, among other things, the rate schedule establishing rates and other commercial terms for sale of Electric Service to Customer under this Agreement.
- V. **St. Lawrence Project** means the Authority's St. Lawrence-FDR Power Project, FERC Project No. 2000.
- W. **Schedule A** refers to the Schedule A to this Agreement entitled "Preservation Power Allocations" which is attached to and made part of this Agreement.
- X. **Schedule B** refers to the Schedule B to this Agreement entitled "Preservation Power Commitments" which is attached to and made part of this Agreement.
- Y. **Schedule C** refers to Schedule C to this Agreement entitled "Takedown Schedule" which is attached to and made part of this Agreement.

- Z. **Substitute Energy** means energy that the Authority provides at the request of the Customer to replace hydroelectric power that would otherwise have been supplied to the Customer under this Agreement.
- AA. **Taxes** have the meaning set forth in the Service Tariff.
- BB. **Unforced Capacity** (or **UCAP**) is the electric capacity required to be provided by Load Serving Entities to serve electric load as defined by the NYISO Tariffs, rules, manuals and procedures.

Article II. Electric Service

- A. The Authority shall provide Electric Service to the Customer to enable the Customer to receive the Allocation in accordance with this Agreement, the Service Tariff and the Rules. The Customer shall not be entitled to receive Electric Service for any PP Allocation that is not specified in Schedule A.
- B. The Authority will provide, and the Customer shall pay for, Electric Service with respect to the Allocation specified on Schedule A. If Schedule C specifies a Takedown Schedule for the Allocation, the Authority will provide, and the Customer shall take and pay for, Electric Service with respect to the Allocation in accordance with such Takedown Schedule.
- C. The Authority shall provide UCAP in amounts necessary to meet the Customer's NYISO UCAP requirements associated with the Allocation in accordance with the NYISO Tariffs. The Customer shall be responsible to pay the Authority for such UCAP in accordance with the Service Tariff.
- D. The Customer acknowledges and agrees that Customer's local electric utility shall be responsible for delivering the Allocation to the Facility specified in Schedule A, and that the Authority has no responsibility for delivering the Allocation to the Customer.
- E. The Contract Demand and the Allocation may be modified by the Authority if the amount of Firm Power and Firm Energy available for sale as PP from the St. Lawrence Project is modified as required to comply with any ruling, order, or decision of any regulatory or judicial body having jurisdiction, including but not limited to FERC. Any such modification will be made on a pro rata basis to all PP customers, as applicable, based on the terms of such ruling, order, or decision. The Authority will use reasonable efforts to provide at least thirty (30) days prior written notice to the Customer of any such modification unless such notice is inconsistent with such ruling, order or decision.
- F. The Contract Demand may not exceed the Allocation.
- G. By entering into this Agreement, the Customer consents to the exchange of information between the Authority and the Customer's local electric utility pertaining to the Customer that such parties determine is necessary to provide for the allocation, sale and delivery of PP to the

Customer, the proper and efficient implementation of the PP power program, billing related to PP Power, and/or the performance of such parties' obligations under any contracts or other arrangements between them relating to such matters. In addition, the Customer agrees to complete such forms and consents the Authority determines are necessary to effectuate such exchanges of information.

- H. The provision of Electric Service by the Authority shall be dependent upon the existence of a written agreement between the Authority and the Customer's local electric utility providing for the delivery of PP on terms and conditions that are acceptable to the Authority.
- I. The Customer understands and acknowledges that the Authority may from time to time require the Customer to complete forms, provide documentation, execute consents and provide other information (collectively, "Information") the Authority determines is necessary for the provision of Electric Service, the delivery of PP, billing related to the PP program, the effective and proper administration of the PP program, and/or the performance of contracts or other arrangements between the Authority and the Customer's local electric utility. The Customer's failure to provide such Information shall be grounds for the Authority in its sole discretion to withhold or suspend Electric Service to the Customer.

Article III. Rates, Terms and Conditions

- A. The Authority will provide Electric Service to the Customer based on the rates, terms and conditions established in accordance with this Agreement, the Service Tariff and the Rules.
- B. The Service Tariff and the Rules may be amended from time to time by the Authority. The Authority shall provide at least thirty (30) days prior written notice to the Customer of any proposed change in the Service Tariff or the Rules. No subsequent amendment to the Service Tariff or the Rules shall affect the determination of rates for PP to the Customer during the term of the Agreement except insofar as otherwise authorized by this Agreement. This provision shall not limit the Authority's discretion to determine rates applicable to allocations of power and energy awarded to the Customer beyond or in addition to the Allocation.
- C. Notwithstanding any provision of this Agreement to the contrary, the power and energy rates shall be subject to increase by the Authority at any time upon 30 days prior written notice to Customer if, after consideration by the Authority of its legal obligations, the marketability of the output or use of the St. Lawrence Project and the Authority's competitive position with respect to other suppliers, the Authority determines in its discretion that increases in rates obtainable from any other Authority customers will not provide revenues, together with other available Authority funds not needed for operation and maintenance expenses, capital expenses, and reserves, sufficient to meet all requirements specified in the Authority's bond and note resolutions and covenants with the holders of its financial obligations. The Authority shall use its best efforts to inform the Customer at the earliest practicable date of its intent to increase the power and energy rates pursuant to this provision. Any rate increase to the Customer under this subsection shall be on a non-discriminatory basis as compared to other Authority customers that are subject to the Service Tariff after giving consideration to the

factors set forth in the first sentence of this subsection. With respect to any such increase, the Authority shall forward to the Customer with the notice of the increase, an explanation of all reasons for the increase, and shall also identify the sources from which the Authority will obtain the total of increased revenues and the bases upon which the Authority will allocate the increased revenue requirements among its customers. Any such increase in rates shall remain in effect only so long as the Authority determines such increase is necessary to provide revenues for the purposes stated in the preceding sentences.

Article IV. Billing and Billing Methodology

- A. The billing methodology for the Allocation shall be determined on a “load factor sharing” basis in a manner consistent with the local electric utility’s applicable tariffs and any agreement between the Authority and the Customer’s local electric utility. An alternative basis for billing may be used provided the Parties agree in writing and the local electric utility provides its consent if such consent is deemed necessary.
- B. The Authority shall render bills for power and energy by the tenth (10th) business day of the month for charges due for the previous month. Such bills shall include the NYISO Charges and Taxes (as such terms are defined in the Service Tariff) associated with the Allocation. NYISO Charges and Taxes billed to the Customer are subject to adjustments consistent with any subsequent NYISO re-billings to Authority.
- C. The Authority may render bills to the Customer electronically.
- D. The Authority and the Customer may agree in writing to an alternative method for the rendering of bills and for the payment of bills, including but not limited to the use of an Authority-established customer self-service web portal.
- E. The Authority will charge and collect from the Customer all Taxes (including local, state and federal taxes) the Authority determines are applicable, unless the Customer furnishes the Authority with proof satisfactory to the Authority that (i) the Customer is exempt from the payment of any such Taxes, and/or (ii) the Authority is not obligated to collect such Taxes from the Customer. If the Authority is not collecting Taxes from the Customer based on the circumstances described in (i) or (ii) above, the Customer shall immediately inform the Authority of any change in circumstances relating to its tax status that would require the Authority to charge and collect such Taxes from the Customer.
- F. Unless otherwise agreed to by the Authority and the Customer in writing, if the Customer fails to pay any bill when due, an interest charge of two percent (2%) of the amount unpaid shall be added thereto as liquidated damages, and thereafter, as further liquidated damages, an additional interest charge of one and one-half percent (1 1/2%) of the sum unpaid shall be added on the first day of each succeeding billing period until the amount due, including interest, is paid in full.
- G. Unless otherwise agreed to by the Authority and the Customer in writing, in the event the Customer disputes any item of any bill rendered by Authority, the Customer shall pay such

bill in full within the time provided for by this Agreement, and adjustments, if appropriate, will be made thereafter.

