NEW YORK STATE OF OPPORTUNITY. | NY Power Authority

Memorandum

Date: **July 26, 2016**

To: **THE TRUSTEES**

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

Subject: **Annual Compliance Review – Expansion Power, Replacement Power, and Preservation Power Programs**

SUMMARY

Authority Staff has conducted annual compliance review of customers in Western New York receiving hydropower under the Expansion Power ("EP") and Replacement Power ("RP") Programs in Western New York, and customers in Northern New York receiving Preservation Power ("PP") (collectively, "Hydropower"), covering the reporting period of January 2015 through December 2015 (the "Reporting Period"). The compliance review examined contract compliance in three areas: (1) job retention; (2) power utilization; and (3) capital investment. As provided for in each customer's contract, these customers began submitting their compliance reports to the Authority in February 2016.

The purpose of this memorandum is to inform the Trustees of the results of the compliance review. In addition, the Trustees are asked to authorize the reduction of hydropower allocations for specific customers who have failed to meet job retention, capital investment, or power utilization commitments, or a combination of these commitments. As detailed below, the underlying Hydropower contracts require customers to achieve at least a 90% compliance rate in the three commitment areas noted. At this time, Authority Staff is recommending enforcement of the contract commitments for specific customers that have an allocation of greater than 100 kilowatts ("kW") of Hydropower who have failed to achieve at least a 90% compliance level for job retention commitments, capital investment commitments, power utilization commitments, or a combination of these commitments. In summary:

(1) As described in Exhibit "A", the compliance level of each of the 9 Hydropower customers listed fell below 90% of the relevant contractual commitment for jobs for the Reporting Period. Staff recommends that the contract demands and Hydropower allocations for each such customer be reduced to the amounts indicated on Exhibit "A." In addition, Staff recommends that the Authority be authorized to adjust the job commitments for these customers as indicated on Exhibit "A" to reflect the reduced contract demands and Hydropower allocations.

(2) As described in Exhibit "B", the compliance level of each of the 9 Hydropower customers listed on fell below 90% of the relevant power utilization commitment. Staff recommends that the contract demands and Hydropower allocations for each such customer be reduced to the amounts indicated on Exhibit "B." In addition, Staff recommends that the Authority be authorized to adjust job commitments for these customers as indicated on Exhibit "B" to reflect the reduced contract demands and Hydropower allocations.

(3) As described in Exhibit “C”, the compliance level of each of the 3 Hydropower customers listed fell below 90% of the relevant contractual commitment for capital investment. Staff recommends that the contract demands and Hydropower allocations for these customers be reduced to the amounts indicated on Exhibit “C.” In addition, Staff recommends that the Authority be authorized to adjust the job and/or capital investment commitments for these customers as indicated on Exhibit “C” to reflect the reduced contract demands and Hydropower allocations.

Where a customer has failed to meet a commitment for jobs and also a commitment for either power utilization or capital investment, the recommendations made for compliance enforcement action, as to such customer, addresses all such deficiencies.

Staff may return to the Board at a later time for additional compliance reporting and recommendations regarding these and other Hydropower customers.

BACKGROUND

In addition to the basic requirement to pay for electric service, Hydropower contracts typically provide for several “supplemental” commitments by the customer relating to (1) job creation and/or retention, (2) capital investment, and/or (3) power utilization (collectively, “Supplemental Commitments”).

Each year Staff performs a review of all in-service Hydropower allocation contracts for compliance with Supplemental Commitments. In or around 2013, most RP and EP allocations began service under new contracts that were negotiated and approved by the Trustees in 2010, which require, among other commitments, annual capital investment commitments.

To facilitate compliance review and contract enforcement, nearly all Hydropower contracts require customers to report information on the Supplemental Commitments. Customers are required to report pertinent information no later than February 28 of each year for the prior 12-month reporting period from January through December.

As more specifically detailed in the Hydropower contracts, if a customer’s report indicates that any of its Supplemental Commitments for the reporting period is below the compliance threshold of 90%, the Authority may take action against the customer, which may include reducing the customer’s power allocation on a pro rata basis. Pro-rata reductions taken are rounded up to the nearest 50 kilowatts.

Compliance reviews in past years have focused primarily on employment levels. With the addition of capital investment commitments to Hydropower contracts, Staff has taken a more holistic approach to compliance review for the current Reporting Period. For example, if a customer is modestly deficient in one compliance area, but well above its commitment level in another, Staff will consider this factor, among others, when considering recommendations for possible enforcement action. As has always been the case, customers are given the opportunity to explain any extenuating circumstances they believe may have caused a compliance shortfall during the reporting year. Accordingly, Staff’s analysis and the recommendations contained herein do not represent a “black and white” analysis, Rather, Staff has taken a “big picture” approach that includes, where reasonable, appropriate consideration of individual or unique circumstances affecting customers. Staff is also focusing more carefully on power utilization by Hydropower customers. Authority Hydropower is a valuable asset. A customer’s failure to make use of an allocation as provided for in the Hydropower Contract can result in “idle” Hydropower being unavailable for sale to other businesses that are willing to make job, capital investment and other commitments in exchange for the opportunity to receive Hydropower. Finally, consistent with established practice, Staff considers the condition of the economy when considering whether to take compliance action and the approach that will be recommended.

DISCUSSION

1. Background

Staff has completed its annual compliance review of all in-service WNY Hydropower allocation contracts for compliance with Supplemental Commitments.[1] In 2015, the Authority had 116 Hydropower customers who collectively were receiving a total of 214 Hydropower allocations under the RP, EP, and PP programs. Of these, a total of 112 customers holding 205 allocations were required to report compliance levels for 2015. Of this number, the Authority received reports from 109 customers covering 200 Hydropower allocations. The contracts reviewed by Staff represent total power allocations of 1,082 megawatts and total employment commitments of 31,277 jobs. In the aggregate, these customers reported actual employment of 31,495 jobs. This represents 101% of the total job commitment for Hydropower customers reporting in 2015.

In addition, the reported aggregate capital investment spending during the Reporting Period totaled $425 million out of a total commitment level of $140 million. The results showed a majority of companies have met or exceeded their 90% compliance threshold for capital investments during this Reporting Period.

A total of 80 companies reviewed were found to be compliant in all three Supplemental Commitments. However, 29 companies were found not to be compliant for at least one Supplemental Commitment, which include 2 companies that are currently in the process of renegotiating the terms of their Hydropower contracts with the Authority as discussed in Section 3 below. The Authority did not receive compliance reporting data from 3 companies, of which, two of these companies dropped out of the Hydropower programs since required to report.

