

**NORTHERN NEW YORK POWER PROCEEDS ALLOCATION BOARD**

**MINUTES**

**August 9, 2018 – 3:00 P.M.**

NYPA'S St. Lawrence – FDR Power Project  
Frank S. McCullough, Jr. Hawkins Point Visitors Center  
21 Hawkins Point Road  
Massena, New York 13662

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Minutes of the Meeting of the Northern New York Power Proceeds Allocation Board held via video conference in Massena, New York.

**Board Members Present:**

Patrick Kelly (**Chair**)  
Theresa Phalon  
Robert McNeil  
Roger Sharlow  
Ian Maxwell

**NYPA Staff Present:**

Karen Delince	Vice President & Corporate Secretary ( <i>via video in White Plains</i> )
Patricia Wilson	Northern New York Project Manager
Richard Smith	Business & Project Development Director
Karen White	Manager Community Relations, Northern New York
Valerie Venuti	Law Department Administrative Assistant ( <i>via video in White Plains</i> )

**Opening Remarks**

Chairman Kelly welcomed members of the Board and the staff of the New York Power Authority (“NYPA”). He stated that this meeting of the Board had been duly noticed as required by the Open Meetings law. The meeting was called to order at 3:00 p.m.

1. **Adoption of the August 9, 2018 Proposed Meeting Agenda**

Member McNeil made a motion to adopt the August 9, 2018 meeting agenda. The motion was seconded by member Maxwell. The agenda was unanimously adopted.

**Conflicts of Interest**

Chairman Kelly stated that members were polled prior to the meeting regarding possible conflicts of interest and stated that he has a potential conflict with the application before the Board today, as he is a member of the IDA local development corporation, which is working with Kingston Pharma on this project. Member McNeil said that while he does not have an actual conflict of interest, in the interest of transparency, he would like to state that Kingston Pharma, plans to come before the River Valley Redevelopment Agency ("RVRDA") in the future. Given his service on that board, he wanted to disclose this for the record prior to voting.

**2. Adoption of the June 13, 2018 Meeting Minutes**

Chairman Kelly asked whether there were any amendments to the Minutes. Upon motion made by member Sharlow and seconded by member Maxwell, the June 13, 2018 meeting minutes were unanimously adopted.

### 3. Fund Balance Update

Richard Smith submitted the following Northern New York Fund Update report:

<b>Northern New York Economic Development Fund Update<sup>1</sup></b>		<i>As of</i> June-18
<b>The Fund</b>		
<i>this</i>	Total Deposits to the Fund to Date:	\$3,507,000
<i>plus</i>	Total Interest Earned on Deposits to Date:	\$29,217
=	<b>Total Funds Deposited:</b>	<b>\$3,536,217</b>
<b>Expenditures</b>		
<i>this</i>	<b>Total Funds Deposited:</b>	<b>\$3,536,217</b>
	Total Administrative Expenses Withdrawn:	\$0
	Disbursements to Grantees:	(\$116,777)
<i>plus</i>	<b>Total Expenditures:</b>	<b>(\$116,777)</b>
=	<b>Current Fund Balance:</b>	<b>\$3,419,440</b>
<b>Awards</b>		
<i>this</i>	<b>Total Funds Deposited:</b>	<b>\$3,536,217</b>
	Standard Projects:	\$1,100,000
	Energy Related Projects <sup>2</sup> :	\$0
<i>minus</i>	<b>Total Fund Benefits Awarded<sup>3</sup>:</b>	<b>\$1,100,000</b>
=	<b>Total Fund Benefits Available to be awarded by the NNYPPAB<sup>4</sup>:</b>	<b>\$2,436,217</b>
<b>Energy-Related Projects</b>		
<i>this</i>	Minimum Amount (15%) of the Fund Dedicated to Energy-Related Projects:	\$526,050
<i>minus</i>	Total Awards (0%) Made for Energy-Related Projects to Date (not including today):	\$0
=	<b>Fund Benefits Currently Available to be Awarded for Energy-Related Projects Only:</b>	<b>\$526,050</b>
<b>Today's Recommendations</b>		
<i>this</i>	Standard Projects:	\$200,000
<i>plus</i>	Energy-Related Projects or Project Components:	\$0
=	<b>1 Total Recommendations Before the NNYPPAB Today:</b>	<b>\$200,000</b>
<b>St. Lawrence County Economic Development Power ("SLCEDP")</b>		
<b>Total Estimated Unallocated SLCEDP Available to Generate Net (MW)<sup>5</sup>:</b>		<b>20</b>
<p><sup>1</sup> The "Fund", known as the "Northern New York Economic Development Fund", is created and administered by the New York Power Authority ("NYPA"). It is funded with the aggregate excess of revenues ("Net Earnings") received by NYPA from the sale of unallocated St. Lawrence County Economic Development Power ("SLCEDP") produced at NYPA's St. Lawrence-FDR Power Project that is sold in the wholesale energy market over what revenues would have been received had such Power been sold on a firm basis to the Town of Massena Electric Department for Economic Development Purposes.</p>		
<p><sup>2</sup> As defined by the Northern New York Power Proceeds Allocation Act, a minimum of 15% of Fund Benefits shall be dedicated to "energy-related projects, programs and services". In accordance with EDL § 197-a(7), "energy-related projects, programs and services" means: (1) energy efficiency projects and services; (2) clean energy technology projects and services; (3) high performance and sustainable building programs and services; and (4) the construction, installation and/or operation of facilities or equipment done in connection with any such projects, programs or services.</p>		
<p><sup>3</sup> Funds awarded to applicants to the Fund who are recommended for an award by the NNYPPAB and approved by the NYPA Trustees are known as "Fund Benefits." Disbursement of Fund Benefits is subject to satisfaction of certain terms and conditions.</p>		
<p><sup>4</sup> Total Fund Benefits Available to Be Awarded is calculated as Total Funds Deposited minus the sum of Total Fund Benefits Awarded and Total Administrative Expenses Withdrawn.</p>		
<p><sup>5</sup> Unutilized St. Lawrence County Economic Development Power ("SLCEDP") consists of an estimate of unallocated hydropower. For the first five year following the effective date, the amount of SLCEDP used to generate excess earnings shall be the lesser of 20 MW or the amount of SLCEDP that has not been allocated. Beginning five years from the effective date, the amount of SLCEDP used to generate excess earnings shall be the lesser of 10 MW or the amount of SLCEDP that has not been allocated.</p>		

**NNYEDF Awards**

NNYPPAB		
Recommendation Date (Multiple Items)		
County	Company	Sum of NNYPPAB Approved \$\$
St. Lawrence	Canexsys	\$200,000
	Clarkson University	\$60,000
	North Country Children's Museum	\$140,000
	Empire State Mines	\$330,000
	AmTech Yarns, Inc.	\$370,000
<b>St. Lawrence Total</b>		<b>\$1,100,000</b>
<b>Grand Total</b>		<b>\$1,100,000</b>

Chairman Kelly inquired if energy-related projects in Western New York are more difficult to fulfill and if this was consistent with Western New York. Richard Smith acknowledged that it is more challenging and sometimes they may have to seek out potential projects. Mr. Smith also noted that “energy-related” can be anything that is associated with energy efficiency or improvements, as the category itself is broadly-defined.

Member Phalon inquired about the administrative expenses that could potentially be withdrawn. Mr. Smith advised that while it is allowed, the option has not yet been utilized.

Chairman Kelly thanked Mr. Smith for the report.

