NY State Economic Development Power Allocation Board

ANDREW M. CUOMO
Governor

ECONOMIC DEVELOPMENT POWER ALLOCATION BOARD

PROPOSED AGENDA

Tuesday, September 24, 2019
Videoconference – 10:00 a.m.

New York Power Authority Offices:
123 Main Street, 16th Floor, White Plains, NY
21 Hawkins Point Road, Massena, NY (St. Lawrence Visitor's Center)
CWA, 80 Pine Street, 37th floor, New York, NY
Silver Law Office, 44 Court Street, Canton, NY

1. Adoption of the September 24, 2019 Proposed Meeting Agenda

2. Adoption of the Minutes of the Meeting of July 16, 2019

3. Recharge New York Power Program – New Allocations

4. Recharge New York Power Allocation Extensions

5. Transfer of RNY Power Program Allocations

6. Extension of the Economic Development Plan

<u>OTHER BUSINESS</u>

7. Next Meeting

ECONOMIC DEVELOPMENT POWER ALLOCATION BOARD

MINUTES
July 16, *2019 – 10:00 a.m.*
Via Videoconference from
Clarence D. Rappleyea Building, White Plains, New York

New York Power Authority Offices:
123 Main Street, 16th Floor, White Plains, NY
21 Hawkins Point Road, Massena, NY (St. Lawrence Visitor's Center)
CWA, 80 Pine Street, 37th Floor, New York, NY
Silver Law Office, 44 Court Street, Canton, NY

1. Approval of the July 16, 2019 Proposed Meeting Agenda
2. Approval of the Minutes of the Meeting of March 4, 2019
3. Approval of Recharge New York Power Program – New Allocations
4. Approval of Recharge New York Power Allocation Extensions
5. Approval of Transfer of RNY Power Program Allocations

OTHER BUSINESS

6. Next Meeting

July 16, 2019

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

1) New York Power Authority, 123 Main Street, White Plains, NY
2) New York Power Authority, 21 Hawkins Point Road, Massena, NY (St. Law. Visitor's Center)
3) CWA, 80 Pine Street, 37th Floor, New York, NY
4) Silver Law Office, 44 Court Street, Canton, NY

The following Members of the Board were present:

Eugene L. Nicandri, Chair
Dennis Trainor, Member
Andrew Silver, Member

Also in attendance were:

Justin Driscoll	Executive Vice President & General Counsel
Karen Delince	Vice President & Corporate Secretary, NYPA
Dave Work	Director, Power Contracts & Tariffs, NYPA
Eric Bowers	Director, Economic Development
Emily Alkiewicz	Manager, Business Power Allocations & Compliance, NYPA
Yale Brown	Business Power Allocations & Compliance, Analyst II, NYPA
Lorna Johnson	Senior Associate Corporate Secretary, NYPA
Sheila Quatrocci	Associate Corporate Secretary, NYPA

Introduction

Chair Nicandri welcomed members of the Economic Development Power Allocation Board ("EDPAB"), Dennis Trainor and Andrew Silver. He also welcomed Authority senior staff to the meeting. He 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. Approval of the Proposed Meeting Agenda

Chair Eugene Nicandri and Member Dennis Trainor declared no conflicts of interest based on the list of entities being considered for power allocations. Member Andrew Silver declared one conflict and recused himself from vote on Pall Corporation.

Upon motion made by Member Andrew Silver and seconded by Member Dennis Trainor, the Agenda for the July 16, 2019 meeting was adopted.

2. Approval of the Minutes

Upon motion made by Member Dennis Trainor and seconded by Member Andrew Silver, the Minutes of the Meeting held on March 4, 2019 were unanimously approved.

3. Recharge New York Power Program – New Allocations

SUMMARY

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

1. recommend that the New York Power Authority ("Authority" or "NYPA") Trustees ("Trustees") award allocations of Recharge New York ("RNY") Power available for "retention" purposes to the businesses listed in Exhibit "A";

2. recommend that the Trustees award allocations of RNY Power available for "expansion" purposes to the businesses listed in Exhibit "B";

3. recommend that the Trustees award allocations of RNY Power available for eligible small businesses and/or not-for-profit corporations to the entities listed in Exhibit "C";

4. determine that the applicant listed in Exhibit "D" is ineligible for an allocation of RNY Power;

5. determine that the applicants listed in Exhibit "E" will not be recommended for an allocation of RNY Power; and

6. terminate the application review process for the applicant listed in Exhibit "F".

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 ("Allocations"), such terms and conditions include:

(1) provisions for effective periodic audits of the customer for the purpose of determining contract and program compliance, and for the partial or complete withdrawal of an Allocation if the holder fails to maintain mutually agreed upon commitments, relating to, among other things, employment levels, power utilization, capital investments, and/or energy efficiency measures;

(2) a requirement that the customer (a) undertake at its own expense an energy audit of its facilities at which the allocation is consumed at least once during the term of the allocation absent good cause, 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 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.

BACKGROUND

On April 14, 2011, Governor Andrew M. Cuomo signed into law the RNY Power Program as part of Chapter 60 (Part CC) of the Laws of 2011 ("Chapter 60"). The program makes available 910 megawatts ("MW") of "RNY Power," 50% of which will be provided by the Authority's 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 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; at least 200 MW of RNY Power shall be dedicated to the purpose of attracting new businesses and encouraging expansion of existing businesses statewide; and up to 100 MW shall be dedicated for eligible not-for-profit corporations and eligible small businesses statewide.

Under the statute, “eligible applicant” is defined 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. At its meeting on April 24, 2012, EDPAB defined a retail business as a business that is primarily used in making retail sales of goods or services to customers who personally visit such facilities to obtain goods or services, consistent with the rules previously promulgated by EDPAB for implementation of the Authority’s Economic Development Power program.

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 a RNY Power allocation, the Authority must offer each eligible applicant that has received an award of RNY Power the option to decline to purchase the RNY Market Power component of such award. If the applicant declines to purchase the RNY Market Power component from the Authority, the Authority has no responsibility for supplying RNY Market Power component of the award.

As part of Governor Andrew M. Cuomo’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.

Applications for RNY Power are subject to a competitive evaluation process and are evaluated based on criteria set forth in the governing statutes (“RNY Statutes”): The statutory criteria are listed in Exhibit “G” to this memorandum.

RNY Power allocations have been awarded by the Trustees on twenty-two prior occasions spanning from April 2012 through March 2019. Of the 200 MW block of RNY Power made available pursuant to Chapter 60 for business “expansion” purposes, 88.1 MW remain unallocated. Of the 100 MW of RNY Power that is set aside for not-for-profit corporations and small businesses pursuant to Chapter 60, 1.3 MW remain unallocated. Of the remaining RNY Power made available pursuant to Chapter 60, 56.7 MW remain unallocated.

These figures reflect Trustee actions on RNY Power applications taken prior to any recommendations that EDPAB makes today.

An allocation recommended by EDPAB qualifies the subject applicant to enter into a contract with the Authority for the purchase of the RNY Power assuming that the Authority concurs with EDPAB and makes an allocation award.

<u>DISCUSSION</u>

For the current round of recommendations, Authority staff has reviewed applications seeking RNY Power allocations. Exhibits “A”, “B” and “C” list, among other things, a description of the applicant and its business, the amount of the allocation requested, the amount of the allocation recommended, the jobs that would be created and/or retained, the proposed capital investment, and the proposed allocation term. Based on the evaluation of the criteria listed in Exhibit “G”, the applications were scored and ranked.

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.

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 scored relatively high were recommended for allocations of 33% of the requested amount or average historic demand, whichever was lower. These allocations were capped at 5 MW. Applicants currently receiving hydropower allocations under other Authority power programs were recommended for allocations of RNY Power of 25% of the requested amount, subject to the caps as stated above.

1. <u>Retention-Based RNY Power Allocations</u>

Staff recommends that EDPAB recommend to the NYPA Trustees that the applications listed on Exhibit “A” be awarded *retention*-based RNY Power allocations in the amounts indicated. Each business has stated a willingness to create or 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 “A”, these applications seek a RNY Power allocation for job retention purposes only.

The RNY Power “retention” allocations identified in Exhibit “A” are each recommended for a term of 7 years unless otherwise indicated. The Authority’s RNY Power sale contract form will contain provisions addressing such matters as:

- supplemental commitments by the customer relating to job creation, capital investments and power usage;
- 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 mutually agreed upon commitments, relating to among other things, employment levels, power utilization, and capital investments;
- a requirement that a recipient of an allocation perform an energy efficiency audit at its facility; and
- an agreement by the customer to make its facilities available for audits and related assessments that the Authority desires to perform, and provide information requested by the Authority relating to energy efficiency and energy-related projects, programs and services

2. <u>Expansion-Based RNY Power Allocations</u>

Staff recommends that EDPAB recommend to the NYPA Trustees that the applications listed on Exhibit “B” 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 noted in Exhibit “B”, these applications seek a 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.

As with the evaluation process used for the retention recommendations described above, applications for the expansion-based RNY Power were scored based on the statutory criteria, albeit with a focus on information regarding each applicants’ specific project to expand or create their new facility or business (*e.g.*, the expansion project's cost, associated job creation, and new electric load due to the expansion).

The respective amounts of the expansion-related allocations listed in Exhibit "B" are largely intended to provide approximately 70% of the individual expansion projects' estimated new electric load. Because these projects have estimated new electric load amounts, and to ensure that an applicant's overestimation of the amount needed would not cause that applicant to receive a higher proportion of RNY Power to new load, the allocations in Exhibit "B" are recommended on an "up to" amount basis. Each of these applicants would be required to, among other commitments, add the new electric load as stated in its application, and would be allowed to use up to the amount of their RNY Power allocation in the same proportion of the RNY Power allocation to requested load as stated in Exhibit "B." The contracts for these allocations would also contain the provisions previously summarized in section 1 above.

3. <u>Small Business and/or Not-for-Profit RNY Power Allocations</u>

Staff also recommends that EDPAB recommend to the NYPA Trustees that the small business and/or not-for-profit applicants listed on Exhibit "C" be awarded RNY Power allocations in the amounts indicated therein. 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 "C". The contracts for these allocations would also contain the provisions previously summarized in section 1 above.

If the Trustees accept EDPAB's recommendations and award RNY Power allocations to the small businesses and/or not-for-profit applicants listed in Exhibit "C", the 100 MW block of power authorized by statute for these groups of customers will be close to fully allocated. Accordingly, a waiting list will be established for small businesses and not-for-profit applicants that are potentially eligible to be awarded RNY Power allocations when additional power becomes available.

