



***ECONOMIC DEVELOPMENT POWER
ALLOCATION BOARD***

PROPOSED AGENDA

**Monday, September 11, 2023
Videoconference – 9:00 a.m.**

- 1. Adoption of the September 11, 2023 Proposed Meeting Agenda**
- 2. Adoption of the Minutes of the Meeting of July 25, 2023**
- 3. Transfer of RNY Power Allocations**
- 4. Extension of the Economic Development Plan**

OTHER BUSINESS

- 5. Next Meeting**



Economic Development Power Allocation Board

KATHY HOCHUL
Governor

JUDGE CECILY MORRIS
Chair

ECONOMIC DEVELOPMENT POWER ALLOCATION BOARD

MINUTES

July 25, 2023 – 9:00 a.m.

Meeting Held Via Videoconference

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Economic Development Power Allocation Board

KATHY HOCHUL
Governor

JUDGE CECILY MORRIS
Chair

A regular meeting of the Economic Development Power Allocation Board was held via video conference, at approximately 9:00 a.m.

The following Members of the Board were present:

Judge Cecily Morris, Chair
Dennis Trainor, Member
Andrew Silver, Member

Also in attendance were:

Lori Alesio	Interim Executive Vice President and General Counsel
Karen Delince	Vice President and Corporate Secretary, NYPA
Maribel Cruz Brown	Vice President – Economic Development & Key Account Management – Clean Energy Solutions, NYPA
Yale Brown	Senior Business Power Allocations & Compliance Analyst
Karen White	Director – Community Affairs - STL
Lorna Johnson	Senior Associate Corporate Secretary, NYPA
Sheila Quatrocci	Senior Associate Corporate Secretary, NYPA
Michele Stockwell	Senior Assistant – Corporate Secretary, NYPA

Introduction

Chair Cecily Morris welcomed members of the Board Dennis Trainor and Andrew Silver and Authority senior staff to the meeting. She said that the meeting had been duly noticed as required by the Open Meetings Law and called the meeting to order pursuant to the EDPAB Bylaws, Article III, Section 2.

1. Adoption of the July 25, 2023 Proposed Meeting Agenda

On motion made by Member Dennis Trainor and seconded by Member Andrew Silver, the Agenda for the July 25, 2023 meeting was adopted.

Chair Cecily Morris and Members Dennis Trainor and Andrew Silver declared no conflicts of interest based on the list of entities being considered for power allocations.

2. Approval of the Minutes

On motion made by Member Dennis Trainor and seconded by Member Andrew Silver, the Minutes of the Meeting held on May 22, 2023 were unanimously approved.

3. Recharge New York Power – New, Extended and Modified Allocations

“SUMMARY

The Economic Development Power Allocation Board (“EDPAB” or “Board”) is requested to:

- (a) recommend that the New York Power Authority (“Authority” or “NYPA”) Trustees (“Trustees”) extend each of the 7 allocations of Recharge New York (“RNY”) Power (“Allocation” or collectively “Allocations”) awarded to the businesses listed in Exhibit “A” for a term of 7 years. The term would commence on the expiration of each such existing Allocation, or in the Authority’s discretion, on a date to be agreed upon by the parties, for a term not to exceed 7 years (collectively, the “Extended Term”), subject to the following conditions:
 - i. A customer whose Allocation would be extended would have to agree to provide supplemental commitments for, among other things, jobs and capital investments, as it has in its current RNY Power agreement(s) with the Authority (collectively, “Current RNY Power Agreement”) for the length of any Extended Term, through the incorporation of such supplemental commitments in the proposed final contract that is executed by the parties. With respect to capital investments, the vast majority of RNY Power customers (i.e., those who do not have project/expansion capital investment commitments) would be expected to meet a minimum capital investment commitment.
 - ii. Unless otherwise noted, each of the customers identified in Exhibit “A” is in compliance with its contractual obligations to the Authority under its Current RNY Power Agreement;
- (b) recommend that the Trustees approve modifications related to the previously approved RNY Power allocations, extensions, and/or related supplemental commitments for the customers listed in Exhibit “B”;
- (c) recommend that the Trustees award new allocations of RNY Power available for “retention” purposes to the businesses listed in Exhibit “C” in the amounts indicated therein;

- (d) recommend that the Trustees award new allocations of RNY Power available for “expansion” purposes to the businesses listed in Exhibit “D” in the amounts indicated therein;
- (e) recommend that the Trustees award new allocations of RNY Power available for eligible small businesses and/or not-for-profit corporations to the entities listed in Exhibit “E” in the amounts indicated therein;
- (f) determine that the applicant listed in Exhibit “F” is not eligible to receive an RNY Power allocation;
- (g) terminate the application review process for the applicants listed in Exhibit “G”; and
- (h) determine that the applicant listed in Exhibit “H” would not be recommended to receive an RNY Power allocation.