Many of the non-compliant customers cited business/financial-related challenges, including the lingering effects of the 2008-2009 economic downturn, the loss of business due to a depressed industry/economy, and/or increased global competition. Some customers continue to indicate that lingering effects of the recession created severe market disruption for businesses, as many producers scrambled for the lowest cost sourcing to remain viable. Businesses that placed a premium on manufacturing high quality products began losing to low cost competitors. Some companies have chosen to relocate operations.

Based on the Hydropower contract, the applicable tariff, and the Authority's regulations, the Authority has a number of options available to respond to a customer that is in breach of contractual obligations, including, for example, termination of the contract, suspension of electric service, and reduction of the amount of a customer's Hydropower allocation and contract demand.

As noted, the underlying Hydropower contracts require customers to achieve at least a 90% compliance rate with respect to the three Supplemental Commitment areas noted. At this

[1] In addition to the annual compliance review, each year the Authority's Internal Audit group, with the assistance of an independent auditor retained by the Authority, randomly selects customers whose annual compliance report is reviewed for accuracy. This year, a job reporting audit and a capital investment spending audit was performed by an auditing firm. The audits are designed to help staff validate reported information. Audited customers receive feedback on the audit results, including guidance for future submittals.

time, Staff is recommending enforcement of the contract commitments for virtually all Hydropower customers who have failed to achieve at least a 90% compliance level for job retention commitments, capital investment commitments, power utilization commitments, or a combination of these commitments. (Where a customer was non-compliant in job commitments and one or more other commitments, Staff uniformly used the customer's job numbers to calculate recommended reductions in contract demands and allocations.) Staff is also recommending that the Authority be authorized to adjust job commitments and/or capital investment commitments proportionately as discussed below to reflect reduced Hydropower allocations and contract demands. Information relating to these customers is provided in Exhibits "A", "B", and "C".

For reasons discussed below in Section 3 and in Exhibit "D", Staff is not recommending formal compliance enforcement action be taken regarding the 9 Hydropower customers listed on Exhibit "D" whose reported data indicate they failed to achieve at least a 90% compliance rate for the Supplemental Commitment indicated.

Staff intends to suspend electric service for the single customer listed on Exhibit "E" that failed to file a compliance report for the Reporting Period as required by its Hydropower contract.

A summary of all customers discussed on Exhibits "A" through "E" appears on the accompanying spread sheet designated as Exhibit "F".

2. Failure to Meet Supplemental Commitments – **Action Requested**

This section discusses specific compliance information concerning the Supplemental Commitments described. Some customers failed to achieve 90% compliance for more than one Supplemental Commitments. These customers are identified in more than one exhibit, but the recommended action for such customers in each instance takes account of multiple compliance violations.

a) Job Commitments

In total, 96 customers reviewed were found to be compliant, and 13 failed to achieve at least a 90% compliance rate for their respective employment commitment under their Hydropower contract. Most of the customers that reported employment levels below a 90% compliance rate offered an explanation and supporting information describing reasons for their non-compliance. Of these 13, the 9 customers listed on Exhibit A failed to achieve at least a 90% compliance rate for their job commitment and are being recommended for compliance enforcement action. The individual company circumstances may vary, but generally customers indicated that changes in business models, market landscape, and/or competitive challenges have made it unlikely that they will meet employment commitments going forward. The 4 remaining customers are not being recommended for formal compliance action at this time for the reasons discussed in Exhibit "D" and Section 3.

Accordingly, Staff recommends that the Trustees approve reductions in the contract demands and Hydropower allocations for the 9 customers identified in Exhibit "A" who fell below a 90% compliance rate for their job commitments to the amounts indicated on Exhibit "A". In addition, Staff recommends that the Trustees authorize the Authority to make adjustments to the job commitments for all 9 customers to the amounts indicated on Exhibit "A" to reflect the reduction in the Hydropower allocations.

b) Power Utilization Commitments

A total of 13 companies fell below a 90% compliance rate for their power utilization commitment. Of this number, 9 customers listed on Exhibit “B” fell below a 90% compliance rate for their power utilization commitment and are being recommended for compliance enforcement action. The 4 remaining customers are not being recommended for compliance enforcement action at this time for the reasons discussed in Exhibit “D” and below in Section 3.

Accordingly, Staff recommends that the Trustees approve reductions in the contract demands and Hydropower allocations for the 9 customers identified in Exhibit “B” who fell below a 90% compliance rate for their power utilization commitment to the amounts indicated on Exhibit “B”. In addition, Staff recommends that the Trustees authorize the Authority to make adjustments to the job commitments for these customers to the amounts indicated on Exhibit “B” to reflect the reductions in the Hydropower allocations.

c) Capital Investment Commitments

The compliance review showed that all but 4 companies met or exceeded a 90% compliance rate for their capital investment commitment. Of this number, the 3 customers listed on Exhibit “C” failed to achieve a 90% compliance rate for their capital investment commitment and are being recommended for compliance enforcement action. The remaining customer is not being recommended for compliance enforcement action. The circumstances relating to this customer is discussed on Exhibit “D” and below in Section 3.

Accordingly, Staff recommends that the Trustees approve reductions in the contract demands and Hydropower allocations for the customers identified in Exhibit “C” to the amounts indicated on Exhibit “C”. In addition, Staff recommends that the Trustees authorize the Authority to make adjustments to the job and capital investment commitments for these customers as proposed in Exhibit “C” to reflect proposed reductions to their respective Hydropower allocations.

3. Other Compliance-Related Matters – **No Action Recommended/Requested**

The customers described in Exhibit “D” reported data indicating a failure to achieve a 90% compliance rate for one or more Supplemental Commitments. For the reasons discussed below, Staff is not recommending compliance action with respect to these customers at this time.[2]

a. Power Utilization Commitments

Compliance reporting indicated that the three customers listed in Exhibit “D”, Nos. 1-3, were each underutilizing their WNY Hydropower allocation on average over the Reporting Period, and as a result fell below a 90% compliance rate.

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[2] For the Board’s information, not discussed in this Memorandum are 2 other Hydropower customers who reported noncompliance with job commitments and kW utilization against whom staff is not seeking compliance enforcement action at this time: (1) Ceres Crystal Industries, Inc., and (2) Metaullics Systems – 2050 Cory. Each customer has indicated a desire to relinquish part of its allocation, and therefore Staff will be working with the customers on revised commitments in exchange for reduced allocations.

