July 29, 2014

MEMORANDUM TO THE TRUSTEES

FROM THE PRESIDENT and CHIEF EXECUTIVE OFFICE

SUBJECT: Firm Market Power Service Tariff Amendment – Notice of Proposed Rulemaking

SUMMARY

The Trustees are requested to authorize the Corporate Secretary to publish a Notice of Proposed Rulemaking ("NOPR") in the *New York State Register*, in accordance with the requirements of the State Administrative Procedure Act ("SAPA"), for the purpose of amending the Authority's Schedule of Rates for Sale of Firm Market Power, Service Tariff No. 1C ("ST 1C"), applicable to three market power customers. A draft of the proposed ST 1C is attached as Exhibit "1-A." Authority staff will address any comments received during the 45-day public comment period and return to the Trustees at a later date with a recommendation for final action on the proposed tariff changes.

BACKGROUND

The Authority currently has three contracts for the sale of firm electricity at market rates. These sales are made in accordance with the aforementioned Authority service tariff, ST 1C. The customers include Brookhaven Science Associates, Air Products & Chemicals, Inc., and Linde LLC, whose contracts with the Authority extend through December 31, 2020.

Under these contracts, the Authority serves as the Load Serving Entity ("LSE") for these customers, which means that the Authority is financially responsible for the New York Independent System Operator ("NYISO") charges imposed on LSEs in connection with providing electric service to these customers. In accordance with these contracts, the NYISO costs incurred by the Authority are recovered from the customers.

As part of supplying these customers with firm market power, the Authority makes market-based hourly energy purchases from either the NYISO Day-Ahead and/or Real-Time markets. Under the currently effective ST 1C, the Authority derives a market energy rate based on the monthly average of the NYISO Day-Ahead Market energy price based on the location of the customer's facility. The resulting rate is then applied to the customer's billing energy to determine the customer's market energy charges.

DISCUSSION

Prompted by concerns raised by certain customers regarding this pricing methodology, Authority staff undertook a comprehensive review of ST 1C. The results of

this review demonstrated that the existing methodology had a significant shortcoming, namely that the Authority would, depending upon energy market conditions, either under recover or over recover market energy charges as a result of the monthly averaging technique. The averaging of hourly energy rates to create one monthly rate applicable to the energy used, does not truly represent the rates assessed by the NYISO for the purchase of energy in specific hours throughout that month. Margins for hourly prices throughout a month could vary significantly as energy prices are driven by market conditions. Energy volumes needed to supply the customers' energy needs vary by hour as well, depending upon the customer's load shape. Therefore, a monthly energy charge calculated using the averaging technique will result in an under or over collection of energy costs.

It would be more appropriate to render bills that reflect actual energy charges incurred to serve the customer. To do otherwise would put the Authority in the awkward position of earning benefits from customers in some months and incurring losses from customers in other months, neither of which is justified.

For these reasons, the proposed amendments would modify the market energy charge methodology to reflect a pass through of actual charges incurred by the Authority in its NYISO hourly market energy purchases on the customer's behalf, and ensure there is neither an Authority over or under collection.

A proposed draft of ST 1C with the proposed changes is attached to this item.

Consistent with SAPA, a 45-day public comment period will apply to the proposed tariff amendments. Authority staff will address any comments received during the public comment period and return to the Trustees at a later date with recommendation for final action on the proposed tariffs.

FISCAL INFORMATION

Adoption of the proposed amendment to ST 1C will avoid any under or over collection of charges from the customer. Thus, the tariff amendment is net neutral in its fiscal impact.

RECOMMENDATION

The Manager – Pricing and the Vice President – Marketing Analysis and Administration recommend that the Trustees authorize the Corporate Secretary to file a Notice of Proposed Rulemaking for publication in the *New York State Register* for the purpose of amending the Authority's ST 1C, as provided for herein and in Exhibit "1-A."

It is also recommended that the Senior Vice President – Economic Development and Energy Efficiency, or his designee, be authorized to issue written notice of the Authority's proposed action to affected customers.