The Board is further requested to recommend that, in addition to any other terms and conditions that the Authority determines in its discretion to be appropriate for the sale of any Allocations recommended herein, such terms and conditions include:

- (1) provisions for effective periodic audits of the recipient of an allocation for the purpose of determining contract and program compliance, and for the partial or complete withdrawal of an allocation if the recipient fails to maintain commitments, relating to such things as employment levels, power utilization, capital investments, and/or energy efficiency measures;
- (2) requirements for an agreement by the recipient of an allocation to undertake at its own expense an energy audit of its facilities at which the allocation is consumed, which may be modified by the Authority on a showing of good cause by the recipient, and that the recipient provide the Authority with a copy of any such audit or a report describing the results of such audit;
- (3) a requirement for an agreement by the recipient of an allocation to make its facilities available at reasonable times and intervals for energy audits and related assessments that the Authority desires to perform; and
- (4) a requirement that if the actual metered load at the facility where the allocation is utilized is less than the allocation, such allocation will be reduced accordingly.

The sale of any Allocation as proposed herein will be governed by the form of the RNY Power contract that was approved by the Trustees on March 26, 2019, and existing Authority Service Tariff RNY-1.

BACKGROUND

On April 14, 2011, the RNY Power Program was signed into law as part of Chapter 60 (Part CC) of the Laws of 2011. The RNY Power Program is codified primarily in Economic Development Law (“EDL”) § 188-a and Public Authorities Law § 1005(13-a) (the “RNY Statutes”). The program makes available 910 megawatts (“MW”) of “RNY Power,” 50% of which will be provided by certain Authority hydropower resources and 50% of which will be procured by the Authority from other sources. RNY Power contracts can be for a term of up to 7 years in exchange for job and capital investment commitments. RNY Power is available to businesses and not-for-profit corporations for job retention and business expansion and attraction.

As part of New York State’s initiative to foster business activity and streamline economic development, applications for all statewide economic development programs, including the RNY Power

Program, have been incorporated into a single on-line Consolidated Funding Application (“CFA”) marking a fundamental shift in how State economic development resources are marketed and allocated. Beginning in September 2011, the CFA was available to applicants. The CFA continues to serve as an efficient and effective tool to streamline and expedite the State’s efforts to generate sustainable economic growth and employment opportunities. All applications that are considered for an RNY Power allocation are submitted through the CFA process.

RNY Power is available to businesses and not-for-profit corporations for job retention and business expansion and attraction purposes. Specifically, Chapter 60 provides that at least 350 MW of RNY Power shall be dedicated to facilities in the service territories served by the New York State Electric and Gas, National Grid, and Rochester Gas and Electric utility companies; and at least 200 MW of RNY Power shall be dedicated to the purpose of attracting new businesses and encouraging expansion of existing businesses statewide. In July 2021, legislation was enacted increasing the dedicated amount of RNY Power from 100 MW to no more than 150 MW for eligible not-for-profit corporations and eligible small businesses statewide.

“Eligible applicant” is defined by statute to mean an eligible business, eligible small business, or eligible not-for-profit corporation; however, an eligible applicant shall not include retail businesses as defined by EDPAB, including, without limitation, sports venues, gaming or entertainment-related establishments or places of overnight accommodations.

RNY Power allocation awards are comprised of 50% hydropower and 50% Authority-procured market power. Prior to entering into a contract with an eligible applicant for the sale of RNY power, and prior to the provision of electric service relating to the RNY power allocation, the Authority shall offer each eligible applicant the option to decline to purchase the RNY market power component of such allocation. If an eligible applicant declines to purchase the RNY market power component, the Authority has no responsibility for supplying such market power to the eligible applicant.

Under applicable law, applications for RNY Power are first considered by EDPAB. EDPAB is authorized to recommend applicants to the Authority’s Trustees that it believes should receive an award of RNY Power based on applicable statutory criteria and other pertinent considerations. The criteria provided for in the RNY Statutes are summarized in Exhibit “I” to this memorandum. An allocation recommended by EDPAB qualifies the subject applicant to enter into a contract with the Authority for the purchase of the RNY Power if the Authority makes an allocation award.

In arriving at recommendations for EDPAB’s consideration, Staff, among other things, attempted to maximize the economic benefits of low-cost NYPA hydropower, the critical state asset at the core of the RNY Power Program, while attempting to ensure that each recipient receives a meaningful RNY Power allocation.

Unless otherwise noted in Exhibits “C”, “D”, and “E” (recommendations for new RNY Power allocations), new business applicants with relatively high scores were recommended for allocations of retention RNY Power of 50% of the requested amount or average historic demand, whichever was lower. These allocations were capped at 10 MW for any recommended allocation. Not-for-profit corporation applicants that score relatively high are typically recommended for allocations of 33% of the requested amount or average historic demand, whichever is lower. These allocations are capped at 5 MW. Applicants currently receiving hydropower allocations under other Authority power programs are typically recommended for allocations of RNY Power of 25% of the requested amount, subject to the caps as stated above.

RNY Power allocation extensions have been awarded by the Trustees on seventeen prior occasions spanning from October 2018 through March 2023. These recommendations pertain to existing RNY Power customers receiving an Extended Term of 7 years.

RNY Power allocations pertaining to new applicants have been awarded by the Trustees on thirty-seven prior occasions spanning from April 2012 through March 2023. Currently, approximately 19 MW of

RNY Power remains unallocated. This figure reflects Trustee actions taken on RNY Power applications prior to any actions that EDPAB recommends today. If today's recommendations by EDPAB are approved by the Trustees, it is anticipated that approximately 10 MW of RNY Power would remain unallocated.

Applications for new RNY Power allocations have been considered, where applicable, under NYPA's Green Jobs Evaluation Incentive Plan and the Diversity, Equity, and Inclusion ("DEI") Evaluation and Incentive Plan. These plans were approved by the Trustees on December 9, 2020 and December 7, 2021, respectively.