The power usage of each of these customers has increased slightly since the reporting period with indications of an upward trend throughout 2016 and this trend is expected to continue. In light of this trend, Staff is not recommending compliance enforcement action with respect to these customers at this time. Staff will monitor the power utilization of these customers over the course of the next reporting period to better understand the expected usage of their respective allocations.

b. Capital Spending

Compliance reporting for Rosina Food Products, Inc. (listed on Exhibit “D”, Item No. 4) indicates the company failed to meet its capital investment commitment for the Reporting Period which is evaluated based on a three-year rolling average of investments made at the facility. Subsequent information from Rosina indicates that it has made significant investments in its facility in 2015 at a level that compares to 96% of its capital spending commitment amount. Staff will continue to monitor Rosina’s situation to understand its long-term plans. Accordingly, Staff is not recommending compliance enforcement action for this customer at this time.

c. No Contract Demand/Allocation Reduction Calculated

The remaining five (5) customers identified in Exhibit “D” (Item Nos. 5-9) each reported data indicating they failed to meet one of more of their commitments during the Reporting Period. However, pursuant to the required rounding per the methodology used to calculate the reduction of contract demand and allocation, each case did not result in a reduction of the contract demand and allocation. Accordingly, Staff is not recommending any compliance enforcement action with respect to these customers at this time.

d. Failure to File Compliance Report

The single Hydropower customer identified in Exhibit “E”, Coyne Textile Services, did not file a compliance report as required by its Hydropower contract. This company was notified on numerous occasions of its obligation to file, but still failed to submit the required report. Staff intends to suspend electric service for this customer. No action by the Trustees is required for this action.

RECOMMENDATION

The Vice President, Marketing recommends that the Trustees:

(1) Authorize a reduction of the contract demands and Hydropower allocations for each of the customers identified in Exhibit “A” to the amount indicated on Exhibit “A”, and authorize the Authority to adjust job commitments and/or capital investment commitments for these customers as indicated on Exhibit “A” to reflect the reductions in the respective Hydropower allocations.

(2) Authorize a reduction of the contract demands and Hydropower allocations for each of the customers identified in Exhibit “B” to the amount indicated on Exhibit “B”, and authorize the Authority to adjust job commitments and/or capital investment commitments for these customers as indicated on Exhibit “B” to reflect the reductions in the respective Hydropower allocations.

(3) Authorize a reduction of the contract demands and Hydropower allocations for each of the customers identified in Exhibit “C” to the amount indicated on Exhibit “C”, and authorize the Authority to adjust job commitments and/or capital investment

commitments for these customers as indicated on Exhibit “C” to reflect the reductions in the respective Hydropower allocations.

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

R E S O L U T I O N

RESOLVED, That the Trustees hereby accept and approve the recommendations regarding the Annual Compliance Review for the Expansion Power, Replacement Power, and/or Preservation Power programs (collectively, “Hydropower”) which began in February 2016 for the compliance period beginning in January 2015 and ending in December 2015; and be it further .

RESOLVED, That the Trustees hereby approve the reduction of Hydropower allocations and contract demands for each of the customers identified in Exhibit “A” to the amount indicated therein, and authorize the Authority to adjust job commitments and/or capital investment commitments for these customers proportionately as indicated on Exhibit “A” to reflect the reductions in the Hydropower allocations, as described in the foregoing memorandum of the President and Chief Executive Officer; and be it further

RESOLVED, That the Trustees hereby approve the reduction of Hydropower allocations and contract demands for each of the customers identified in Exhibit “B” to the amount indicated therein, and authorize the Authority to adjust job commitments and/or capital investment commitments for these customers proportionately as indicated on Exhibit “B” to reflect the reductions in the Hydropower allocations, as described in the foregoing memorandum of the President and Chief Executive Officer; and be it further

RESOLVED, That the Trustees hereby approve the reduction of Hydropower allocations and contract demands for each of the customers identified in Exhibit “C” to the amount indicated therein, and authorize the Authority to adjust job commitments and/or capital investment commitments for these customers proportionately as indicated on Exhibit “C” to reflect the reductions in the Hydropower allocations, as described in the foregoing memorandum of the President and Chief Executive Officer; 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.

EXHIBIT F: SUMMARY OF EXHIBITS A-E

Non-Compliance with Job Commitments – Recommended Reductions in Contract Demands and Hydropower Allocations with Adjustments to Job Commitments (A)

Customer	Allocation (kW)	Employment Commitment (# of Jobs)	Jobs Reported	Jobs Compliance %	Revised Commitments		Reductions	
					kW	Jobs	kW	Jobs
Air Products, Inc. - Medina	600	12	6	50%	350	7	250	5
API Heat Transfer, Inc.	300	340	264	78%	250	299	50	41
Ashland Advanced Materials LLC	2,150	46	26	57%	2,050	44	100	2
Cliffstar LLC*	500	630	453	72%	400	517	100	113
RHI Monofrax, LTD	1,650	197	161	82%	1,500	181	150	16
Saint-Gobain Structural Ceramics*	6,050	184	129	70%	4,850	147	1,200	37
Special Metals Corporation - APP. ID 9807	1,000	81	68	84%	950	76	50	5
TAM Ceramics Group of NY, LLC*	6,800	97	83	86%	6,550	93	250	4
Treibacher Schleifmittel North America, Inc.	550	47	30	64%	400	35	150	12
						TOTALS:	**2,300**	**235**

Non-Compliance with Power Utilization Commitments – Recommended Reductions in Contract Demands and Hydropower Allocations with Adjustments to Job Commitments (B)

Customer	Allocation (kW)	Employment Commitment (#	Usage Reported	Usage Compliance %	Revised Commitments		Reductions	
					kW	Jobs	kW	Jobs
CertainTeed Corporation	3,000	108	2,085	70%	2,400	86	600	22
Dunkirk Specialty Steel, LLC	5,800	180	4,872	84%	5,450	169	350	11
General Motors LLC	23,425	710	19,975	85%	22,250	675	1175	35
GM Components Holdings LLC	24,300	950	17,495	72%	19,950	779	4350	171
Praxair, Inc. - Niagara Falls	48,050	83	41,804	87%	46,600	81	1450	2
Praxair, Inc. - Tonawanda	4,750	1300	4,180	88%	4,650	1274	100	26
Saint-Gobain Structural Ceramics*	6,050	184	4,405	73%	4,850	147	1,200	37
TAM Ceramics Group of NY, LLC*	6,800	97	4,505	66%	6,550	93	250	4
Washington Mills Electro Minerals Corp	7,750	87	5,355	69%	6,150	69	1600	18
						TOTALS:	**11,075**	**326**

Non-Compliance with Capital Investment Commitments (CIC) – Recommended Reductions in Contract Demands and Hydropower Allocations with Adjustments to Job Commitments and CIC (C)