4. **Award of Fund Benefits from the Northern New York Economic Development Fund (Patricia Wilson)**

Ms. Wilson, Northern New York Project Manager, submitted the following report and resolution for consideration and adoption:

**“SUMMARY**

*The Northern New York Power Proceeds Allocation Board (“Allocation Board” or “Board”) is requested to recommend to the Board of Trustees of the Power Authority of the State of New York (“NYPA” or “Authority”) that an award of Fund Benefits be made to Kingston Pharma LLC (“Kingston”). The applicant’s project and the amount of the award being recommended are discussed below and in Exhibit “A”.*

**BACKGROUND**

1. *The Northern New York Power Proceeds Allocation Act*

*On December 29, 2014, Governor Cuomo signed into law the Northern New York Power Proceeds Allocation Act (the “Act”). The Act adds provisions to two chapters of consolidated law, the Economic Development Law (“EDL”), and the Public Authorities Law within the Power Authority Act, the enabling statute of the New York Power Authority (“NYPA”) (collectively, the “Statutes”).*

*As discussed in more detail below, the Act creates a program, administered by NYPA and the Board, to support economic development in Northern New York (“Program”). Under the Program, financial assistance known as “fund benefits” (“Fund Benefits”) may be awarded to “eligible applicants” for “eligible projects” based on criteria set forth in the Statutes.*

*Under the Act, an “eligible applicant” is a private business, including a not-for-profit corporation that is a private business. “Eligible projects” is defined to mean “economic development projects” that are or would be physically located within St. Lawrence County that will support the growth of business in St. Lawrence County and thereby lead to the creation or maintenance of jobs and tax revenues for the state and local governments. “Eligible projects” include, for example, capital investments in buildings, equipment, and associated infrastructure owned by an eligible applicant; transportation projects under state or federally approved plans; the acquisition of land needed for infrastructure; research and development where the results of such research and development will directly benefit New York State; support for tourism and marketing and advertising efforts for St. Lawrence County tourism and business; and energy-related projects.*

*Eligible projects do not include, and Fund Benefits may not be used for, public interest advertising or advocacy; lobbying; the support or opposition of any candidate for public office; the support or opposition to any public issue; legal fees related to litigation of any kind; expenses related to administrative proceedings before state or local agencies; or retail businesses as defined by the board, including without limitation, sports venues, gaming and gambling or entertainment-related establishments, residential properties, or places of overnight accommodation.*

2. *The Northern New York Economic Development Fund*



*NYPA and the Town of Massena Electric Department (“Massena”) are parties to a contract that provides for NYPA’s sale of up to 20 megawatts (“MW”) of hydropower known as “St. Lawrence County Economic Development Power” (“SLCEDP”) to the Town. As detailed in the Statutes, NYPA is authorized to sell unallocated SLCEDP into the market to generate revenue for the Program. The Statutes provide that NYPA will deposit proceeds from such sales into the Fund no less than quarterly.*

*At least 15% percent of the Fund is dedicated to eligible projects which are “energy-related projects, programs and services,” which are defined as “energy efficiency projects and services, clean energy technology projects and services, and high performance and sustainable building programs and services, and the construction, installation and/or operation of facilities or equipment done in connection with any such projects, programs or services.”*

*Monies from the Fund – Fund Benefits – are paid to awardees in the form of grants, and staff expects that in most cases, Fund Benefits will be disbursed as reimbursement for expenses incurred by an awardee. Allocations of Fund Benefits may only be made on the basis of monies that have been deposited in the Fund. No award may encumber funds that have not been deposited in the Fund.*

### *3. Northern New York Power Proceeds Allocation Board*

*Under the Act, the Allocation Board’s primary responsibilities regarding applications for Fund Benefits under the Program are to (i) administer the application process, (ii) make determinations relating eligibility, and (iii) where an applicant and project are eligible, evaluate applications against the criteria in the Statutes, and make a recommendation to the NYPA Board of Trustees on whether an applicant should be awarded fund benefits. The Allocation Board uses the criteria based on criteria that are applicable to EP, RP and PP allocations, and for revitalization of industry, as provided for in Public Authorities Law § 1005.*

*Additionally, the Board is authorized to consider the extent to which an award of Fund Benefits is consistent with the strategies and priorities of the North Country Regional Economic Development Council (“NCREDC”), which covers the region in which an eligible projects may be proposed.*

*At its meeting on January 25, 2017, the Board, in accordance with the Act, adopted by-laws, operating procedures, guidelines related to the application, and a form of application. A copy of the relevant criteria (collectively, “Program Criteria”), adapted from this Board’s “Procedures for the Review of Applications for Fund Benefits,” is attached as Exhibit “B” to this memorandum.*