- H. If at any time after commencement of Electric Service the Customer fails to make complete and timely payment of any two (2) bills for Electric Service, the Authority shall have the right to require the Customer to deposit with the Authority a sum of money in an amount equal to all charges that would be due under this Agreement for Electric Service for two (2) consecutive calendar months as estimated by the Authority. Such deposit shall be deemed security for the payment of unpaid bills and/or other claims of the Authority against the Customer upon termination of Electric Service. If the Customer fails or refuses to provide the deposit within thirty (30) days of a request for such deposit, the Authority may, in its sole discretion, suspend Electric Service to the Customer or terminate this Agreement.
- I. All other provisions with respect to billing are set forth in the Service Tariff.
- J. The rights and remedies provided to the Authority in this Article are in addition to any and all other rights and remedies available to Authority at law or in equity.

Article V. Transmission and Delivery of Power and Energy

- A. The Customer shall responsible for securing arrangements with its local utility for transmission and delivery service associated with the Allocation unless otherwise agreed to by the Parties.
- B. The Customer will pay its local utility for transmission and delivery service associated with the Allocation in accordance applicable contracts and all applicable tariffs, rulemakings, and orders, in order to deliver to the Customer the Firm Power and Firm Energy supplied by the Authority under this Agreement. To the extent the Authority incurs transmission and delivery service charges or other costs associated with the Allocation during the term of this Agreement, the Customer agrees to compensate the Authority for all such charges and costs incurred.
- C. The Customer understands and acknowledges that delivery of the Allocation will be made over transmission facilities under the control of the NYISO. The Authority will act as the LSE with respect to the NYISO, or arrange for another entity to do so on the Authority's behalf as may be required under the applicable local utility company tariffs. In no event shall the Authority act as the LSE for the power and energy consumed by Customer other than Electric Service (inclusive of Substitute Energy, if any) sold by the Authority under this Agreement. The Customer understands and acknowledges that it will be responsible to the Authority for all charges and other costs incurred by the Authority associated with the provision of Electric Service to enable the Customer to receive the Allocation, including charges and costs contained in the NYISO Tariffs or other applicable tariffs (including local utility company tariffs), regardless of whether such charges and costs are transmission-related. Such charges and costs are in addition to the charges for power and energy.

Article VI. Preservation Power Commitments

- A. Schedule B sets forth the Customer's specific "Preservation Power Commitments." Such commitments are in addition to any other rights and obligations of the Parties provided for in the Agreement.
- B. The Authority's obligation to provide Electric Service to the Customer under this Agreement is expressly conditioned upon the Customer's timely completion of the Capital Expansion Program regarding the Facility as described in Schedule B.
- C. In the event of partial completion of the Capital Expansion Program which results in the Facility expansion being partially completed, the Authority may, upon the Customer's request, provide Electric Service to the Customer in an amount determined by the Authority to fairly correspond to the completed portion of the Facility expansion, provided that the Customer demonstrates that the amount of requested Electric Service is needed to support operations thereat.
- D. The Customer shall give the Authority not less than ninety (90) days' advance notice in writing of the anticipated date of partial or full completion of the Facility expansion. The Authority will inspect the Facility expansion for the purpose of verifying the completion status of the Facility expansion and notify Customer of the results of the inspection. The Authority will thereafter commence Electric Service in accordance with this provision within a reasonable time after verification based on applicable operating procedures of the Authority, the Customer's local electric utility and the NYISO.
- E. In the event the Customer fails to complete the Facility expansion by July 29, 2017 (*i.e.*, within three (3) years of the Authority's award of the Allocation), (i) the Authority may, at its option and discretion, cancel the Allocation, or reduce it by the total amount of kilowatts determined by the Authority to fairly correspond to the uncompleted portion of the Facility expansion, or (ii) upon request of the Customer, such date may be extended by the Authority in its sole discretion.

Article VII. Rules and Service Tariff; Conflicts

The Service Tariff is hereby incorporated into this Agreement with the same force and effect as if set forth herein at length. In the event of any inconsistencies, conflicts or differences between the provisions of the Service Tariff and the Rules, the provisions of the Service Tariff shall govern. In the event of any inconsistencies, conflicts or differences between the provisions of this Agreement and the Service Tariff, the provisions of this Agreement shall govern.

Article VIII. Hydropower Curtailments and Substitute Energy

- A. If, as a result of reduced water flows caused by hydrologic conditions, there is insufficient energy from the Hydro Projects to supply the full power and energy requirements of the Authority's firm power customers served by the Authority from the Hydro Projects,

curtailments (*i.e.*, reductions) in the amount of Firm Power and Firm Energy associated with the Allocation to which the Customer is entitled shall be applied on a *pro rata* basis to all firm power and energy customers served from the Hydro Projects, consistent with the Service Tariff as applicable.

- B. The Authority shall provide reasonable notice to the Customer of any curtailments referenced in Article VIII.A of this Agreement that could impact Customer's Electric Service under this Agreement.
- C. Upon written request by the Customer, the Authority will provide Substitute Energy to the Customer to replace the hydroelectricity that would otherwise have been supplied under this Agreement. The provision of Substitute Energy may be terminated by the Authority or the Customer on fifteen (15) days' prior written notice.
- D. For each kilowatt-hour of Substitute Energy supplied by the Authority, the Customer will pay the Authority directly during the billing month: (1) the difference between the market cost of the Substitute Energy and the charge for firm energy as provided for in this Agreement; and (2) any NYISO charges and taxes the Authority incurs in connection with the provision of such Substitute Energy. Billing and payment for Substitute Energy shall be governed by the Billing and Payments provision of the Authority's Rules (Section 454.6) and shall apply directly to the Substitute Energy service supplied to the Customer.
- E. The Parties may enter into a separate agreement to facilitate the provision of Substitute Energy, provided, however, that the provisions of this Agreement shall remain in effect notwithstanding any such separate agreement. The provision of Substitute Energy may be terminated by the Authority or the Customer on fifteen (15) days' prior written notice.

Article IX. Additional Allocations

- A. Upon application by the Customer, the Authority may award additional allocations of PP to the Customer at such rates and on such terms and conditions as set forth in the Service Tariff. Once the Customer agrees to purchase Electric Service associated with such additional allocations, the Authority will produce modified or supplemental Schedules A and B which will reflect any such additional allocations and other pertinent terms as appropriate. The Authority will furnish the Customer with any such modified or supplemental Schedules within thirty (30) days of the commencement of Electric Service for any such additional allocation.
- B. The Customer shall furnish such documentation and other information as the Authority requests to enable the Authority to evaluate (i) whether any additional allocations should be made to the Customer, and (ii) the terms relating to any additional allocation.