4. <u>Ineligibility Determinations</u>

Based on its review of the application of the company listed in Exhibit "D", staff recommends that the Board determine that the applicant listed on Exhibit "D" is not eligible to receive RNY Power for the reason stated in Exhibit "D".

5. <u>Applications Not Recommended for RNY Power</u>

Based on its review of the applications of the companies listed in Exhibit "E", staff recommends that the Board not recommend the applications listed on Exhibit "E" for RNY Power for the reasons described in Exhibit "E".[1]

6. <u>Termination of Application Review Process</u>

Staff recommends that the Board terminate the application review process for the applicant for RNY Power listed in Exhibit "F" on the grounds that the applicant listed has not been responsive to requests by staff for additional information, thereby preventing a complete analysis of the application and rendering the subject RNY Power application incomplete.

7. Recommendations on Terms and Conditions

Staff recommends that the Board 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

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1 In view of the recommended disposition of the applications listed on Exhibit "E", staff has not considered the eligibility of the applicants listed on Exhibit "E", and is not making any recommendations concerning eligibility at this time.

allocations recommended by the Board as recommended in Exhibits “A”, “B”, and “C”, such terms and conditions include:

(a) provisions for effective periodic audits of the customer for the purpose of determining contract and program compliance, and for the partial or complete withdrawal of an 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 undertake at its own expense an energy audit of its facilities at which the allocation is consumed 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; and

(c) an agreement by the customer 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.

<u>RECOMMENDATION</u>

For the reasons stated above, staff recommends that the Board:

1. Recommend that the Authority Trustees award allocations of RNY Power (a) for retention purposes to the businesses listed in Exhibit “A” in the amounts indicated therein, (b) for expansion purposes to the businesses listed in Exhibit “B” in the amounts indicated therein, and (c) to the small business and/or not-for-profit applicants listed in Exhibit “C” in the amounts indicated therein;

2. Recommend that terms and conditions for the sale of any such allocations include:

(a) provisions for effective periodic audits of the customer for the purpose of determining contract and program compliance, and for the partial or complete withdrawal of an 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 undertake at its own expense energy audits of its facilities at which the 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; and

(c) an agreement by the customer 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.

3. Determine that the applicant listed in Exhibit “D” is ineligible to receive an RNY Power allocation for the reasons discussed in Exhibit “D”.

4. Determine that the applicant(s) listed in Exhibit “E” will not be recommended for allocations of RNY Power for the reasons discussed in Exhibit “E”.

5. Determine that the application review process for the applicant listed in Exhibit “F” will be terminated for the reasons discussed above and in Exhibit “F”.

Chairman Nicandri invited Mr. Eric Bowers, **Director, Economic Development** ***to present the Recharge New York Power Program – New Allocations item to the Board.***

Mr. Bowers said staff is requesting that EDPAB recommend that the Authority's Trustees approve 14 new and two modified Recharge New York ("RNY") large business retention, large business expansion, and small business and not-for-profit based power allocations. 38 applications were evaluated for this period, all of which were submitted thru the State's Consolidated Funding Application system. The applications included both retention and expansion-based power allocation requests, in addition to requests from small businesses and not-for-profit organizations.

Upon motion made by Member Dennis Trainor and seconded by Member Eugene Nicandri, the Recharge New York Power Program – New Allocations, as recommended by staff, were approved by the Board.

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

RESOLVED, That the Economic Development Power Allocation Board ("Board") approves that the Board of Trustees ("Trustees") of the Power Authority of the State of New York ("Authority") award allocations of Recharge New York ("RNY") Power for retention purposes to the businesses listed in Exhibit "A" to the attached memorandum of the Senior Vice President of Clean Energy Solutions (the "Attached Memorandum") in the amounts indicated therein for the reasons indicated in Exhibit "A" and the Attached Memorandum; and be it further

RESOLVED, That the Board approves that the Authority Trustees award allocations of RNY Power for expansion purposes to the businesses listed in Exhibit "B" to the Attached Memorandum in the amounts indicated therein for the reasons indicated in Exhibit "B" and the Attached Memorandum; and be it further

RESOLVED, That the Board approves that the Authority Trustees award allocations of RNY Power to the small businesses and/or not-for-profit corporations listed in Exhibit "C" to the Attached Memorandum in the amounts indicated therein for the reasons indicated in Exhibit "C" and the Attached Memorandum; and be it further

RESOLVED, That the Board approves 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 for the purpose of determining contract and program compliance, and for the partial or complete withdrawal of an 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;

(2) a requirement that the customer undertake at its own expense energy audits of its facilities at which the 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; and

(3) an agreement by the customer 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 be it further

RESOLVED, That the applicant and/or project listed in Exhibit "D" is ineligible for RNY Power for the reasons discussed in the Attached Memorandum and Exhibit "D"; and be it further

RESOLVED, That the applicants listed in Exhibit "E" are not approved for RNY Power for the reasons discussed in the Attached Memorandum and Exhibit "E"; and be it further

RESOLVED, That the application review process for the applicant listed in Exhibit "F" is terminated for the reasons discussed in the Attached Memorandum and Exhibit "F".

Economic Development Power Allocation Board
Recommendations - RNY Power Allocations for Retention Purposes

Exhibit "A"
July 16, 2019

Line	Company	City	County	Economic Development Region	IOU	Description	kW Request	kW Recommendation	Jobs Retained	Jobs Created	Total Job Commitment	Capital Investment ($)		Contract Term (years)
1	Forteq North America, Inc.	West Henrietta	Monroe	Finger Lakes	RGE	Manufacturer of automotive system components	797	396	110	0	110	$4,000,000		7
	Finger Lakes Region Sub-totals:							**396**	**110**	**0**	**110**	**$4,000,000**		
2	Island International Exterior Fabricators LLC	Calverton	Suffolk	Long Island	LIPA	Manufacturer of exterior wall panels	716	356	218	0	218	$300,000	(1)	7
3	U.S. Alliance Paper, Inc.	Edgewood	Suffolk	Long Island	LIPA	Manufacturer of household paper products	1,040	516	165	0	165	$1,250,000		7
	Long Island Region Sub-totals:							**872**	**383**	**0**	**383**	**$1,550,000**		
4	Tempco Glass Fabrication LLC	Flushing	Queens	New York City	CONED	Glass tempering & fabrication services	578	286	55	0	55	$1,100,000		7
	New York City Region Sub-totals:							**286**	**55**	**0**	**55**	**$1,100,000**		
	Totals							**1,554**	**548**	**0**	**548**	**$6,650,000**		

(1) These companies are also recommended for expansion-related allocations of RNY for separate and distinct job creation and capital investment commitments associated with proposed business expansions.

Economic Development Power Allocation Board | **Exhibit "B"**
Recommendations - RNY Power Allocations for Expansion Purposes | **July 16, 2019**

Line	Company	City	County	Economic Development Region	IOU	Description	kW Request	kW Recommendation (1)	Base Employment (3)	Job Creation Commitment	Project Capital Investment ($)		Contract Term (years)
1	Bausch & Lomb Incorporated	Rochester	Monroe	Finger Lakes	RGE	Manufacturer of contact lenses	860	600	932	100	$148,020,341	(4)	7
	Finger Lakes Region Sub-totals:							**600**	**0**	**100**	**$148,020,341**		
2	LIF Industries, Inc.	Port Washington	Nassau	Long Island	LIPA	Producer & distributor of fireproof doors	225	156	310	20	$5,000,000	(4)	7
3	Island International Exterior Fabricators LLC	Calverton	Suffolk	Long Island	LIPA	Manufacturer of exterior wall panels	500	350	218	100	$2,400,000	(2)	7
	Long Island Region Sub-totals:							**506**	**0**	**120**	**$7,400,000**		
	Totals							**1,106**	**0**	**220**	**$155,420,341**		

(1) All expansion-based RNY Power allocations are recommended to be "up to" the amount indicated pending the applicant's compliance with contractual commitments, including commitments relating to job creation, capital investment spending and power utilization.
(2) These companies are also being recommended for retention-based RNY Power allocations associated with separate and distinct contractual commitments relating to such matters as job retention, capital investment spending, and power utilization associated with an existing business.
(3) The number of new jobs committed will be above a base employment level specified in the power sale contract with the applicant.
(4) This applicant was previously approved for RNY Power allocations. The base employment level refers to the applicant's retained jobs, most of which are already associated with an existing power allocation.

Economic Development Power Allocation Board | **Exhibit "C"**
Recommendations - RNY Power Allocations for Retention and Expansion Purposes (Small Business and/or NFP Corporations) | **July 16, 2019**

Retention-Based Allocations

Line	Company	City	County	Economic Development Region	IOU	Description	kW Request	kW Recommendation	Jobs Retained	Jobs Created	Capital Investment ($)		Contract Term (years)
1	HealthAlliance Hospital Mary's Avenue Campus	Kingston	Ulster	Mid-Hudson	CHUD	Hospital & healthcare center	923	306	400	0	$15,000,000		7
	Mid-Hudson Region Sub-totals:							**306**	**400**	**0**	**$15,000,000**		
2	Long Island Jewish Medical Center	New Hyde Park	Nassau	Long Island	LIPA	Medical offices facility	307	100	813	0	$250,000		7
3	North Shore University Hospital	Great Neck	Nassau	Long Island	LIPA	Medical offices & emergency services	120	36	245	0	$100,000		7
4	Northwell Healthcare, Inc.	Manhasset	Nassau	Long Island	LIPA	Facilities services & corporate healthcare offices	520	170	1,026	0	$250,000		7
5	Northwell Healthcare, Inc.	New Hyde Park	Nassau	Long Island	LIPA	Corporate healthcare offices facility	374	120	333	0	$125,000		7
6	Northwell Healthcare, Inc.	Westbury	Nassau	Long Island	LIPA	System data center & corporate healthcare offices	784	260	727	0	$115,000		7
	Long Island Region Sub-totals:							**686**	**3,144**	**0**	**$840,000**		

Retention-Based Totals	**992**	**3,544**	**0**	**15,840,000**

Expansion-Based Allocations

Line	Company	City	County	Economic Development Region	IOU	Description	kW Request	kW Recommendation (1)	Base Employment	Job Creation Commitment	Project Capital Investment ($)		Contract Term (years)
7	Fieldtex Products Inc.	Rochester	Monroe	Finger Lakes	RGE	Manufacturer of first aid & medical kits	100	50	180	30	$6,300,000		7
	Finger Lakes Region Sub-totals:							**50**	**180**	**30**	**$6,300,000**		

Expansion-Based Totals	**50**	**180**	**30**	**$6,300,000**
Retention & Expansion-Based Totals	**1,042**	**3,724**	**30**	**$22,140,000**

(1) All expansion-based RNY Power allocations are recommended to be “up to” the amount indicated pending the applicant’s compliance with contractual commitments, including commitments relating to job creation, capital investment spending and power utilization.