The sale of RNY Power allocations that are recommended by EDPAB today for Trustee approval would be governed by the form of RNY Power contract that was approved by the Trustees on March 26, 2019, and existing Authority Service Tariff RNY-1. The terms and conditions in the RNY Power contract form are consistent with the terms and conditions pertaining to the sale of Allocations as described above.

DISCUSSION

1. Extension of Existing Allocations

For the current round of recommendations, Authority staff has reviewed applications from 7 RNY Power customers who are requesting that their existing RNY Power allocations be extended. Exhibit "A" lists, among other things, the name of each such customer, the amount of its current Allocation, and each customer's supplemental commitments for jobs and capital investments associated with its extension recommendation. A copy of each application has also been made available to the Board. Staff's review has included on a customer-specific basis consideration of such issues as the amount of each Allocation that would be extended, the supplemental commitments that these customers have made under their Existing Contract and are prepared to make as consideration for an extension, and the customer's compliance status under its Existing Contract, including its compliance with supplemental commitments for jobs and capital investments.

Staff recommends that EDPAB recommend to the NYPA Trustees that the full Allocations be extended for each company as indicated in Exhibit "A".

Staff has concluded that the businesses listed in Exhibit "A", which are located throughout the State, continue to bring valuable benefits to the State. In total, the Allocations listed in Exhibit "A" are supporting the retention of more than 870 jobs and \$29.3 million in capital investments throughout New York State, and the Authority will require customers to commit to the same or substantially similar supplemental commitments for jobs and capital investments that are contained in Exhibit "A" for the Extended Term.

Staff believes that an extension of each Allocation listed in Exhibit "A" is warranted and is consistent with the statutory criteria that are used to evaluate applications for an award of RNY Power which are summarized in Exhibit "I". As described above, each Allocation would be extended for a term not to exceed 7 years.

2. Modifications to Existing Allocations, Extensions, and/or Related Supplemental Commitments

Staff requests that EDPAB recommend to the NYPA Trustees that the modifications relating to the previously approved RNY Power allocations, extensions, and/or related supplemental commitments listed in Exhibit "B" be approved for the reasons presented below.

Currier Plastics, Inc. was previously approved for a retention-based RNY Power allocation extension in the amount of 456 kW with commitments of 150 retained jobs and \$1.25 million in capital spending. The company, which is a manufacturer of plastic molded products, currently utilizes the allocation at its facility in Auburn, New York (Cayuga County). In addition to the retention-based allocation, the company recently submitted an RNY Power application to extend its expansion-based allocation. It was determined that a consolidation of both allocations would be appropriate for the company moving

forward. For this reason, the Trustees are requested to approve modifications to the retention-based RNY Power allocation extension to reflect an awarded amount of 1,386 kW with commitments of 233 retained jobs and \$6 million in capital spending.

Margaret Woodbury Strong Museum was previously approved for retention and expansion-based RNY Power allocations. The organization, which operates a museum devoted to the history of play, currently utilizes its retention-based allocation in Rochester, New York (Monroe County). The retention-based allocation was approved in the amount of 260 kW with commitments of 169 retained jobs and \$1 million in capital spending. The expansion-based allocation was approved in the amount of 90 kW with commitments of 30 new jobs and \$60 million in new capital spending. In recent communications with the customer, it was determined that the organization inadvertently miscalculated its original job retention commitment by incorrectly classifying part-time and full-time positions. For this reason, the Trustees are requested to approve job commitment modifications to the retention-based RNY power allocation to 104 retained jobs, and to the expansion-based RNY power allocation of 30 new jobs for a total of 134 retained and new jobs.

NYU Langone Hospitals (“NYU Langone”) was previously approved for retention-based allocations at facilities located in Brooklyn and Manhattan. In recent communications with the customer, it was determined that a consolidation of its allocations would be appropriate for the organization moving forward. A combined campus allocation would provide NYU Langone with more administrative flexibility with respect to job and capital spending reporting across its various hospital and healthcare sites. In addition, NYU Langone has indicated it would like to consider allocating portions of its RNY Power allocation to additional facilities/accounts not specifically listed in its applications as facilities to receive power. The campus modification would allow NYU Langone to utilize its combined allocation at current and additional sites located in Brooklyn and Manhattan. For this reason, the Trustees are requested to approve a retention-based campus modification to reflect a combined awarded amount of 6,940 kW with commitments of 17,185 retained jobs and \$1.95 billion in capital spending.

Plastirunn Corporation (“Plastirunn”) was previously approved for a retention-based RNY Power allocation in the amount of 190 kW with commitments of 65 retained jobs and \$2 million in capital spending. The company, which is a manufacturer of disposable paper products, currently utilizes the allocation at its facility in Brentwood, New York (Suffolk County). The company recently submitted an RNY Power application requesting an additional retention-based allocation, and a new expansion-based allocation. Plastirunn has experienced load growth over the years and is currently exceeding its employment commitment by over 40 jobs. Regarding the additional retention-based request, it was determined that a modification to Plastirunn’s current retention-based allocation would be appropriate for the company moving forward. For this reason, the Trustees are requested to approve modifications to the company’s current retention-based allocation to reflect an awarded amount of 320 kW with commitments of 109 retained jobs and \$220,000 in capital spending. Staff also recommends that Plastirunn receive a new expansion-based allocation in the amount of 76 kW with commitments of 20 new jobs and \$4 million in capital spending.

