

Date: July 30, 2015

To: THE TRUSTEES

From: THE PRESIDENT and CHIEF EXECUTIVE OFFICER

Subject: Transfers and Redistribution of Power Allocations

SUMMARY

The Trustees are requested to approve:

1. The transfer of three Western New York hydropower allocations (790 kilowatts (“kW”) of Expansion Power (“EP”) and two allocations of 31,700 kW and 3,000 kW, respectively, of Replacement Power (“RP”)), from E. I. du Pont de Nemours and Company (“Du Pont”) to The Chemours Company FC, LLC, in connection with the sale of a business line by Du Pont to the Chemours family of companies.
2. The transfer of a 5,000 kW Recharge New York (“RNY”) Hydropower allocation from International Business Machines Corporation (“IBM”) to GlobalFoundries U.S. 2 LLC, in connection with the sale of a business line by IBM to GlobalFoundries U.S. 2 LLC.
3. The redistribution of three RNY Power Hydropower allocations totaling 9,333 kW between three JP Morgan Chase (“JPMC”) facilities located within the New York City Metropolitan area to accommodate the customer’s business objectives.

At its July 27, 2015 meeting, the Economic Development Power Allocation Board (“EDPAB”) approved the transfer of the RNY Power allocation described in item 2, and the redistribution of the RNY Power allocation described in item 3 above. EDPAB action is not required for transfer of the Western New York hydropower allocations described in item 1.

DISCUSSION

1. Du Pont

Du Pont operates a chemical manufacturing facility in Niagara Falls, Niagara County (the “NF Facility”) which includes manufacturing that is part of Du Pont’s Performance Chemicals business. A power sale agreement between the Authority and Du Pont provides for the sale of three Western New York hydropower allocations, consisting of an Expansion Power allocation in the amount of 790 kilowatts (“kW”), and Replacement Power allocations in the amounts of 31,700 kW and 3,000 kW (collectively, the “NF Facility Allocations”) which were awarded to support Du Pont’s business at the NF Facility.

Du Pont has agreed to sell its Performance Chemicals business to The Chemours Company, LLC which has formed The Chemours Company FC, LLC to purchase and operate the NF Facility and the Performance Chemicals business at the NF Facility.

Du Pont and the Chemours companies have indicated that the transfer of the NF Facility Allocations is essential to the economic success of the Performance Chemicals business at the NF Facility.

The Chemours Company FC, LLC has indicated it is amenable to assuming Du Pont's rights and obligations under Du Pont's Power Sale Agreement with the Authority, including Du Pont's job and capital investment commitments. If the transfer is approved, the terms and conditions for the transfer of the NF Facility Allocations would be set forth in a written agreement between the Authority, Du Pont, and The Chemours Company FC, LLC containing terms and conditions determined by the Authority to be appropriate to effectuate the transfer.

2. IBM

IBM has owned and operated a microelectronics business at facilities located at 2070 Route 52, B316, Hopewell Junction, NY (the "HJ Facility"). IBM is a party to a power sale agreement with the Authority pursuant to which it purchases 5,000 kW of Recharge New York Hydropower (the "IBM RNY Hydropower Allocation") to support its operations at the HJ Facility.

In connection with a contract entitled "The Master Transaction Agreement" between IBM and Global Foundries US, Inc. ("GF US, Inc."), dated as of October 18, 2014, IBM has agreed sell its microelectronics business, including the HJ Facility, to GlobalFoundries U.S. 2 LLC, a wholly-owned subsidiary of GF US, Inc.

IBM and the GlobalFoundries companies have advised NYPA that the microelectronics business conducted at the HJ Facility would be adversely impacted by the loss of the IBM RNY Hydropower Allocation, and therefore the parties have requested that the IBM RNY Hydropower Allocation be transferred to GlobalFoundries U.S. 2 LLC effective upon its purchase of the HJ Facility.