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 Corporate Secretary of the Authority be, and hereby is, directed to file a Notice of Proposed Rulemaking for publication in the *New York State Register* in accordance with the State Administrative Procedure Act to amend the Authority's Firm Market Power tariff applicable to its Market customers, as set forth in the foregoing memorandum of the President and Chief Executive Officer; and be it further

RESOLVED, That the Corporate Secretary of the Authority be, and herby is, directed to file such other notice(s) as may be required by statute or regulation concerning the proposed tariff amendments; and be it further

RESOLVED, That the Senior Vice President – Economic Development and Energy Efficiency or his designee be, and hereby is, authorized to take such other and further actions as may be necessary to effectuate the foregoing; 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 and take any and all actions and execute and deliver any and all certificates, agreements and other documents to effectuate the foregoing resolution, subject to the approval of the form thereof by the Executive Vice President and General Counsel.

Firm Market Power Service Tariff Amendment – Notice of Proposed Rulemaking

Exhibit "1-A"
Draft: Service Tariff No. 1C

POWER AUTHORITY OF THE STATE OF NEW YORK

30 SOUTH PEARL STREET

ALBANY, NY 12207

Schedule of Rates for Sale of Firm Market Power

Service Tariff No. 1C

(Supersedes ST-1 & ST-1B)

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Schedule of Rates for Sale of Firm Market Power

I. Applicability

To direct sales of Firm Market Power in total or in part to a Customer for firm Electric Service.

II. Frequently Used Abbreviations and Terms

- kW — kilowatt(s)
- kWh — kilowatt-hour(s)
- NYISO — New York Independent System Operator, Inc. or any successor organization
- OATT — NYISO Open Access Transmission Tariff
- PAL — New York Public Authorities Law
- ROS — Rest of State
- RY — Rate Year
- UCAP — Unforced Capacity

Adjusted Energy Usage: This term has the meaning provided for in Section IV.B of this Service Tariff.

Allocation: The amount of Market Power allocated to the Customer by the Authority.

Agreement: An executed agreement between the Authority and a Customer setting forth the terms and conditions applicable to the allocation and sale of Market Power to the Customer, including any amendments made to the agreement.

Authority: 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" and "NYPA."

Billing Demand: The Contract Demand.

Billing Energy: This term has the meaning provided for in Section III.A.2. of this Service Tariff.

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 Facility receiving the Firm Market Power allocation is located.

Contract Demand: The amount of Firm Market Power allocated to the Customer which the Customer agrees to take and pay for in accordance with the Agreement. The Contract Demand shall equal the Allocation.

Customer: A customer that has received an Allocation and who purchases such Allocation from the Authority.

Electric Service: The power and energy provided to the Customer in accordance with the Agreement, this Service Tariff and the Rules.

Facility: The Customer's place of business specified in the Agreement that will receive or is receiving the Allocation.

Firm Market Energy: Firm energy (kWh) associated with Firm Market Power supplied by Authority to the Customer.

Firm Market Power: Firm capacity (kW) supplied by Authority to the Customer from market sources and/or the Authority's non-Hydro Project-based resources as determined to be available for such use by the Authority.

Market Capacity Charge: This term has the meaning provided for in Section III.A.1 of this Service Tariff.

Market Energy Charge: This term has the meaning provided for in Section III.A.2 of this Service Tariff.

Minimum Demand Charge: This term has the meaning provided for in Section III.B.7 of this Service Tariff.

NYISO Day-Ahead Market: This term has the meaning provided for in the NYISO Tariffs.

NYISO Tariffs: The tariffs of the NYISO, including the NYISO OATT, as such tariffs are amended and in effect from time to time.

NYPA Administrative Charge: This term has the meaning provided for in Section III.A.3 of this Service Tariff.

Real-Time Market: This term has the meaning provided for in the NYISO Tariffs.