The New York and Presbyterian Hospital was previously approved for a retention-based RNY Power allocation in the amount of 406 kW with commitments of 1,305 retained jobs and \$25 million in capital spending. The hospital, which is located in Bronxville, New York (Westchester County), has since indicated it would like to allocate its RNY Power allocation to an address at its facility in Bronxville that it did not specifically list in its application as a facility to receive power. For this reason, the Trustees are requested to authorize a modification to the customer’s power contract to include the additional facility address.

Staff has no objection to the requested modifications, and therefore requests that EDPAB recommend that the NYPA Trustees approve the modifications listed in Exhibit “B”.

3. Retention-Based RNY Power Allocations

Staff recommends that EDPAB recommend to the NYPA Trustees that the applicants listed in Exhibit “C” be awarded retention-based RNY Power allocations in the amounts indicated therein. Each business has stated a willingness to retain jobs in New York State. Additionally, these applicants will be committing to capital investments in exchange for the recommended RNY Power allocations. Unless otherwise indicated in Exhibit “C”, these applicants seek an RNY Power allocation for job retention purposes only. The retention-based allocations are each recommended for a term of 7 years unless otherwise indicated. The Authority’s RNY Power sale contract form would also contain the provisions summarized above.

4. Expansion-Based RNY Power Allocations

Staff recommends that EDPAB recommend to the NYPA Trustees that the applicants listed in Exhibit “D” be awarded expansion-based RNY Power allocations in the amounts indicated which would be sourced from the 200 MW block of RNY Power dedicated pursuant to statute for the businesses that propose to expand existing businesses or create new business in the State. Unless otherwise indicated in Exhibit “D”, these applicants seek an RNY Power allocation for expansion of an existing business or a new business/ facility. Each such allocation would be for a term of 7 years unless otherwise indicated. The Authority’s RNY Power sale contract form would also contain the provisions summarized above.

5. Small Business and/or Not-for-Profit RNY Power Allocations

Staff recommends that EDPAB recommend to the NYPA Trustees that the small business and/or not-for-profit applicants listed in Exhibit “E” be awarded RNY Power allocations in the amounts indicated therein each for a 7-year term. The applicants have committed to retain and/or create jobs in New York State and make capital investments in exchange for the recommended RNY Power allocations as described in Exhibit “E”. The contracts for these allocations would also contain the provisions summarized above.

6. Applicants Not Eligible

Staff recommends that the Board determine that the applicant listed in Exhibit “F” is not eligible to receive an RNY Power allocation for the reasons listed in Exhibit “F”.

7. Termination of Application Review Process

Staff recommends that the Board terminate the application review process for the applicants listed in Exhibit “G” for the reasons listed in Exhibit “G”. In the past, some applicants in these circumstances have refiled if able to advance a more complete RNY Power application.

8. Applicants Not Recommended

Staff recommends that the Board determine that the applicant listed in Exhibit “H” would not be recommended to receive an RNY Power allocation for the reasons listed in Exhibit “H”.

RECOMMENDATION

For the reasons stated above, staff recommends that EDPAB:

- (1) Recommend to the NYPA Trustees that each of the existing 7 Allocations of RNY Power listed in Exhibit “A” be extended for a term of 7 years as described above, to commence on the expiration

of such Allocation, or at the Authority's discretion on a date to be agreed upon by the parties for a term not to exceed 7 years;

- (2) Recommend to the NYPA Trustees that, in addition to any other terms and conditions that the Authority determines in its discretion to be appropriate for the sale of the Allocations recommended herein, such terms and conditions include:
 - (a) provisions for effective periodic audits of the customer whose Allocation is extended for the purpose of determining contract and program compliance, and for the partial or complete withdrawal of an Extended Allocation if the business fails to maintain mutually agreed upon commitments, including those relating to employment levels, capital investments, power usage and energy efficiency measures;
 - (b) a requirement that the customer whose Allocation is extended undertake at its own expense energy audit of its facilities at which the Extended Allocation is consumed at least once during the term of the allocation absence good cause, and provide the Authority with a copy of any such audit or, at the Authority's option, a report describing the results of such audit, and provide documentation requested by the authority relating to the implementation of any efficiency measures at the facilities;
 - (c) an agreement by the customer whose Allocation is extended to make its facilities available for energy audits and related assessments that the authority desires to perform, if any, and provide information requested by the Authority or its designee in surveys, questionnaires and other information requests relating to energy efficiency and energy-related projects, programs and services; and
 - (d) an agreement by the customer whose Allocation is extended that if the actual metered load at the facility where the allocation is utilized is less than the allocation, such allocation will be reduced accordingly;
- (3) Recommend that the NYPA Trustees approve the modifications related to the RNY Power allocations, extensions, and/or related supplemental commitments described in Exhibit "B" for the reasons discussed above and in Exhibit "B";
- (4) Recommend that the NYPA Trustees award the new allocations of RNY Power for retention purposes to the businesses listed in Exhibit "C" as indicated therein;
- (5) Recommend that the NYPA Trustees award the new allocations of RNY Power for expansion purposes to the businesses listed in Exhibit "D" as indicated therein;
- (6) Recommend that the NYPA Trustees award the new allocations of RNY Power for the small business and/or not-for-profit applicants identified in Exhibit "E" for retention and expansion purposes as indicated therein;
- (7) Determine that the applicant listed in Exhibit "F" is not eligible to receive an RNY Power allocation for the reasons listed in Exhibit "F";
- (8) Terminate the application review process for the applicants listed in Exhibit "G" for the reasons listed in Exhibit "G"; and
- (9) Determine that the applicant listed in Exhibit "H" would not be recommended to receive an RNY Power allocation for the reasons listed in Exhibit "H".