Economic Development Power Allocation Board
ReCharge New York Power Program
Informational Item - Applicants Not Eligible

Exhibit "D"
July 16, 2019

Line	Company	City	County	Economic Development Region	IOU	Description	Reason
1	FreeMoneyClick	Greene	Chenango	Central New York	Unknown	Coffee shop facility	The applicant's business falls within EDPAB's definition of a retail business. Specifically, the applicant operates a business that is primarily used in making retail sales of goods or services to customers who personally visit such facilities to obtain goods or services.

Economic Development Power Allocation Board **Exhibit "E"**
ReCharge New York Power Program **July 16, 2019**
Informational Item - Applicants/Applications Not Recommended for RNY Power Allocation

Line	Company	City	County	Economic Development Region	IOU	Description	Reason (1)
1	Bad Drip Inc.	Rochester	Monroe	Finger Lakes	RGE	Distributor of e-juice & vaping products	Specific entities within the facility that would use and receive the benefit of an RNY allocation would not have a utility account or utility grade demand meter, and therefore it would not be possible for the utility to collect demand and usage data from specific users of RNY Power.
2	The Family Resource Center Of Peekskill, Inc.	Peekskill	Westchester	Mid-Hudson	CONED	Family & human services agency	The facility lacks demand metering preventing RNY Power delivery and billing.

(1) Given the proposed disposition of these applications, the eligibility of these applicants for an RNY Power allocation has not been considered at this time.

Economic Development Power Allocation Board
ReCharge New York Power Program
Informational Item - Terminate Application/Review Process

Exhibit "F"
July 16, 2019

Line	Company	City	County	Economic Development Region	IOU	Description	Reason
1	Mason Farms Operating Co., LLC	Williamson	Wayne	Finger Lakes	RGE	Fruit and vegetable farm	Applicant has been unresponsive to requests by staff for additional information, preventing a complete analysis of the application.

EXHIBIT G
(Statutory Criteria – RNY Power Program)

- the significance of the cost of electricity to the applicant's overall cost of doing business, and the impact that a Recharge New York power allocation will have on the applicant's operating costs;

- the extent to which a Recharge New York power allocation will result in new capital investment in the state by the applicant;

- the extent to which a Recharge New York power allocation is consistent with any regional economic development council strategies and priorities;

- the type and cost of buildings, equipment and facilities to be constructed, enlarged or installed if the applicant were to receive an allocation;

- the applicant's payroll, salaries, benefits and number of jobs at the facility for which a Recharge New York power allocation is requested;

- the number of jobs that will be created or retained within the state in relation to the requested Recharge New York power allocation, and the extent to which the applicant will agree to commit to creating or retaining such jobs as a condition to receiving a Recharge New York power allocation;

- whether the applicant, due to the cost of electricity, is at risk of closing or curtailing facilities or operations in the state, relocating facilities or operations out of the state, or losing a significant number of jobs in the state, in the absence of a Recharge New York power allocation;

- the significance of the applicant's facility that would receive the Recharge New York power allocation to the economy of the area in which such facility is located;

- the extent to which the applicant has invested in energy efficiency measures, will agree to participate in or perform energy audits of its facilities, will agree to participate in energy efficiency programs of the authority, or will commit to implement or otherwise make tangible investments in energy efficiency measures as a condition to receiving a Recharge New York power allocation;

- whether the applicant receives a hydroelectric power allocation or benefits supported by the sale of hydroelectric power under another program administered in whole or in part by the New York Power Authority;

- the extent to which a Recharge New York power allocation will result in an advantage for an applicant in relation to the applicant’s competitors within the state; and

- in addition to the foregoing criteria, in the case of a not-for-profit corporation, whether the applicant provides critical services or substantial benefits to the local community in which the facility for which the Recharge New York power allocation is requested is located.

4. Recharge New York Power Allocation Extensions

SUMMARY

The Economic Development Power Allocation Board ("EDPAB" or "Board") is requested to recommend that the New York Power Authority ("Authority" or "NYPA") Trustees ("Trustees") extend each of the existing 30 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").

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 the Allocations as extended ("Extended Allocation"), such terms and conditions include:

(4) 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 the Extended Allocation if the customer fails to maintain mutually agreed upon commitments, relating to, among other things, employment levels, power utilization, capital investments, and/or energy efficiency measures;

(5) a requirement that the customer whose Allocation is extended (a) undertake at its own expense energy audit of its facilities at which the Extended Allocation is consumed absent good cause, 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

(6) 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.

Finally, the Board is also requested to recommend that the Trustees approve modifications related to previously extended RNY Power allocations for the customers listed in Exhibit "B". The allocations for these customers were conditionally extended on the basis of employment and other supplemental commitments they made in their existing power sale contracts with the Authority. Since that time, the Authority has received additional information relating to the circumstances of these customers and has conferred with the customers concerning such issues as power needs, employment and capital investment commitments, and/or other relevant matters. Based on this information, staff is requesting that the Board recommend that the Authority Trustees make the changes to the allocations and/or supplemental commitments for the customers identified in Exhibit "B" for the reasons detailed in Exhibit "B".

BACKGROUND

On April 14, 2011, Governor Andrew M. Cuomo signed into law the RNY Power Program 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 ("PAL") § 1005(13-a). The program makes available 910 megawatts ("MW") of "RNY Power," 50% of which will be provided by the Authority's 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.

"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 Trustees that it believes should receive an award of RNY Power based on applicable statutory criteria and other pertinent considerations. The statutory criteria are listed in Exhibit "C" 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.

Currently, there are 762 customers who have been awarded a collective total of 866 allocations of RNY Power.

At its last meeting held on March 4, 2019, EDPAB recommended that the Trustees extend 72 RNY Power allocations. These customers were among the original RNY Power applicants to receive RNY Power at the inception of the RNY Power program in 2012. The NYPA Trustees, at their meeting on March 26, 2019, accepted EDPAB's recommendations and authorized extensions of the 72 RNY Power allocations.

EDPAB is now being requested to recommend that the Trustees extend an additional 30 RNY Power Allocations that are listed in Exhibit "A" for customers who are also among the original RNY Power applicants to receive RNY Power allocations at the inception of the RNY Power program in 2012.

In addition, the Board is being asked to recommend to the Trustees that modifications be made to the RNY Power allocations previously extended for the customers identified on Exhibit "B", and/or the supplemental commitments for job and/or capital investments related to the previously extended allocations, as specified in Exhibit "B", for the reasons discussed below and in Exhibit "B".

<u>DISCUSSION</u>

1. Extension of Existing Allocations

For the current round of recommendations, Authority staff has reviewed applications from 30 RNY Power customers who have filed applications 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 under its existing RNY Power contract with the Authority (the "Existing Contract"). 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 has concluded that the businesses listed on 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 nearly 38,000 jobs and over $1.4 billion 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 of the customers listed on 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 "C". Each Allocation that would be extended is identified in Exhibit "A". As described above, each Allocation would be extended for a term not to exceed 7 years.

In summary, EDL § 188-a (c)(2) provides that a recommendation by the EDPAB that the Authority provide a RNY Power allocation to an eligible applicant shall include: (1) the amount of the RNY Power allocation the Board is recommending should be awarded to such eligible applicant and an effective term of the allocation which shall not exceed 7 years; (2) 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; (3) requirements for an agreement by the recipient of an allocation undertake at its own expense an energy audit of its facilities at which the allocation is consumed 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; and (4) 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. In addition, the Board's recommendation shall require 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.

If EDPAB recommends the extension of the Allocations and the NYPA Trustees accept such recommendations, the sale of the Extended Allocations would be governed by an Authority contract form that was approved by the Authority's Trustees on March 26, 2019. Consistent with EDL § 188-a (c)(2) discussed above, the contract form contains provisions addressing such matters as effective periodic audits of the customer for the purpose of determining contract and program compliance, including supplemental commitments for jobs, capital investment and power utilization, and the partial or complete withdrawal of an RNY Power if the recipient fails to maintain mutually agreed upon commitments relating to among other things the aforementioned supplemental commitments. In addition, the contract will require that the customer perform an energy efficiency audit at its facility and provide access to the facility at the Authority's request.

2. Modifications Relating to Previously-Extended Allocations

The Board is also asked to recommend that the Trustees approve modifications related to RNY Power allocations previously extended by the Authority for the customers listed in Exhibit "B" for the reasons described in Exhibit "B".

The allocations for these customers were previously extended on the basis of the amount of their existing allocations and the supplemental commitments for jobs and capital investments made in their existing power sale contract with the Authority. Since this time, the Authority has received additional information on the circumstances of these customers and has conferred with the customers concerning such matters as the customer's power needs, ability to sustain employment and capital investment commitments, and/or other relevant matters. The specific modifications proposed and the reasons for such modifications are detailed in Exhibit "B".

RECOMMENDATION

For the reasons stated above, staff recommends that EDPAB:

(1) Recommend to the NYPA Trustees that each of the existing 30 Allocations of RNY Power awarded to the businesses listed in Exhibit “A” be extended for a term of 7 years, 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 Extended Allocations, such terms and conditions include:

(d) 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;

(e) 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; and

(f) 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.

(3) Recommend that the NYPA Trustees approve the modifications/adjustments to the previously extended allocations and/or supplemental commitments for the businesses listed in Exhibit “B” for the reasons indicated in Exhibit “B”.

Chairman Nicandri invited Mr. Eric Bowers, Director, Economic Development, to present the Recharge New York Power Allocation Extensions item to the Board.

Mr. Bowers said staff is requesting that EDPAB recommend that the Authority’s Trustees approve contract extensions for 30 allocations of Recharge New York power to existing customers and to recommend that the trustees approve modifications to the supplemental commitments of previously awarded RNY extension allocations. All applications were submitted thru the State’s Consolidated Funding Application (CFA) system. An extension component was added to the ReCharge New York application to allow existing customers to apply through the CFA for contract renewals.

As with new applicants, the extension applications were evaluated on a competitive basis in consideration of the 12 criteria in the RNY legislation.

Upon motion made by Member Eugene Nicandri and seconded by Member Dennis Trainor, the Recharge New York Power Allocation Extensions, as recommended by staff, were approved by the Board with the exception of Member Andrew Silver stating a conflict of interest with the Pall Corporation and recused himself.

The following resolution was adopted, as amended by members of the Board present.