Article X. Notification

A. Correspondence involving the administration of this Agreement shall be addressed as follows:

To: The Authority

New York Power Authority
123 Main Street
White Plains, New York 10601
Telephone:
Facsimile: (914) 390-8156
Electronic mail:
Attention: Manager – Business Power Allocations and Compliance

To: Customer

Corning Incorporated
334 County Road 16
Canton, New York 13617
Telephone:
Facsimile:
Electronic mail:
Attention:

B. Except where otherwise herein specifically provided, any notice, communication or request required or authorized by this Agreement by either Party to the other shall be deemed properly given: (1) if sent by U.S. First Class mail addressed to the Party at the address set forth above; (2) if sent by a nationally recognized overnight delivery service, two (2) calendar days after being deposited for delivery to the appropriate address set forth above; (3) if delivered by hand, with written confirmation of receipt; (4) if sent by facsimile to the appropriate fax number as set forth above, with written confirmation of receipt; or (5) if sent by electronic mail to the appropriate address as set forth above, with written confirmation of receipt. Either Party may change the addressee and/or address for correspondence sent to it by giving written notice in accordance with the foregoing. Any claim, suit, action or any other proceeding in law or equity arising under, or in any way relating to this Agreement shall be governed by and construed in accordance with the laws of the State of New York to the extent that such laws are not inconsistent with the FERC License and rulings by the IJC and without regard to conflicts of law provisions.

Article XI. Venue

Each Party consents to the exclusive jurisdiction and venue of any state or federal court within or for Albany County, New York, with subject matter jurisdiction for adjudication of any claim, suit, action or any other proceeding in law or equity arising under, or in any way relating to this Agreement.

Article XII. Successors and Assigns; Transfers; Resale of PP

- A. This Agreement shall be binding upon, shall inure to the benefit of, and may be performed by, the legal successors and assigns of either Party hereto; provided, however, that no assignment by either Party or any successor or assignee of such Party of its rights and obligations hereunder shall be made or become effective without the prior written consent of the other Party in each case obtained.
- B. The transfer of any portion of the Allocation, or any benefits relating the Allocation, by the Customer to any person, to a different owner or operator of the Facility, or to a different facility, is prohibited unless (i) specifically approved by the Authority, and, (ii) all other legal requirements applicable to such a transfer are complied with. Any transfer that occurs without such approval and compliance shall be invalid and transfer may in the Authority's sole discretion subject the transferor to revocation or modification of the Allocation and/or this Agreement.
- C. The Customer may not resell any portion of the Allocation to any person. If such a sale occurs, the Authority may, in its sole discretion, terminate the Allocation and/or this Agreement.

Article XIII. Previous Agreements and Communications

This Agreement shall constitute the sole and complete agreement of the Parties hereto with respect to the sale of PP, and supersedes all previous communications between the Parties hereto, either oral or written, with respect to the sale of PP. No modifications of this Agreement shall be binding upon the Parties hereto or either of them unless such modification is in writing and is signed by a duly authorized officer of each of them.

Article XIV. Waiver

- A. Any waiver at any time by either the Authority or the Customer of their rights with respect to a default or of any other matter arising out of this Agreement shall not be deemed to be a waiver with respect to any other default or matter.
- B. No waiver by either Party of any rights with respect to any matter arising in connection with this Agreement shall be effective unless made in writing and signed by the Party making the waiver.

Article XV. Severability and Voidability

- A. If any term or provision of this Agreement is invalidated, declared unlawful or ineffective in whole or in part by an order of the FERC or a court of competent jurisdiction, such order shall not invalidate the remaining terms or provisions hereof.
- B. Notwithstanding the preceding paragraph, if any provision of this Agreement is rendered void or unenforceable or otherwise modified by a court or agency of competent jurisdiction, the entire Agreement shall, at the option of either Party and only in such circumstances in which such Party's interests are materially and adversely impacted by any such action, be rendered void and unenforceable by such affected Party.

Article XVI. Term, Modification, Termination and Effect

- A. Electric Service under this Agreement shall continue with respect to an Allocation until the earliest of: (1) termination by the Customer with respect to all of the Allocation upon at least ninety (90) days prior written notice to the Authority; (2) termination by Authority pursuant to the Rules upon required notice; or (3) expiration of the Allocation by its own term as specified in Schedule A.
- B. The Customer may exercise a partial termination of the Allocation upon at least thirty (30) days prior written notice to the Authority. The termination shall be effective commencing with the first "Billing Period" as defined in the Service Tariff following the required notice.
- C. The Authority may modify or terminate Electric Service hereunder or modify the quantities of power and energy associated with an Allocation: (1) if such termination or modification is required to comply with any final ruling, order or decision of any regulatory or judicial body of competent jurisdiction (including any licensing or re-licensing order or orders of the FERC or its successor agency); or (2) as otherwise provided in this Agreement or in the Rules.
- D. This Agreement shall become legally binding and effective only upon satisfaction of the following conditions precedent: (1) receipt of approval of this Agreement by the Authority Board of Trustees; (2) receipt of approval of this Agreement by the Governor of the State of New York pursuant to PAL § 1009; and (3) execution of this Agreement by the Authority and the Customer.

Article XVII. Execution

To facilitate execution, this Agreement may be executed in as many counterparts as may be required, and it shall not be necessary that the signatures of, or on behalf of, each Party, or that the signatures of all persons required to bind any Party, appear on each counterpart; but it shall be sufficient that the signature of, or on behalf of, each Party, or that the signatures of the persons required to bind any Party, appear on one or more of the counterparts. All counterparts shall collectively constitute a single agreement. It shall not be necessary in making proof of this Agreement to produce or account for more than a number of counterparts containing the respective signatures of, or on behalf of, all of the Parties hereto. The delivery

of an executed counterpart of this Agreement by email as a PDF file shall be legal and binding and shall have the same full force and effect as if an original executed counterpart of this Agreement had been delivered.

[SIGNATURES FOLLOW ON NEXT PAGE]

AGREED:

CORNING INCORPORATED

BY: _____

Title: _____

Date: _____

AGREED:

POWER AUTHORITY OF THE STATE OF NEW YORK

By: _____
John R. Koelmel, Chairman

Date: _____

SCHEDULE A

PRESERVATION POWER ALLOCATIONS

Customer: CORNING INCORPORATED

Type of Allocation	Allocation (kW)	Trustee Approval Date	Expiration Date	Facility
PP	2,100	July 29, 2014	Seven (7) years from commencement of Electric Service of any portion of this Allocation	334 County Road 16, Canton, NY 13617

SCHEDULE B

PRESERVATION POWER COMMITMENTS

ARTICLE I. EMPLOYMENT COMMITMENTS

A. Base Employment Level

The Customer shall establish and maintain the employment level as provided for in the Appendix to this Schedule B (the “Base Employment Level”). Unless otherwise provided for in Schedule B, such Base Employment Level shall be the total number of full-time positions held by: (1) individuals employed by the Customer at the Facility identified in the Appendix to this Schedule B; and (2) individuals who are contractors or are employed by contractors of the Customer and who are assigned to such Facility (collectively, “Base Level Employees”). The number of Base Level Employees shall not include individuals employed on a part-time basis (less than 35 hours per week); provided, however, that two individuals each working at least 20 hours but not more than 35 hours per week shall be counted as one Base Level Employee.

The Customer shall not establish or maintain the Base Employment Level by transfers of employees from previously held positions with the Customer or its affiliates located within New York State, except that the Base Employment Level may be filled by employees of the Customer laid off from other Customer facilities for bona fide economic or management reasons.