Chair Cecil Morris invited Mr. Yale Brown, Senior Business Power Allocations & Compliance Analyst, to present staff's recommendation for the Recharge New York Power New, Extended and Modified Allocations to the Board.

Mr. Brown said that the EDPAB Board is requested to recommend that the Trustees approve contract extensions for 7 allocations of Recharge New York Power to existing customers; modifications related to 6 Recharge New York allocations, extensions and/or related supplemental commitments and award new allocations of Recharge New York large business retention, large business expansion and small business and not-for-profit-based power to 23 applicants. All applications were submitted through the State's Consolidated Funding Application system.

He said that, as in the past, new applications were evaluated on a competitive basis in consideration of the 12 criteria in the Recharge New York legislation including job commitments, capital investment, and an applicant's risk of closure or leaving the state if they are not awarded a Recharge New York Power allocation.

Mr. Brown continued that, applications for new Recharge New York Power allocations have been considered, where applicable, under NYPA's Green Job Evaluation Incentive Plan, and the Diversity, Equity, and Inclusion Evaluation and Incentive Plan. The recommendations, today, include 3 businesses with qualifying green jobs, one minority-owned business Enterprise, and 11 companies with facilities located in disadvantaged communities.

The recommendations consist of the following:

- 7 extension allocations totaling 1.9 megawatts and supporting more than 870 jobs;
- 6 modifications related to existing Recharge New York allocations, extensions, and/or related supplemental commitments;
- 3 new large business retention allocations totaling 0.9 megawatts and supporting the retention of more than 360 jobs;
- 8 new large business expansion allocations totaling 5.4 megawatts and supporting the creation of 680 new jobs; and
- 19 new small business and not-for-profit based allocations totaling 3.3 megawatts and supporting nearly 2,100 jobs.

He said that, if today's recommendations are approved, it is anticipated that approximately 10 megawatts of RNY Power would remain available to be allocated. The awarded applicants will be offered Recharge New York contracts for a term of up to 7 years. The contract has provisions for the partial or complete withdrawal of an allocation if the recipient fails to maintain mutually agreed upon commitments, relation to, among other things, employment, power utilization, and capital.

Mr. Brown ended that the EDPAB Board is being asked to recommend that the Authority's Board of Trustees approve the aforementioned allocations.

On motion made by Member Dennis Trainor and seconded by Member Andrew Silver, the transfer of Recharge New York Power as recommended by staff was approved by the Board.

The following resolution was unanimously adopted by the members of the Board present.

RESOLVED, That the Economic Development Power Allocation Board ("Board") recommends that the Board of Trustees ("Trustees") of the Power Authority of the State of New York ("Authority") extend each of the existing 7 allocations of Recharge New York ("RNY") Power ("Allocation" or collectively "Allocations") in the manner described in the accompanying memorandum of the Vice President, Economic Development & Key Account Management (the "Memorandum") for a term of 7 years, to commence (1) on the expiration of each such Allocation, or (2) at the Authority's discretion on a date to be agreed upon by the Authority and the customer, for a term not to exceed 7 years; and be it further

RESOLVED, That the Board also recommends that in addition to any other terms and conditions that the Authority determines in its discretion to be appropriate for the sale of the Allocations recommended herein, such terms and conditions include:

- (1) provisions for effective periodic audits of the customer whose Allocation is extended for the purpose of determining contract and RNY Power program compliance, and for the partial or complete withdrawal of an Extended Allocation if the customer fails to maintain mutually agreed upon commitments, including specifically commitments relating to, among other things, employment levels, power utilization, capital investments, and/or energy efficiency measures;
- (2) a requirement that the customer whose Allocation is extended (a) undertake at its own expense an energy audit of its facilities at which the Extended Allocation would be consumed at least once during the term of the Extended Allocation absence good cause as determined by the Authority, and (b) provide the Authority with a copy of any such audit or, at the Authority's option, a report describing the results of such audit, and provide documentation requested by the authority relating to the implementation of any efficiency measures at the facilities; and
- (3) an agreement by the customer whose Allocation is extended to make its facilities available for audits and related assessments that the authority desires to perform, if any, and provide information requested by the authority or its designee in surveys, questionnaires and other information requests relating to energy efficiency and energy-related projects, programs and services; and
- (4) an agreement by the customer whose Allocation is extended that if the actual metered load at the facility where the allocation is utilized is less than the allocation, such allocation will be reduced accordingly; and be it further

RESOLVED, That the Board recommends that the Trustees approve the modifications/adjustments to the RNY Power allocations, extensions, and/or related supplemental commitments for the reasons indicated in the Memorandum; and be it further

RESOLVED, That the Board recommends that the Trustees approve the new RNY Power allocations for retention purposes in the amounts indicated therein; and be it further

RESOLVED, That the Board recommends that the Trustees approve the new RNY Power allocations for expansion purposes in the amounts indicated therein; and be it further

RESOLVED, That the Board recommends that the Trustees approve the new RNY Power allocations for retention and expansion purposes in the amounts indicated therein; and be it further

RESOLVED, That the Board determines that the identified applicant is not eligible to receive an RNY Power allocation for the reasons discussed in the Attached Memorandum; and be it further

RESOLVED, That the Board terminates the application review process for the identified applicants for the reasons discussed in the Attached Memorandum; and be it further

RESOLVED, That the Board determines to not recommend an RNY Power allocation for the identified applicant for the reasons discussed in the Attached Memorandum.

