

**Date:** September 29, 2015

**To:** THE TRUSTEES

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

**Subject:** Transfers and Redistribution of Power Allocations

SUMMARY

The Trustees are requested to authorize:

1. The transfer of a 40 kilowatt (“kW”) Recharge New York (“RNY”) Power allocation awarded to Universal Photonics Inc. (“Universal Photonics”) from Universal Photonics’ facility at 495 West John Street, Hicksville to Universal Photonics’ new facility at 85 Jetson Lane, Central Islip.
2. The transfer of a 250 kW RNY Power Hydropower allocation from Delphi Automotive Systems, LLC and/or Delphi Properties Management LLC (collectively, “Delphi”), which was awarded to Delphi for use at its Amherst, New York facility, to MAHLE Manufacturing Management, Inc. (or MAHLE Industries, Incorporated (“MAHLE Manufacturing,”) as appropriate), in connection with the sale of the thermal management business of Delphi Automotive PLC to the MAHLE GmbH family of companies.
3. The transfer of a 500 kW allocation of Expansion Power (“EP”) and a 1,000 kW allocation of Replacement Power (“RP”) from Delphi, which was awarded to Delphi for use at its Lockport, New York facility, to MALHE Manufacturing (or MAHLE Behr Troy Inc., as appropriate), in connection with the Delphi Automotive PLC-MAHLE GmbH transaction.

At its September 28, 2015 meeting, the Economic Development Power Allocation Board (“EDPAB”) approved the transfers of the RNY Power allocation described items 1-2 above. EDPAB approval is not necessary for transfer of the Western New York Hydropower allocations described in item 3.<sup>1</sup>

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<sup>1</sup> EDPAB also authorized the transfer of 750 kW allocation of RNY Power for Hi-Tech Pharmacal, Inc. (“Hi-Tech”), which operates a facility in Amityville, NY, in connection Hi-Tech’s recent purchase by Akorn, Inc. Hi-Tech will continue to operate the Amityville facility for the foreseeable future. Therefore, staff is not seeking to take any action to implement EDPAB’s transfer authorization regarding Hi-Tech’s RNY allocation at this time.

## DISCUSSION

### 1. Universal Photonics

Universal Photonics operates a manufacturing facility in Hicksville, Nassau County (“Hicksville Facility”) which produces critical surface preparation materials. The Authority currently sells 40 kW of RNY Hydropower to Universal Photonics for use at the Hicksville Facility. When the Authority made the RNY Power award to Universal Photonics on April 24, 2012, the parties understood Universal Photonics would be moving to a new facility at some point. Universal Photonics has now decided to relocate its facilities to 85 Jetson Lane, Central Islip (“Central Islip Facility”). Universal Photonics is currently in compliance with its contractual commitments, and will continue to honor the job capital investment commitments provided for in its RNY Power contract with the Authority

### 2. Delphi

Delphi operates several chemical manufacturing facilities in New York, including facilities located in Amherst and Lockport in Erie County. The Authority sells Delphi a 250 kW RNY Hydropower allocation for use at its Amherst facility (“Amherst Facility”), and a 500 kW EP allocation and 1,000 kW RP allocation for use at Delphi’s Lockport facility (“Lockport Facility”).

MAHLE GmbH (“MAHLE”) has purchased the thermal business of Delphi Automotive PLC. In connection with this transaction, MAHLE formed MAHLE Manufacturing to serve as the interim owner and operator of the Delphi Amherst Facility and Lockport Facility. MAHLE also formed MAHLE Industries, Incorporated and MAHLE Behr Troy Inc., which it expects to take ownership and operational control of the Amherst Facility and Lockport Facility, respectively, at some point in the future.

Delphi and MAHLE have requested that: (1) the 250 kW RNY Hydropower allocation be transferred to MAHLE Manufacturing (or MAHLE Industries, Incorporated, as appropriate), for continued use at the Amherst Facility; and (2) the 500 kW EP allocation and 1,000 kW RP allocation be transferred from Delphi to MAHLE Manufacturing (or MAHLE Behr Troy Inc., as appropriate), for continued use at the Lockport Facility.

Delphi is currently in compliance with its commitments under its power sale contracts with the Authority. MAHLE Manufacturing (or the other MAHLE entities, as appropriate) would agree to assume Delphi’s rights and obligations under Delphi’s power sale agreements with the Authority relating to the Amherst Facility and the Lockport Facility, including Delphi’s job and capital investment commitments.

### 3. Transfer implementation

If the transfer for Universal Photonics is approved, Universal Photonics’ contract would be amended to reflect the transfer of the allocation to its new facility. If the other transfers are approved, they would be implemented through appropriate contractual documents containing such terms and conditions determined by the Authority to be appropriate to effectuate the transfers.

## RECOMMENDATIONS

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

- (1) Authorize transfer of the 40 kW Recharge New York (“RNY”) Power allocation from Universal Photonics Inc.’s Hicksville Facility to its Central Islip Facility.
- (2) Authorize transfer of the 250 kW RNY Hydropower allocation from Delphi Automotive Systems, LLC and/or Delphi Properties Management LLC (“Delphi”) to MAHLE Manufacturing (or MAHLE Industries, Incorporated, as appropriate) for continued use at the Amherst Facility.
- (3) Authorize transfer of the 500 kW EP allocation and 1,000 kW RP allocation from Delphi to MAHLE Manufacturing (or MAHLE Behr Troy Inc., as appropriate) for continued use at the Lockport Facility.

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 a 40 kilowatt (kW) Recharge New York (“RNY”) Power allocation awarded to Universal Photonics Inc. (“Universal Photonics”) from Universal Photonics’ facility at 495 West John Street, Hicksville to a new facility at 85 Jetson Lane, Central Islip, 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 250 kW RNY Power Hydropower allocation from Delphi Automotive Systems, LLC and/or Delphi Properties Management LLC (collectively, “Delphi”), which used the allocation at its Amherst, NY facility, to MAHLE Manufacturing Management, Inc. (or MAHLE Industries, Incorporated, as appropriate), be, and hereby is, approved subject to such conditions as set forth in the foregoing memorandum of the President and Chief Executive Officer and 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 500 kW allocation of Expansion Power (“EP”) and a 1,000 kW allocation of Replacement Power (“RP”) from Delphi, which used the allocations at its Lockport, New York facility, to MAHLE Manufacturing Management, Inc. (or MAHLE Behr Troy Inc., as appropriate), as described in the foregoing memorandum of the President and Chief Executive Officer be, and hereby is, approved subject to such conditions as set forth in the foregoing memorandum of the President and Chief Executive Officer and 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 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.