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

ANDREW M. CUOMO
Governor

ECONOMIC DEVELOPMENT POWER ALLOCATION BOARD

MINUTES
July 27, 2020 – *10:00 a.m.*

Videoconference

1. Approval of the July 27, 2020 Proposed Meeting Agenda
2. Approval of the Minutes of the Meeting of May 11, 2020
3. Approval of Recharge New York Power Program – New, Extended and Modified Allocations
4. Extension of the Economic Development Plan

OTHER BUSINESS

5. Next Meeting

A regular meeting of the Economic Development Power Allocation Board was held via videoconference.

The following Members of the Board were present:

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

Also in attendance were:

Karen Delince	Vice President & Corporate Secretary, NYPA
Keith Hayes	Senior Vice President, Clean Energy Solutions, 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 Members Dennis Trainor and Andrew Silver declared no conflicts of interest based on the list of entities being considered for power allocations.

Upon motion made by Member Dennis Trainor and seconded by Member Andrew Silver, the Agenda for the July 27, 2020 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 May 11, 2020 were unanimously approved.

3. Recharge New York Power Program – New, Extended and Modified Allocations

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 6 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"), subject to the following conditions:

(a) A customer whose Allocation would be extended would have to agree to provide supplemental commitments for, among other things, jobs and capital investments, as it has in its current RNY Power agreement(s) with the Authority (collectively, "Current RNY Power Agreement") for the length of any Extended Term, through the incorporation of such supplemental commitments in the proposed final contract that is executed by the parties. With respect to capital investments, the vast majority of RNY Power customers (i.e., those who do not have project/expansion capital investment commitments) would be expected to meet a minimum capital investment commitment.

(b) Unless otherwise noted, each of the customers identified in Exhibit "A" is in compliance with its contractual obligations to the Authority under its Current RNY Power Agreement.

In addition, the Board is also requested to recommend that the Trustees approve a modification to an existing RNY Power allocation and associated commitments for the customer listed in Exhibit "B".

The Board is further requested to recommend that the Trustees award new allocations of RNY Power available for "retention" purposes to the businesses listed in Exhibit "C" in the amounts indicated therein, award new allocations of RNY Power available for "expansion" purposes to the businesses listed in Exhibit "D" in the amounts indicated therein, and award new allocations of RNY Power available for eligible small businesses and/or not-for-profit corporations to the entities listed in Exhibit "E" in the amounts indicated therein.

Lastly, the Board is requested to 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, such terms and conditions include:

(1) 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;
(2) 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;

(3) 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; and

(4) a 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.

The sale of any Allocation as proposed herein will be governed by the form of the RNY Power contract that was approved by the Trustees on March 26, 2019, and existing Authority Service Tariff RNY-1.

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 "RNY Statutes"). 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.

As part of Governor 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.

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.

"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's Trustees that it believes should receive an award of RNY Power based on applicable statutory criteria and other pertinent considerations. The criteria provided for in the RNY Statutes are summarized in Exhibit "G" 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.

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.

Unless otherwise noted in Exhibits "C", "D", and "E", new 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. Unless otherwise noted in Exhibit "E", 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. Although not applicable in the recommendations presented herein, applicants currently receiving hydropower allocations under other Authority power programs are typically recommended for allocations of RNY Power of 25% of the requested amount, subject to the caps as stated above.

RNY Power allocation extensions have been awarded by the Trustees, based on EDPAB's recommendation, on seven prior occasions spanning from October 2018 through May 2020. These recommendations pertain to existing RNY Power customers receiving an Extended Term of 7 years.

RNY Power allocations pertaining to new applicants have been awarded by the Trustees on twenty-seven prior occasions, based on EDPAB's recommendation, spanning from April 2012 through May 2020. Of the 200 MW block of RNY Power made available pursuant to Chapter 60 for business "expansion" purposes, 88.9 MW remain unallocated. Of the 100 MW block of RNY Power that is set aside for not-for-profit corporations and small businesses pursuant to Chapter 60, 4.3 MW remain unallocated. Of the remaining RNY Power made available pursuant to Chapter 60, 129.4 MW remain unallocated. These figures reflect Trustee actions on RNY Power applications taken prior to any recommendations that EDPAB makes today.

