

***ECONOMIC DEVELOPMENT POWER
ALLOCATION BOARD***

MINUTES

December 16, 2003

Video Conference – 11:07 a.m.

30 South Pearl Street, 10th Floor, Albany, NY

123 Main Street, 17th Floor, White Plains, NY

Louis P. Ciminelli Construction, 369 Franklin Street, Buffalo, NY

Empire State Development Corp., 633 Third Avenue, New York, NY

1. Approval of the Minutes of the Meeting of September 23, 2003
2. Transfers of Power – Name Changes
3. ICM Controls Corporation
4. Economic Development Plan for the Use of Industrial Incentive Awards

OTHER BUSINESS

5. Resolution – H. Douglas Barclay
6. Next Meeting

A regular meeting of the Economic Development Power Allocation Board was held via video conference at the following participating locations:

- 1) New York Power Authority, 30 South Pearl Street, Albany NY
- 2) New York Power Authority, 123 Main Street, White Plains, NY 10601
- 3) Louis P. Ciminelli Construction, 369 Franklin Street, Buffalo, NY
- 4) Empire State Development Corp., 633 Third Avenue, New York, NY 10017

The following Members of the Board were present at the following locations:

Louis P. Ciminelli, Chairman (White Plains, NY)
James A. Duncan, Member (Buffalo, NY)
Kevin S. Corbett, Member (New York, NY)

Also in attendance were:

Eugene W. Zeltmann	President and Chief Executive Officer, NYPA
David E. Blabey	Executive Vice President, Secretary and General Counsel, NYPA
Louise M. Morman	Senior Vice President – Marketing, Economic Development & Supply Planning, NYPA
Gary Paslow	Vice President – Government Affairs & Policy Development, NYPA
Thomas Warmath	Vice President and Chief Risk Officer, NYPA
James H. Yates	Vice President - Major Account Marketing & Economic Development, NYPA
Joseph J. Carline	Assistant General Counsel – Power & Transmission, NYPA
Angela D. Graves	Deputy Secretary, NYPA
John B. Hamor	Executive Director – State Governmental Relations, NYPA
James F. Pasquale	Manager – Business Power Allocations and Compliance, NYPA
John L. Murphy	Director – Public Relations, NYPA
Bonnie Fahey	Executive Administrative Assistant
Mary Jean Frank	Associate Secretary, NYPA
Lorna M. Johnson	Assistant Secretary, NYPA
Andrea Phillips	Legislation Liaison, NYPA
Nicolina Marchese	Communications Associate II, NYPA
Michael Santarcangelo	Director – Energy Policy, ESDC
Dorothy Lechmanski	Examiner – NYS Division of Budget
Richard Poletto	Program Coordinator, NYS Mayor’s Office

1. **Adoption of Minutes**

The minutes of the meeting of September 23, 2003, were unanimously adopted.

2. **Transfers of Power – Name Changes**

SUMMARY

The members of the Economic Development Power Allocation Board (“EDPAB”) are requested to recommend approval to name changes to the companies detailed below.

BACKGROUND

The EDPAB is requested to approve the transfer of power allocations for four existing customers that have name changes for various business reasons. As part of the transfers, all four of the transferees will honor the associated job commitments.

The proposed transferees are as follows:

Buffalo Technologies Corporation (“Buffalo Technologies”) was approved for 350 kW Power for Jobs allocation on October 27, 1998, for a commitment to retain 73 jobs. They are a manufacturer of process equipment for the food, chemical and pharmaceutical industries, and located in Buffalo, NY. Buffalo Technologies changed their name to Buflovak, LLC. The only change was in the name itself. All aspects of their business remain the same. There was no change in ownership.

Capitol Vial, Inc. (“CV”) was approved for a 375 kW Power for Jobs power allocation for their Fultonville facility at the Trustees’ meeting of March 31, 1998, for a commitment to retain 47 jobs. CV is a manufacturer of patented vials for medical devices. Earlier this year Apogent Technologies purchased a portion of Capitol Vial, Inc. They have plans to grow at the Fultonville site, which will enable them to add to their manufacturing job headcount. They have already begun the process of starting new product lines. They will still operate under the name Capitol Vial, Inc. and maintain their original job commitment.

Federal Bakers Supply Corporation (“Federal Bakers”) was approved for a 260 kW Power for Jobs allocation by the Trustees in 1998 for 217 jobs. The company operated at three locations. Two of Federal Bakers’ sites were acquired by BakeMark Ingredients East in a stock purchase transaction. The third site, Maple Leaf Foods, was not purchased by BakeMark and now operates as a separate entity. In June 2001, BakeMark was allocated a Power for Jobs Phase 4 re-allocation of 160 kW for 132 jobs for the Federal Bakers’ sites they had purchased. The Power for Jobs program is critical in their ability to remain a viable operating entity in the state and to protect their jobs base. They now operate under the name BakeMark Ingredients East.