The Authority may consider a request to change the Base Employment Level based on a claim of increased productivity, increased efficiency, or adoption of new technologies or for other appropriate reasons as determined by the Authority. The Authority shall have the sole discretion to make any such change.

B. Employment Records and Reports

A record shall be kept monthly by the Customer, and provided on a calendar year basis to the Authority, of the total number of Customer employees and contractor employees at the Facility, as reported to the United States Department of Labor (or as reported in such other record as agreed upon by the Authority and the Customer). Such report shall separately identify Customer employees and contractor employees and shall be certified to be correct by an officer of the Customer, plant manager or such other person authorized by the Customer to prepare and file such report and shall be provided to the Authority on or before the last day of February following the end of the most recent calendar year. The Authority shall have the right to examine and audit on reasonable advance written notice all non-confidential written and electronic records and

data concerning employment levels including, but not limited to, personnel records and summaries held by the Customer and its affiliates relating to employment in New York State.

ARTICLE II. REDUCTIONS OF CONTRACT DEMAND

A. Employment Levels

If the year-end monthly average number of employees is less than 90% of the Base Employment Level set forth in this Schedule B, for the subject calendar year, the Authority may reduce the Contract Demand subject to Article II.C of this Schedule. The maximum amount of reduction will be determined by multiplying the Contract Demand by the quantity one minus the quotient of the average monthly employment during the subject calendar year divided by the Base Employment Level. Any such reduction shall be rounded to the nearest fifty (50) kW. In the event of a reduction of the Contract Demand to zero, the Agreement shall automatically terminate.

B. Power Utilization Levels

A record shall be kept monthly by the Customer, and provided on a calendar year basis to the Authority on or before the last day of February following the end of the most recent calendar year, of the maximum demand utilized each month in the facilities receiving the power covered by the Agreement. If the average of the Customer's six (6) highest Billing Demands (as such term is defined in the Service Tariff) for PP is less than 90% of the Customer's Contract Demand in such calendar year the Authority may reduce the Contract Demand subject to Article II.C of this Schedule. The maximum amount by which the Authority may reduce the Contract Demand shall be determined by multiplying the Contract Demand by the quantity one minus the quotient of the average of the six (6) highest Billing Demands for in such calendar year divided by the Contract Demand. Any such reduction shall be rounded to the nearest fifty (50) kW. In the event of a reduction of the Contract Demand to zero, this Agreement shall automatically terminate.

C. Notice of Intent to Reduce Contract Demand

In the event that the Authority determines that the Contract Demand will be wholly or partially reduced pursuant to this Schedule, the Authority shall provide the Customer with at least thirty (30) days prior written notice of such reduction, specifying the amount of the reduction of Contract Demand and the reason for the reduction, provided, however, that before making the reduction, the Authority may consider the Customer's scheduled or unscheduled maintenance or facilities upgrading periods when such events temporarily reduce plant employment levels or electrical demand as well as business cycle.

ARTICLE III. CAPITAL INVESTMENT

The Customer agrees to undertake the Capital Expansion Program set forth in the Appendix to this Schedule B.

ARTICLE IV. ENERGY EFFICIENCY AUDITS AND INFORMATION REQUESTS

The Customer shall undergo an Energy Efficiency Audit of its facilities and equipment at which the Allocation is consumed at the Customer's expense at least once during the term of this Agreement but in any event not less than once every five years. The Customer will provide the Authority with a copy of the audit or, at the Authority's option, a report describing the results of the audit, and provide documentation requested by the Authority to verify the implementation of any efficiency measures implemented at the facilities.

The Customer agrees to cooperate to make its facilities available at reasonable times and intervals for energy audits and related assessments that the Authority desires to perform, if any, at the Authority's own expense.

The Customer shall provide information requested by the Authority or its designee in surveys, questionnaires and other information requests relating to energy efficiency and energy-related projects, programs and services.

The Customer may, after consultation with the Authority, exclude from written copies of audits, reports and other information provided to the Authority under this Article trade secrets and other information which if disclosed would harm the competitive position of the Customer.

APPENDIX TO SCHEDULE B

I. Base Employment Level

In accordance with Article I of Schedule B, the Customer agrees to a Base Employment Level at the Customer’s Facility as indicated below.

Base Employment Level	Facility	Miscellaneous/Notes
Not less than two hundred seventy four (274) persons in full-time positions at the Facility within three (3) years of the commencement of Electric Service of any portion of the Allocation to the Facility.	334 County Road 16, Canton, NY 13617	

II. Capital Expansion Program

The Customer shall make a total capital investment of at least \$21,750,000 in connection with an expansion of the Facility (the “Capital Investment”). The Capital Investment is expected to consist of the following specific expenditures:

Building Expansion (~30,700 sq. ft):	\$6,950,000
Machinery & Equipment (furnaces, ultrasonic tank, crane, and associated equipment):	\$14,800,000
Total Capital Investment:	<u>\$21,750,000</u>

The Capital Investment shall be made, and the expansion of the Facility shall be completed and fully operational, not later than July 29, 2017 (*i.e.*, within three (3) years of the date of the Authority’s award of the Allocation). Upon request of the Customer, such date may be extended in the sole discretion of the Authority.

SCHEDULE C
TAKEDOWN SCHEDULE

N/A



POWER AUTHORITY OF THE STATE OF NEW YORK
30 SOUTH PEARL STREET
ALBANY, NY 12207

**Schedule of Rates for Sale of Firm Power to
Preservation Power Customers**

Service Tariff No. 10

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Schedule of Rates for Firm Power Service

I. Applicability

To sales of Preservation Power (as defined below) directly to a qualified business Customer (as defined below) for firm power service.

II. Abbreviations and Terms

A. The following abbreviations are used:

kW	kilowatt(s)
kW-mo.	kilowatt-month
kWh	kilowatt-hour(s)
MWh	megawatt-hour(s)
NYISO	New York Independent System Operator, Inc. or any successor organization
PAL	New York Public Authorities Law
OATT	Open Access Transmission Tariff

B. The term "Agreement" means an executed Agreement for the Sale of Preservation Power and Energy between the Authority and the Customer (each as defined below).

C. The term "Annual Adjustment Factor" or "AAF" shall have the meaning set forth in Section V herein.

D. The term "Authority" means the Power Authority of the State of New York, a corporate municipal instrumentality and a political subdivision of the State of New York created pursuant to Chapter 772 of the New York Laws of 1931 and existing and operating under Title 1 of Article 5 of the PAL, also known as the "New York Power Authority."

E. The term "Customer" means a business customer who has received an allocation for Preservation Power from the Authority and who purchases Preservation Power directly from the Authority.

F. The term "Electric Service" means the power and energy provided to the Customer in accordance with the Agreement, this Service Tariff and the Rules.

- G. The term "Preservation Power" means Firm Power and Firm Energy made available under this Service Tariff by the Authority from the Project for sale to the Customer for business purposes pursuant to PAL § 1005(5) and (13).
- H. The term "Firm Power" means capacity (kW) that is intended to be always available from the Project subject to the curtailment provisions set forth in the Agreement between the Authority and the Customer and this Service Tariff. Firm Power shall not include peaking power.
- I. The term "Firm Energy" means energy (kWh) associated with Firm Power.
- J. The term "Load Serving Entity" or "LSE" shall have the meaning set forth in the Agreement.
- K. The term "Project" means the Authority's St. Lawrence-FDR Power Project, FERC Project No. 2000.
- L. The term "Rate Year" or "RY" means the period from July 1 through June 30 of the following year.
- M. The term "Rules" means the applicable provisions of Authority's rules and regulations (Chapter X of Title 21 of the Official Compilation of Codes, Rules and Regulations of the State of New York), as may be modified from time to time by the Authority.
- N. The term "Service Tariff" means this Service Tariff No. 10.