To accommodate transaction planning by the parties, the Authority, IBM and GlobalFoundries U.S. 2 LLC have already entered into a "Novation, Assignment and Assumption of Agreement for the Sale of Recharge New York Power and Energy" ("Novation Agreement") that would provide for the transfer of the RNY Hydropower allocation from IBM to GlobalFoundries U.S. 2 LLC on terms that are acceptable to the Authority. The effectiveness of the Novation Agreement is expressly contingent upon, among other things, approval of the transfer of the RNY Power Allocation by EDPAB and the Trustees. In addition to other pertinent terms and conditions, the Novation Agreement provides that GlobalFoundries U.S. 2 LLC would assume IBM's rights and obligations under the Power Sale Agreement, including IBM's job and capital investment commitments at the HJ Facility.

3. JPMC

JP Morgan Chase ("JPMC"), an established Authority customer, is one of the oldest financial institutions in the United States and provides a broad range of banking and financial products and services to customers world-wide.

JPMC was awarded three RNY Power allocations on April 24, 2012 for use at three separate campus facilities located in Midtown, Downtown and Brooklyn, in New York City. JPMC decided to purchase the RNY Hydropower portion of the awarded allocations, collectively

totaling 9,333 kW (collectively, the “JPMC RNY Hydropower Allocations”). As a result of a previous redistribution approved by EDPAB and the Trustees in 2014, the JPMC RNY Hydropower Allocations are currently distributed as follows:

- Midtown campus buildings: 5,245 kW
- Brooklyn campus buildings: 3,113 kW
- Downtown campus buildings: 975 kW

JPMC’s job and capital investment commitments associated with the JPMC RNY Hydropower Allocations, which are tied to the campus facilities, are as follows:

- Midtown campus buildings: 15,492 jobs committed, and \$730,650,350 capital investment commitment
- Brooklyn campus buildings: 4,012 jobs committed, and \$296,993,007 capital investment commitment
- Downtown campus buildings: 2,692 jobs committed, and \$33,356,643 capital investment commitment

JPMC has requested that the JPMC RNY Allocations be redistributed again as follows in order to more accurately account for current staffing and operational needs and to reflect changes to meter ownership at the Downtown campus:

- Midtown campus buildings: 5,470 kW
- Brooklyn campus buildings: 3,863 kW
- Downtown campus buildings: 0 kW

If the redistribution is approved, JPMC’s total facility job and capital investment commitments would not change. JPMC is currently in compliance with its job commitments and will continue to honor in aggregate all job and capital investment commitments provided for in its contracts with the Authority.

RECOMMENDATIONS

Based on the foregoing, the Vice President, Marketing, recommends that the Trustees approve the following:

- (1) transfer of the three NF Facility Allocations from Du Pont to The Chemours Company FC, LLC;
- (2) transfer of the IBM RNY Hydropower Allocation from IBM to GlobalFoundries U.S. 2 LLC, contingent upon the execution of contract documents containing terms and conditions determined by the Authority to be appropriate to effectuate the transfer; and
- (3) redistribution of the three JPMC RNY Hydropower Allocations as described above.

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

Gil C. Quiniones
President and Chief Executive Officer

RESOLUTION

RESOLVED, That the transfer of three allocations of Authority hydropower totaling 35,490 kilowatts (“kW”) (790 kW of Expansion Power, and two allocations of 31,700 kW and 3,000 kW, respectively, of Replacement Power), from E. I. du Pont de Nemours and Company to The Chemours Company FC, LLC, as described in the foregoing memorandum of the President and Chief Executive Officer be, and hereby is, approved, contingent upon the execution of contract documents containing terms and conditions determined by the Authority to be appropriate to effectuate the transfer; and be it further

RESOLVED, That the transfer of a 5,000 kW allocation of Recharge New York (“RNY”) Hydropower from International Business Machines Corporation to GlobalFoundries U.S. 2 LLC as described in the foregoing memorandum of the President and Chief Executive Officer be, and hereby is, approved subject to such conditions as are set forth in the foregoing memorandum of the President and Chief Executive Officer and any contract prepared in accordance with this resolution; and be it further

RESOLVED, That the redistribution of three RNY Hydropower allocations totaling 9,333 kW between JP Morgan Chase facilities as described in the foregoing memorandum of the President and Chief Executive Officer be, and hereby is, approved subject to such conditions as are set forth in the foregoing memorandum of the President and Chief Executive Officer and any contract prepared in accordance with this resolution; and be it further

RESOLVED, That the 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, 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.