The sale of RNY Power allocations that are recommended by EDPAB today for Trustee approval would be governed by the form of RNY Power contract that was approved by the Trustees on March 26, 2019, and existing Authority Service Tariff RNY-1. The terms and conditions in the RNY Power contract form are consistent with the terms and conditions pertaining to the sale of Allocations as described above.

DISCUSSION

1. Extension of Existing Allocations

For the current round of recommendations, Authority staff has reviewed applications from 6 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.

Staff is recommending that the full Allocations be extended for each company as indicated in Exhibit “A”.

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 3,718 jobs and $213.9 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 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 “G”. As described above, each Allocation would be extended for a term not to exceed 7 years.

2. Modification to Existing Allocation and Related Supplemental Commitments

The Board is also asked to recommend that the Trustees approve modifications related to the existing RNY Power allocation listed in Exhibit “B” for D'Addario & Company, Inc.

D’Addario & Company, Inc. was previously approved for an RNY Power allocation extension totaling 800 kilowatts (“kW”). Since that time, the company has applied for additional RNY Power to accommodate additional load in two new buildings. Staff reviewed the demand and energy data for the two new buildings and is recommending that the amount of the company’s extended allocation be increased by 26 kW from 800 kW to 826 kW.

In addition, D’Addario & Company, Inc. has requested to modify its employment and capital investment commitment related to its allocation. Currently, the commitments are 821 jobs and $13.3 million in capital spending. Due to current business conditions, the company would like to modify these commitments to 815 jobs and $9.3 million in capital spending. Staff is recommending that the amount of the company’s extended employment commitment be revised to 815 jobs, and that the amount of the company’s capital investment commitment be revised to $9.3 million.

In view of the customer’s circumstances, staff has no objection to the requested modifications and therefore recommends that EDPAB recommend to the NYPA Trustees that the modifications listed on Exhibit “B” be approved.

3. Retention-Based RNY Power Allocations

Staff recommends that EDPAB recommend to the NYPA Trustees that the applicants listed on Exhibit “C” be awarded retention-based RNY Power allocations in the amounts indicated therein. Each business has stated a willingness to 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 “C”, these applications seek an RNY Power allocation for job retention purposes only. The retention-based allocations are each recommended for a term of 7 years unless otherwise indicated. The Authority’s RNY Power sale contract form would also contain the provisions summarized above.

4. Expansion-Based RNY Power Allocations

Staff recommends that EDPAB recommend to the NYPA Trustees that the applicants listed on Exhibit "D" 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 indicated in Exhibit "D", these applicants seek an 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. The Authority's RNY Power sale contract form would also contain the provisions summarized above.

5. 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 "E" be awarded RNY Power allocations in the amounts indicated therein each for a 7-year term. 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 "E". The contracts for these allocations would also contain the provisions summarized above.

If the EDPAB makes the requested recommendations and the Trustees accept them, the 100 MW block of power authorized by statute for small business and/or not-for-profit entities will be nearly fully allocated. Accordingly, a waiting list has been established for small businesses and not-for-profit entities that are potentially eligible for this block of power.

6. Termination of Application Review Process

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 has not been responsive to requests by staff for additional information, preventing a complete analysis of the application and rendering the subject RNY Power application incomplete.

RECOMMENDATION

For the reasons stated above, staff recommends that EDPAB:

(1) Recommend to the NYPA Trustees that each of the existing 6 Allocations of RNY Power 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 Allocations recommended herein, 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;

(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; and

(d) an agreement by the customer whose Allocation is extended 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.

(3) Recommend that the NYPA Trustees approve the modifications related to the allocation and supplemental commitments described in Exhibit "B" for the reasons discussed above.

(4) Recommend that the NYPA Trustees award the new allocations of RNY Power for retention purposes to the businesses listed in Exhibit "C" as indicated therein.