All other capitalized terms and abbreviations used but not defined herein shall have the same meaning as set forth in the Agreement.

III. Monthly Rates and Charges

A. Preservation Power Base Rates

The monthly base rates for demand and energy charges paid by Customer to Authority shall be:

<u>Rate Year</u>	<u>Demand Charge</u> \$/kW-mo.	<u>Energy Charge</u> \$/MWh
2010	6.15	10.52
2011	6.71	11.48
2012	7.32	12.52
2013	7.99	13.66

Beginning with the 2014 Rate Year (July 1, 2014), and for each Rate Year thereafter, such rates shall be subject to an Annual Adjustment Factor set forth in Section V herein.

B. Preservation Power Rates No Lower Than Rural/Domestic Rate

At all times the applicable base rates for demand and energy determined in accordance with Sections III.A and V of this Service Tariff shall be no lower than the rates charged by the Authority for the sale of hydroelectricity for the benefit of rural and domestic customers receiving service in accordance with the Niagara Redevelopment Act, 16 U.S.C. § 836(b)(1) and PAL § 1005(5) (the "Rural/Domestic Rate"). This provision shall be implemented as follows: if the base rates, as determined in accordance with Sections III.A and V of this Service Tariff, are lower than the Rural/Domestic Rate on an average \$/MWh basis, each set of rates measured at 80% load factor which is generally regarded as representative for Preservation Power Customers, then the base rates determined under Sections III.A and V of this Service Tariff will be revised to make them equal to the Rural/Domestic Rate on an average \$/MWh basis. However, the base rates as so revised will have no effect until such time as these base rates are lower than the Rural/Domestic Rate.

C. Monthly Base Rates Exclude Delivery Service Charges

The monthly base rates set forth in this Section III exclude any applicable costs for delivery services provided by the local electric utility.

D. Minimum Monthly Charge

The minimum monthly charge shall equal the product of the demand charge and the contract demand (as defined herein). Such minimum monthly charge shall be in addition to any NYISO Charges or Taxes (each as defined herein) incurred by the Authority with respect to the Customer's Allocation.

E. Billing Period

Any period of approximately thirty (30) days, generally ending with the last day of each calendar month but subject to the billing cycle requirements of the local electric utility in whose service territory the Customer's facilities are located.

F. Billing Demand

The billing demand shall be determined by applying the applicable billing methodology to total meter readings during the billing period. See Section IV.E, below.

G. Billing Energy

The billing energy shall be determined by applying the applicable billing methodology to total meter readings during the billing period. See Section IV.E, below.

H. Contract Demand

The contract demand of each Customer will be the amount of Preservation Power, not to exceed the Customer's Allocation, provided to such Customer by the Authority in accordance with the Agreement. The minimum Contract Demand for any Preservation Power Allocation is 100 kW.

IV. General Provisions

A. Character of Service

Alternating current; sixty cycles, three-phase.

B. Availability of Energy

1. Subject to Section IV.B.2, the Authority shall provide to the Customer in any billing period Firm Energy associated with Firm Power. The offer of Firm Energy for delivery shall fulfill the Authority's obligations for purposes of this provision whether or not the Firm Energy is taken by the Customer.
2. If, as a result of reduced water flows caused by hydrologic conditions, there is insufficient energy from the Hydro Projects to supply the full power and energy requirements of NYPA's Firm Power customers served from the Hydro Projects, hydropower curtailments (*i.e.* reductions) in the amount of Firm Power and Firm Energy to which the Customer is entitled shall be applied on a *pro rata* basis to all Firm Power and Firm Energy customers served from the Hydro Projects. Reductions as a percentage of the otherwise required Firm Power and Firm Energy sales will be the same for all Firm Power and Firm Energy customers served from the Hydro Projects. The Authority shall be under no obligation to deliver and will not deliver any such curtailed energy to the Customer in later billing periods. The Customer will receive appropriate bill credits as provided under the Rules.

C. Delivery

For the purpose of this Service Tariff, Firm Power and Firm Energy shall be deemed to be offered when the Authority is able to supply Firm Power and Firm Energy to the Authority's designated NYISO load bus. If, despite such offer, there is a failure of delivery caused by the Customer, NYISO or local electric utility, such failure shall not be subject to a billing adjustment pursuant to Section 454.6(d) of the Rules.

D. Adjustment of Rates

To the extent not inconsistent with the Agreement, the rates contained in this Service Tariff may be revised from time to time on not less than thirty (30) days written notice to the Customer.

E. Billing Methodology and Billing

Unless otherwise specified in the Agreement, the following provisions shall apply:

1. The billing methodology to be used to render bills to the Customer related to its Allocation shall be determined in accordance with the Agreement and delivery agreement between the Authority and, as applicable, the Customer or local electric utility or both.
2. Billing Demand – Unless separately metered, the billing demand charged by the Authority to each Customer will be the highest 15-minute integrated demand during each billing period recorded on the Customer's meter multiplied by a percentage based on load factor sharing, as applicable.
3. Billing Energy – Unless separately metered, the kilowatt-hours charged by the Authority to each Customer will be the total number of kilowatt-hours recorded on the Customer's meter for the billing period multiplied by a percentage based on load factor sharing, as applicable.

F. Payment by Customer to Authority

1. Demand and Energy Charges, Taxes

The Customer shall pay the Authority for Firm Power and Firm Energy during any billing period the higher of either (i) the sum of (a), (b) and (c) below or (ii) the monthly minimum charge as defined herein:

- a. The demand charge per kilowatt for Firm Power specified in this Service Tariff or any modification thereof applied to the Customer's billing demand (as defined in Section IV.E, above) for the billing period; and
- b. The energy charge per MWh for Firm Energy specified in this Service Tariff or any modification thereof applied to the Customer's billing energy (as defined in Section IV.E, above) for the billing period; and
- c. A charge representing reimbursement to the Authority for all applicable Taxes incurred by the Authority as a result of providing Preservation Power allocated to the Customer.

2. Transmission Charge

The Customer shall compensate the Authority for all transmission costs incurred by the Authority with respect to the Allocation, including such costs that are charged pursuant to the OATT.

3. NYISO Transmission and Related Charges ("NYISO Charges")

The Customer shall compensate the Authority for the following NYISO Charges assessed on the Authority for services provided by the NYISO pursuant to its OATT or other tariffs (as the provisions of those tariffs may be amended and in effect from time to time) associated with providing Electric Service to the Customer:

- A. Ancillary Services 1 through 6 and any new ancillary services as may be defined and included in the OATT from time to time;
- B. Marginal losses;
- C. The New York Power Authority Transmission Adjustment Charge ("NTAC");
- D. Congestion costs, less any associated grandfathered Transmission Congestion Contracts ("TCCs") as provided in Attachment K of the OATT;
- E. Any and all other charges, assessments, or other amounts associated with deliveries to Customers or otherwise associated with the Authority's responsibilities as a Load Serving Entity for the Customers that are assessed on the Authority by the NYISO under the provisions of its OATT or under other applicable tariffs; and
- F. Any charges assessed on the Authority with respect to the provision of Electric Service to Customers for facilities needed to maintain reliability and incurred in connection with the NYISO's Comprehensive System Planning Process (or similar reliability-related obligations incurred by the Authority with respect to Electric Service to the Customer), applicable tariffs, or required to be paid by the Authority in accordance with law, regardless of whether such charges are assessed by the NYISO or another third party.

