

**Date:** July 26, 2016

**To:** THE TRUSTEES

**From:** THE PRESIDENT and CHIEF EXECUTIVE OFFICER

**Subject:** St. Lawrence-FDR Project Relicensing Agreement  
Amendment to the 10-Year Review with  
Local Government Task Force

**SUMMARY**

On March 26, 2015 the Trustees approved an agreement (Review Agreement) that concluded the 10-year review process with the Local Government Task Force (LGTF). This review process is required by the terms of the 2003 Relicensing Settlement Agreement with the LGTF. One provision in Review Agreement was a 3-year, \$10 million/year discount in electric rates for businesses, and dairy farms in St. Lawrence, Jefferson and Franklin counties (the Temporary North Country Power Discount Program or TNCPDP). Staff has developed a proposal to modify the Review Agreement to terminate this program early and repurpose resources currently funding the TNCPDP to a Collaborative Marketing effort with the Advisory Board for the St Lawrence Economic Development Study. This study was completed under another provision of the Review Agreement.

Specifically, NYPA would agree to fund a collaborative marketing effort, in place of funding the TNCPDP, at the rate of \$2 million/year for 5 years, commencing in 2017. The current availability of more than 230 MW of Preservation Power formerly used by Alcoa provides an opportunity where the interests of NYPA and the North Country communities align very closely. NYPA and the communities can work together to bring business and industrial customers to the North Country, providing good jobs aided by the attractiveness of NYPA's low cost power. This Amendment would reallocate funds previously committed. The Amendment would not require any additional commitment of NYPA funds.

The Trustees are requested to authorize staff to complete negotiations on this Proposal, and execute a modification to the Review Agreement that is not substantially inconsistent with the Proposal contained in Exhibit "A."

**BACKGROUND**

In 2003, the St Lawrence Project was issued a new license by the Federal Energy Regulatory Commission (FERC). There were several Settlement Agreements that supported the new license including one with the Local Government Task Force, which is composed of representatives from the municipalities and school districts bordering the Project. The LGTF Relicensing Settlement Agreement (RSA) provides that "the Parties shall conduct a review of this agreement every 10 years commencing in 2013" to consider "issues not anticipated at the time of relicensing".

The first review was completed in late 2014, and the Review Agreement completing the review process was approved by the Trustees on March 26, 2015. One provision in the Review

Agreement was a 3-year \$10 million/year discount in electric rates for businesses, and dairy farms in St. Lawrence, Jefferson and Franklin counties (the Temporary North Country Power Discount Program). Another provision in the Review Agreement provided that NYPA would fund the preparation of an economic development, strategic marketing study for the LGTF communities. This has been completed as the St Lawrence County Economic Development Study (SLCEDs). The study provides very specific steps to seek and create new economic development opportunities in the County.

A concern expressed by the communities is the lack the resources to implement the steps identified in the study. NYPA has no statutory basis to assist the communities with this implementation. However, NYPA's Alcoa contract, updated in December 2015, results in over 230 MW of un-contracted power, which is required by statute to be contracted to businesses in the North Country (Jefferson, St Lawrence and Franklin counties). NYPA has a proper business purpose to find customers for this power and to make reasonable investments to achieve that end. This provides a unique opportunity for the communities and NYPA to work together to reach the common goal of bringing new power customers and good jobs to the North Country.

## DISCUSSION

It is recommended that NYPA repurpose funds previously committed and currently used to support the TNCPDP to fund a collaborative marketing effort between NYPA and the communities. This effort would identify businesses that could be interested in locating or expanding in the North Country and market to those entities focusing on the benefits to their businesses of assets in the North Country with an emphasis on the availability of Preservation Power.

NYPA has proposed an amendment that would involve the early termination of the TNCPDP, with a three month ramp down to take place this fall, with the program ending by year's end 2016. NYPA would commit to funding the collaborative marketing effort with the communities at an amount of up to \$2 million/year beginning in 2017 and running for 5 years (through the end of 2021, total of \$10 million).

This amendment will involve no new commitments of NYPA funds. Funding previously committed to the TNCPDP will be reallocated to fund the collaborative marketing effort.

With the Trustee's approval, NYPA staff will continue to work with the LGTF negotiating team to finalize this amendment between the parties, and then move forward with implementing it.

## FISCAL INFORMATION

The TNCPDP was envisioned as being funded from net margins from the market sale of power contracted to Alcoa but unused while the East Smelter was curtailed. With the extremely low wholesale power prices that have persisted through much of the duration of the TNCPDP program, the offsetting revenues have not been realized and the TNCPDP is being funded with Operating Funds. Payments associated with the proposed amendment would be made from the Authority's Operating Funds as appropriate.