*The Board also defined “retail business” to mean “a business that is primarily used in making retail sales of goods or services to customers who personally visit such facilities to obtain goods or services.”*

*Finally, the Board designated NYPA’s Economic Development Manager, North Country, to Act on behalf of the Board related to administrative matters.*

### *4. Application Process*

*A webpage has been created and is hosted on WWW.NYPA.GOV/NNYPPAB with application instructions, a link to the approved application form and other program details including a contact phone number and email address staffed by NYPA. A rolling application process is used and the Allocation Board meets regularly to consider applications for Fund Benefits.*

## **DISCUSSION AND RECOMMENDATIONS**

*In this fourth round, the Allocation Board has before it one application, which has been made available for Board review. Staff analyzed the application and is now making a recommendation to the Board.*

*As detailed in Exhibit "A", the Kingston application seeks Fund Benefits to support a building acquisition and expansion, the purchase of machinery and equipment and reimbursement of other costs related to its proposed project. The applicant indicates that as part of the project it would retain 12 and create 45 full time positions over three years and that it would spend approximately \$2,200,000 on this project.*

*Based on a review of this application and consideration of relevant Program Criteria, Staff recommends that the Allocation Board recommend to the NYPA Trustees that this applicant receive an award of Fund Benefits in the amount indicated on Exhibit "A".*

*To the extent the application proposes a project that must receive approval and/or comply with other legal requirements, such as the State Environmental Quality Review Act, before the project may proceed, Staff recommends that any affirmative recommendation by the Board for such projects not be forwarded to the NYPA Board of Trustees for action until after the Board receives appropriate notification that all such approvals and requirements have been satisfied, and that such recommendations be made subject to further consideration by the Board in the event that such approvals and/or legal requirements are not satisfied.*

#### **PROJECT STATUS**

*Under the Act, a recommendation for Fund Benefits by the Allocation Board is a prerequisite to an award of Fund Benefits by NYPA. Upon a showing of good cause, NYPA has discretion to adopt the Allocation Board's recommendations or to award Fund Benefits in different amounts or on different terms than recommended by the Board. In addition, the Authority is authorized to include in any contract providing for the implementation of an award ("Award Contract") any terms and conditions that NYPA deems appropriate. Given the preliminary stage of the project identified in Exhibit "A" Staff is not in a position to recommend proposed definitive terms and conditions that should be included in any Board recommendation for an award, but Exhibit "A" offers general considerations relating to disbursement of fund benefits for NYPA's consideration. It is anticipated that NYPA staff, in consultation with Board Staff, would negotiate final terms and conditions if an award is made after the receipt of more detailed information concerning the project.*

#### **RECOMMENDATION**

*Based on the foregoing discussion and information, Staff recommends that the Allocation Board recommend to the NYPA Board of Trustees that the applicant listed in Exhibit "A" receive an award of Fund Benefits in the amount recommended in the Exhibit for the project proposed.*

*For the reasons stated, Staff recommends the adoption of the above-requested action by adoption of a resolution in the form of the attached draft resolution."*

a. **Recommendation for Award**  
**Kingston Pharma, LLC (“Kingston”) (Exhibit A)**

Patricia Wilson, Northern New York Project Manager, stated that Staff recommends an award benefit of \$200,000 to Kingston Pharma, LLC (“Kingston”) to support a facility acquisition and expansion project. Kingston manufactures cold, allergy, and various over-the-counter medications in a United States Food and Drug Administration facility, located in Massena. Additionally, Kingston proposes to carry out the buyout option on their lease, allowing them to expand their facility by 10, 000 square feet, which will accommodate additional equipment. The project’s \$2.2 million aggregate will encompass the acquisition fee, the expansion, and the purchase of additional equipment.

Aspects to consider in supporting this venture include aiding an existing Massena company (which will generate over \$2 Million in capital investment in the region); retaining 12 full-time employees and creating 45 new job openings over the next three years. Furthermore, the project will encourage export activity, and aligns with the priorities of the North Country Regional Economic Development Council, in addition to New York State’s priorities to develop businesses.

