NEW YORK STATE | Economic Development Power Allocation Board

KATHY HOCHUL
Governor

JUDGE CECILY MORRIS
Chair

ECONOMIC DEVELOPMENT POWER ALLOCATION BOARD

MINUTES

September 17, 2024

Meeting Held Via Videoconference

A regular meeting of the Economic Development Power Allocation Board ("EDPAB") was held via video conference, at approximately 8:00 a.m.

The following Members of the Board were present:

Judge Cecily Morris*,* Chair
Dennis Trainor, Member
Andrew Silver, Member

Also in attendance were:

Lori Alesio	Executive Vice President and General Counsel
Karen Delince	Vice President and Corporate Secretary, NYPA
Eric Bowers	Vice President – Economic Development & Key Account Management – Power Contracts & Tariffs, NYPA
Steve Vancol	Manager – Power Contracts and Tariffs, NYPA
Mark Schwartzburt	Lead Power Contracts & Tariffs Analyst
Michele Stockwell	Senior Assistant – Corporate Secretary, NYPA
Lewis Warren, Jr.,	Trustee – NYPA

Introduction

Chair Cecily Morris welcomed members of the Board Dennis Trainor and Andrew Silver and Authority senior staff to the meeting. She said that the meeting had been duly noticed as required by the Open Meetings Law and called the meeting to order pursuant to the EDPAB Bylaws, Article III, Section 2.

1. Adoption of the September 17, 2024 Proposed Meeting Agenda

On motion made by Member Dennis Trainor and seconded by Member Andrew Silver, the Agenda for the May 20, 2024 meeting was adopted.

Chair Cecily Morris and Members Dennis Trainor and Andrew Silver declared no conflicts of interest based on the list of entities being considered for power allocations.

2. Approval of the Minutes

On motion made by Member Andrew Silver and seconded by Member Dennis Trainor, the Minutes of the Meeting held on July 30, 2024 were unanimously approved.

Chair Cecil Morris invited Mr. Eric Bowers, Vice President – Economic Development & Key Account Management – Power Contracts & Tariffs, to introduce staff's recommendations to the members. He said that staff is requesting that the members approve the recommendations for 1) Transfer of ReCharge New York Power Allocations; and 2) Extension of the Economic Development Plan for Pratt Paper, New York, Inc., which would be presented by Mr. Mark Schwartzburt, Lead Power Contracts and Tariffs Analyst.

3. Transfer of Recharge New York Power Allocations

"SUMMARY

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

1. Transfer of a 970-kilowatt ("kW") RNY Power allocation awarded to Cliffstar LLC ("Cliffstar"), for its use at its facility at One Cliffstar Avenue, Dunkirk, NY 14048, to Refresco Beverages US Inc. ("Refresco"), to address organizational changes.

2. Transfer of a 126 kW RNY Power allocation awarded to Hanan Products Company, Inc. ("Hanan"), for its use at its 196 Miller Place Hicksville, NY 11801, to Rich Products Corporation ("Rich"), 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 ("Authority") will also be requested to approve the transfers.

DISCUSSION

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

1) Cliffstar LLC

Cliffstar was awarded a 970 kW RNY Power allocation for use at its facility located in Dunkirk, NY. This facility manufactures, bottles, and packages beverages.

On September 30, 2020, Cliffstar's assets and liabilities were purchased by Refresco. Refresco plans no changes to the business that Cliffstar conducted at the aforementioned facility in New York.

Refresco requests that the 970 kW RNY Power allocation be transferred from Cliffstar to Refresco. Refresco has indicated that it will honor all the terms and commitments made by Cliffstar under the Agreement for the Sale of Recharge New York Power and Energy with the Authority covering the allocation.

2) Hanan Products Company, Inc.

Hanan was awarded a 126 kW RNY Power allocation of use at its facility located in Hicksville, NY. This facility manufactures whipped toppings, icing and filling.

On February 23, 2024, Hanan's assets were purchased by Rich. Rich plans no changes to the business that Hanan conducted at the facility in New York.

Hanan and Rich request that the 126 kW RNY Power allocation be transferred from Hanan to Rich. Rich has indicated that it will honor all the terms and commitments made by Hanan under the Agreement for the Sale of Recharge New York Power and Energy with the Authority covering the allocation.

RECOMMENDATION

Staff recommends that the Board approve the transfers discussed above, subject to the following conditions: (1) approval of the transfers of the RNY Power allocations by the NYPA Board of Trustees; (2) there be no material reductions in the base employment level or capital investment commitment associated with the allocation that would be transferred; and (3) the transfers are addressed in contract documents containing such terms and conditions determined by the Authority to be appropriate to effectuate the transfer.

For the reasons stated, staff recommends the approval of the above-requested action by adoption of the resolution below."

Mr. Mark Schwartzburt provided highlights of staff's recommendation to the members. He said that, as required by the Public Authorities Law, staff is requesting that the members approve the transfer of awarded allocations. Some of the reasons why a customer may require a transfer of their award is 1) a business reorganization which can include a corporate entity change such as from "Inc." to "LLC"; 2) a merger or split which will result in a change of the Federal Tax ID or a sale of the business resulting in a change of the Federal Tax ID; 3) a move from one location to another in New York State.