Customer	Allocation (kW)	Employment Commitment (# of Jobs)	Capital Investment Commitment	Capital Investment Reported	Capital Investment Compliance %	Revised Commitments			Reductions		
						kW	Jobs	Capital Investment	kW	Jobs	Capital Investment
Cliffstar LLC*	500	630	$3,222,333	$1,891,925	59%	400	517	$2,642,313	100	113	$580,020
Delaco AMTB, LLC	250	14	$485,000	$180,333	37%	100	7	$227,950	150	7	$257,050
TitanX Engine Cooling, Inc.	1,000	310	$1,083,333	$821,397	76%	850	267	$931,666	150	43	$151,667
								TOTALS:	**400**	**163**	**$988,737**

Reported Non-Compliance with Commitments – No Action Recommended/Requested (D)

Customer	Allocation (kW)	Employment Commitment (# of Jobs)	Capital Investment Commitment	Revised Commitments			Reductions		
				kW	Jobs	Capital Investment	kW	Jobs	Capital Investment
CCL Label Inc.	250	124	259126	250	124	$ 259,126	0	0	0
DKP Buffalo, LLC	750	57	350,000	750	57	$ 350,000	0	0	0
Lockheed Martin Corporation	200	39	223,667	200	39	$ 223,667	0	0	0
Maclean Curtis, LLC	1,750	150	1,088,196	1,750	150	$ 1,088,196	0	0	0
M&T Bank	3,000	169	0	3,000	169	$ -	0	0	0
Nuttall Gear Company	350	108	85,295	350	108	$ 85,295	0	0	0
Washington Mills Tonawanda, Inc.	300	38	237,333	300	38	$ 237,333	0	0	0

EXHIBIT F: SUMMARY OF EXHIBITS A-E

Welded Tube of Canada	4,000	121	0	4,000	121	$ -	0	0	0

Reported Non-Compliance with Commitments – No Action Recommended/Requested (D)

Customer	Allocation (kW)	Employment Commitment (# of Jobs)	Capital Investment Commitment	Capital Investment Reported	Capital Investment Compliance %	Revised Commitments			Reductions		
						kW	Jobs	Capital Investment	kW	Jobs	Capital Investment
Rosina Food Products, Inc. - (Cheektowaga)	350	141	$816,581	$ 526,036	64%	350	141	$816,581	0	0	0

Non-Compliance with Reporting Requirement – Allocations to be Suspended (E)

Customer	*Allocation (kW)*	*Employment Commitment (# of Jobs)*	*Capital Investment Commitment*	*Revised Commitments*			*Reductions*		
				kW	*Jobs*	*Capital Investment*	*kW*	*Jobs*	*Capital Investment*
Coyne Textile Services (Buffalo)	150	32	$141,185	150	32	$141,185	0	0	0

Total kW Reduction	**12,225**
Total Job Reduction	**570**
Total Capital Investment Reduction	**$988,737**

EXHIBIT A

Non-Compliance with Job Commitments – Recommended Reductions in Contract Demands and Hydropower Allocations with Adjustments to Job Commitments

1. Air Products Inc. - Medina (Medina, Orleans County)

Allocation: 600 kW of RP *(effective 12/1/2015)*
Contract Demand: 600 kW of RP *(effective 12/2015)*
Power Utilization: 94%
Capital Spending: $44,390 or 135%
Job Commitment: 12 jobs *(effective 12/1/2015)*
Jobs Reported: 6 jobs, or 50%

Background: Air Products, Inc., formerly EPCO Carbondioxide Products, Inc. manufactures purified liquid carbon dioxide. It sells its product to both wholesalers and end users of carbon dioxide. Due to corporate reorganization and continued soft market for its CO2 business needs, Air Products reduced employment levels at its Medina facility.

Recommendation: *Staff recommends that the Trustees authorize a reduction in the allocation and contract demand to not less than 350 kW, and authorize an adjustment of the job commitment to not less than 7 jobs.*

2. API Heat Transfer, Inc. (Buffalo, Erie County)

Allocation: 300 kW of RP
Contract Demand: 300 kW of RP
Power Utilization: 94%
Capital Spending: $1,908,613 or 497%
Job Commitment: 340 jobs
Jobs Reported: 264 jobs, or 78%

Background: API Heat Transfer, Inc. is a global leader in the design and manufacturing of a wide range of specialty heat exchangers and heat transfer solutions. The oil and gas market slowdown impacted API's sales in 2015. This led to further reductions in other markets servicing oil and gas. API Heat is anticipating slow market recovery through 2017.

Recommendation: *Staff recommends that the Trustees authorize a reduction in the allocation and contract demand to not less than 250 kW, and authorize an adjustment to the job commitment to not less than 299 jobs.*

3. Ashland Advanced Materials LLC (Niagara Falls, Niagara County)

Allocation: 2,150 kW of EP *(effective 12/1/2015)* - 1,350 kW Takedown
Contract Demand: 2,150 kW of EP *(effective 12/1/2015)*
Power Utilization: 100%
Capital Spending: $523,533 or 349%
Job Commitment: 46 jobs *(effective 12/1/2015)*
Jobs Reported: 26 jobs, or 57%

Background: Ashland Advanced Materials ("Ashland") is a supplier of manufactured graphite products and ultra-high temperature heat treating services, providing products and services to renewable and green energy technology industries. This is the third year Ashland failed to meet its contractual job commitment. The company historically has been highly dependent on the solar and sapphire markets. Job shortfalls were primarily due to economic conditions resulting in a downturn in its market share. Ashland has since closed down its Ohio facility and began consolidating operations to its Niagara Falls facility in late 2015 and reported an increase to 34 jobs, or 74% of compliance level reported for December 2015. As of April 2016, it reported 39 jobs, or 85% of compliance threshold. Ashland is confident that it will exceed its employment commitment moving forward and is trending upward.

Recommendation: *Staff recommends that the Trustees authorize a reduction in the allocation and contract demand to not less than 2,050 kW, and authorize an adjustment of the job commitment to not less than 44 jobs.*

4. Cliffstar, LLC (Dunkirk, Chautauqua County)

Allocation: 500 kW of EP
Contract Demand: 500 kW of EP
Power Utilization: 94%
Capital Spending Commitment: $ 3,222,333
Capital Spending $1,891,925 or 59%
Job Commitment: 630 jobs
Jobs Reported: 453 jobs, or 72%

Background: Cliffstar, LLC is a private-label beverage manufacturer that was purchased by Cott Incorporated in 2010. Since then the former Cliffstar corporate office was consolidated to the Cott corporate headquarters in Tampa, Florida, negatively affecting the Dunkirk campus headcount. An instrumental part of Cott's strategic plan is to add volume growth thru co-pack manufacturing. The Dunkirk plant has already secured two contracts that have essentially protected 50 to 60 positions that would otherwise have been lost; however, current employment continues to decline. Cliffstar does not predict an increase in headcount and would like their job commitment to be re-evaluated.