The NYISO Charges, if any, incurred by the Authority on behalf of the Customer, are in addition to the Authority production charges that are charged to the Customer in accordance with other provisions of this Service Tariff.

4. Taxes Defined

Taxes shall be any adjustment as the Authority deems necessary to recover from the Customer any taxes, assessments or any other charges mandated by federal, state or local agencies or authorities that are levied on the Authority or that the Authority is required to collect from the Customer if and to the extent such taxes, assessments or charges are not recovered by the Authority pursuant to another provision of this Service Tariff.

5. Substitute Energy

The Customer shall pay for Substitute Energy, if applicable, as specified in the Agreement.

6. Payment Information

Bills computed under this Service Tariff are due and payable by electronic wire transfer in accordance with the Rules. Such wire transfer shall be made to J P Morgan Chase NY, NY / ABA021000021 / NYPA A/C # 008-030383, unless otherwise indicated in writing by the Authority. In the event that there is a dispute on any items of a bill rendered by the Authority, the Customer shall pay such bill in full. If necessary, any adjustments will be made thereafter.

G. Adjustment of Charges

1. Distribution Losses

The Authority will make appropriate adjustments to compensate for distribution losses of the local electric utility.

2. Transformer Losses

If delivery is made at transmission voltage but metered on the low-voltage side of the Customer's substation, the meter readings will be increased two percent to compensate for transformer losses.

3. Power Factor

Power factor is the ratio of real power (kW) to apparent power (kVa) for any given load and time. The Authority may require the Customer to maintain a power factor of not less than 90%, lagging or leading, at the point of delivery, or as may otherwise be imposed upon the Authority by the local electric utility providing delivery and/or NYISO.

H. Conflicts

In the event of any inconsistencies, conflicts or differences between the provisions of this Service Tariff and the Rules, the provisions of this Service Tariff shall govern. In the event of any inconsistencies, conflicts or differences between the provisions of the Agreement and this Service Tariff, the provisions of the Agreement shall govern.

I. Customer Resales Prohibited

The Customer may not resell any quantity of Preservation Power.

V. Annual Adjustment Factor

A. Adjustment of Rates

1. The AAF will be based upon a weighted average of three indices described below. For each new Rate Year, the index value for the latest available calendar year ("Index Value for the Measuring Year") will be compared to the index value for the calendar year immediately preceding the latest available calendar year (the Index Value for the Measuring Year -1"). The change for each index will then be multiplied by the indicated weights. As described in detail below, these products are then summed, producing the AAF. The AAF will be multiplied by the base rate for the current Rate Year to produce the base rates for the new Rate Year."

Index 1, "BLS Industrial Power Price" (35% weight): The average of the monthly Producer Price Index for Industrial Electric Power, commodity code number 0543, not seasonally adjusted, as reported by the U.S. Department of Labor, Bureau of Labor Statistics ("BLS") electronically on its internet site and consistent with its printed publication, "Producer Price Index Detailed Report". For Index 1, the Index Value for the Measuring Year will be the index for the calendar year immediately preceding July 1 of the new Rate Year.

Index 2, "EIA Average Industrial Power Price" (40% weight): The average weighted annual price (as measured in cents/kWh) for electric sales to the industrial sector in the ten states of CT, MA, ME, NH, NJ, NY, OH, PA, RI and VT ("Selected States") as reported by Coal and Electric Data and Renewables Division; Office of Coal, Nuclear, Electric and Alternate Fuels; Energy Information Administration ("EIA"); U.S. Department of Energy Form EIA-861 Final Data File. For Index 2, the Index Value for the Measuring Year will be the index for the calendar year two years preceding July 1 of the new Rate Year.

Index 3, "BLS Industrial Commodities Price Less Fuel" (25% weight): The monthly average of the Producer Price Index for Industrial Commodities less fuel, commodity code number 03T15M05, not seasonally adjusted, as reported by the U.S. Department of Labor, BLS electronically on its internet site and consistent with its printed publication, "Producer Price Index Detailed Report". For Index 3, the Index Value for the Measuring Year will be the index for the calendar year immediately preceding July 1 of the new Rate Year.

2. Annual Adjustment Factor Computation Guide

- Step 1: For each of the three Indices, divide the Index Value for Measuring Year by the Index Value for the Measuring Year-1.
- Step 2: Multiply the ratios determined in Step 1 by percentage weights for each Index. Sum the results to determine the weighted average. This is the AAF.
- Step 3: Multiply the current Rate Year base rate by the AAF calculated in Step 2 to determine the new Rate Year base rate.

The foregoing calculation shall be performed by the Authority consistent with the sample presented in Section V.B below.

3. The Authority shall provide the Customer with notice of any adjustment to the current base rate per the above and with all data and calculations necessary to compute such adjustment by June 15th of each year to be effective on July 1 of such year, commencing in 2014. The values of the latest officially published (electronically or otherwise) versions of the indices and data provided by the BLS and EIA as of June 1 shall be used notwithstanding any subsequent revisions to the indices.
4. If during the term of the Agreement any of the three above indices ceases to be available or ceases to be reflective of the relevant factors or of changes which the indices were intended by the Parties to reflect, the Customer and the Authority shall mutually select a substitute Index. The Parties agree to mutually select substitute indices within 90 days, once notified by the other party that the indices are no longer available or no longer reflect the relevant factors or changes with the indices were intended by the Parties to reflect. Should the 90-day period cover a planned July 1 rate change, the current base rates will remain in effect until substitute indices are selected and the adjusted rates based on the substitute indices will be retroactive to the previous July 1. If unable to reach agreement on substitute indices within the 90-day period, the Parties agree to substitute the mathematic average of the PPI—Intermediate Materials, Supplies and Components (BLS Series ID WPUSOP2000) and the PPI-- Finished Goods (BLS Series ID WPUSOP3000) indices for one or more indices that have ceased to be available and shall assume the percentage weighting(s) of the one or more discontinued indices as indicated in Section V.A.1.

B. Sample Computation of the AAF (hypothetical values for July 1, 2014 implementation):

STEP 1

Determine the Index Value for the Measuring Year (MY) and Measuring Year - 1 (MY-1) for Each Index

- Index 1 - Producer Price Index, Industrial Power

	Measuring Year <u>(2013)</u>	Measuring Year - 1 <u>(2012)</u>
January	171.2	167.8
February	172.8	167.6
March	171.6	168.2
April	173.8	168.6
May	175.1	171.6
June	185.7	180.1
July	186.4	182.7
August	184.7	179.2
September	185.5	181.8
October	175.5	170.2
November	172.2	168.8
December	171.8	166.6
Average	177.2	172.8
Ratio of MY/MY-1		1.03

- Index 2 – EIA Industrial Rate

<u>State</u>	<u>Revenues</u> (\$000s)	<u>Sales</u> (MWh)	<u>Avg. Rate</u> (cents/kWh)
<u>Measuring Year (2012)</u>			
CT	590,972	6,814,757	
MA	1,109,723	13,053,806	
ME	328,594	4,896,176	
NH	304,363	2,874,495	
NJ	1,412,665	15,687,873	
NY	2,001,588	26,379,314	
OH	3,695,978	78,496,166	
PA	3,682,192	63,413,968	
RI	152,533	1,652,593	
VT	<u>155,903</u>	<u>2,173,679</u>	
TOTAL	13,434,511	215,442,827	6.24