RESOLVED, That the Economic Development Power Allocation Board ("Board") approves that the Board of Trustees ("Trustees") of the Power Authority of the State of New York ("Authority") extend each of the existing 30 allocations of Recharge New York ("RNY") Power ("Allocation" or collectively "Allocations") awarded to the businesses listed in Exhibit "A" to the attached memorandum of the Senior Vice President of Clean Energy Solutions for a term of 7 years, based on the supplemental employment and capital investment commitments listed in Exhibit "A", 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 further approves 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 as extended ("Extended Allocations"), 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 be it further

RESOLVED, That the Board further approves that the Trustees approve the modifications/adjustments to the allocations and/or supplemental commitments for jobs and capital investments for the businesses listed in Exhibit "B" to the attached memorandum of the Vice President-Economic Development for the reasons indicated in Exhibit "B".

Economic Development Power Allocation Board — **Exhibit "A"**

Extension Recommendations - RNY Power Allocations for Retention Purposes (Large Businesses, Small Business, and/or NFP Corporations) — **July 16, 2019**

Retention-Based Allocations

Line	Company	City	County	Economic Development Region	IOU	Description	Current kW Amount	kW Recommendation	Job Commitments	Capital Investment Commitment ($)		Contract Term (years)
1	Amneal Pharmaceuticals of New York, LLC	Hauppauge	Suffolk	Long Island	LIPA	Manufactures pharmaceuticals	250	246	349	$350,000	(1)	7
2	Amneal Pharmaceuticals of New York, LLC	Brookhaven	Suffolk	Long Island	LIPA	Manufactures pharmaceuticals	346	346	590	$30,000,000		7
3	Arnot Ogden Medical Center	Elmira	Chemung	Southern Tier	NYSEG	Hospital	910	910	1,950	$15,000,000		7
4	BASF Corporation	East Setauket	Suffolk	Long Island	LIPA	Supplies products to the chemicals and plastics industries	126	126	20	$250,000		7
5	Battistoni Italian Specialty Meats, LLC	Buffalo	Erie	Western New York	NGRID	Manufacturer of Italian meat products	216	216	27	$200,000		7
6	Cannon Industries, Inc.	Rochester	Monroe	Finger Lakes	RGE	Fabrication and powder coating services	190	190	78	$500,000		7
7	CPP-Syracuse, Inc.	Chittenango	Madison	Central New York	NGRID	Metal casting foundry for turbine parts	906	906	270	$10,000,000		7
8	D'Addario & Company, Inc.	Farmingdale	Suffolk	Long Island	LIPA	Manufacturer of musical instrument strings	800	800	821	$13,300,000		7
9	Geneva General Hospital	Geneva	Ontario	Finger Lakes	NYSEG	Hospital & healthcare center	470	416	653	$16,000,000	(1)	7
10	International Controls & Measurements Corp.	Syracuse	Onondaga	Central New York	NGRID	Manufacturer of electronic HVAC controls	386	386	180	$3,500,000		7
11	International Paper Company	Ticonderoga	Essex	North Country	NGRID	Manufactures paper	5,600	1,600	620	$25,000,000	(2)	7
12	Jetro Cash and Carry Enterprises, LLC	Bronx	New York	New York City	CONED	Wholesale groceries, food & restaurant supplies	206	206	123	$150,000		7
13	Jetro Cash and Carry Enterprises, LLC	Queens	Queens	New York City	CONED	Wholesale groceries, food & restaurant supplies	186	186	82	$150,000		7
14	Jetro Cash and Carry Enterprises, LLC	Brooklyn	Kings	New York City	CONED	Wholesale groceries, food & restaurant supplies	216	216	97	$150,000		7
15	Jetro Cash and Carry Enterprises, LLC	Brooklyn	Kings	New York City	CONED	Wholesale groceries, food & restaurant supplies	226	226	130	$150,000		7
16	JPMorgan Chase Bank, National Association ("JPMC")	Brooklyn & New York	Kings & New York	New York City	CONED	Financial services for global bank	18,666	18,666	22,196	$1,200,000,000	(3)	7
17	L.N.K. International Inc.	Hauppauge	Suffolk	Long Island	LIPA	Manufactures pharmaceuticals	1,400	1,400	1,583	$8,000,000		7
18	Life Technologies Corporation	Grand Island	Erie	Western New York	NGRID	Research & development in the life sciences	506	506	554	$5,000,000		7
19	Maimonides Medical Center	Brooklyn	Kings	New York City	CONED	Medical center	1,500	1,500	5,622	$125,000,000		7
20	Mohawk Fine Papers Inc.	Cohoes & Waterford	Albany & Saratoga	Capital District	NGRID	Manufactures paper products	3,536	3,536	312	$17,500,000	(3)	7
21	Mold-A-Matic Corporation	Oneonta	Otsego	Mohawk Valley	NYSEG	Manufacturer of plastic components	166	166	45	$250,000		7

22	Northrop Grumman Systems Corporation	Bethpage	Nassau	Long Island	LIPA	R&D, engineering, and design	420	420	321	$100,000		7
23	O.W. Hubbell & Sons, Inc.	Yorkville	Oneida	Mohawk Valley	NGRID	Galvanizing facility	100	100	65	$100,000		7
24	Pall Corporation	Port Washington	Nassau	Long Island	LIPA	Manufacturer of filtration & separation products	226	126	200	$500,000	(1)	7
25	Pall Corporation	Hauppauge	Suffolk	Long Island	LIPA	Manufacturer of filtration & separation products	580	580	86	$3,500,000		7
26	RD America, LLC	Garden City	Suffolk	Long Island	LIPA	Wholesale groceries, food & restaurant supplies	230	230	78	$150,000		7
27	Restaurant Depot, LLC	Maspeth	Queens	New York City	LIPA	Wholesale groceries, food & restaurant supplies	216	216	99	$150,000		7
28	Restaurant Depot, LLC	Bohemia	Suffolk	Long Island	LIPA	Distributes wholesale groceries	150	150	53	$150,000		7
29	Steinway and Sons	Astoria	New York	New York City	CONED	Manufactures and sells pianos	580	500	336	$7,000,000	(1)	7
30	The Indium Corporation of America	Clinton, Rome, & Utica	Oneida	Mohawk Valley	NGRID	Manufacturer of electronic assembly materials	760	760	459	$10,650,000	(3)	7
	Totals						**40,070**	**35,832**	**37,999**	**$1,492,750,000**		

(1) The customer is being recommended for an RNY Power extension recommendation at a decreased kW amount due to their reduced level of extension jobs committed as compared to their current contractual employment commitment.

(2) The customer requested an RNY Power extension recommendation at a lower kW amount as compared to their current RNY award. The remaining amount associated with their current award will be relinquished.

(3) The customer is being recommended for an RNY Power extension as a campus setting to accommodate multiple facilities. Their original RNY Power allocations were awarded separately for multiple locations. The extension-related campus setting structure will provide more flexibility to these customers in terms of shifting employment and/or capital spending levels across their facilities.

Economic Development Power Allocation Board **Exhibit "B"**

Modifications to Extension Recommendations - RNY Power Allocations for Retention Purposes (Large Businesses, Small Business, and/or NFP Corporations) **July 16, 2019**

Retention-Based Allocations

Line	Company	City	County	Economic Development Region	IOU	Description	Final kW Recommendation	Final Job Commitments	Final Capital Investment Commitment ($)		Contract Term (years)
1	CBS Broadcasting Inc.	New York	New York	New York City	CONED	Broadcasts radio and television	7,350	3,400	$200,000,000	(1)	7
2	Kraft Heinz Foods Company	Avon	Livingston	Finger Lakes	NGRID	Manufactures packaged food products	1,920	220	$10,000,000	(2)	7
3	Tessy Plastics Corp.	Elbridge	Onondaga	Central New York	NYSEG	Manufacturer of plastic parts	2,530	630	$200,000	(3)	7

(1)Since its existing allocation was conditionally extended, CBS Broadcasting Inc. has asked to reduce its employment commitment from 3,479 to 3,400 jobs. Given the relatively modest amount of this reduction, a corresponding reduction in the company's Extended Allocation of 7,350 kW is not being recommended.

(2) Since its existing allocation was conditionally extended, Kraft Heinz Food Company has asked to reduce its employment commitment from 332 to 220 jobs. Staff is recommending a reduction in the company's Extended Allocation from 2,520 kW to 1,920 kW to reflect this revised employment commitment.

(3) Since its existing allocation was conditionally extended, Tessy Plastics Corp. has asked to reduce its employment commitment from 700 to 630 jobs. At this time, no reduction is being recommended to the Extended Allocation amount of 2,530 kW. Given the relatively modest amount of this reduction, a corresponding reduction in the company's Extended Allocation of 2,530 is not being recommended.

July 16, 2019

EXHIBIT C
(Statutory Criteria – RNY Power Program)

- the significance of the cost of electricity to the applicant's overall cost of doing business, and the impact that a Recharge New York power allocation will have on the applicant's operating costs;

- the extent to which a Recharge New York power allocation will result in new capital investment in the state by the applicant;

- the extent to which a Recharge New York power allocation is consistent with any regional economic development council strategies and priorities;

- the type and cost of buildings, equipment and facilities to be constructed, enlarged or installed if the applicant were to receive an allocation;

- the applicant's payroll, salaries, benefits and number of jobs at the facility for which a Recharge New York power allocation is requested;

- the number of jobs that will be created or retained within the state in relation to the requested Recharge New York power allocation, and the extent to which the applicant will agree to commit to creating or retaining such jobs as a condition to receiving a Recharge New York power allocation;

- whether the applicant, due to the cost of electricity, is at risk of closing or curtailing facilities or operations in the state, relocating facilities or operations out of the state, or losing a significant number of jobs in the state, in the absence of a Recharge New York power allocation;

- the significance of the applicant's facility that would receive the Recharge New York power allocation to the economy of the area in which such facility is located;

- the extent to which the applicant has invested in energy efficiency measures, will agree to participate in or perform energy audits of its facilities, will agree to participate in energy efficiency programs of the authority, or will commit to implement or otherwise make tangible investments in energy efficiency measures as a condition to receiving a Recharge New York power allocation;

- whether the applicant receives a hydroelectric power allocation or benefits supported by the sale of hydroelectric power under another program administered in whole or in part by the New York Power Authority;

- the extent to which a Recharge New York power allocation will result in an advantage for an applicant in relation to the applicant's competitors within the state; and

- in addition to the foregoing criteria, in the case of a not-for-profit corporation, whether the applicant provides critical services or substantial benefits to the local community in which the facility for which the Recharge New York power allocation is requested is located.