Recommendation: *Staff recommends that the Trustees authorize a reduction in the allocation and contract demand to not less than 400 kW, and authorize an adjustment to the job commitment to not less than 517 jobs and capital investment commitment to not less than $2,642,313.**

*This customer has also failed to meet its commitments for capital investment. See Exhibit C below. The recommendation accounts for all commitment shortcomings discussed in the Exhibits.

5. RHI Monofrax, LTD (Falconer, Chautauqua County)

Allocation: 1,650 kW of EP *(effective 12/1/2015)*
Contract Demand: 1,650 kW of EP *(effective 12/1/2015)*
Power Utilization: 100%
Capital Spending: $1,504,988 or 217%
Job Commitment: 197 jobs *(effective 12/1/2015)*
Jobs Reported: 161 jobs, or 82%

Background: RHI Monofrax, LTD manufactures ceramic castings. Due to economic conditions, the company has had disappointing sales figures. It has since resolved several issues relating to the quality of its raw materials and believes this will lead to increased production. It was optimistic such increased production would lead to increased employment. However, due to recent developments, the plant is now for sale by the parent company and job growth/spending will not occur. The plant is expected to be sold in June.

Recommendation: *Staff recommends that the Trustees authorize a reduction in the allocation and the contract demand to not less than 1,500 kW, and authorize an adjustment of the job commitment to not less than 181 jobs.*

6. Saint Gobain Structural Ceramics (Niagara Falls, Niagara County) (also Exhibit B)

Allocation:	6,050 kW of RP (effective *12/1/2015)*
Contract Demand:	6,050 kW of RP *(effective 12/1/2015)*
Power Utilization:	73%
Capital Spending:	$1,247,919 or 93%
Job Commitment:	184 jobs *(effective 12/1/2015)*
Jobs Reported:	**129 jobs, or 70%**

Background: Saint Gobain Structural Ceramics produces boron nitride powder and solids. Saint Gobain indicates that the weak economy has impacted business and hampered its ability to increase employment. It expected, through marketing projections, an upswing during the April/May 2016 time frame; however, kW utilization continues to decline. Saint Gobain has historically failed to meet employment and power utilization commitments. Its kW utilization continues to decline during 2016.

Recommendation: *Staff recommends that the Trustees authorize a reduction in the allocation and contract demand to not less than 4,850 kW, and authorize an adjustment of the job commitment to not less than 147 jobs. **

*This customer has also failed to meet its commitments for power usage. See Exhibit B below. The recommendation accounts for all commitment shortcomings discussed in the Exhibits.

7. Special Metals Corporation (Dunkirk, Chautauqua County)

Allocation:	1,000 kW of EP
Contract Demand:	1,000 kW of EP
Power Utilization:	98%
Capital Spending:	$ 7,707,667 or 3,541%
Job Commitment:	81 jobs
Jobs Reported:	**68 jobs, or 84%**

Background: Special Metals Corporation is a supplier of refractory alloys. Its sales forecast for 2015 assumed an increase from 2014 levels which did not materialize. Sales instead decreased and as a result, the company was unable to meet its employment commitment.

Recommendation: *Staff recommends that the Trustees authorize a reduction in the allocation and the contract demand to not less than 950 kW, and authorize an adjustment of the job commitment to not less than 76 jobs.*

8. TAM Ceramics Group of NY, LLC (Niagara Falls, Niagara County)

Allocation:	6,800 kW of RP *(effective 12/1/2015)* and 500 kW of EP
Contract Demand:	6,800 kW of RP *(effective 12/1/2015)* and 500 kW of EP
Power Utilization:	**66%** (down)
Capital Spending:	$1,199,304 or 496%
Job Commitment:	97 jobs
Jobs Reported:	**83 jobs, or 86%**

Background: TAM Ceramics Group of NY LLC develops and produces titanium products and zirconium ceramic powders. TAM has not met its contractual commitments in several years. It estimates it is 12-18 months away from meeting its contractual commitments.

Recommendation: *Staff recommends that the Trustees authorize a reduction in the 6,800 kW RP allocation and the corresponding contract demand, to not less than 6,550 kW with no reductions to its EP allocation and authorize an adjustment to the cumulative job commitment to not less than 93 jobs.**

*This customer has also failed to meet its commitments for power usage. See Exhibit B below. The recommendation accounts for all commitment shortcomings discussed in the Exhibits.

9. Treibacher Schleifmittel North America, Inc. (Niagara Falls, Niagara County)

Allocation:	550 kW of RP *(effective 12/1/2015)*
Contract Demand:	550 kW of RP *(effective 12/1/2015)*
Power Utilization:	90%
Capital Spending:	$214,000 or 101%
Job Commitment:	47 jobs *(effective 12/1/2015)*
Jobs Reported:	**30 jobs, or 64%**

Background: Treibacher Schleifmittel North America, Inc. produces abrasive grains. The company has experienced a slow market environment in its Niagara Falls operation. Treibacher Schleifmittel is continually working on additional projects which usually results in increased capital spending and additional jobs. However, it cannot currently provide a firm timeframe on when additional jobs would be added to its workforce.

Recommendation: *Staff recommends that the Trustees authorize a reduction in the allocation and contract demand to not less than 400 kW, and authorize an adjustment of the job commitment to not less than 35 jobs.*

EXHIBIT B

Non-Compliance with Power Utilization Commitments – Recommended Reductions in Contract Demands and Hydropower Allocations with Adjustments to Job Commitments

1. CertainTeed Corporation (Buffalo, Erie County)

Allocation:	3,000 kW of EP *(effective 12/1/2015)*
Contract Demand:	3,000 kW of EP *(effective 12/1/2015)*
Power Utilization:	**70%**
Capital Spending:	$552,253 or 338%
Jobs Commitment:	108 jobs *(effective 12/1/2015)*
Jobs Reported:	125 jobs, or 116%

Background: CertainTeed Corporation ("CertainTeed"), a wholly-owned subsidiary of the Saint–Gobain company, is a vinyl fence, deck and railing manufacturer. During the past 5 years, it has underutilized its allocation. The company described several reasons for non-compliance in power utilization including temporary production cut backs due to a shortage in a particular raw material which is a staple in its main component, resin. CertainTeed built up inventory during winter months which reduced its demand during summer, its busy season, with fewer production lines needed during the summer months. CertainTeed stated this lower demand utilization will be a normal course of business throughout 2016 and production will remain fairly constant.