OTHER BUSINESS

No other business to report.

5. **Next Meeting**

Chair Cecily Morris said that the next meeting of the Board would be held on Monday, September 25, 2023 at 9:00 a.m.

Closing

On motion made by Member Dennis Trainor and seconded by Member Andrew Silver, the meeting was adjourned at approximately 9:08 a.m.

Karen Delince

Karen Delince
Corporate Secretary



Economic Development Power Allocation Board

KATHY HOCHUL
Governor

JUDGE CECILY MORRIS
Chair

Date: September 11, 2023
To: Economic Development Power Allocation Board
From: Senior Vice President – Customer Solutions
Subject: Transfer of RNY Power Allocation

SUMMARY

The Economic Development Power Allocation Board (“Board”) is requested to approve the transfers of the Recharge New York (“RNY”) Power allocation listed below, subject to the conditions discussed in this memorandum:

1. Transfer of a 226 kW RNY Power allocation awarded to Renzi Bros., Inc. (“Renzi”), for use at its 901 Rail Drive, Watertown, New York facilities, to US Foods, Inc. (“US Foods”), to address organizational changes.

The Board has previously approved transfers of RNY Power allocations in similar circumstances.

If the Board approves the requested transfer, the Trustees of the New York Power Authority (“Authority”) will also be requested to approve the transfer.

DISCUSSION

The following discussion describes the facts relating to the recommended transfer.

1) Renzi Bros., Inc.

Renzi was awarded a 226 kW RNY Power allocation, for use at its facilities at 901 Rail Drive in Watertown, where Renzi is a food service distributor. The company serves all segments of the food service industry across New York State, including restaurants, healthcare facilities, schools, government organizations, and convenience stores.

In July 2023, US Foods purchased Renzi, including the 901 Rail Drive facility. There will be no change in the business conducted.

Both companies have asked that the 226 kW RNY Power allocation be transferred to US Foods to support US Foods’ operations at the site. US Foods has indicated to NYPA that it will honor all terms and commitments made by Renzi under its RNY Power sale agreement with the Authority.

RECOMMENDATION

Staff recommends that the Board approve the transfer discussed above, subject to the following conditions: (1) approval of the transfer of the RNY Power allocation by the NYPA Board of Trustees; (2) there be no material reductions in the base employment level or capital investment commitment associated with the allocation that would be transferred; and (3) the transfer is addressed in contract documents containing such terms and conditions determined by the Authority to be appropriate to effectuate the transfer.

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

RESOLUTION

RESOLVED, That the transfer of a 226 kW Recharge New York Power allocation awarded to Renzi Bros., Inc. for use at its facility located at 901 Rail Drive, Watertown, New York, to US Foods, Inc. for use at the same facilities, as described in the foregoing memorandum be, and hereby is, approved subject to the following conditions: (1) approval of the transfer by the New York Power Authority (“NYPA”) Board of Trustees; (2) there be no material reduction in the base employment level or capital investment commitment due to the transfer as provided for above; and (3) the transfer is addressed in contract documents containing such terms and conditions determined by the NYPA to be appropriate to effectuate the transfer.



Economic Development Power Allocation Board

KATHY HOCHUL
Governor

JUDGE CECILY MORRIS
Chair

Date: September 11, 2023
To: Economic Development Power Allocation Board
From: Senior Vice President – Customer Solutions
Subject: Extension of the Economic Development Plan

SUMMARY

The Economic Development Power Allocation Board (“EDPAB” or “Board”) is requested to approve an extension of the Economic Development Plan (“Plan”) covering the use of net revenues produced by the sale of Expansion Power (“EP”) to provide electric bill discounts in the form of an Industrial Incentive Award (“IIA”) to manufacturing companies located in New York State that are at identifiable risks of closure or relocation to another state. With EDPAB’s approval, the term of the Plan would be extended from June 1, 2023 to May 31, 2024. If EDPAB approves the extension, the Trustees of the New York Power Authority (“Authority”) will be asked to extend the term of an IIA to Pratt Paper (NY), Inc. (“Pratt”) from June 1, 2023 through May 31, 2024 for the reasons discussed below.

BACKGROUND

Public Authorities Law (“PAL”) §1005 (eighth unnumbered paragraph) directs the Authority to identify “net revenues” produced by the sale of EP and, further, to identify an amount of such net revenues that will be used solely for IIAs. The Authority is directed in PAL §1005 to identify net revenues available for IIAs no less often than annually. Net revenues are defined by PAL §1005 as any excess of revenues properly allocated to the sales of EP over costs and expenses properly allocated to such sales.