He continued that this item requests the Board to approve two transfers of ReCharge New York power allocations. One for a customer that has sold its assets and certain liabilities for its facility in Dunkirk, New York, to another business entity that will continue the same business operation at the aforementioned facility. The other is for a customer that has sold its assets for its facility in Peekskill, New York, to another business entity that will continue the same business operations at the facility.

He further continued that this request is subject to 1) approval of the transfer of the Recharge New York power allocations by the Authority; 2) there be no material reductions in the base employment level or capital investment commitment associated with the allocations that will be transferred; and 3) the transfer addressed in the contract documents contain such terms and conditions determined by the Authority to be appropriate to effectuate the transfer. Specifically, the Board is being asked to recommend that the Trustees 1) approve the transfer of a 970 kW Recharge New York power allocation awarded to Cliffstar LLC for use at its facility at One Cliffstar Avenue, Dunkirk, New York, to Refresco Beverages, US Inc., to address organizational changes and 2) approve the transfer of a pending 126 kW Recharge New York Power allocation awarded to Hanan Products Company, Inc. for use at its facility at 196 Miller Place, Hicksville, New York, to Rich Products Corporation to address organizational changes.

On motion made by Member Dennis Trainor and seconded by Member Andrew Silver, the following resolution, as recommended by staff, was unanimously adopted by the members of the Board.

> RESOLVED, That the transfer of a 970 kilowatt ("kW") Recharge New York Power allocation awarded to Cliffstar LLC for use at its facility located at One Cliffstar Avenue, Dunkirk, NY 14048, to Refresco Beverages US Inc. for use at the same facility, as described in the foregoing report be, and hereby is, approved subject to the following conditions: (1) approval of the transfer by the New York Power Authority ("NYPA") Board of Trustees; (2) there be no material reduction in the base employment level or capital investment commitment due to the transfer as provided for above; and (3) the transfer is addressed in contract documents containing such terms and conditions determined by the NYPA to be appropriate to effectuate the transfer; and be it further
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> RESOLVED, That the transfer of a 126 kW Recharge New York Power allocation awarded to Hanan Products Company, Inc. for use at its facility located at 196 Miller Place Hicksville, NY 11801, to Rich Products Corporation for use at the same facility, as described in the foregoing report be, and hereby is, approved subject to the following conditions: (1) approval of the transfer by the NYPA Board of Trustees; (2) there be no material reduction in the base employment level or capital investment commitment due to the transfer as provided for above; and (3) the transfer is addressed in contract documents containing such terms and conditions determined by the NYPA to be appropriate to effectuate the transfer.

4. Extension of the Industrial Incentive Award to Pratt Paper (NY), Inc. and 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, 2024 to May 31, 2025. If EDPAB approves the extension, the Trustees of the New York Power Authority ("Authority") will be asked to extend the term of an IIA to Pratt Paper (NY), Inc. ("Pratt") from June 1, 2024 through May 31, 2025 for the reasons discussed below.

BACKGROUND

Public Authorities Law ("PAL") §1005 (eighth unnumbered paragraph) directs the Authority to identify "net revenues" produced by the sale of EP and, further, to identify an amount of such net revenues that will be used solely for IIAs. The Authority is directed in PAL §1005 to identify net revenues available for IIAs no less often than annually. Net revenues are defined by PAL §1005 as any excess of revenues properly allocated to the sales of EP over costs and expenses properly allocated to such sales.

IIAs are to be made in conformance with an economic development plan covering all such "net revenues." The Authority submits a Plan to EDPAB, pursuant to Economic Development Law ("EDL") §188, which also provides for EDPAB's approval of the Plan upon its determination that such Plan is consistent with, among other things, the criteria and requirements provided for in EDL §§184 and 185 that are used to evaluate applications for certain power. A copy of EDL §§ 184 and 185 is attached as Exhibit "A."

At its October 26, 2009 meeting, EDPAB approved an Economic Development Plan that allows the use of net revenues from the sale of EP for the calendar years 2008 through and including 2016 to provide electric bill discounts to manufacturing companies located in New York State that are at identifiable risks of closing or relocating to another state.

At its May 21, 2013 meeting, the Authority's Board of Trustees ("Trustees") authorized an IIA to Pratt upon determining that Pratt had demonstrated it met the qualifying criteria for an IIA and after careful consideration of Pratt's business case. The Trustees approved an annual amount of up to $1 million per year for up to five (5) years.

At its September 27, 2016 meeting, the Trustees approved an extension of the Plan to May 31, 2018 and also authorized submission of such Plan to EDPAB to request its approval of the modified Plan to cover the remainder of the five year term of the IIA to Pratt. At its December 12, 2016 meeting, EDPAB approved the extension of the Plan that allows the use of net revenues from the sale of EP to May 31, 2018. At its December 10, 2018 meeting EDPAB approved the extension of the Plan that allows the use of net revenues from the sale of EP to May 31, 2019.