McCadam Cheese (“McCadam”) was approved for a 500 kW Power for Jobs allocation for 80 jobs at the Trustees’ meeting of September 28, 1998. McCadam produced cheese in Chateaugay, New York. The operating assets of McCadam, which included a cheese plant, were purchased by Agri-mark Inc. Agri-mark is operating the cheese plant with the same number of employees.

RECOMMENDATION

It is recommended that the Power Allocation Board approve the name changes detailed above.

3. ICM Controls Corporation (“ICM”)

The Members of the Board considered the application for Economic Development Power (“EDP”) for economic development purposes submitted on behalf of ICM Controls Corporation in the Niagara Mohawk service territory.

ICM, located in Cicero, designs and manufactures electronic controls servicing the global HVAC market. Products produced include thermostats, motor protection devices, head pressure controls, defrost controls, and time delay relays. The company started in 1984 with 15 people and annual sales of \$1.2 million. Last year, ICM employed 194 regular full-time employees and achieved annual sales greater than \$16 million. The company has recently decided to relocate into a larger facility to be constructed, purchased or leased either in New York State or out-of-state, instead of expanding its existing facility to accommodate its anticipated increase in demand. The company currently employs 230 jobs and would create 70 new jobs in exchange for the allocation of 500 kW of EDP. An allocation of EDP will lower its operating costs and help the company to complete its expansion plans in New York State.

Following consideration of such application, the members of the Board present voted unanimously to adopt the following resolution:

WHEREAS, ICM Controls Corporation has applied for allocations of Economic Development Power Service for business revitalization and expansion purposes;

WHEREAS, an allocation of 500 kW would result in a ratio of 600 jobs per for ICM Controls Corporation;

NOW THEREFORE BE IT RESOLVED, That the Board hereby finds and determines that such application meets the requirement of Section 184 and 185 of the Economic Development Law for business expansion purposes; and be it further

RESOLVED, That the Board hereby recommends to the Power Authority of the State of New York allocations totaling 500 kW for Niagara Mohawk’s service territory for ten years, and that the following terms be incorporated into the Power Authority’s contracts for Economic Development Power:

- **applicant to maintain a total of 230 and create 70 jobs;**
- **such allocations shall be subject to the real property investment and the reduction of power provisions set forth in the Power Authority’s standard form of contract for Economic Development Power.**

4. Economic Development Plan for the Use of Industrial Incentive Awards

SUMMARY

The members of the Economic Development Power Allocation Board (“Power Allocation Board”) are requested to approve an Economic Development Plan (“Plan”) for 2003 submitted by the Power Authority of the State of New York (“Authority”) for the use of industrial incentive awards pursuant to Section 188 of the Economic Development Law (“EDL”).

BACKGROUND

Section 1005 of the Power Authority Act as amended directs the Authority to identify annually net revenues produced by the sale of Expansion Power, which is 250 MW of firm hydroelectric power generated at the Niagara Power Project allocated to businesses within 30 miles of the Niagara switchyard and in Chautauqua County. The Authority is further directed to identify an amount of such net revenues that shall be used solely for industrial incentive awards. These awards are to be made in conformance with a Plan covering all such net revenues. Plans are to be submitted annually by the Authority to the Power Allocation Board and approved by the Power Allocation Board pursuant to the EDL.

Net revenues are defined by Section 1005 of the Power Authority Act as any excess of revenues properly allocated to the sales of Expansion Power over costs and expenses properly allocated to such sales.

In connection with approval of an application for power submitted on behalf of Chase Manhattan Bank, the Power Allocation Board approved a resolution on December 1, 1988 which concluded that the available industrial incentive awards be used for the purpose of assisting Power Authority efforts to limit future Fitzpatrick production rate increases for all industrial, business, and Economic Development Power customers of the plant. Further, the Board recommended that future Boards act affirmatively on any economic development plan submitted to it subsequently by the Authority to the extent it provides for such use of industrial incentive awards.

At their meeting of November 27, 2001, the Trustees of the Authority approved a five year plan that provides for the use of net revenues from the sale of Expansion Power which support industrial rates of the James A. Fitzpatrick Nuclear Power Plant (“Fitzpatrick”). The Power Allocation Board previously approved Plans submitted annually by the Authority for 1996 through 2000 that provided for such use of the net revenues. Through calendar year 2001, the Authority has reported net revenues cumulating to \$89,580,000.

DISCUSSION

The Authority last increased the rates for industrial customers of the Fitzpatrick Plant, including EDP customers, by an average of 5% effective January 1, 1993. There were no rate increases for the period 1994-1999. Late in 1998 rates were lowered by 10% to industrial and EDP customers that selected a Power Authority long-term contract option. The long-term contract option was selected by 87% of the customers that where eligible.