Upon motion made by member Phalon and seconded by member Sharlow, the Board adopted the resolution to award fund benefits to Kingston Pharma, LLC, in the amount of \$200,000. (Exhibit "A")

**5. Next Meeting and Adjournment**

Chairman Kelly stated that the next meeting of the Board is scheduled for October 10, 2018 at 3 p.m. at the St. Lawrence/FDR Power Project. He stated that if members have no additional business, he would entertain a motion to adjourn.

Upon motion, duly made and seconded, the meeting was adjourned at 3:11 p.m.

## Exhibit A

Applicant Name:	Kingston Pharma LLC (“Kingston”)	REDC Region:	North Country
Project Type:	Business Investment	County:	St. Lawrence
Industry:	OTC Generic brand pharmaceutical mfr.	Locality:	Massena
Amount Requested:	\$200,000	Start Date:	10/1/18
		Finish Date:	12/31/18
<b>RECOMMENDED OFFER</b>			
Recommended Total Award:	\$200,000		
Total Project Cost:	\$2,200,000		
% of Project Cost Recommended:	9%		
<b>PROJECT BUDGET (Proposed by Applicant)</b>			
<b>Use of funds</b>	<b>Amount</b>	<b>Source of Funds</b>	<b>Amount</b>
Building Expansion	\$1,200,000	NNY EDF	\$200,000
Existing Building Purchase	\$900,000	Bank Loan	\$900,000
Packaging Machinery & Equipment	\$50,000	ESD/JDA Loan	\$880,000
Soft Costs Contingency	\$50,000	Company Equity	\$220,000
<b>Total:</b>	<b>\$2,200,000</b>	<b>Total:</b>	<b>\$2,200,000</b>
<b>REGIONAL IMPACT MEASUREMENTS</b>			
Job Commitments:	Applicant would retain 12 and create 45 full time positions at the project location over three years.		
Average Salary of Jobs:	\$30,000		
Indirect Jobs Created	n/a		
Other Impact			
<b>PROJECT DESCRIPTION (Adapted from Application)</b>			
<p>The site of the proposed project is a 33,000 square foot manufacturing plant which is a Current Good Manufacturing Practices class facility with a controlled temperature warehouse and offices. It was previously operated by Purine Pharma, which specialized in manufacturing liquid nasal, allergy, and cough and cold products for retail clients in the U.S. and abroad. In 2015, Geritrex LLC acquired Purine. Although it initially intended to expand the plant, Geritrex announced plans in 2016 to close the plant. Kingston took over the assets and manufacturing operations at the plant in 2016, where it now develops, manufactures, packages and markets store brand and private label consumer healthcare products (over the counter generic brands) that are comparable in safety, quality and effectiveness, and meet the same U.S. FDA and international requirements, as national brand alternatives. Primary customers currently include CVS, Walgreens, Healthlife of USA LLC, Sam’s Club, Dollar General, Dollar Tree, and Puralife LLC (an exporter).</p> <p>Kingston is now proposing to purchase its existing leased facility and add a 10,000 square foot expansion to add packaging machinery and equipment and warehousing space that will allow it to increase production capabilities, improve work process flow, reduce manufacturing costs and better meet demand.</p>			
<b>OTHER ECONOMIC DEVELOPMENT BENEFITS RECEIVED</b>			
SLCIDA PILOT	\$165,665	Sales Tax Exemption	\$50,000
<b>PREVIOUS STATE ASSISTANCE OFFERED OR PROVIDED</b>			
<b>TYPE</b>	<b>AMOUNT</b>	<b>STATUS</b>	
N/A	\$		
<b>BASIS FOR RECOMMENDATION</b>			

Kingston has considered relocating 12 employees to New Jersey to execute this project. An award would retain those positions and support the creation of 45 new full time positions in St. Lawrence County. As Kingston currently exports its products to six (6) countries in the Middle East, one in Eastern Europe, one in SE Asia and one in Caribbean, the project would help support export activity, which would bring additional economic value to the region. The company is only about two years old and has found it difficult to secure funds from traditional lending sources to support its expansion project. The project aligns well with NCREDC strategies and priorities to develop a life science-related cluster in the North Country.