(5) Recommend that the NYPA Trustees award the new allocations of RNY Power for expansion purposes to the businesses listed in Exhibit "D" as indicated therein.

(6) Recommend that the NYPA Trustees award the new allocations of RNY Power for the small business and/or not-for-profit applicants identified in Exhibit "E" for retention and expansion purposes as indicated therein.

Chair Nicandri invited Mr. Keith Hayes, Senior Vice President of Clean Energy Solutions to present the Recharge New York Power Program – New, Extended and Modified Allocations to the Board.

Mr. Hayes said staff is requesting that EDPAB board recommend that the Authority's Trustees to approve contract extensions for 6 allocations of Recharge New York Power to existing customers, to approve modifications related to the awarded amount and supplemental commitments associated with a previously approved Recharge New York extension allocation, and award 12 new Recharge New York large business retention, large business expansion, and small business and not-for-profit based power allocations for the reasons stated above.

Upon motion made by Member Dennis Trainor and seconded by Member Andrew Silver, the Recharge New York Power Program – New, Extended and Modified Allocations, as recommended by staff, was approved by the Board.

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

RESOLVED, That the Economic Development Power Allocation Board ("Board") approves recommendation that the Board of Trustees ("Trustees") of the Power Authority of the State of New York ("Authority") extend each of the existing 6 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 also approves recommendation 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 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

(4) an agreement by the customer whose Allocation is extended 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; and be it further

RESOLVED, That the Board further approves recommendation that the Trustees approve the modifications related to the allocation and supplemental commitments described in Exhibit "B" to the attached Memorandum for the reasons indicated in the Memorandum and Exhibit "B; and be it further

RESOLVED, That the Board approves recommendation that the Trustees approve the new RNY Power allocations for retention purposes to the applicants listed in Exhibit "C" in the amounts indicated therein; and be it further

RESOLVED, That the Board approves recommendation that the Trustees approve the new RNY Power allocations for expansion purposes to the applicants listed in Exhibit "D" in the amounts indicated therein; and be it further

RESOLVED, That the Board approves recommendation that the Trustees approve the new RNY Power allocations for retention and expansion purposes to the small businesses and/or not-for-profit applicants listed in Exhibit "E" in the amounts indicated therein; 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 — **Exhibit "A"**
Extension Recommendations - RNY Power Allocations for Retention Purposes (Large Businesses, Small Business, and/or NFP Corporations) — **July 27, 2020**

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	DiCarlo Distributors, Inc.	Holtsville	Suffolk	Long Island	LIPA	Wholesale food distributor	276	276	215	$1,000,000	7
2	The Nursing Care Center At Medford, Inc.	Medford	Suffolk	Long Island	LIPA	Rehabilitation & healthcare services	296	296	333	$1,500,000	7
	Long Island Region Sub-totals:						**572**	**572**	**548**	**$2,500,000**	
3	Innovative Plastics Corp.	Orangeburg	Rockland	Mid-Hudson	O&R	Manufacturer of thermoformed packaging	570	570	75	$5,000,000	7
	Mid-Hudson Region Sub-totals:						**570**	**570**	**75**	**$5,000,000**	
4	Fordham University	Bronx	Bronx	New York City	CONED	Institution of higher education	1,380	1,380	2,990	$205,300,000	7
5	The Brooklyn Brewery Corporation	Brooklyn	Kings	New York City	CONED	Brewery for craft beers	86	86	42	$500,000	7
	New York City Region Sub-totals:						**1,466**	**1,466**	**3,032**	**$205,800,000**	
6	Commitment 2000, Inc.	Buffalo	Erie	Western New York	NGRID	Manufacturer of bread products	126	126	63	$600,000	7
	Western New York Region Sub-totals:						**126**	**126**	**63**	**$600,000**	
	Totals						**2,734**	**2,734**	**3,718**	**$213,900,000**	

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 27, 2020**

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	D'Addario & Company, Inc.	Farmingdale	Suffolk	Long Island	LIPA	Manufacturer of musical instrument strings	826 (1)	815 (2)	$9,300,000 (3)	7

(1) Represents modified/corrected amount. The customer was previously extended for an RNY Power allocation in the amount of 800 kW. It was determined that the customer needed additional RNY Power, primarily associated with two new buildings, which is the basis of the modification presented herein.