In order to continue to market EDP on a competitive basis consistent with the aim of the legislation creating the Power Allocation Board, the rates for Fitzpatrick power must be kept low enough to be of sufficient economic incentive for industries to locate or expand in New York State. Cumulative net revenues of \$89,580,000 produced through 2001, were utilized in conformance with Plans approved by the Power Allocation Board to support industrial rates of the Fitzpatrick Plant.

In calendar year 2002, net revenues of \$9,207,000 were produced from the sale of Expansion Power.

RECOMMENDATION

It is recommended that the Economic Development Power Allocation Board approve the Economic Development Plan submitted by the Power Authority which provides for the use of net revenues produced in 2002

from the sale of Expansion Power to support industrial rates of the James A. Fitzpatrick Nuclear Power plant as described herein.

The attached resolution is recommended for adoption.

WHEREAS, Section 1005 of the Power Authority Act authorizes the Power Authority of the State of New York to identify an amount of the net revenues produced by the sale of Expansion Power which shall be used for industrial incentive awards; and

WHEREAS, such industrial incentive awards must be made in conformance with an Economic Development Plan submitted by the Authority and approved by the Board pursuant to Section 188 of the Economic Development Law; and

WHEREAS, the Board, on December 1, 1988, endorsed the use, to the extent necessary, of available industrial incentive awards for the purpose of assisting Authority efforts to limit future Fitzpatrick rate increases for all industrial, business, and Economic Development Power customers of the plant; and

WHEREAS, the Board, on December 1, 1988, recommended that any Economic Development Plan submitted by the Authority in the future be approved to the extent it provides for such use of industrial incentive awards; and

WHEREAS, the Authority has approved an Economic Development Plan for 2001 that provides for the use of net revenues from the sale of Expansion Power to support industrial rates of the Fitzpatrick Nuclear Power Plant and, further, has authorized the submission of such Plan to the Board for its approval;

NOW THEREFORE BE IT RESOLVED, That the Board hereby determines that the Economic Development Plan for 2003, which is submitted by the Authority, and its implementation is consistent with the criteria and requirements provided for in Sections 184 and 185 of the New York Economic Development Law and in Part 370 of Title 21 of the Official Compilation of Codes, Rules and Regulations of the State of New York; and be it further

RESOLVED, That the Power Allocation Board hereby approves such Plan providing for the use of net revenues from the sale of Expansion Power to support industrial rates of the James A. Fitzpatrick Nuclear Power Plant, in accordance with the attached memorandum.

5. **Resolution – H. Douglas Barclay**

WHEREAS, H. Douglas Barclay has served with dedication and distinction as a member of the New York State Economic Development Power Allocation Board since the Board's inception in 1987; and

WHEREAS, as the longest-serving member in the Board's history, Mr. Barclay has been personally involved in recommending more than 900 allocations of low-cost power by the New York Power Authority, leading to the creation or protection of some 400,000 jobs throughout the State under the Economic Development Power and Power for Jobs programs; and

WHEREAS, Mr. Barclay has brought to his work at EDPAB unparalleled knowledge of legal and regulatory issues; invaluable insight into the State's diverse regions and their economic needs; and palpable concern for the businesses and individuals affected by his decisions; and

WHEREAS, Mr. Barclay's service with EDPAB marks but one aspect of an extraordinary career that has spanned the public and private sectors, with records of singular accomplishment in each; and

WHEREAS, this career has included election on ten occasions as a New York State Senator, a position in which he became an Albany institution as he ably served his North Country and Central New York constituents and all the citizens of this State for 20 years, sponsored more than 500 bills that became law and ascended to major committee chairmanships and other leadership roles; and

WHEREAS, for more than four decades, he has also distinguished himself as an attorney and partner at the highly respected law firm of Hiscock & Barclay, while serving during that period as a Director and as General Counsel and Secretary of KeyCorp, one of the nation's largest bank holding companies; as Chairman or a Director of numerous other businesses; and as President and a Director of the Syracuse Metropolitan Development Association; and

WHEREAS, as a graduate of Yale University and the Syracuse University College of Law, he has maintained an abiding interest in higher education, serving, among numerous other posts, as Chairman of the Syracuse University Board of Trustees; and

WHEREAS, Mr. Barclay's service to his country, which began as an officer in the United States Army and continued through several Presidential appointments, is about to enter a major new chapter with his nomination by President Bush and confirmation by the U.S. Senate as Ambassador to the Republic of El Salvador;

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NOW THEREFORE BE IT RESOLVED, That the members of the New York State Economic Development Power Allocation Board join in wishing Ambassador Barclay and his wife, Dede, utmost success and happiness as they embark upon this vital and challenging endeavor, and that the Board members extend to the Ambassador their deepest gratitude for his many contributions to EDPAB and the people of New York State.

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6. Next Meeting

The next meeting of the Board is to be determined.