5. Transfer of RNY Power Program Allocations

SUMMARY

The Economic Development Power Allocation Board ("Board") is requested to approve the transfer of four Recharge New York ("RNY") Power program allocations discussed below from Kraft Foods Global, Inc. ("Kraft Foods") to Kraft Heinz Foods Company ("Kraft Heinz") in order to address organizational changes.

The Board has previously approved transfers of RNY Power allocations in similar circumstances.
If the Board approves the requested transfers, the Trustees of the New York Power Authority ("NYPA") will also be requested to approve the transfers.

DISCUSSION

NYPA awarded Kraft Foods the following four RNY Power program-related allocations:

1. a 1,210 kW RNY Hydropower allocation for use at its Kraft Food's facility at 261 Delaware Street, Walton, New York which produces packaged dairy products;

2. a 2,520 kW RNY Hydropower allocation for use at its facility at 140 Spring Street, Avon, New York, which produces Cool Whip and Oscar Mayer Lunchables;

3. a 2,476 kW RNY Hydropower allocation for use at its facility at 7388 Utica Boulevard, Lowville, New York ("Lowville Facility"), which produces Philadelphia-brand cream cheese; and

4. a 1,510 RNY Power allocation for use at the Lowville Facility, although this allocation has not yet been placed into service.

Kraft Foods recently merged into Kraft Heinz, and as a result, the facilities listed above are now operated by Kraft Heinz.

In light of the merger, the companies have asked that the 1,210 kW, 2,520 kW and 2,476 kW RNY Hydropower allocations and the 1,510 kW RNY Power allocation (collectively, the "Kraft Food Allocations") be transferred to Kraft Heinz.

The merger will not result in changes to operations at any of the facilities, and Kraft Heinz has indicated that it will honor all terms and commitments made by Kraft Foods under Kraft Foods' RNY Power sale agreements with NYPA if the transfers are approved.

RECOMMENDATION

Staff recommends that the Board approve the transfer of the Kraft Food Allocations, subject to the following conditions: (1) approval of the transfer of the Kraft Food Allocations by NYPA; (2) there be no material reductions in the base employment levels or capital investment commitments associated with the Kraft Food Allocations that would be transferred; and (3) the transfers are addressed in contract documents containing such terms and conditions determined by the Authority to be appropriate to effectuate each transfer.

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

Chair Nicandri invited Mr. Eric Bowers, Director of Economic Development, to present the Transfer of Recharge New York Power Allocations to the Board.

Mr. Bowers said staff is requesting that EDPAB recommend that the Authority's Trustees to approve the transfer of 4 Recharge New York power program allocations from Kraft Foods Global Inc. to Kraft Heinz Food companies in order to address organizational changes.

Upon motion made by Member Dennis Trainor and seconded by Member Eugene Nicandri, the Transfer of Recharge New York Power Allocations, as recommended by staff, was approved by the Board.

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

WHEREAS, the New York Power Authority ("NYPA") awarded Kraft Foods Global, Inc. ("Kraft Foods") the following four Recharge New York ("RNY") Power program allocations: (1) a 1,210 kilowatt ("kW") RNY Hydropower allocation for use at its facility at 261 Delaware Street, Walton, New York; (2) a 2,520 kW RNY Hydropower allocation for use at its facility at 140 Spring Street, Avon, New York; (3) a 2,476 kW RNY Hydropower allocation for use at its facility at 7388 Utica Boulevard, Lowville, New York ("Lowville Facility"); and (4) a 1,510 RNY Power allocation for use at the Lowville Facility (collectively, the "Kraft Food Allocations"); and

WHEREAS, Kraft Foods has merged into Kraft Heinz Foods Company ("Kraft Heinz"), and as a result of such merger Kraft Heinz is now operating the aforementioned facilities at which the Kraft Allocations are used;

NOW THEREFORE BE IT RESOLVED, That upon consideration of the aforementioned Memorandum, the transfer of the Kraft Food Allocations from Kraft Foods to Kraft Heinz be, and hereby is, approved subject to the following conditions: (1) approval of the transfer of the Kraft Food Allocations by the Authority; (2) there be no material reduction in the base employment level or capital investment commitments associated with the Kraft Food Allocations due to the transfer;

and (3) the transfer is addressed in contract documents containing such terms and conditions determined by the Authority to be appropriate to effectuate the transfers.

Other Business

No other business to report.

6. Next Meeting

Chair Nicandri said that the next meeting of the Board would be held on Tuesday, September 24, 2019 at 10:00 a.m. via videoconference.

Closing

Upon motion made by Member Dennis Trainor and seconded by Member Andrew Silver, the meeting was adjourned by Chair Nicandri.

Date: **September 24, 2019**

To: **Economic Development Power Allocation Board**

From: **Senior Vice President, Clean Energy Solutions**

Subject: **Recharge New York Power Program – New Allocations**

SUMMARY

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

1. recommend that the New York Power Authority ("Authority" or "NYPA") Trustees ("Trustees") award allocations of Recharge New York ("RNY") Power available for "retention" purposes to the businesses listed in Exhibit "A";

2. recommend that the Trustees award allocations of RNY Power available for "expansion" purposes to the businesses listed in Exhibit "B";

3. recommend that the Trustees award allocations of RNY Power available for eligible small businesses and/or not-for-profit corporations to the entities listed in Exhibit "C"; and

4. terminate the application review process for the applicants listed in Exhibit "D".

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 ("Allocations"), such terms and conditions include:

(1) provisions for effective periodic audits of the customer for the purpose of determining contract and program compliance, and for the partial or complete withdrawal of an Allocation if the holder fails to maintain mutually agreed upon commitments, relating to, among other things, employment levels, power utilization, capital investments, and/or energy efficiency measures;

(2) a requirement that the customer (a) undertake at its own expense an energy audit of its facilities at which the allocation is consumed at least once during the term of the allocation absent good cause, 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 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.

BACKGROUND

On April 14, 2011, Governor Andrew M. Cuomo signed into law the RNY Power Program as part of Chapter 60 (Part CC) of the Laws of 2011 ("Chapter 60"). The program makes available 910 megawatts ("MW") of "RNY Power," 50% of which will be provided by the Authority's 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 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; at least 200 MW of RNY Power shall be dedicated to the purpose of attracting new businesses and encouraging expansion of existing businesses statewide; and up to 100 MW shall be dedicated for eligible not-for-profit corporations and eligible small businesses statewide.

Under the statute, "eligible applicant" is defined 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. At its meeting on April 24, 2012, EDPAB defined a retail business as a business that is primarily used in making retail sales of goods or services to customers who personally visit such facilities to obtain goods or services, consistent with the rules previously promulgated by EDPAB for implementation of the Authority's Economic Development Power program.

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 a RNY Power allocation, the Authority must offer each eligible applicant that has received an award of RNY Power the option to decline to purchase the RNY Market Power component of such award. If the applicant declines to purchase the RNY Market Power component from the Authority, the Authority has no responsibility for supplying RNY Market Power component of the award.

As part of Governor Andrew M. Cuomo'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.

Applications for RNY Power are subject to a competitive evaluation process and are evaluated based on criteria set forth in the governing statutes ("RNY Statutes"): The statutory criteria are listed in Exhibit "E" to this memorandum.

RNY Power allocations have been awarded by the Trustees on twenty-three prior occasions spanning from April 2012 through July 2019. Of the 200 MW block of RNY Power made available pursuant to Chapter 60 for business "expansion" purposes, 87.2 MW remain unallocated. Of the 100 MW of RNY Power that is set aside for not-for-profit corporations and small businesses pursuant to Chapter 60, 2.1 MW remain unallocated. Of the remaining RNY Power made available pursuant to Chapter 60, 93.0 MW remain unallocated.

These figures reflect Trustee actions on RNY Power applications taken prior to any recommendations that EDPAB makes today.

An allocation recommended by EDPAB qualifies the subject applicant to enter into a contract with the Authority for the purchase of the RNY Power assuming that the Authority concurs with EDPAB and makes an allocation award.

<u>DISCUSSION</u>

For the current round of recommendations, Authority staff has reviewed applications seeking RNY Power allocations. Exhibits "A", "B" and "C" list, among other things, a description of the applicant and its business, the amount of the allocation requested, the amount of the allocation recommended, the jobs that would be created and/or retained, the proposed capital investment, and the proposed allocation term. Based on the evaluation of the criteria listed in Exhibit "E", the applications were scored and ranked.

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.

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 scored relatively high were recommended for allocations of 33% of the requested amount or average historic demand, whichever was lower. These allocations were capped at 5 MW. Applicants currently receiving hydropower allocations under other Authority power programs were recommended for allocations of RNY Power of 25% of the requested amount, subject to the caps as stated above.

1. <u>Retention-Based RNY Power Allocations</u>

Staff recommends that EDPAB recommend to the NYPA Trustees that the applications listed on Exhibit "A" be awarded *retention*-based RNY Power allocations in the amounts indicated. Each business has stated a willingness to create or 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 "A", these applications seek a RNY Power allocation for job retention purposes only.

The RNY Power "retention" allocations identified in Exhibit "A" are each recommended for a term of 7 years unless otherwise indicated. The Authority's RNY Power sale contract form will contain provisions addressing such matters as:

- supplemental commitments by the customer relating to job creation, capital investments and power usage;

- 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 mutually agreed upon commitments, relating to among other things, employment levels, power utilization, and capital investments;

- a requirement that a recipient of an allocation perform an energy efficiency audit at its facility; and

- an agreement by the customer to make its facilities available for audits and related assessments that the Authority desires to perform, and provide information requested by the Authority relating to energy efficiency and energy-related projects, programs and services

2. Expansion-Based RNY Power Allocations

Staff recommends that EDPAB recommend to the NYPA Trustees that the applications listed on Exhibit "B" 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 noted in Exhibit "B", these applications seek a 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.

As with the evaluation process used for the retention recommendations described above, applications for the expansion-based RNY Power were scored based on the statutory criteria, albeit with a focus on information regarding each applicants' specific project to expand or create their new facility or business (*e.g.*, the expansion project's cost, associated job creation, and new electric load due to the expansion).

The respective amounts of the expansion-related allocations listed in Exhibit "B" are largely intended to provide approximately 70% of the individual expansion projects' estimated new electric load. Because these projects have estimated new electric load amounts, and to ensure that an applicant's overestimation of the amount needed would not cause that applicant to receive a higher proportion of RNY Power to new load, the allocations in Exhibit "B" are recommended on an "up to" amount basis. Each of these applicants would be required to, among other commitments, add the new electric load as stated in its application, and would be allowed to use up to the amount of their RNY Power allocation in the same proportion of the RNY Power allocation to requested load as stated in Exhibit "B." The contracts for these allocations would also contain the provisions previously summarized in section 1 above.