Measuring Year -1 (2011)

CT	579,153	6,678,462	
MA	1,076,431	12,662,192	
ME	310,521	4,626,886	
NH	298,276	2,817,005	
NJ	1,370,285	15,217,237	
NY	1,891,501	24,928,452	
OH	3,622,058	76,926,243	
PA	3,571,726	61,511,549	
RI	144,144	1,561,700	
VT	<u>152,785</u>	<u>2,130,205</u>	
TOTAL	13,016,880	209,059,931	6.23

Ratio of MY/MY-1 **1.00**

- Index 3 – Producer Price Index, Industrial Commodities Less Fuel

	Measuring Year <u>(2013)</u>	Measuring Year -1 <u>(2012)</u>
January	190.1	187.2
February	190.9	188.0
March	191.6	188.7
April	192.8	189.9
May	194.7	191.8
June	195.2	192.3
July	195.5	192.3
August	196.0	193.1
September	196.1	193.2
October	196.2	193.8
November	196.6	193.7
December	196.7	194.0
Average	194.4	191.5
Ratio of MY/MY-1		1.02

STEP 2

Determine AAF by Summing the Weighted Indices

<u>Index</u>	<u>Ratio of MY to MY-1</u>	<u>Weight</u>	<u>Weighted Factors</u>
PPI Industrial Power	1.03	0.35	0.361
EIA Industrial Rate	1.00	0.40	0.400
PPI Industrial Commodities less fuel	1.02	0.25	<u>0.255</u>
AAF			1.016

STEP 3

Apply AAF to Calculate the New Rate Year Base Rate

	<u>Demand</u> \$/kW-mo.	<u>Energy</u> \$/MWh
Current Rate Year Base Rate	7.99	13.66
New Rate Year Base Rate	8.12	13.88

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PUBLIC HEARING 10-23-14

Contract for Sale of Preservation Power to
Corning, Inc. (Canton Facility)

October 23, 2014

2:00 p.m to 6:00 p.m.

Frank S. McCullough, Jr. Hawkins Point Visitors Center

St. Lawrence/FDR Power Project

830 Barnhart Island

Massena, New York 13662

APPEARANCES

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James F. Pasquale,
Senior Vice President
Economic Development and Energy Efficiency
New York Power Authority
White Plains, New York 10601

Karen Delince,
Corporate Secretary
New York Power Authority
White Plains, New York 10601

Lorna Johnson,
Assistant Corporate Secretary
New York Power Authority
White Plains, New York 10601

1 October 23, 2014, 2:00 p.m.

2

3 MS. DELINCE: Good afternoon. This is a public
4 hearing required by law and authorized by the New York
5 Power Authority's Board of Trustees on the proposed direct
6 sale contract for the sale of hydropower to Corning,
7 Incorporated. My name is Karen Delince and I'm the
8 Authority's Corporate Secretary.

9 The New York State Public Authorities Law,
10 Section 1009, sets forth procedures for executing certain
11 contracts negotiated by the Authority. First, prior to the
12 hearing, it requires that notice of the hearing be
13 provided. Therefore, a notice was sent to the Governor,
14 the Senate's President Pro Temp, the Senate's Minority
15 Leader and Senate Finance Committee Chair, the Assembly
16 Speaker, the Assembly Minority Leader and the Assembly Ways
17 and Means Committee Chair.

18 In addition, notices appeared in the following
19 newspapers once a week for the four weeks leading up to
20 this hearing, The Albany Times Union, Massena Daily
21 Courier-Observer, Ogdensburg Journal, Plattsburgh
22 Press-Republican, Syracuse Post-Standard, Watertown Daily
23 Times. The public was also given access to the proposed

1 contract on the Authority's website and at the Authority's
2 White Plains office during the 30-day period prior to
3 today's hearing.

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

12 If you plan to make an oral statement at this
13 hearing, I ask that you so indicate on the sign-in sheet.
14 Also, if you have a written statement, please give a copy
15 to Lorna Johnson at the sign-in desk and one to the
16 reporter. Written statements may be of any length and will
17 appear in the record of the hearing, in addition to oral
18 statements.

19 The record of the hearing will remain open for
20 additional comments through close of business Friday,
21 October 24th. Additional comments should be mailed, Faxed
22 or e-mailed to the Corporate Secretary at 123 Main Street,
23 11-P, White Plains, New York 10601 or 914-390-8040 or

1 secretarys.office@nypa.gov.

2 At this point I would like to introduce Mr. James
3 Pasquale, the Authority's Senior Vice President of Economic
4 Development and Energy Efficiency, who will provide
5 additional details on the proposed direct sale contract.
6 Thank you. Mr. Pasquale?

7 MR. PASQUALE: Thank you, Ms. Delince. Good
8 afternoon. As Ms. Delince said, my name is James F.
9 Pasquale and I'm the Senior Vice President of Economic
10 Development and Energy Efficiency at the New York Power
11 Authority. I'm here today to present an overview of a
12 proposed contract with Corning, Inc. for the direct sale of
13 2.1 megawatts of Preservation Power, hydropower that is
14 generated here at the Authority's St. Lawrence/FDR Power
15 Project.

16 Preservation Power, established under Public
17 Authorities Law Section 1005, Subsection 13, authorizes the
18 Authority to allocate low-cost hydropower that is
19 relinquished from the block of 490 megawatts of St.
20 Lawrence/FDR Power Project firm and interruptible power
21 currently sold to Alcoa and formerly sold to General
22 Motors. The law authorizes the allocation of power to
23 businesses in Northern New York, specifically businesses

1 located in Franklin, Jefferson and St. Lawrence Counties,
2 applying the same allocation criteria as pertains the
3 Authority's other hydropower programs, Replacement Power
4 and Expansion Power.

5 Each application for an allocation of
6 Preservation Power must be evaluated in consideration of
7 the legislative criteria that includes, but need not be
8 limited to, a consideration of the number of jobs created
9 as a result of the allocation; the business' long-term
10 commitment to the region as evidenced by the current and/or
11 planned capital investment in the business' facilities in
12 the region; the ratio of the number of jobs to be created
13 to the amount of power requested; the types of jobs
14 created, as measured by wage and benefit levels, and the
15 type and cost of buildings, equipment and facilities to be
16 constructed, enlarged or installed.

17 At its meeting of July 29, 2014, the Power
18 Authority Board of Trustees approved an allocation of 2.1
19 megawatts of Preservation Power to Corning, Inc. in Canton
20 for a term of seven years. Approval of the allocation was
21 based on an evaluation of Corning's application for
22 hydropower, in which it proposed to invest \$21.75 million
23 to expand its existing facility by construction of a 23,500

1 square foot addition and a new warehouse; and installing
2 machinery and equipment to increase its production of glass
3 and mirror products. Corning committed to create a total
4 of 40 new jobs as a result of this expansion.

5 To summarize some of the pertinent provisions of
6 the proposed contract, first, it provides for the direct
7 billing of all hydropower supply charges, all New York
8 Independent System Operator charges and taxes. To
9 accommodate non-payment risk that could result from the
10 direct billing arrangement, the contract includes
11 commercially reasonable provisions covering the Authority's
12 ability to charge late payment fees and to require deposits
13 in the event of customer failure to make payment for any
14 two monthly bills.