IIAs are to be made in conformance with an economic development plan covering all such “net revenues.” The Authority submits a Plan to EDPAB, pursuant to Economic Development Law (“EDL”) §188, which also provides for EDPAB’s approval of the Plan upon its determination that such Plan is consistent with, among other things, the criteria and requirements provided for in EDL §§184 and 185 that are used to evaluate applications for certain power. A copy of EDL §§ 184 and 185 is attached as Exhibit “A.”

At its October 26, 2009 meeting, EDPAB approved an Economic Development Plan that allows the use of net revenues from the sale of EP for the calendar years 2008 through and including 2016 to provide electric bill discounts to manufacturing companies located in New York State that are at identifiable risks of closing or relocating to another state.

At its May 21, 2013 meeting, the Authority’s Board of Trustees (“Trustees”) authorized an IIA to Pratt upon determining that Pratt had demonstrated it met the qualifying criteria for an IIA and after careful consideration of Pratt’s business case. The Trustees approved an annual amount of up to \$1 million per year for up to five (5) years.

At its September 27, 2016 meeting, the Trustees approved an extension of the Plan to May 31, 2018 and also authorized submission of such Plan to EDPAB to request its approval of the modified Plan to cover the remainder of the five year term of the IIA to Pratt. At its December 12, 2016 meeting, EDPAB approved the extension of the Plan that allows the use of net revenues from the sale of EP to May 31, 2018. At its December 10, 2018 meeting EDPAB approved the extension of the Plan that allows the use of net revenues from the sale of EP to May 31, 2019.

At their March 26, 2019 meeting, the NYPA Trustees (1) approved an extension, from June 1, 2019 to May 31, 2020, of the Plan covering the use of net revenues produced by the sale of EP to provide electric bill discounts in the form of an IIAs to manufacturing companies located in New York State that are at risk of closure or relocation to another state; (2) authorized submission to EDPAB of a request to approve an extension, from June 1, 2019 to May 31, 2020, of the Plan; and (3) approved a one year extension, from June 1, 2019 to May 31, 2020, of the term of the IIA previously awarded to Pratt in the amount of up to \$1 million in connection with its Staten Island operations, contingent upon EDPAB's extension of the Plan.

At its meeting on September 24, 2019, EDPAB approved an extension of the Plan to provide electric bill discounts in the form of an IIA to manufacturing companies located in New York State that are at identifiable risks of closure or relocation to another state from June 1, 2019 to May 31, 2020.

At its meeting on July 27, 2020, EDPAB approved an additional extension of the Plan to provide electric bill discounts in the form of an IIA to manufacturing companies located in New York State that are at identifiable risks of closure or relocation to another state from June 1, 2020 to May 31, 2021.

At its meeting on September 27, 2021, EDPAB approved an additional extension of the Plan to provide electric bill discounts in the form of an IIA to manufacturing companies located in New York State that are at identifiable risks of closure or relocation to another state from June 1, 2021 to May 31, 2022.

At its meeting on July 25, 2022, EDPAB approved an additional extension of the Plan to provide electric bill discounts in the form of an IIA to manufacturing companies located in New York State that are at identifiable risks of closure or relocation to another state from June 1, 2022 to May 31, 2023.

Pratt operates a paper mill, a corrugated box factory and a sorting facility in Staten Island within Consolidated Edison's service territory. Manufacturing processes represent a substantial portion of Pratt's total electricity consumption; energy costs are a primary consideration for the economic viability of the plant. Pratt's IIA, in the form of a cents per kWh price discount applied to a level of annual electric consumption, was approved subject to, among other appropriate terms and conditions:

- Reevaluation and reduction should Pratt's electric rates decline during the term of the IIA.
- The availability of EP net revenue funding for IIAs, which is in NYPA's sole discretion.
- Appropriate determination(s) by the Trustees that the funding of IIAs in any fiscal year will not have a significant impact on the Authority's finances.
- Approval of an extension of the Plan by EDPAB beyond 2023 to the extent that an IIA to Pratt would extend beyond such year.
- A reduction in the amount of the IIA if Pratt does not meet agreed-upon job commitments (256 full-time employees) at the Staten Island facility.
- An agreement providing for the IIA and which address these and other appropriate terms and conditions in a form satisfactory to the Authority.

The Authority executed an agreement with Pratt ("Agreement") providing for the terms and conditions applicable to the Pratt IIA. The Agreement provided for an initial 1-year term for the IIA and an extension of the IIA for 4 subsequent 1-year terms at the Authority's discretion subject to conditions specified in the Agreement. The Authority subsequently executed an agreement with Pratt ("Amending Agreement") which provided for an additional 1-year extension of the IIA. In accordance with the Agreement, as amended, Pratt received \$1 million for the extension and has received \$10 million in total for the IIA including extensions of the term of the award.

At the completion of the extended term, a compliance review and due diligence was performed on the terms and conditions of the Agreement. Pratt has been compliant for each annual term, most recently employing an average of 295 persons at its facility during the tenth annual term ending May 31, 2023.

DISCUSSION

As the end of the tenth year of the extended IIA approached, Pratt requested an extension of the IIA. Upon review of Pratt's current business case, staff determined that Pratt continues to meet the IIA requirements of being a manufacturing company at risk of closing or curtailing operations and continues to be negatively impacted by high electricity costs within Consolidated Edison service territory which, according to Pratt, threatens the economic viability of operations at its Staten Island facility.