## RECOMMENDATION

The Executive Vice President – Chief Commercial Officer recommends that the Trustees authorize the staff to finalize this amendment in a form substantially consistent with Exhibit A and to move forward to implement these commitments with the Local Government Task Force.

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 amending the previously approved commitment to the TNCPDP in a form substantially consistent with Exhibit "A" is approved and such an amendment should be finalized by NYPA staff and the Local Government Task Force negotiating team, and after execution by the LGTF and President and Chief Executive Officer, be put into effect, as recommended in the attached memorandum of the President and Chief Executive Officer; and be it further

RESOLVED, That as a condition to making available the amounts specified in the commitment to the TNCPDP in the March 26, 2015 resolution, to support the amended commitment, the Executive Vice President & Chief Financial Officer or the Treasurer shall certify that such monies are not needed for any of the purposes specified in Section 503(1)(a)-(c) of the Authority's General Resolution Authorizing Revenue Obligations, as amended and supplemented; and be it further

RESOLVED, That the Chairman, the Vice Chairman, 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 and 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.

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Exhibit "A"

Honorable Joseph D. Gray  
Chairman, Local Government Task Force  
Town Hall Building  
60 Main Street Massena, NY 13662

Re: Proposal to Amend the Ten-Year Review Agreement

Dear Mr. Gray:

Effective May 4, 2015, the Power Authority of the State of New York ("NYPA" or "Authority") and the Local Government Task Force for Issues with NYPA and the St. Lawrence River ("Task Force" or "LGTF") entered into the First Ten -Year Review Agreement (the "Review Agreement"). As part of the Agreement, NYPA Trustees authorized the creation of the Temporary North Country Power Discount Program ("TNCPPD").

Paragraph 2(B) of the Review Agreement provides:

Commencing no later than sixty (60) days after the Effective Date of this Agreement and continuing for a period of three (3) years, during Alcoa's current reduced purchases of "Preservation Power," NYPA will reduce electric costs for businesses and active dairy farms in St. Lawrence, Jefferson and Franklin counties by a combined total of ten million dollars per year (\$10 million/yr.) through the Temporary North Country Power Discount Program. Forty percent (40%) of the annual Program saving shall accrue to the benefit of St. Lawrence County businesses and dairy farms.

This program of discounts to the electric bills of businesses and active dairy farms located in the three county Preservation Power region was to be funded by the net margins produced by the sale of hydropower into the wholesale energy market that was not being used due to the curtailment of the Alcoa East smelter, but remained under contract to Alcoa.

Circumstances have changed since the execution of the Agreement for all of us. In December 2015, NYPA renegotiated the Alcoa power contract to prevent the closure of smelting operations at the Alcoa Massena West Plant and the loss of hundreds of jobs. As a result of the new contract, NYPA now has over 230 MW of uncontracted Preservation Power, which by law must be contracted for business use in Jefferson, Franklin and St. Lawrence counties. Consistent with this legislative directive, NYPA has a proper business purpose to find customers for this power, and to make reasonable investments in doing so.

In 2015, as provided by the Review Agreement with the LGTF, NYPA funded a comprehensive Economic Development Study. The LGTF communities were active participants in the Study. There is widespread support for the conclusions of the Study,

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**Exhibit "A"**

but frustration about the resources needed to pursue implementation, However, many elements of the Strategic Initiatives (Advanced Manufacturing, Small Business and Agriculture, and Community Revitalization) identified in the Economic Development Study that the communities are now trying to implement align with NYPA's objective of securing new Preservation Power customers.

Therefore, consistent with the above objective, the parties would agree to amend the Review Agreement by striking out the provision contained in Paragraph 2(B) entitled "Temporary Reduction in Electricity Costs". NYPA will phase out and eliminate the TNCPDP during a three month period beginning in fall, 2016 and expecting to end the program by the end of 2016. Beginning January, 2017, NYPA will use its resources in cooperation with the communities to identify, attract and facilitate the creation or expansion of facilities, consistent with the St Lawrence County Economic Development Study that can be users of Preservation Power. NYPA will support this effort in an amount up to two million dollars (\$2,000,000) per year for a period of up to five years, or until contracts for all the available Preservation Power have been executed, whichever occurs first.

Please let us know if the LGTF would like to proceed with this amendment.