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

Staff also recommends that EDPAB recommend to the NYPA Trustees that the small business and/or not-for-profit applicants listed on Exhibit "C" be awarded RNY Power allocations in the amounts indicated therein. 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 "C". The contracts for these allocations would also contain the provisions previously summarized in section 1 above.

If the Trustees accept EDPAB's recommendations and award RNY Power allocations to the small businesses and/or not-for-profit applicants listed in Exhibit "C", the 100 MW block of power authorized by statute for these groups of customers will be close to fully allocated.

Accordingly, a waiting list will be established for small businesses and not-for-profit applicants that are potentially eligible to be awarded RNY Power allocations when additional power becomes available.

4. Termination of Application Review Process

Staff recommends that the Board terminate the application review process for the applicants for RNY Power listed in Exhibit "D" on the ground that the applicants listed have not been responsive to requests by staff for additional information, thereby preventing a complete analysis of the application and rendering the subject RNY Power application incomplete.

5. Recommendations on Terms and Conditions

Staff recommends that the Board 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 by the Board as recommended in Exhibits "A", "B", and "C", such terms and conditions include:

(a) provisions for effective periodic audits of the customer for the purpose of determining contract and program compliance, and for the partial or complete withdrawal of an 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 undertake at its own expense an energy audit of its facilities at which the allocation is consumed 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; and
(c) an agreement by the customer 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.

RECOMMENDATION

For the reasons stated above, staff recommends that the Board:

1. Recommend that the Authority Trustees award allocations of RNY Power (a) for retention purposes to the businesses listed in Exhibit "A" in the amounts indicated therein, (b) for expansion purposes to the businesses listed in Exhibit "B" in the amounts indicated therein, and (c) to the small business and/or not-for-profit applicants listed in Exhibit "C" in the amounts indicated therein;

2. Recommend that terms and conditions for the sale of any such allocations include:

   (a) provisions for effective periodic audits of the customer for the purpose of determining contract and program compliance, and for the partial or complete withdrawal of an 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 undertake at its own expense energy audits of its facilities at which the 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; and

(c) an agreement by the customer 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.

3. Determine that the application review process for the applicants listed in Exhibit “D” will be terminated for the reasons discussed above and in Exhibit “D”.

Keith T. Hayes
Senior Vice President, Clean Energy Solutions

Att.
RNY Retention Power Allocations
RNY Expansion Power Allocations
RNY Eligible Small Business and Not-for-Profit Allocations
Termination of Application Review Process

R E S O L U T I O N

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") award allocations of Recharge New York ("RNY") Power for retention purposes to the businesses listed in Exhibit "A" to the attached memorandum of the Senior Vice President of Clean Energy Solutions (the "Attached Memorandum") in the amounts indicated therein for the reasons indicated in Exhibit "A" and the Attached Memorandum; and be it further

RESOLVED, That the Board recommends that the Authority Trustees award allocations of RNY Power for expansion purposes to the businesses listed in Exhibit "B" to the Attached Memorandum in the amounts indicated therein for the reasons indicated in Exhibit "B" and the Attached Memorandum; and be it further

RESOLVED, That the Board recommends that the Authority Trustees award allocations of RNY Power to the small businesses and/or not-for-profit corporations listed in Exhibit "C" to the Attached Memorandum in the amounts indicated therein for the reasons indicated in Exhibit "C" and the Attached Memorandum; and be it further

RESOLVED, That the Board 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 for the purpose of determining contract and program compliance, and for the partial or complete withdrawal of an 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;

(2) a requirement that the customer undertake at its own expense energy audits of its facilities at which the 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; and

(3) an agreement by the customer 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 be it further

RESOLVED, That the application review process for the applicants listed in Exhibit “D” is terminated for the reasons discussed in the Attached Memorandum and Exhibit “D”.

Economic Development Power Allocation Board
Recommendations - RNY Power Allocations for Retention Purposes

Exhibit "A"
September 24, 2019

Line	Company	City	County	Economic Development Region	IOU	Description	kW Request	kW Recommendation	Jobs Retained	Jobs Created	Total Job Commitment	Capital Investment ($)		Contract Term (years)
1	Nordon, Inc.	Rochester	Monroe	Finger Lakes	RGE	Manufacturer of injection molded plastic parts	1,386	690	160	0	160	$2,500,000		7
	Finger Lakes Region Sub-totals:							**690**	**160**	**0**	**160**	**$2,500,000**		
2	Spellman High-Voltage Electronics Corporation	Hauppauge	Suffolk	Long Island	LIPA	Supplier of high-voltage power supplies	415	206	379	0	379	$1,500,000	(1)	7
	Long Island Region Sub-totals:							**206**	**379**	**0**	**379**	**$1,500,000**		
	Totals							**896**	**539**	**0**	**539**	**$4,000,000**		

(1) These companies are also recommended for expansion-related allocations of RNY for separate and distinct job creation and capital investment commitments associated with proposed business expansions.

Economic Development Power Allocation Board **Exhibit "B"**
Recommendations - RNY Power Allocations for Expansion Purposes **September 24, 2019**

Line	Company	City	County	Economic Development Region	IOU	Description	kW Request	kW Recommendation (1)	Base Employment (3)	Job Creation Commitment	Project Capital Investment ($)		Contract Term (years)
1	Syracuse Label Co., Inc.	North Syracuse	Onondaga	Central New York	NGRID	Manufacturer of custom-made labels	500	200	94	2	$3,200,000	(4)	7
	Central New York Region Sub-totals:							**200**	**6**	**2**	**$3,200,000**		
2	Spellman High-Voltage Electronics Corporation	Hauppauge	Suffolk	Long Island	LIPA	Supplier of high-voltage power supplies	200	140	379	10	$3,300,000	(2)	7
	Long Island Region Sub-totals:							**140**	**0**	**10**	**$3,300,000**		
3	Cayuga Operating Company LLC	Lansing	Tompkins	Southern Tier	NYSEG	Repurposed coal plant as enterprise data center	25,000	2,000	0	20	$25,000,000		7
	Southern Tier Region Sub-totals:							**2,000**	**0**	**20**	**$25,000,000**		
	Totals							**2,340**	**6**	**32**	**$31,500,000**		

(1) All expansion-based RNY Power allocations are recommended to be “up to” the amount indicated pending the applicant’s compliance with contractual commitments, including commitments relating to job creation, capital investment spending and power utilization.
(2) These companies are also being recommended for retention-based RNY Power allocations associated with separate and distinct contractual commitments relating to such matters as job retention, capital investment spending, and power utilization associated with an existing business.
(3) The number of new jobs committed will be above a base employment level specified in the power sale contract with the applicant.
(4) This applicant was previously approved for RNY Power allocations. The base employment level refers to the applicant's retained jobs, most of which are already associated with an existing power allocation.

Economic Development Power Allocation Board **Exhibit "C"**

Recommendations - RNY Power Allocations for Retention and Expansion Purposes (Small Business and/or NFP Corporations) **September 24, 2019**

Retention-Based Allocations

Line	Company	City	County	Economic Development Region	IOU	Description	kW Request	kW Recommendation	Jobs Retained	Jobs Created	Capital Investment ($)		Contract Term (years)
1	Fieldtex Products Inc.	Rochester	Monroe	Finger Lakes	RGE	Manufacturer of first aid & medical kits	178	86	180	0	$200,000	(1)	7
	Finger Lakes Region Sub-totals:							**86**	**0**	**0**	**$200,000**		
2	Clad Metal Specialties, Inc.	Bay Shore	Suffolk	Long Island	LIPA	Metal fabrication & processing	215	106	21	0	$80,000		7
3	North Shore University Hospital	Lake Success	Nassau	Long Island	LIPA	Medical offices facility	4,552	1,516	2,629	0	$1,500,000		7
4	Northwell Healthcare, Inc.	Bethpage	Nassau	Long Island	LIPA	Medical instrument sterilization facility	716	236	420	0	$75,000		7
	Long Island Region Sub-totals:							**1,858**	**3,070**	**0**	**$1,655,000**		
5	Otis Products, Inc.	Lyons Falls	Lewis	North Country	NGRID	Manufacturer of firearms cleaning kits	281	140	121	11	$250,000		7
	North Country Region Sub-totals:							**140**	**121**	**11**	**$250,000**		
	Retention-Based Totals							**2,084**	**3,191**	**11**	**$2,105,000**		

(1) This applicant was previously approved for an RNY Expansion-Based Power allocation. The job retention level refers to the applicant's previously approved base employment jobs, which are already associated with their existing RNY Expansion-Based Power allocation.

Economic Development Power Allocation Board
ReCharge New York Power Program
Informational Item - Terminate Application/Review Process

Exhibit "D"
September 24, 2019

Line	Company	City	County	Economic Development Region	IOU	Description	Reason
1	Allen Farms, LLC	Scipio Center	Cayuga	Central New York	NYSEG	Dairy farm	Applicant has been unresponsive to requests by staff for additional information, preventing a complete analysis of the application.
2	Bostrom Farms LLC	Stanley	Ontario	Finger Lakes	NYSEG	Beef, pork, & chicken farm	Applicant has been unresponsive to requests by staff for additional information, preventing a complete analysis of the application.
3	LOOP Recycled Products of New York	Syracuse	Onondaga	Central New York	NGRID	Recycling center for paint products	Applicant has been unresponsive to requests by staff for additional information, preventing a complete analysis of the application.
4	PPC Broadband, Inc.	East Syracuse	Onondaga	Central New York	NGRID	Manufacturer of connective technology products	Applicant has been unresponsive to requests by staff for additional information, preventing a complete analysis of the application.
5	RT Solutions, LLC	Avon	Livingston	Finger Lakes	NGRID	Compost to soil agribusiness	Applicant has been unresponsive to requests by staff for additional information, preventing a complete analysis of the application.