Rate Year: Rate Year or **RY:** The July Billing Period through the June Billing Period of the following year, beginning July 2012, subject to change based on the Authority's sole discretion.

Rules: The Authority's rules and regulations set forth in 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.

Service Tariff: This service tariff, denominated as "Schedule of Rates for Sale of Firm Market Power," as amended from time to time by the Authority.

Takedown: The portion of an Allocation the Customer requests to be scheduled for a specific period as provided for in the Agreement.

Taxes: This term has the meaning provided for in Section III.C.2 of this Service Tariff.

Zone: Geographical regions within New York State (sometimes referred to as "load zones" or "energy regions") designated by the NYISO and identified by letter (A-K) that are used to facilitate energy transactions and administration of the State's power grid.

Additional terms are defined in the text of this Service Tariff.

Unless otherwise indicated, all other capitalized terms and abbreviations used but not defined in this Service Tariff shall have the meaning as set forth in the Agreement.

III. Monthly Rates and Related Charges

A. Monthly Rates and Charges

Subject to the other provisions of this Service Tariff, the monthly rates and charges to be charged to the Customer by the Authority will be set as follows:

1. Market Capacity Charge

The Market Capacity Charge will be based on the following:

a) The amount of capacity (kW) the Authority needs to secure on the Customer's behalf as required by the NYISO's rules. This is currently expressed by the NYISO as the Unforced Capacity or "UCAP" obligation. The UCAP obligation is inclusive of any locational requirements and adjustments for reserves needed to meet the installed reserve margin.

Capacity can be secured through a combination of sources consisting of the bilateral contracts, NYISO auctions, or any other means as determined to be most appropriate by the Authority in its sole discretion.

b) The market capacity rate based on the actual monthly capacity price paid by the Authority in securing the NYISO UCAP obligation for the capacity (kW) or any other market capacity rate determined to be the most applicable by the Authority in its sole discretion.

c) The market capacity rate multiplied by the monthly capacity (kW) quantity will yield the applicable Market Capacity Charge.

2. Market Energy Charge

The Market Energy Charge will be based on the actual costs incurred by the Authority in each Billing Period, as described below:

a) The Authority may procure Firm Market Energy using short and long-term purchases, including purchases from the NYISO Day-Ahead Market or Real-Time Market, or through a purchase power agreement to the extent the Authority deems them appropriate. Financial hedging instruments may be used for the purposes of mitigating the risk in price movements. Any purchases of Firm Market Energy will be made in whichever portfolio combination the Authority deems to be appropriate in its sole discretion.

b) The Customer shall be responsible for payment of any and all Market Energy Charges incurred by the Authority for procuring Firm Market Energy on the Customer's behalf. Such charges may include, but are not limited to, forward energy purchases, balancing energy transactions, financial hedging costs or any third party costs.

c) Upon request by the Customer, the Authority will report the kilowatt-hours associated with the Market Energy Charge.

If there is more than Firm Market Power being billed to the Customer, the Authority will determine the apportionment of the kilowatt-hours on a case by case basis. Generally, the total number of kilowatt-hours recorded on the meter shall be multiplied by a percentage based on:

1. The methodology provided for in any agreement between the Authority and the Customer's local electric utility for delivery of Firm Market Energy and/or
2. The methodology provided for in Section IV.B of this Service Tariff.

3. NYPA Administrative Charge

The NYPA Administrative Charge will be based on the following:

a) The amount of the highest interval integrated demand (kW) during each Billing Period recorded on the Customer's meter multiplied by a percentage based on the methodology provided for in any agreement between the Authority and the Customer's local electric utility for delivery of Market Power. Demand (kW) may not exceed the amount of the Contract Demand.

b) Monthly NYPA Administrative rate set by the Authority each Rate Year based on any associated overhead and other assigned costs as determined appropriate by the Authority.

c) The NYPA Administrative rate multiplied by the demand (kW) allocated to the Customer will yield the applicable NYPA Administrative Charge.