Recommendation: *Staff recommends that the Trustees authorize a reduction in the allocation and contract demand to 2,400 kW, and authorize an adjustment of the job commitment to not less than 86 jobs.*

2. Dunkirk Specialty Steel LLC (Niagara Falls, Niagara County)

Allocation:	5,800 kW of EP
Contract Demand:	5,800 kW of EP
Power Utilization:	**84%**
Capital Spending:	$3,557,211 or 356%
Job Commitment:	180 jobs
Jobs Reported:	244 jobs, or 136%

Background: Dunkirk Special Steel produces stainless and specialty steel products. This is the third year Dunkirk did not meet its kW utilization. Dunkirk Specialty states it is coming out of a depressed period for the steel industry. Dunkirk is hoping its kW utilization will increase over the coming months. Staff will monitor its kW utilization over the course of the next reporting period to better gage its long-term kW usage.

Recommendation*: Staff recommends that the Trustees authorize a reduction in the allocation and contract demand to 5,450 kW, and authorize an adjustment to the job commitment to not less than 169 jobs.*

3. General Motors LLC (Buffalo, Erie County)

Allocation:	20,700 kW of EP and 2,725 of RP
Contract Demand:	20,700 kW of EP and 2,725 of RP
Power Utilization:	**85%**
Capital Spending:	$38,304,333 or 271%
Jobs Commitment**:**	710 jobs
Jobs Reported:	1,979 jobs, or 279%

Background: General Motors LLC (GM) manufactures components for automotive heating and cooling systems. GM continues to enhance operations to reduce its overall energy and demand. GM has a corporate target to reduce energy intensity by 20% from 2010 to 2020 and all sites including the Tonawanda Plant support this target with reductions each year. Additionally, the cooler than normal summer in 2015 resulted in less electrical load to support HVAC systems during the summer which is when the plant normally averages its highest 6 months of demand.

Recommendation: *Staff recommends that the Trustees authorize a reduction in the allocation and contract demand to 19,650 kW- for the EP allocation, and authorize a reduction in the allocation and contract demand to 2,600 kW- for the RP allocation, and authorize an adjustment of the cumulative job commitment to not less than 675 jobs.*

4. GM Components Holdings LLC (Lockport, Niagara County)

Allocation:	24,300 kW of EP
Contract Demand:	24,300 kW of EP
Power Utilization:	**72%**
Capital Spending:	$10,323,728 or 200%
Jobs Commitment**:**	950 jobs
Jobs Reported:	1,559 jobs, or 164%

Background: GM Components Holdings (GM) manufactures automotive compressors. GM's original allocation was based on power utilized by a former facility/building ("Building 6"). Through transition from Delphi to GM Components Holdings LLC, Building 6 was retained by Delphi. In time, Building 6 received its own separate utility feeds. As a result, Building 6 is no longer a part of the total electric load from its site, and Building 6 has been sold. GM continues to undertake projects to enhance its overall energy usage.

Recommendation: *Staff recommends that the Trustees authorize a reduction in the allocation and contract demand to 19,950 kW, and authorize an adjustment of the job commitment to not less than 779 jobs.*

5. Praxair, Inc. Niagara Falls (Niagara Falls, Niagara County)

Allocation:	2,000 kW of EP and 46,050 RP
Contract Demand:	2,000 kW of EP and 46,050 RP
Power Utilization:	**87%**
Capital Spending:	$6,868,020 or 1047%
Job Commitment:	83 jobs
Jobs Reported:	102 jobs or 123%

Background: Praxair Niagara Falls produces industrial gases. The Niagara Falls location experienced operational issues throughout the 2015 year. It expects to return to 90% kW utilization by the end of 2016.

Staff will monitor its kW utilization over the course of the next reporting period to better gage Praxair's long-term kW usage.

***Recommendation**: Staff recommends that the Trustees authorize a reduction in the RP allocation and contract demand to not less than 44,650 kW, and reduction in the EP allocation and contract demand to not less than 1,950 kW, and authorize an adjustment of the job commitment to not less than 81 jobs.*

6. Praxair, Inc. Tonawanda (Tonawanda, Erie County)

Allocation:	2,000 kW of EP and 2,750 RP
Contract Demand:	2,000 kW of EP and 2,750 RP
Power Utilization:	**88%**
Capital Spending:	$3,598,163 or 230%
Job Commitment:	1,300 jobs
Jobs Reported:	1,325 jobs or 102%

Background: Praxair produces industrial gases. Due to economic conditions, it had slightly reduced its consumption at this Tonawanda location. It expects to be compliant with a revised power utilization level during calendar year 2016. Staff will monitor its kW utilization over the course of the next reporting period to better understand its potential long-term kW usage.

***Recommendation**: Staff recommends that the Trustees authorize a reduction in the RP allocation and contract demand to not less than 2,700 kW, and reduction in the EP allocation and contract demand to not less than 1,950 kW, and authorize an adjustment of the job commitment to not less than 1,274 jobs.*

7. Saint Gobain Structural Ceramics (Niagara Falls, Niagara County) (also Exhibit A)

Allocation:	6,050 kW of RP (effective *12/1/2015)*
Contract Demand:	6,050 kW of RP *(effective 12/1/2015)*
Power Utilization:	**73%**
Capital Spending:	$1,247,919 or 93%
Job Commitment:	184 jobs *(effective 12/1/2015)*
Jobs Reported:	**129 jobs, or 70%**

Background: See discussion under Exhibit A.

***Recommendation:** Staff recommends that the Trustees authorize a reduction in the allocation and contract demand to not less than 4,850 kW, and authorize an adjustment of the job commitment to not less than 147 jobs.**

> *This customer also failed to meet its commitment for jobs. See Exhibit A above. The recommendation stated accounts for all commitment shortcomings discussed in the Exhibits.

8. TAM Ceramics Group of NY, LLC (Niagara Falls, Niagara County) (also Exhibit A)

Allocation:	6,800 kW of RP *(effective 12/1/2015)* and 500 kW of EP
Contract Demand:	6,800 kW of RP *(effective 12/1/2015)* and 500 kW of EP
Power Utilization:	**66%**
Capital Spending:	$1,199,304 or 496%

Job Commitment: 97 jobs
Jobs Reported: 83 jobs, or **86%**

Background: See discussion under Exhibit A.