EXHIBIT E
(Statutory Criteria – RNY Power Program)

- the significance of the cost of electricity to the applicant's overall cost of doing business, and the impact that a Recharge New York power allocation will have on the applicant's operating costs;

- the extent to which a Recharge New York power allocation will result in new capital investment in the state by the applicant;

- the extent to which a Recharge New York power allocation is consistent with any regional economic development council strategies and priorities;

- the type and cost of buildings, equipment and facilities to be constructed, enlarged or installed if the applicant were to receive an allocation;

- the applicant's payroll, salaries, benefits and number of jobs at the facility for which a Recharge New York power allocation is requested;

- the number of jobs that will be created or retained within the state in relation to the requested Recharge New York power allocation, and the extent to which the applicant will agree to commit to creating or retaining such jobs as a condition to receiving a Recharge New York power allocation;

- whether the applicant, due to the cost of electricity, is at risk of closing or curtailing facilities or operations in the state, relocating facilities or operations out of the state, or losing a significant number of jobs in the state, in the absence of a Recharge New York power allocation;

- the significance of the applicant's facility that would receive the Recharge New York power allocation to the economy of the area in which such facility is located;

- the extent to which the applicant has invested in energy efficiency measures, will agree to participate in or perform energy audits of its facilities, will agree to participate in energy efficiency programs of the authority, or will commit to implement or otherwise make tangible investments in energy efficiency measures as a condition to receiving a Recharge New York power allocation;

- whether the applicant receives a hydroelectric power allocation or benefits supported by the sale of hydroelectric power under another program administered in whole or in part by the New York Power Authority;

- the extent to which a Recharge New York power allocation will result in an advantage for an applicant in relation to the applicant’s competitors within the state; and

- in addition to the foregoing criteria, in the case of a not-for-profit corporation, whether the applicant provides critical services or substantial benefits to the local community in which the facility for which the Recharge New York power allocation is requested is located.

NEW YORK STATE OF OPPORTUNITY. | NY State Economic Development Power Allocation Board

ANDREW M. CUOMO
Governor

Date: **September 24, 2019**

To: **Economic Development Power Allocation Board**

From: **Senior Vice President, Clean Energy Solutions**

Subject: **Recharge New York Power Allocation Extensions**

SUMMARY

The Economic Development Power Allocation Board ("EDPAB" or "Board") is requested to recommend that the New York Power Authority ("Authority" or "NYPA") Trustees ("Trustees") extend each of the existing 4 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").

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 the Allocations as extended ("Extended Allocation"), 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 program compliance, and for the partial or complete withdrawal of the Extended Allocation if the customer fails to maintain mutually agreed upon 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 energy audit of its facilities at which the Extended Allocation is consumed absent good cause, 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.

Finally, the Board is also requested to recommend that the Trustees approve modifications related to previously-extended RNY Power allocations for the customers listed in Exhibit "B". The allocations for these customers were conditionally extended on the basis of employment and other supplemental commitments they made in their existing power sale contracts with the Authority or an extension application. Since the time of the extension, the Authority has received additional information relating to the circumstances of these customers and has conferred with the customers concerning such issues as power needs, employment and capital investment commitments, and/or other relevant matters. Based on this information, staff is requesting that the Board recommend that the Authority Trustees make the changes to the allocations and/or supplemental commitments for the customers identified in Exhibit "B" for the reasons discussed below and in Exhibit "B".

BACKGROUND

On April 14, 2011, Governor Andrew M. Cuomo signed into law the RNY Power Program 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 ("PAL") § 1005(13-a). The program makes available 910 megawatts ("MW") of "RNY Power," 50% of which will be provided by the Authority's 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.

"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 Trustees that it believes should receive an award of RNY Power based on applicable statutory criteria and other pertinent considerations. The statutory criteria are listed in Exhibit "C" 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.

Currently, there are nearly 760 customers who have been awarded a collective total of over 830 allocations of RNY Power.

At its last meeting held on July 16, 2019, EDPAB recommended that the Trustees extend 28 RNY Power allocations. These customers were among the original RNY Power applicants to receive RNY Power at the inception of the RNY Power program in 2012. The NYPA Trustees, at their meeting on July 30, 2019, accepted EDPAB's recommendations and authorized extensions of the 28 RNY Power allocations.

EDPAB is now being requested to recommend that the Trustees extend an additional 4 RNY Power Allocations that are listed in Exhibit "A" for customers who are also among the original RNY Power applicants to receive RNY Power allocations at the inception of the RNY Power program in 2012.

In addition, the Board is being asked to recommend to the Trustees that modifications be made to the RNY Power allocations previously extended for the customers identified on Exhibit “B”, and/or the supplemental commitments for job and/or capital investments related to the previously extended allocations, as specified in Exhibit “B”, for the reasons discussed below and in Exhibit “B”.

<u>DISCUSSION</u>

1. Extension of Existing Allocations

For the current round of recommendations, Authority staff has reviewed applications from 4 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 under its existing RNY Power contract with the Authority (the “Existing Contract”). 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.

The following are staff’s recommendations regarding these customers.

Staff recommends that the full Allocation of Data Device Corporation be extended as indicated in Exhibit “A”.

Staff recommends an extension of BASF Corporation’s Allocation in a reduced amount as indicated in Exhibit “A”, because this customer is offering a reduced job commitment for its proposed extended term.

Staff recommends that the full Allocations of Citigroup Global Markets Inc. and Kaleida Health be extended, but, at the customers’ request, on terms that would differ from those that applied to the original Allocations. Specifically, the amount of the Allocations for these companies would remain the same, but in the case of each customer, the job and capital investment commitments listed in Exhibit “A” would apply collectively to multiple facilities/addresses that receive RNY Power. In the course of their business, each of these customers has a need to shift employees between the facilities. Therefore, in the case of each customer, employment and capital investment commitments would apply to multiple facilities/addresses that receive RNY Power. This revised approach, which would be implemented through the customer’s RNY Power contract, would accommodate the customers’ unique business needs and not result in a net loss of employment or overall reduction of capital investment at the facilities.

Staff has concluded that the businesses listed on 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 over 15,800 jobs and $105 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 of the customers listed on 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 “C”. Each Allocation that would be extended is identified in Exhibit “A”. As described above, each Allocation would be extended for a term not to exceed 7 years.

In summary, EDL § 188-a (c)(2) provides that a recommendation by the EDPAB that the Authority provide a RNY Power allocation to an eligible applicant shall include: (1) the amount of the RNY Power allocation the Board is recommending should be awarded to such eligible applicant and an effective term of the allocation which shall not exceed 7 years; (2) 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; (3) requirements for an agreement by the recipient of an allocation undertake at its own expense an energy audit of its facilities at which the allocation is consumed 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; and (4) 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. In addition, the Board’s recommendation shall require 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.

If EDPAB recommends the extension of the Allocations and the NYPA Trustees accept such recommendations, the sale of the Extended Allocations would be governed by an Authority contract form that was approved by the Authority’s Trustees on March 26, 2019. Consistent with EDL § 188-a (c)(2) discussed above, the contract form contains provisions addressing such matters as effective periodic audits of the customer for the purpose of determining contract and program compliance, including supplemental commitments for jobs, capital investment and power utilization, and the partial or complete withdrawal of an RNY Power if the recipient fails to maintain mutually agreed upon commitments relating to among other things the aforementioned supplemental commitments. In addition, the contract will require that the customer perform an energy efficiency audit at its facility and provide access to the facility at the Authority’s request.

2. Modifications Relating to Previously-Extended Allocations

The Board is also asked to recommend that the Trustees approve modifications related to RNY Power allocations previously extended by the Authority for the customers listed in Exhibit “B” for the reasons described in Exhibit “B”. The following is a summary of the circumstances pertaining to each customer that underlie the proposed modifications.

- Matt Industries Inc. was previously approved for an Extended Allocation. Due to a processing error related to a previously-approved allocation transfer to the company, the amount of the allocation approved was 146 kW but should have been 532 kW. In addition, the job commitment approved was 165 instead of 236. Accordingly, staff is recommending that amount of the company’s extended allocation be revised to 532 kW and the corresponding employment commitment be revised to 236.

- The extension application of Morton Salt, Inc. incorrectly reported the company's proposed capital investment commitment. Staff is requesting a modification of the capital investment commitment for this company from $150,000,000 to $15,000,000 in order to state the correct investment commitment.

- The extension application of Owens-Brockway Glass Container Inc. incorrectly reported the company's capital investment commitment. Staff is requesting a modification of this company's capital investment commitment from $20,000,000 to $10,000,000 in order to state the correct capital investment commitment.

- Southern Glazer's Wine and Spirits of Upstate New York, LLC was previously approved for an extended allocation. Due to a processing error, the amount of the allocation approved for extension was 50 kW instead of 300 kW. Therefore, staff is recommending that the amount of its RNY allocation be revised to 300 kW. The corresponding employment and capital investment commitments remain the same at 600 jobs and $3,000,000, respectively.

- The extension application of United Health Services Hospitals, Inc. incorrectly reported the company's capital investment commitment. Staff is requesting a modification of this company's capital investment commitment from $28,000,000 to $10,000 in order to state the correct capital investment commitment.

Staff believes that the modifications listed on Exhibit "B" are appropriate and/or otherwise consistent with the statutory criteria that are used to evaluate applications for an award of RNY Power, which are listed in Exhibit "C". For these reasons, staff recommends that the Trustees approve the modifications listed on Exhibit "B".

RECOMMENDATION

For the reasons stated above, staff recommends that EDPAB:

(1) Recommend to the NYPA Trustees that each of the existing 4 Allocations of RNY Power awarded to the businesses 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 Extended Allocations, 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; and

(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.

(3) Recommend that the NYPA Trustees approve the modifications/adjustments to the previously extended allocations and/or supplemental commitments for the businesses listed in Exhibit “B” for the reasons discussed above.

Keith T. Hayes
Senior Vice President, Clean Energy Solutions

RESOLUTION

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 4 allocations of Recharge New York ("RNY") Power ("Allocation" or collectively "Allocations") awarded to the businesses listed in Exhibit "A" in the manner described in the accompanying memorandum of the Senior Vice President, Clean Energy Solutions (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 further 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 as extended ("Extended Allocations"), 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 be it further

RESOLVED, That the Board further recommends that the Trustees approve the modifications/adjustments to the allocations and/or supplemental commitments for jobs and capital investments for the businesses listed in Exhibit “B” to the attached Memorandum for the reasons indicated in the Memorandum and Exhibit “B”.

Economic Development Power Allocation Board **Exhibit "A"**
Extension Recommendations - RNY Power Allocations for Retention Purposes (Large Businesses, Small Business, and/or NFP Corporations) **September 24, 2019**

Retention-Based Allocations

Line	Company	City	County	Economic Development Region	IOU	Description	Current kW Amount	Recommended kW Amount	Job Commitments	Capital Investment Commitment ($)	Contract Term (years)
1	BASF Corporation	Peekskill	Westchester	Mid-Hudson	CONED	Research & development lab	1,250	1,240 (1)	187	$4,000,000	7
2	Citigroup Global Markets Inc.	New York	New York	New York City	CONED	Banking & financial services	8,146	8,146	10,000 (2)	$5,000,000 (2)	7
3	Data Device Corporation	Bohemia	Suffolk	Long Island	LIPA	Manufacturer of data networking products	480	480	284	$1,800,000	7
4	Kaleida Health	Buffalo, North Tonawanda, & Williamsville	Erie & Niagara	Western New York	NGRID	Hospitals & healthcare centers	3,636	3,636	5,358 (2)	$94,529,167 (2)	7
	Totals						**13,512**	**13,502**	**15,829**	**$105,329,167**	

(1) Represents modified amount.
(2) Commitments will apply to multiple facilities/addresses. The change will be implemented in customer's power contract.