Since this time, EDPAB has extended the Plan, and NYPA has approved the Plan's extension, annually, in one-year increments (June 1-May 31) from 2019 through 2024. Following these extensions, the NYPA Board of Trustees approved one-year extensions (June 1-May 31) of the term of the IIA awarded to Pratt in the amount of up to $1 million in connection with Pratt's Staten Island operations after finding that Pratt continued to satisfy the requirements for an IIA.

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 2024 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.

At the completion of the extended term, a compliance review and due diligence was performed on the terms and conditions of the Agreement. Pratt has been compliant for each annual term, most recently employing an average of 295 persons at its facility during the tenth annual term ending May 31, 2023.

DISCUSSION

By letter application dated April 20, 2024, Pratt requested an extension of the IIA. Upon review of Pratt's current business case, staff determined that Pratt continues to meet the IIA requirements of being a manufacturing company at risk of closing or curtailing operations and continues to be negatively impacted by high electricity costs within Consolidated Edison service territory which, according to Pratt, threatens the economic viability of operations at its Staten Island facility.

Pratt also indicates it is anticipating electricity delivery price increases in the near term based upon review of the existing utility tariff. The company also cited both higher utility taxes and a rate case filing for significant increases in delivery costs of natural gas as making the Staten Island plant less competitive than its facilities in other states, further jeopardizing its successful operations in New York. Pratt indicates that additional expenses, including those related to compliance with a new requirement imposed by New York City relating to wastewater pre-treatment, are expected to further increase operating costs at the Staten Island facilities.

An extension of the IIA would support Pratt's ability to maintain its committed employment level of 256 jobs at its facility. NYPA and Pratt reached agreement on an offer to extend the IIA contingent upon necessary Trustee and EDPAB approvals.

Accordingly, staff recommends that EDPAB approve the extension of the Plan to May 31, 2025.

RECOMMENDATION

For the reasons stated above, staff recommends that the Economic Development Power Allocation Board ("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, 2025 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."

Mr. Mark Schwartzburt, Lead Power Contracts and Tariffs Analyst, provided highlights of staff's recommendation to the members. He said that staff is requesting that the members approve the extension of the Economic Development Plan covering the use of net revenues produced by the sale of expansion power to provide electric bill discounts in the form of an Industrial Incentive Award to manufacturing companies located in New York state that are at identifiable risk of closure or relocation to another state. He continued that, with EDPAB's approval the term of the Plan will be from June 1, 2024 to May 31, 2025.

On April 20, 2024, Pratt Paper (NY), Inc. ("Pratt") submitted a request for an extension of its Industrial Incentive Award beyond May 31, 2024. Upon review of Pratt's current business case, staff determined that Pratt continues to meet the Industrial Incentive Award requirements of being a manufacturing company at risk of closing or curtailing operations and continues to be negatively impacted by high electricity costs which threaten the economic viability of operations at its Staten Island facility. Pratt further stated that it is anticipating electricity demand price increases in the near term based on the current tariff. The company also cited both higher costs related to Public Law 97, Greenhouse Gas Emissions, and *recent unexpected significant increases in operational costs expected from wastewater pre-treatment requirements from the New York City Department of Environmental Protection as making the Staten Island plant less competitive than its facilities in other states, further jeopardizing its successful operations in New York. An extension of the Industrial Incentive Award will support Pratt's ability to maintain the committed employment level of 270 jobs at its facility.*

At its October 8, 2024 meeting, the NYPA Board of Trustees will be asked to approve a request to approve an extension, from June 1, 2024 to May 31, 2025, of the Economic Development Plan and approve a one-year extension, from June 1, 2024 to May 31, 2025, of the term of the Industrial Incentive Award previously awarded to Pratt Paper New York, Inc. in the amount of up to $1 million in connection with its Staten Island operations. Accordingly, NYPA staff recommends that EDPAB approve an extension of the Economic Development Plan covering the use of net revenues produced by the sale of expansion power to provide electric bill discounts in the form of an Industrial Incentive Award to manufacturing companies located in New York State that are at identifiable risks of closure or relocation to another state in accordance with Public Authorities Law, Section 1005(8) enumerated paragraph, Economic Development Law, Section 188 and the provisions of Economic Development Sections 184 and 185 that evaluate applications for certain power.

On motion made by Member Dennis Trainor and seconded by Member Andrew Silver, the following resolution, as recommended by staff, was unanimously adopted by the members of the Board.

> RESOLVED, That the Economic Development Power Allocation Board determines that, based the report of the President and Chief Executive Officer 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, 2025, 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 aforementioned report.

OTHER BUSINESS

No other business to report.

5. Next Meeting

Chair Cecily Morris said that the next meeting of the Board will be held on Monday, December 9, 2024.

Closing

On motion made by Member Dennis Trainor and seconded by Member Andrew Silver, the meeting was adjourned at approximately 8:14 a.m.

Karen Delince

Karen Delince
Corporate Secretary

Exhibit 4-A

<u>Economic Development Law §§ 184 AND 185</u>

§ 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.