Recommendation: *Staff recommends that the Trustees authorize a reduction in the 6,800 kW RP allocation and the corresponding contract demand to not less than 6,550 kW with no reductions to its EP allocation, and authorize an adjustment to the cumulative job commitment to not less than 93 jobs.**

*This customer also failed to meet its commitment for jobs. See Exhibit A above. The recommendation stated accounts for all commitment shortcomings discussed in the Exhibits.

9. Washington Mills Electro Minerals Corp. (Niagara Falls, Niagara County)

Allocation: 7,750 kW of RP *(effective 12/1/2015)*
Contract Demand: 7,750 kW of RP *(effective 12/1/2015)*
Power Utilization: 69%
Capital Spending: $1,967,791 or 133%
Job Commitment: 87 jobs (*effective 12/1/2015)*
Jobs Reported: 106 jobs, or 122%

Background: Washington Mills Electro Minerals Corp. makes abrasive grains for sandpaper and grinding wheels. Washington Mills states that market conditions have delayed implementation of planned projects. Other potential projects are being actively explored but are not at a production level at this time. Washington Mills Electro has historically underutilized its allocation.

Recommendation: *Staff recommends that the Trustees authorize a reduction in the allocation and contract demand to 6,150 kW, and authorize an adjustment to the job commitment to not less than 69 jobs.*

EXHIBIT C

Non-Compliance with Capital Investment Commitments – Recommended Reductions in Contract Demands and Hydropower Allocations with Adjustments to Job Commitments and Capital Investment Commitments

1. Cliffstar, LLC (Dunkirk, Chautauqua County)

Allocation: 500 kW of EP
Contract Demand: 500 kW of EP
Power Utilization: 94%
Capital Spending Commitment: $3,222,333
Capital Spending $1,891,925 or 59%
Job Commitment: 630 jobs
Jobs Reported: 453 jobs, or 72%

Background: See discussion under Exhibit A.

Recommendation: *Staff recommends that the Trustees authorize a reduction in the allocation and contract demand to not less than 400 kW, and authorize an adjustment to the job commitment to not less than 517 jobs and capital investment commitment to not less than $2,642,313.**

*This customer also failed to meet its commitment for jobs. See Exhibit A above. The recommendation stated accounts for all commitment shortcomings discussed in the Exhibits.

2. Delaco AMTB, LLC. (Tonawanda, Erie County)

Allocation: 250 kW of RP
Contract Demand: 250 kW of RP
Power Utilization: 100%
Capital Spending Commitment: $485,000
Capital Spending: $180,333 or 37%
Job Commitment: 14 jobs
Jobs Reported: 13 jobs, or 93%

Background: Delaco AMTB produces laser welding automobile parts. This is the second year Delaco has not met it capital commitment threshold. Delaco AMTB did not provide any explanation for its capital spending shortfall.

Recommendation: *Staff recommends that the Trustees authorize a reduction in the allocation and contract demand to not less than 100 kW, and authorize an adjustment of the job commitment to not less than 7 jobs and capital investment commitment to not less than $227,950.*

3. TitanX Engine Cooling, Inc. (Jamestown, Chautauqua County)

Allocation: 1,000 kW of EP
Contract Demand: 1,000 kW of EP
Power Utilization: 98%
Capital Spending Commitment: $1,083,333
Capital Spending: $821,397 or 76%
Job Commitment: 310 jobs
Jobs Reported: 283 jobs, or 91%

Background: TitanX Engine Cooling, Inc. manufactures engine cooling modules. A decrease in product demand from customers has resulted in a drop in both capital investment and employment. TitanX is focused on expanding its IAM (Independent Aftermarket) business. This new focus should result in an increased market share, which should result in increased capital investment and employment for the plant. The company is also working with existing and new customers to secure new contracts.

Recommendation: *Staff recommends that the Trustees authorize a reduction in the allocation and contract demand to not less than 850 kW, and authorize an adjustment of the job commitment to not less than 267 jobs and capital investment commitment to not less than $931,666.*

EXHIBIT D

Reported Non-Compliance with Commitments – No Action Recommended/Requested

A) Power Utilization

1. Maclean Curtis, LLC (Buffalo, Erie County)

Allocation: 1,750 kW of RP
Contract Demand: 1,750 kW of RP
Power Utilization: 84%
Capital Spending: $3,417,931 or 314%
Jobs Commitment: 150 jobs
Jobs Reported: 177 jobs, or 118%

Background: Maclean Curtis, LLC manufactures precision machined parts. Maclean's jobs and capitals spending levels have been very strong and historically compliant. The ramp up of new business with automakers has not progressed as quickly as originally anticipated, but it expects to fully utilize its kW allocation within the next year or two. During the first quarter 2016, its kW utilization has increased slightly to 85%, with indications of an upward trend throughout 2016 and beyond. Staff will monitor its kW utilization over the course of the next reporting period to better gauge its long-term kW usage.

Recommendation: *Staff recommends no formal compliance action at this time.*

2. M&T Bank (Amherst, Erie County)

Allocation: 3,000 kW of EP - 1,500 kW of EP *(effective 4/1/2016)*
Contract Demand: 1,500 kW of EP *(effective 4/1/2016)*
Power Utilization: 67%
Jobs Commitment: 169 jobs
Jobs Reported: 5,658 jobs, or 3,348%

Background: This M&T Bank operation is a data center and provides back office financial services. 2015 marked the second of three full years of its allocation. It recently elected to reduce its allocation from 3,000 kW to 1,500 kW. M&T Bank anticipates continuing to grow into its revised allocation through the summer with increased load coming from cooling units for its servers coming on line for the first time. It thus anticipates using its full allocation by the end of 2016. Staff will monitor its kW utilization over the course of the next reporting period to better gauge its long-term kW usage.

Recommendation: *Staff recommends no formal compliance action at this time.*

3. Welded Tube of Canada (Getzville, Erie County)

Allocation: 4,000 kW of EP - *Take down 3,370 kW*
Contract Demand: 3,370 kW of EP
Power Utilization: 86%
Capital Spending: Not Required per Contract
Jobs Committed: 121 jobs
Jobs Reported: 60 jobs, or 50%

Background: Welded Tube of Canada manufactures Steel Tubes. This company is in the third full year of service. The contract allows companies three full years to meet their job and capital spending commitments; therefore, during this ramp up period, the company is not required to meet its jobs or capital spending commitments. The company has however been slightly underutilizing its kW allocation during the reporting period. As the company is not yet required to reach capital and job commitments, staff will monitor its kW utilization over the course of the next reporting period to better gauge its long-term kW usage.