Economic Development Power Allocation Board **Exhibit "B"**

Modifications to Extension Recommendations - RNY Power Allocations for Retention Purposes (Large Businesses, Small Business, and/or NFP Corporations) **September 24, 2019**

Retention-Based Allocations

Line	Company	City	County	Economic Development Region	IOU	Description	Recommended kW Amount	Final Job Commitments	Final Capital Investment Commitment ($)	Contract Term (years)
1	Matt Industries Inc.	Syracuse	Onondaga	Central New York	NGRID	Commercial printing services	532 (1)	236 (1)	$2,000,000	7
2	Morton Salt, Inc.	Silver Springs	Wyoming	Finger Lakes	NYSEG	Salt production	1,186	155	$15,000,000 (1)	7
3	Owens-Brockway Glass Container Inc.	Auburn	Cayuga	Central New York	NYSEG	Manufacturer of glass containers	3,500	257	$10,000,000 (1)	7
4	Southern Glazer's Wine and Spirits of Upstate New York, LLC	Syracuse	Onondaga	Central New York	NGRID	Wine & spirits distributor	300 (1)	600	$3,000,000	7
5	United Health Services Hospitals, Inc.	Vestal	Broome	Southern Tier	NYSEG	Healthcare services & medical offices	170	3,078	$10,000 (1)	7

(1) Represents modified/corrected amount.

<u>EXHIBIT C</u>

(Statutory Criteria – RNY Power Program)

- the significance of the cost of electricity to the applicant's overall cost of doing business, and the impact that a Recharge New York power allocation will have on the applicant's operating costs;

- the extent to which a Recharge New York power allocation will result in new capital investment in the state by the applicant;

- the extent to which a Recharge New York power allocation is consistent with any regional economic development council strategies and priorities;

- the type and cost of buildings, equipment and facilities to be constructed, enlarged or installed if the applicant were to receive an allocation;

- the applicant's payroll, salaries, benefits and number of jobs at the facility for which a Recharge New York power allocation is requested;

- the number of jobs that will be created or retained within the state in relation to the requested Recharge New York power allocation, and the extent to which the applicant will agree to commit to creating or retaining such jobs as a condition to receiving a Recharge New York power allocation;

- whether the applicant, due to the cost of electricity, is at risk of closing or curtailing facilities or operations in the state, relocating facilities or operations out of the state, or losing a significant number of jobs in the state, in the absence of a Recharge New York power allocation;

- the significance of the applicant's facility that would receive the Recharge New York power allocation to the economy of the area in which such facility is located;

- the extent to which the applicant has invested in energy efficiency measures, will agree to participate in or perform energy audits of its facilities, will agree to participate in energy efficiency programs of the authority, or will commit to implement or otherwise make tangible investments in energy efficiency measures as a condition to receiving a Recharge New York power allocation;

- whether the applicant receives a hydroelectric power allocation or benefits supported by the sale of hydroelectric power under another program administered in whole or in part by the New York Power Authority;

- the extent to which a Recharge New York power allocation will result in an advantage for an applicant in relation to the applicant’s competitors within the state; and

- in addition to the foregoing criteria, in the case of a not-for-profit corporation, whether the applicant provides critical services or substantial benefits to the local community in which the facility for which the Recharge New York power allocation is requested is located.

Date: **September 24, 2019**

To: **Economic Development Power Allocation Board**

From: **Senior Vice President, Clean Energy Solutions**

Subject: **Transfer of RNY Power Allocations**

SUMMARY

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

1. Transfer of a 146 kilowatt ("kW") Recharge New York ("RNY") Power allocation awarded to EJ USA Inc. ("EJ USA") for use at its facility located at 6177 S. Bay Road, Cicero, New York, to a facility located at 132 County Rte. 59, Phoenix, New York.

2. Transfer of a 46 kW RNY Power allocation, and pending 10 kW RNY Power allocation awarded to Flexible Business Systems, Inc. ("Flexible") for use at its facility located at 380 Oser Avenue, Hauppauge, New York, to a facility located at 290 Motor Parkway, Hauppauge, New York.

3. Transfer of a 210 kW RNY Power allocation awarded to New York Container Terminal Inc. ("NYCT") for use at 300 Western Avenue, Staten Island, New York, to GCT New York LP ("GCT") in order to address organizational changes.

4. Transfer of a 420 kW RNY Power allocation awarded to Norampac Schenectady Inc. ("Norampac") for use at its 801 Corporation Park, Schenectady, New York facilities, to Cascades Holding US Inc. ("CHUS") in order to address organizational changes.

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

If the Board approves the requested transfers, the Trustees of the New York Power Authority ("NYPA") will also be requested to approve the transfers.

DISCUSSION

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

1) EJ USA Inc.

EJ USA manufactures steel and aluminum products, such as hatches, grates and covers. The company presently has a 146 kW RNY Power allocation.

The company has moved to a more modern facility that will allow for growth of its manufacturing within its markets in New York, New Jersey, Connecticut and Pennsylvania.

EJ USA requests that the 146 kW RNY Power allocation be transferred to the 132 County Rte. 59, Phoenix, New York location. The company would continue to honor all commitments including employment, power utilization, and capital investment commitments related to the 146 kW RNY Power allocation.

2) Flexible Business Systems, Inc.

Flexible provides IT support, as well as IT technology consultation for LI-area businesses. The company presently has a 46 kW RNY Power allocation and a pending 10 kW RNY Power allocation.

The company had outgrown the facilities located at 380 Oser Avenue and moved into a facility that will allow the company to meet its business growth demands.

Flexible requests that its 46 kW RNY Power allocation and a pending 10 kW RNY Power allocation be transferred to the 290 Motor Parkway location. The company would continue to honor all commitments including employment, power utilization, and capital investment commitments related to the 46 kW RNY Power allocation and the pending 10 kW RNY Power allocation.

3) New York Container Terminal Inc.

NYCT has a 210 kW RNY Power allocation for use at its facility on Staten Island, New York. The facility is an international cargo container shipping terminal, used for loading and discharging cargo containers to and from oceanbound cargo vessels for transport to ports all over the world. NYCT restructured for business and branding purposes and is now GCT.

These companies request that the 210 kW RNY Power allocation be transferred to GCT. The restructuring will not result in changes to operations at the facility and GCT has indicated that it will honor all terms and commitments, including employment, power utilization, and capital investment commitments made by NYCT under its RNY Power sales agreement.

4) Norampac Schenectady Inc.

Norampac has a 420 kW RNY Power allocation for use at its facility in Schenectady, New York. This facility manufactures corrugated packaging and displays. Norampac merged into CHUS, an affiliate, and this location is now operated as Cascades Containerboard Packaging – Schenectady, a division of CHUS.

In light of the merger, the companies have asked that the 420 kW RNY Power allocation be transferred to CHUS. The merger will not result in changes to operations at the facility and CHUS has indicated it will honor all terms and commitments, including employment, power utilization, and capital investment commitments made by Norampac under its RNY Power sales agreement.

RECOMMENDATION

Staff recommends that the Board approve the transfers discussed above, subject to the following conditions: (1) approval of the transfer of each RNY Power allocation by NYPA; (2) there be no material reductions in the base employment levels or capital investment commitments associated with the allocations that would be transferred; and (3) the transfers are addressed in contract documents containing such terms and conditions determined by the Authority to be appropriate to effectuate each 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 the 146 kilowatt ("kW") Recharge New York ("RNY") Power allocation awarded to EJ USA Inc. for its use at its facility at 6177 S. Bay Road, Cicero, New York, to facilities located at 132 Rte. 59, Phoenix, New York, as described in the foregoing memorandum ("Memorandum") be, and hereby is, approved subject to the following conditions: (1) approval of the transfer by the New York Power Authority ("NYPA"); (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; and be it further

RESOLVED, That the transfer of the 46 kW RNY Power allocation, and a pending 10 kW RNY Power allocation awarded to Flexible Business Systems, Inc. for its use at its facilities located at 380 Oser Avenue in Hauppauge, New York, to facilities at the 290 Motor Parkway, Hauppauge, New York, as described in the foregoing Memorandum be, and hereby is, approved subject to the following conditions: (1) approval of the transfer by NYPA; (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 Authority to be appropriate to effectuate the transfer.

RESOLVED, That the transfer of the 210 kW RNY Power allocation awarded to New York Container Terminal Inc. for its use at its facility at 300 Western Avenue in Staten Island, New York, to GCT New York LP, for use at the same location, as described in the foregoing Memorandum be, and hereby is, approved subject to the following conditions: (1) approval of the transfer by NYPA; (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 Authority to be appropriate to effectuate the transfer.

RESOLVED, That the transfer of the 420 kW RNY Power allocation awarded to Norampac Schenectady Inc. for its use at its facility at 801 Corporation Park in Schenectady, New York, to Cascades Holding US Inc., for use at the same location, as described in the foregoing Memorandum be, and hereby is, approved subject to the following conditions: (1) approval of the transfer by NYPA; (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 Authority to be appropriate to effectuate the transfer.

Date: September 24, 2019

To: Economic Development Power Allocation Board

From: Senior Vice President – Clean Energy 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, 2019 to May 31, 2020.

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 New York Power Authority ("Authority") is directed in §1005 to identify net revenues available for IIAs no less often than annually. Net revenues are defined by §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 Paper (NY), Inc. ("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.

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 2016 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 a $6 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 283 persons at its facility during the sixth annual term ending May 31, 2019.

<u>DISCUSSION</u>

As the sixth year of the extended IIA drew to a close this May, 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 threatens the economic viability of operations at its Staten Island facility. An extension of the IIA would support Pratt's ability to maintain the 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, 2020.

FISCAL INFORMATION

IIAs may be paid only if sufficient net revenues are produced by the sale of EP. Given that such net revenues and associated awards are anticipated in each year's budget, extension of the Plan through May 31, 2020 to accommodate the one year extension of Pratt's IIA benefits will not have a significant impact on the Authority's finances.

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, 2020 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.

Keith T. Hayes
Senior Vice President
Clean Energy Solutions

R E S O L U T I O N

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, 2020, 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.

September 24, 2019

Next Meeting

The next meeting of the Board will be held via videoconference on Monday, December 9, 2019 at 10:00 a.m.