

December 16, 2014

MEMORANDUM TO THE TRUSTEES

FROM THE PRESIDENT and CHIEF EXECUTIVE OFFICER

SUBJECT: Extension of Niagara Frontier Transportation Authority Allocations and Sales Contract

SUMMARY

The Trustees are requested to: (1) extend a 1,000 kilowatt (“kW”) allocation of hydropower to the Niagara Frontier Transportation Authority (“NFTA”) for its light rail system, and a 2,300 kW allocation to provide power to the Niagara Falls Air Base (“NFAB”) (collectively, the “NFTA Allocations”), each through December 31, 2019; and (2) authorize execution of an agreement to effectuate the sale of the extended NFTA Allocations. A copy of the current proposed form of the agreement is attached as Exhibit “A.”

BACKGROUND

New York Public Authorities Law §1005, relating to the power and duties of the Authority, states: “The authority is . . . authorized, to the extent it deems it necessary or desirable, to provide power and energy, as it may determine it to be available, for the use by the Niagara Frontier Transportation Authority or its subsidiary corporation.”

The Authority and NFTA are parties to a February 2, 1990 agreement (“1990 Agreement”) under which the Authority sells 1,000 kW of hydropower and energy to NFTA under Service Tariff No. 37 (ST-37) for use by NFTA's regional light rail system. Under the terms of the 1990 Agreement, sales of additional amounts of power and energy may be made on terms and conditions mutually acceptable to NYPA and NFTA. The Parties agreed on January 29, 2004 and again on December 15, 2009 that NYPA would sell 2,300 kW of firm power and energy for use at NFTA's Niagara Falls International Airport to support continued operation of the NFAB located at the airport. The NFTA Allocations are each scheduled to expire after midnight, December 31, 2014.

DISCUSSION

The NFTA’s light rail system in the Buffalo-Niagara region, known as “Metro Rail,” provides the most environmentally-friendly, safe and affordable mode of public transportation in the area. Such affordable reliable public transportation continues to play a key role in the economic development and growth of the area. The NFTA’s light-rail corridor is home to Western New York’s largest concentration of employment, population and university enrollment. Development along the corridor has been rapid in recent years, from the inception of the Harbor redevelopment to the University of Buffalo’s new Medical School building.

The NFAB plays a critical role in the defense of the nation while also making important contributions as one of the largest employers in Niagara County. The base is home to the 914th Airlift Wing of the USAF and the 107th Air Refueling Wing of the New York Air National Guard. By helping to maintain low energy costs, the Authority can support vital military missions and help protect jobs in New York State from potential cutbacks or base closures. Due, in part, to NYPA's hydroelectric power sales, the NFAB was removed from the Department of Defense 2005 round of targeted base closures.

The extension of the NFTA Allocations would provide for the continued support of economic growth in the region and the U.S. military.

FISCAL INFORMATION

The NFTA and NFAB would continue to pay for hydropower at the same rate currently charged, i.e., the cost-based rates that are currently charged to the Authority's preference customers and determined in accordance with the Authority's rate-setting methodologies and principles under Service Tariff No. 37. The Trustees approved a preference power rate increase at their November 2011 meeting, which became effective in the December 2011 billing period. The proposed extension of the allocations discussed above would reflect the new preference power rates. Accordingly, there will be no fiscal impact to the Authority associated with this extension.

RECOMMENDATION

The Manager – Power Contracts recommends that the Niagara Frontier Transportation Authority (“NFTA”) Allocations be extended through December 31, 2019, and that the sale of the extended NFTA Allocations be effectuated through the letter agreement attached as Exhibit “A.”

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 New York Public Authorities Law § 1005 relating to the powers and duties of the New York Power Authority states: “The authority is . . . authorized, to the extent it deems it necessary or desirable, to provide power and energy, as it may determine it to be available, for the use by the Niagara Frontier Transportation Authority or its subsidiary corporation”; and be it further

RESOLVED, That the 1,000 kilowatt (“kW”) allocation of hydropower to the Niagara Frontier Transportation Authority (“NFTA”) for its light rail system, and 2,300 kW allocation to provide power to the Niagara Falls Air Base (“NFAB”) (collectively, the “NFTA Allocations”) is each extended through December 31, 2019; and be it further

RESOLVED, That the Senior Vice President – Economic Development and Energy Efficiency or his designee be, and hereby is, authorized, subject to approval of the final form thereof by the Executive Vice President and General Counsel, to execute on behalf of the Authority, an agreement to effectuate the sale of the extended NFTA Allocations the current form of which agreement is attached to the memorandum of the President and Chief Executive Officer as Exhibit “A”; and be it further

RESOLVED, That the Chairman, the Vice Chair, the President and Chief Executive Officer, the Chief Operating Officer and all other officers of the Authority are, and each of them hereby is, authorized on behalf of the Authority to do any and all things and take any and all actions and execute and deliver any and all 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.

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The New York Power Authority ("NYPA") and the Niagara Frontier Transportation Authority ("NFTA") (collectively, "Parties") are parties to a February 2, 1990 agreement ("1990 Agreement") under which NYPA sells 1,000 kW of hydropower and energy to NFTA under Service Tariff No. 37 (ST-37) for use by NFTA's regional light rail system.

Under the terms of the 1990 Agreement, sales of additional amounts of power and energy may be made on terms and conditions mutually acceptable to NYPA and NFTA. The Parties agreed on January 29, 2004 and again on December 15, 2009 that NYPA would sell 2,300 kW of firm power and energy for use at NFTA's Niagara Falls International Airport to support continued operation of the Niagara Falls Air Base ("NFAB") located at the airport. The term of these sales is scheduled to extend until midnight, December 31, 2014.

The Parties desire to extend this service, and NYPA has agreed to extend the allocations, through December 31, 2019. The rates, terms and conditions for such extended service will be those applicable under ST-37 as it may change from time to time.

Delivery service to the NFAB will continue to be provided by Niagara Mohawk Power Corporation through its applicable tariffs. NFTA agrees to reimburse NYPA for all costs incurred by NYPA on NFTA's behalf in connection with the provision of electricity by NYPA to NFTA, including any charges imposed on NYPA by the New York Independent System Operator through its Open Access Transmission Tariff (or the tariff of any successor entity).

As noted, the extended term for the sale of the 1,000 kW and 2,300 kW allocations shall extend until midnight, December 31, 2019, renewable for successive five-year terms upon mutual agreement of NYPA and NFTA. Pending such mutual

agreement, service shall continue on a month-to-month basis until terminated by either party on 90 days' notice. If the NFAB permanently reduces or terminates operations at the Niagara Falls International Airport, NFTA may reduce or terminate service with respect to the allocation used at the NFAB, upon 90 days advance written notice, provided that NFTA shall be responsible for all costs associated with such service through and including the date of termination, which costs shall be billed by NYPA to NFTA when known.

If this is acceptable to your organization, please sign in the space provided below.

AGREED:

Power Authority of the State of New York

Accepted _____ Date _____

James Pasquale
Senior Vice President - Economic Development & Energy Efficiency

Niagara Frontier Transportation Authority

Accepted _____ Date _____

Kimberley Minkel
Executive Director