**ANTICIPATED DISBURSEMENT TERMS**

Fund Benefits would be used to reimburse the applicant for a portion of costs associated with the building expansion. It is anticipated that funds will be disbursed in arrears upon project completion. Payment will be made upon presentation to NYPA of invoices and such other documentation acceptable to NYPA verifying the applicant has incurred eligible expenses of approximately \$2,200,000.

## Exhibit B

### Criteria adapted from the “Board Procedures, and Board Policies Relating to the Review of Applications for Fund Benefits”, adopted by the Northern New York Power Proceeds Allocation Board

1. The extent to which an award of Fund Benefits would be consistent with the strategies and priorities of the North Country Regional Economic Development Council (“NCREDC”). Such strategies and priorities include the following:
  - Energize our communities by building on growth in the aerospace, transit equipment, defense, biotech, energy, and manufacturing industries
  - Leverage our gateway to Canada, the nation’s largest trading partner, to lead the State in global investment
  - Attract and nurture entrepreneurs through innovation to catalyze the highest per capita rate of small business start-ups and expansions in the state
  - Invest in community development infrastructure that expands opportunities and capacity
  - Innovate effective rural healthcare and education delivery networks
  - Elevate global recognition of the region as one of the special places on the planet to visit, live, work and study
  - Activate tourism as a driver to diversify our economies by creating demand to accelerate private investment
  - Invest in agriculture as we help feed the region and the world
  - Create the greenest energy economy in the state
2. Whether the eligible project would occur in the absence of an award of Fund Benefits.
3. The extent to which an award of Fund Benefits will result in new capital investment in the State by the eligible applicant and the extent of such investment.
4. Other assistance the eligible applicant may receive to support the eligible project.
5. The type and cost of buildings, equipment and facilities to be constructed, enlarged or installed if the eligible applicant were to receive an award of Fund Benefits.
6. The eligible applicant's payroll, salaries, benefits and number of jobs at the eligible project for which an award of Fund Benefits is requested.
7. Where applicable, the number of jobs that will be created or retained within St. Lawrence County and any other parts of the State in relation to the requested award of Fund Benefits, and the extent to which the eligible applicant will agree to commit to creating or retaining such jobs as a condition to receiving an award of Fund Benefits.
8. Whether the eligible applicant is at risk of closing or curtailing facilities or operations in St. Lawrence County and other parts of the State, relocating facilities or operations out of St. Lawrence County and other parts of the State, or losing a significant number of jobs in St. Lawrence County and other parts of the State, in the absence of an award of Fund Benefits.<sup>1</sup>

9. The significance of the eligible project that would receive an award of Fund Benefits to the economy of the area in which such eligible project is located.
10. For new, expanded and/or rehabilitated facilities, the extent to which the eligible applicant will commit to implement or otherwise make tangible investments in energy efficiency measures as a condition to receiving an award of Fund Benefits.<sup>2</sup>

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<sup>1</sup> Job creation and retention are key indicators of economic activity. However, the Allocation Board recognizes that certain investments may increase productivity and revitalize areas without immediately increasing permanent employment. Therefore, job creation/retention commitments will be emphasized primarily in the Business Investment Track. While job creation and retention may not be a significant factor for other Tracks, demonstration of economic development benefits to the Region will generally be considered favorably when assessing applications under all Tracks.

<sup>2</sup> As provided for in Economic development Law § 197-c(4), many of the criteria are adapted from criteria used in determining eligibility for Expansion Power, Replacement Power and Preservation Power under Public Authorities Law (“PAL”) § 1005(13). Certain criteria identified in PAL § 1005(13) are relevant to power allocations under these programs and do not have any logical application to the allocation of Fund Benefits. Therefore, the Board does not expect to use these criteria to evaluate applications for Fund Benefits.