Pratt also indicates it is anticipating electricity delivery price increases in the near term based upon review of the existing utility tariff. The company also cited both higher utility taxes and a recent rate case filing for significant increases in delivery costs of natural gas as making the Staten Island plant less competitive than its facilities in other states, further jeopardizing its successful operations in New York. Pratt indicates that additional expenses, including those related to compliance with a new requirement imposed by New York City relating to wastewater pre-treatment, are expected to further increase operating costs at the Staten Island facilities.

An extension of the IIA would support Pratt's ability to maintain its committed employment level of 256 jobs at its facility. NYPA and Pratt reached agreement on an offer to extend the IIA contingent upon necessary Trustee and EDPAB approvals.

Accordingly, staff recommends that EDPAB approve the extension of the Plan to May 31, 2024.

RECOMMENDATION

For the reasons stated above, staff recommends that EDPAB: (1) determine that the extended Plan and its implementation are consistent with the criteria and requirements provided for in EDL §§ 184 and 185; and (2) approve an extension to May 31, 2024 of the Plan covering the use of net revenues produced by the sale of Expansion Power to provide electric bill discounts in the form of IIAs to manufacturing companies located in New York State that are at identifiable risks of closure or relocation to another state.

Maribel Cruz-Brown
Senior Vice President
Customer Solutions

RESOLUTION

RESOLVED, That the Economic Development Power Allocation Board determines that, based the attached memorandum and other information referred to therein, and the criteria and requirements provided for in Economic Development Law §§ 184 and 185 (collectively, the “Criteria”), the extended Economic Development Plan (“Plan”) and its implementation are consistent with the Criteria, and therefore approves the extended Plan that provides for the use of net revenues from the sale of Expansion Power through May 31, 2024, in order to provide electric bill discounts in the form of Industrial Incentive Awards to manufacturing companies in New York State that are at identifiable risk of closure or relocation to another state, and for the reasons indicated in the Attached Memorandum.

Economic Development Law §§ 184 AND 185

§ 184. Criteria for eligibility for economic development power. Each application for an allocation of economic development power shall be evaluated under criteria adopted by the board. Such criteria shall address, but need not be limited to:

- (a) the number of new jobs created as a result of an economic development power allocation;
- (b) the applicant's long-term commitment to New York state, as evidenced by the applicant's current and/or planned capital investment in business facilities in New York state;
- (c) the ratio of the number of jobs to be created to the amount of economic development power requested by the applicant;
- (d) the types of jobs created, as measured by wage and benefit levels, security and stability of employment;
- (e) the type and cost of buildings, equipment and facilities to be constructed, enlarged or installed;
- (f) the extent to which economic development power will affect the overall productivity or competitiveness of the applicant's business and its existing employment within the state;
- (g) the extent to which an allocation of economic development power may result in a competitive disadvantage for other businesses in the state;
- (h) the general economic conditions and economic distress in the area in which the applicant's business facility would be located and the extent to which economic development power could contribute to the alleviation of such distress;
- (i) the growth potential of the business facility and the contribution of economic strength to the area in which the business facility is or would be located;
- (j) the extent of the applicant's willingness to make jobs available to persons defined as eligible for services under the federal job training partnership act of nineteen hundred eighty-two and the extent of the applicant's willingness to satisfy affirmative action goals;
- (k) the extent to which an allocation of economic development power is consistent with state, regional and local economic development strategies and priorities and supported by local units of government in the area in which the business is located; and
- (l) the impact of the allocation on the operation of any other facilities of the applicant, on other businesses within the state, and upon other electric ratepayers.

§ 185. Revitalization programs. In addition to the criteria described in section one hundred eighty-four of this article and such other criteria as the board may by rule or regulation define, an economic development power allocation may be made to a business in serious, long-term distress that is not primarily caused by normal, short-term changes in the business cycle, when the applicant demonstrates to the satisfaction of the board:

(a) that the applicant has formulated and will implement a comprehensive business revitalization plan which is described in its application, and which:

(1) contains a detailed strategy for actions to be taken by the applicant to continue as a successful business, including, but not limited to, productivity and efficiency improvements, changes in operations, financing or management, measures to enhance labor and management cooperation and to improve the skills and performance of the work force at all levels, capital investment in new equipment and plant modernization, development of new markets and products, and such other actions as will enable the business to stabilize and sustain its operations;

(2) has been endorsed by the board of directors; and

(3) establishes a verifiable schedule for completion of proposed actions;

(b) that an allocation of economic development power will significantly contribute to the revitalization plan;

(c) that the business is likely to close, partially close or relocate out of state resulting in the loss of substantial numbers of jobs;

(d) that the business is an important employer in the community and efforts to revitalize the business are in the long-term interests of both employees and the community;

(e) that a reasonable prospect exists that the proposed revitalization plan will enable the business to remain competitive and become profitable and preserve jobs for a substantial period of time;

(f) that the applicant demonstrates cooperation with the local electricity distributor and other available sources of assistance to reduce energy costs to the maximum extent practicable, through conservation and load management; and

(g) that the allocation will not unduly affect the cost of electric service to customers of the local electricity distributor.



Economic Development Power Allocation Board

KATHY HOCHUL
Governor

JUDGE CECILY MORRIS
Chair

September 11, 2023

Next Meeting

The next meeting of the Economic Development Power Allocation Board (EDPAB) is scheduled to be held on Monday, December 11, 2023 at 9:00 a.m.