Recommendation: *Staff recommends no formal compliance action at this time.*

Capital Spending

4. Rosina Food Products, Inc.-Cheektowaga (Buffalo, Erie County)

Allocation: 350 kW of EP *(effective 12/1/2015)*
Contract Demand: 350 kW of EP *(effective 12/1/2015)*
Power Utilization: 100%
Capital Spending Commitment: $816,581 *(effective 12/1/2015)*
Capital Spending: $526,036 or 64%
Job Commitment: 141 jobs *(effective 12/1/2015)*
Jobs Reported: 273 jobs, or 194%

Background: Rosina Food Products, Inc. manufactures frozen Italian food specialties. The company's allocation was reduced in July 2015 from 600 kW down to 350 kW due to non-compliance in capital investment during its 2014 reporting period. Rosina stated its spending shortfall over the past few years was due to poor operating results, primarily due to extremely high commodity costs. Rosina Food's capital spending trended up this reporting period due to capital investments in its facility totaling $788,649. While this investment was not enough to satisfy its capital investment commitment which is evaluated based on a three-year rolling average, this single year investment compares to 96% of its capital spending commitment. Staff will continue to monitor Rosina's spending and will recommend action if it does not continue to trend upward.

Recommendation: *Staff recommends no formal compliance action at this time.*

No Contract Demand / WNY allocation Reduction Calculated/Required

5. CCL Label Inc. (Buffalo, Erie County)

Allocation: 250 kW of RP
Contract Demand: 250 kW of RP
Power Utilization: 94%
Capital Spending: $298,405 or 115%
Job Commitment: 124 jobs
Jobs Reported: 106 jobs, or 85%

Background: CCL Label Inc. is a global supplier of decorative, informational and promotional labels to the world's largest consumer and healthcare companies. In 2015, the company reported 106 employees, or 85% of its job commitment. Its aging product lines declined and resulted in an overall net loss for the facility. In April, the company hired one additional employee. The company failed to meet its job commitment for the reporting period, but because the shortfall is relatively minor, the methodology used to calculate reduction of contract demand and allocation does not result in a reduction of the contract demand and allocation.

Recommendation: *Staff recommends no formal compliance action at this time.*

6. DKP Buffalo, LLC (Buffalo, Erie County)

Allocation:	750 kW of EP
Contract Demand:	750 kW of EP
Power Utilization:	**89%**
Capital Spending:	$772,817 or 221%
Jobs Commitment:	57 jobs
Jobs Reported:	123 jobs, or 216%

Background: DKP Buffalo manufactures steel blanks for stamping plants for various auto body parts. "Green" initiatives and capital investments over the past 2-3 years have led to more effective and efficient operations and less electricity usage. As a result, the company failed to meet its commitment for power usage. However, because the shortfall is relatively minor, the methodology used to calculate reduction of contract demand and allocation does not result in a reduction of the contract demand and allocation.

Recommendation: *Staff recommends no formal compliance action at this time.*

7. Lockheed Martin Corporation (Niagara Falls, Niagara County)

Allocation:	200 kW of RP *(effective 12/1/2015)*
Contract Demand:	200 kW of RP *(effective 12/1/2015)*
Power Utilization:	100%
Capital Spending:	$441,666 or 197%
Job Commitment:	39 jobs *(effective 12/1/2015)*
Jobs Reported:	**29 jobs, or 74%**

Background: Lockheed Martin Corporation ("Lockheed") is a manufacturer of gravity gradiometer technology for the U. S. Navy and commercial use. In 2015, the company reported 29 employees, or 74% of its job commitment. The company indicated that defense spending in its product areas remained constant in 2015, but remained lower than in previous years. Continued reduction in 2015 oil prices also had a significant impact on Lockheed's commercial customer markets. The company anticipates that employment levels will remain the same in 2016. Current projections call for 2-3 additional employees to be hired in 2017. Significant increases in the oil and mineral markets will be needed in order for the company to reach its contractual employment commitment level. However, because the shortfall is relatively minor, the methodology used to calculate reduction of contract demand and allocation does not result in a reduction of the contract demand and allocation.

Recommendation: *Staff recommends no formal compliance action at this time.*

8. Nuttall Gear Company (Niagara Falls, Niagara County)

Allocation:	350 kW of EP
Contract Demand:	350 kW of EP
Power Utilization:	100%

Capital Spending: $568,911 or 667%
Job Commitment: 108 jobs
Jobs Reported: 91 jobs, or 84%

Background: Nuttall Gear is a leading manufacturer of enclosed gear devices. The company was impacted by economic conditions resulting from lower oil prices and lost 2 jobs in the reporting year. It indicates it has had difficulty finding qualified CNC machinists and are working with BOCES on an internship and training program, and desires to add employees as soon as economic conditions improve. However, because its jobs shortfall is relatively minor, the methodology used to calculate reduction of contract demand and allocation does not result in a reduction of the contract demand and allocation.

Recommendation: *Staff recommends no formal compliance action at this time.*

9. Washington Mills Tonawanda, Inc. (Tonawanda, Erie County)
Allocation: 300 kW of RP
Contract Demand: 300 kW of RP
Power Utilization: 94%
Capital Spending: $522,224 or 220%
Job Commitment: 38 jobs
Jobs Reported: 32 jobs, or 84%

Background: Washington Mills, Tonawanda, Inc. is manufacturer of abrasive products. The company experienced a market decline in the second half of 2015 which resulted in a decrease in jobs. At this time, Washington Mills has not provided additional information regarding its anticipated employment levels moving forward. Temporary market downturn has resulted in lower work and employment levels. The company anticipates that normal conditions will resume in the fourth quarter 2016. However, because its job shortfall is relatively minor, the methodology used to calculate reduction of contract demand and allocation does not result in a reduction of the contract demand and allocation.

Recommendation: *Staff recommends no formal compliance action at this time.*

EXHIBIT E

Non-Compliance with Reporting Requirement – Allocations to be Suspended

1. Coyne Textile Services (Buffalo, Erie County)
Allocation: 150 kW of EP *(effective 12/1/2015)*
Contract Demand: 150 kW of EP *(effective 12/1/2015)*
Power Utilization: 100% Based on B.I. Data
Capital Spending Commitment: $141,185
Job Commitment: 32 jobs (*effective 12/1/15)*

Background: Coyne Textile Services provides textile rental products (work uniforms, shop floor mats, etc.) and laundering services. In January 2015, it informed NYPA that it has filed bankruptcy. Coyne Textile did not submit its 2015 compliance report.

Recommendation: Staff intends to suspend electric service to this customer.