



Economic Development Power Allocation Board

KATHY HOCHUL
Governor

JUDGE CECILY MORRIS
Chair

ECONOMIC DEVELOPMENT POWER ALLOCATION BOARD

MINUTES

September 11, 2023 – 9:00 a.m.

Meeting Held Via Videoconference

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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	Senior Vice President – Customer Solutions, NYPA
Gerry McLoughlin	Manager - Power Contracts and Tariffs
Mark Schwartzburt	Lead Power Contracts & Tariffs 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 September 11, 2023 Proposed Meeting Agenda

On motion made by Member Dennis Trainor and seconded by Member Andrew Silver, the Agenda for the September 11, 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 July 25, 2023 were unanimously approved.

Chair Cecil Morris invited Ms. Maribel Cruz-Brown, Senior Vice President – Customer Solutions, to present staff’s recommendation for the transfer of Recharge New York Power Allocations to the Board. She said that

3. Transfer of RNY Power Allocations

“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.

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.

4. 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.”

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 determines that, based the report 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 foregoing report.

Exhibit A

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.

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, December 11, 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 9:11 a.m.

Karen Delince

Karen Delince
Corporate Secretary