15 The contract includes Corning's agreed-upon
16 commitments with respect to employment and capital
17 investment and retains the Authority's right to reduce or
18 terminate the allocation if employment, power utilization
19 or capital investment commitments are not met. For
20 example, the contract includes an annual job reporting
21 requirement and a job compliance threshold of 90 percent.
22 Should Corning's average annual employment fall below the
23 compliance threshold of 90 percent of the employment

1 commitment, the Authority has the right to reduce the
2 allocation on a pro rata basis.

3 The contract requires the company to perform an
4 energy audit at the facility at least once within five
5 years, helping to ensure the customer uses the hydropower
6 efficiently. These contract provisions are consistent with
7 other Authority direct sale contracts, including the
8 Western New York and Recharge New York sales contracts.

9 The Authority will provide firm electric service
10 from the St. Lawrence/FDR Plant, which is subject to a pro
11 rata curtailment when there is insufficient generation at
12 the Niagara and St. Lawrence/FDR facilities to meet all its
13 firm load requirements. The rates, terms and conditions
14 for the sale of Preservation Power are contained in the
15 Authority's "Schedule of Rates for Sale of Firm Power to
16 Preservation Power Customers, Service Tariff No. 10."
17 Delivery service will be provided and billed by the local
18 utility, National Grid, in accordance with its Public
19 Service Commission approved delivery service tariff.

20 As Ms. Delince stated earlier, the Authority will
21 accept your comments on the proposed contract until the
22 close of business tomorrow, October 24th, 2014. I will now
23 turn the forum back to Ms. Delince.

1 MS. DELINCE: Thank you, Mr. Pasquale. We will
2 now recess and reconvene when speakers arrive.

3

4 (Break taken until 5:55 p.m.)

5

6 MS. DELINCE: The public hearing on the proposed
7 direct sale contract for the sale of hydropower to Corning,
8 Incorporated is now officially closed.

9 As I previously stated, the record of the hearing
10 will remain open for additional comments until close of
11 business Friday, October 24th. Thank you and good night.

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13 (End of Public Hearing at 6:00 p.m.)

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1 STATE OF NEW YORK)

2 COUNTY OF ST. LAWRENCE)

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5 I, Heidi C. Simmons, a Notary Public in the state of
6 New York, do hereby certify that the foregoing public
7 hearing was taken before me at the place as stated in the
8 caption hereto, at Page 1 hereof; that the foregoing
9 typewritten transcription, consisting of pages numbered 2
10 to 9, inclusive, was produced to the best of my ability of
11 said hearing.

12 IN WITNESS WHEREOF, I have hereunto subscribed my
13 name, this the 27th day of October, 2014.

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Heidi C. Simmons

Heidi C. Simmons, Notary Public
State of New York
County of St. Lawrence
My commission expires: 08/27/17

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VIA FACSIMILE
(914) 390-8040

October 23, 2014

Power Authority of the State of New York
123 Main Street
White Plains, New York 10601

Re: **Public Hearing Written Statement
For Inclusion in the Record of the October 23, 2014 Public Hearing:
Agreement for Sale of Preservation Power and Energy to Corning, Incorporated**

Dear Sir or Madam:

Please accept this letter in support of the proposed assistance being provided by the New York Power Authority to Corning Incorporated in the form of Preservation Power, relative to the expansion project at Corning's DeKalb Plant.

Corning is, and has long been, one of St. Lawrence County's largest employers. This project will bring a significant number of additional, much-needed jobs to our area, and will further solidify Corning's commitment to continuing operations in St. Lawrence County.

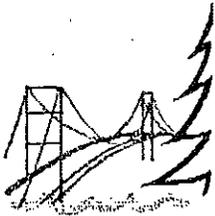
By assisting Corning in the expansion in the DeKalb Plant, the New York Power Authority will help make the facility more competitive not only now, but also as it seeks new contracts and work in the future.

I strongly support any assistance that the New York Power Authority can provide to help Corning make the DeKalb Plant a more attractive investment destination, including the sale of hydropower being considered at this time.

Sincerely,



Frederick S. Morrill
St. Lawrence County Legislator, District 6
Representing Towns of: Clifton, DeKalb, Fine, Hermon, Russell
St. Lawrence County Board of Legislators
48 Court Street
Canton, New York 13617
Phone: (315) 212-0588 (C)



ST. LAWRENCE COUNTY INDUSTRIAL DEVELOPMENT AGENCY

Ernest J. LaBaff Industrial Building ~ 19 Commerce Lane, Suite 1 ~ Canton, New York 13617
Phone: (315) 379-9806 / TDD: 711 ~ Fax: (315) 386-2573 ~ www.SLCIDA.com

VIA FACSIMILE
(914) 390-8040

MEMBERSHIP

October 24, 2014

CHAIRMAN
Brian W. Staples
Brian Staples, CPA

Power Authority of the State of New York
123 Main Street
White Plains, New York 10601

*

Re: **Public Hearing Written Statement**
For Inclusion in the Record of the October 23, 2014 Public Hearing:
Agreement for Sale of Preservation Power and Energy to Corning, Incorporated

VICE CHAIRMAN
Ernest LaBaff
President Emeritus,
Aluminum Brick & Glass
Workers International Union

Dear Sir or Madam:

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Please accept this letter written in support of the sale of Preservation Power and Energy to Corning, Incorporated as part of its DeKalb Plant's expansion project.

SECRETARY
Lynn Blevins
Blevins Brothers, Inc.

This project will assist Corning in its efforts to secure new customers and long-term contracts for work at the DeKalb facility, providing additional stability and security for the local plant and further establishing Corning not only as a leading employer in the North Country, but also as one with a substantial presence throughout New York State.

*

Mark C. Hall
Town of Fine, New York

The St. Lawrence County Industrial Development Agency has been fortunate to participate in multiple projects with Corning over the years. Our relationship with the company has lasted for decades. I point that out because we often hear of firms coming and going, and sometimes forget that we have certain leading companies who have been loyal, valuable and vital corporate citizens for decades. Corning is one of those companies. In addition to Corning's contributions to the regional economy through their employment, wages and taxes, they have supported our local colleges, their employees are actively involved in our local communities, and their Foundation has supported programs throughout the region.

*

Andrew McMahon
Massena Electric Department

This is significant project for the North Country, and the St. Lawrence County IDA, as a partner in this project, has worked with Corning, the New York Power Authority, the North Country Regional Economic Development Council and Empire State Development very closely to move this project forward. Throughout this process we have seen first-hand how cooperation between agencies can help to bring forth jobs and opportunity. Please be aware that the IDA recognizes and appreciates how the Power Authority, like the Regional Council and BSD, has prioritized this project. Your staff have been accessible, cooperative and professional and I am proud of the way we have worked together with Corning to bring this project to this point.

*

Donald Peck
St. Lawrence County
Board of Legislators

Thank you for your consideration of these comments.

*

R. Joseph Weekes, Jr.
Weekes Agency

Sincerely,

*

**CHIEF EXECUTIVE
OFFICER**
Patrick J. Kelly
St. Lawrence County
Industrial Development Agency

Patrick J. Kelly
Chief Executive Officer

Industrial Development Agency

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**CHIEF FINANCIAL
OFFICER**
Thomas A. Plastino
St. Lawrence County
Industrial Development Agency