B. Other Charges

The Customer shall be responsible for payment of such other charges (collectively, "Other Charges") as a separate charge from the monthly rates and charges to the extent they apply to such Customer.

1. NYISO Transmission Related Charges ("NYISO Charges")

NYISO Charges for services associated with the Authority's responsibilities as load serving entity for the Customer, provided by the NYISO pursuant to NYISO Tariffs, NYISO-related agreements and NYISO procedures associated with the Authority's provision of Electric Service to the Customer. NYISO Charges to be charged to the Customer by the Authority include:

a. Charges for Ancillary Services 1 through 6 and any new ancillary services as may be provided in accordance with NYISO Tariffs;

b. Transmission Usage Charges ("TUC") which are Marginal Losses and Congestion costs;

c. The New York Power Authority "Transmission Adjustment Charge" or "NTAC";

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d. Congestion costs, less any associated grandfathered Transmission Congestion Contracts ("TCCs") as provided in Attachment K of the OATT NYISO wide uplift as provided for in the NYISO Tariffs;

e. Any and all other charges, assessments, or other amounts associated with delivery of Market Power sold to Customers by the Authority, or otherwise associated with the Authority's responsibilities as a load serving entity for Customers, that the NYISO assesses on the Authority under the provisions of the OATT or under other applicable NYISO Tariffs;

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; and

g. For avoidance of doubt, if any NYISO Charges described above are incurred by the Authority for any reason with respect to Electric Service to the Customer when the Authority is not serving as the load serving entity for the Customer under this Service Tariff and the Agreement, the Customer shall reimburse the Authority for all such NYISO Charges.

2. Taxes

The Authority will charge and collect from the Customer all local, state and federal taxes, assessments or other charges mandated by local, state or federal agencies or authorities that are levied on the Authority or that the Authority is required to collect from the Customer ("Taxes") if and to the extent such Taxes are not recovered by the Authority pursuant to another provision of this Service Tariff.

3. Market Transaction Charges

The Authority based on its sole discretion will pass through to the Customer any costs incurred from procuring any financial products described in Sections III.A.1 and III.A.2 of this tariff if applicable.

4. Transmission, Wheeling and Delivery Charges

Generally, transmission, wheeling and delivery charges are billed directly to the Customer by the local electric utility.

If there are any charges for transmission, wheeling and delivery made applicable to the Customer under other Authority's tariffs and contracts, they will be charged to the Customer by the Authority as provided for in those documents.

5. Local Electric Utility Charges

The Customer shall reimburse the Authority for all charges, assessments, fees and other amounts, if any, the local electric utility imposes on the Authority in any way related to the provision of data and other information the Authority requires from the local electric utility in connection with providing Electric Service to the Customer. In the event that the local

electric utility seeks to impose any such charges, assessments, fees and other amounts on the Authority for the provision of data and other information required by the Authority in order to provide Electric Service to the Customer, the Authority shall provide prior notice thereof to the Customer, and the Customer and the Authority will discuss (i) the nature and amount of such charges, assessments, fees and other amounts, and (ii) whether there are alternative means for obtaining and providing such required data and information which are acceptable to the parties, provided that no party shall be required to agree to any alternative means for obtaining and providing such required data and information.

6. New Charges

The Customer shall be responsible for payment of any and all new costs or charges incurred by the Authority in connection with its provision of Electric Service to the Customer, including but not limited to, charges and costs incurred for supplying Firm Market Power, and any new NYISO Charges as may be defined and applied in any NYISO Tariffs, NYISO-related agreements and NYISO procedures from time to time (collectively, "New Charges"). The Authority, in its sole discretion, may include any such New Charges in the monthly rates or the NYPA Administrative rate, or bill the Customer separately for such New Charges.

7. Minimum Demand Charge

In the Authority's sole discretion, the Customer shall be subject to a monthly minimum billing demand charge calculated as follows. If in any given month Customer's monthly demand usage is less than 75 percent of its Contract Demand, a minimum demand charge equal to 75 percent of the Customer's Contract Demand, times the applicable NYPA Administrative Charge rate shall apply for that month. Such minimum monthly charge shall be in addition to all other charges provided for in this Service Tariff, including but not limited to Market Energy Charge, Market Capacity Charge and Other Charges as provided for in this Service Tariff.

8. Estimated Billing

If the Authority, in its sole discretion, determines that it lacks reliable data on the Customer's actual demand and/or energy usage for a Billing Period during which the Customer receives Electric Service from the Authority, the Authority shall have the right to render a bill to the Customer for such Billing Period based on estimated demand and estimated usage ("Estimated Bill").

For the purpose of calculating demand (kW) for an Estimated Bill, the demand (kW) will be calculated based on an average of the Customer's allocated demand (kW) values for the previous three (3) consecutive Billing Periods. If such historical data is not available, then the estimated demand (kW) value for the Estimated Bill will equal the Customer's Contract Demand (kW) amount, based on the Authority's sole discretion.

For the purpose of calculating energy (kWh) for an Estimated Bill, the energy (kWh) will be calculated based on an average of the Customer's allocated energy (kWh) values for the previous three (3) consecutive Billing Periods. If such historical data is not available, then the estimated energy value (kWh) will be equal to the Contract Demand (kW) amount at 75 percent load factor for that Billing Period, based on the Authority's sole discretion.

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If data indicating the Customer's actual demand and usage for any Billing Period in which an Estimated Bill was rendered is subsequently provided to the Authority, the Authority will make necessary adjustments to the corresponding Estimated Bill in accordance with Section III.B.9 of this Service Tariff and, as appropriate, render a revised bill (or provide a credit) to the Customer.

The provisions of Section IV.D of this Service Tariff shall apply to Estimated Bills.

The Authority's discretion to render Estimated Bills is not intended to limit the Authority's rights under the Agreement.

9. Adjustments to Charges

In addition to any other adjustments provided for in this Service Tariff, in any Billing Period, the Authority may make appropriate adjustments to billings and charges to address such matters as billing and payment errors, the receipt of actual, additional, or corrected data concerning Customer meter data and NYISO rebills.

IV. General Provisions

A. Scheduling of Firm Market Energy and Firm Market Power

In each Billing Period the Authority shall, in accordance with the NYISO Tariffs, NYISO manuals and NYISO procedures, schedule and provide to the Customer Firm Market Energy associated with Firm Market Power in an amount equal to the product of: (i) Contract Demand; (ii) the number of hours in the Billing Period; and (iii) Estimated Load Factor. Such Firm Market Energy shall be scheduled to the load bus established by the NYISO for the Facility or any successor load bus thereto established by the NYISO.

With respect to each month in which Electric Service is provided to the Customer by the Authority, the Authority shall, in accordance with the NYISO Tariffs, NYISO manuals and NYISO procedures, ensure that it does not schedule to the Customer in any hour more energy than the lesser of Customer's load in such hour, or Customer's Contract Demand.

With respect to each month in which Electric Service is provided to the Customer by the Authority, the Authority shall, in accordance with the NYISO Tariffs, NYISO manuals and NYISO procedures, schedule and provide UCAP in an amount equal to the applicable value calculated pursuant to Section III.A.1 of this Service Tariff.

The Customer and Authority shall reasonably cooperate and coordinate, as necessary, to effectuate the required scheduling and provision of Firm Market Energy and Firm Market Power as required by this Service Tariff and the Agreement. The Authority acknowledges and agrees that the Customer may, from time to time, utilize the services of a third party agent, authorized by the NYISO, to assist the Customer with respect to such scheduling activities. In the event that the Customer appoints such a third party agent, the Authority shall reasonably cooperate and coordinate with such agent, and the Customer shall ensure that its agent reasonably cooperates and coordinates with the Authority, in the same manner as the Parties are required to cooperate in connection with such scheduling activities.

B. Reconciliation of Adjusted Energy Usage and Billing Energy

Where Firm Market Energy is delivered under this Service Tariff in conjunction with other firm energy, including but not limited to firm hydro energy, the amounts supplied by the Authority hereunder shall be reconciled as following.

In any Billing Period in which the Customer's Adjusted Energy Usage is less than the amount of Firm Energy scheduled in accordance with firm hydro power service tariff and/or Agreement applicable to the Customer (hereinafter referred to as an "Under Consumption"), the Authority will bill the Customer and the Customer shall pay an additional charge (i.e., in addition to any other amounts due under this Service Tariff and/or the Agreement) in an amount equal to the amount of the Under Consumption (measured in kWh) multiplied by the positive difference, if any, between (i) the average of the applicable NYISO Day-Ahead Market locational based marginal price for the Zone for the Billing Period and (ii) the monthly base rate for Billing Energy applicable to the Customer under the firm hydro power service tariff.

For purposes of this provision, "Adjusted Energy Usage" means the product of (i) the Contract Demand (or, if applicable and less than the Contract Demand, the Takedown), (ii) the Load Factor for the Billing Period, and (iii) the number of hours in the Billing Period (i.e., Adjusted Energy Usage (kWh) = Contract Demand [or, if applicable and less than the Contract Demand, the Takedown] (kW) x Load Factor for the Billing Period (a percentage) x hours in the Billing Period).

The Authority will perform reconciliations for each Billing Period in accordance with this Section after the Authority obtains actual metered demand and energy data recorded on the Facility's meter from the local electric utility or as otherwise provided for in any Agreement.

C. Delivery of Market Power

The Customer's local electric utility shall be responsible for delivering Firm Market Power to the Customer. The Authority shall have no responsibility for delivering any Firm Market Power to the Customer.

For the purpose of this Service Tariff, Firm Market Power and Firm Market Energy will be deemed to be offered when the Authority is able to supply Firm Market Power and Firm Market 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 will not be subject to a billing adjustment pursuant to Section 454.6(d) of the Rules.

D. Rendition and Payment of Bills

1. Specific Customer billed dates will be determined by the Authority on a case by case basis. Generally the Authority will render bills to the Customer for Electric Service no later than the 20th calendar day of the month for charges due for the previous Billing Period. Bills will reflect the amounts due and owing, and are subject to adjustment as provided for in this Service Tariff and the Rules. Unless otherwise agreed to by the Authority and the Customer in writing, the Authority shall render bills to the Customer electronically.

2. Specific Customer payment dates will be determined by the Authority on a case by case basis. Generally the payment of bills by the Customer shall be due and payable by the Customer no later than the 1st business day of the following month.

3. Except as otherwise agreed by the Authority in writing, if the Customer fails to pay any bill when due an interest charge of two percent of the amount unpaid will be added thereto as liquidated damages, and thereafter, as further liquidated damages, an additional interest charge of one and one-half percent 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.

4. Unless otherwise agreed to by the Authority and the Customer in writing, in the event the Customer disputes any item of a bill rendered by Authority, the Customer shall pay such bill in the time provided for by this Service Tariff, and adjustments, if necessary, will be made thereafter.

5. If at any time after commencement of Electric Service the Customer fails to make complete payment of any two (2) bills for Electric Service when such bills become due pursuant to this Service Tariff, the Authority shall have the right to require that the Customer deposit with the Authority a sum of money in an amount equal to all charges that would be due under this

Service Tariff for Electric Service for two (2) consecutive calendar months as estimated by the Authority. Such deposit will be deemed security for the payment of unpaid bills and/or other claims of the Authority against the Customer upon termination of Electric Service. The failure or refusal of the Customer to provide the deposit within thirty (30) days of a request for such deposit will be grounds for the Authority in its sole discretion to suspend Electric Service to the Customer or terminate this Service Tariff.

E. Conflicts

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

F. Resale

No customer shall resell any of the power supplied by Authority under this Service Tariff.