(2) Represents modified/corrected job commitment amount.

(3) Represents modified/corrected capital investment commitment amount.

Economic Development Power Allocation Board

Recommendations - RNY Power Allocations for Retention Purposes

Exhibit "C"

July 27, 2020

Line	Company	City	County	Economic Development Region	IOU	Description	kW Request	kW Recommendation	Jobs Retained	Capital Investment ($)		Contract Term (years)
1	Ancotel USA, LLC	Westbury	Nassau	Long Island	LIPA	Carrier-neutral interconnection facility	436	216	3	$2,000,000	(1)	7
	Long Island Region Sub-totals:							**216**	**3**	**$2,000,000**		
2	Wheatfield Gardens, LLC	North Tonawanda	Niagara	Western New York	NGRID	Hydroponic commercial greenhouse	479	236	15	$5,000,000	(1)	7
	Western New York Region Sub-totals:							**236**	**15**	**$5,000,000**		
	Totals							**452**	**18**	**$7,000,000**		

(1) This company is also recommended for an expansion-related allocation of RNY for separate and distinct job creation and capital investment commitments associated with the proposed business expansion.

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

Recommendations - RNY Power Allocations for Expansion Purposes **July 27, 2020**

Line	Company	City	County	Economic Development Region	IOU	Description	kW Request	kW Recommendation (1)	Base Employment (2)	Job Creation Commitment	Project Capital Investment ($)		Contract Term (years)
1	Cryomech, Inc.	Dewitt	Onondaga	Central New York	NGRID	Manufacturer of cryogenic equipment	674	470	108	15	$14,000,000		7
	Central New York Region Sub-totals:							**470**	**108**	**15**	**$14,000,000**		
2	Ancotel USA, LLC	Westbury	Nassau	Long Island	LIPA	Carrier-neutral interconnection facility	1,110	776	3	17	$16,280,000	(3)	7
	Long Island Region Sub-totals:							**776**	**0**	**17**	**$16,280,000**		
3	Wheatfield Gardens, LLC	North Tonawanda	Niagara	Western New York	NGRID	Hydroponic commercial greenhouse	100	70	15	4	$1,000,000	(3)	7
	Western New York Region Sub-totals:							**70**	**0**	**4**	**$1,000,000**		
	Totals							**1,316**	**108**	**36**	**$31,280,000**		

(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) The number of new jobs committed will be above a base employment level specified in the power sale contract with the applicant.

(3) This company is also being recommended for a retention-based RNY Power allocation 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.

Economic Development Power Allocation Board **Exhibit "E"**
Recommendations - RNY Power Allocations for Retention Purposes (Small Business and/or NFP Corporations) **July 27, 2020**

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	Simmons Machine Tool Corporation	Menands	Albany	Capital District	NGRID	Manufacturer of railroad maintenance tools	308	150	100	0	$1,200,000		7
	Capital District Region Sub-totals:							**150**	**100**	**0**	**$1,200,000**		
2	Museum of Science & Technology Foundation	Syracuse	Onondaga	Central New York	NGRID	Science & technology museum	304	100	32	0	$130,000		7
	Central New York Region Sub-totals:							**100**	**32**	**0**	**$130,000**		
3	ProAmpac Rochester LLC	Ogden	Monroe	Finger Lakes	RGE	Manufacturer of packaging products	389	190	62	0	$575,000	(1)	7
	Finger Lakes Region Sub-totals:							**190**	**62**	**0**	**$575,000**		
4	Active Retirement Community, Inc.	South Setauket	Suffolk	Long Island	LIPA	Retirement & assisted-living community	880	290	350	0	$12,000,000	(1)	7
	Long Island Region Sub-totals:							**290**	**350**	**0**	**$12,000,000**		
	Retention-Based Totals							**730**	**544**	**0**	**$13,905,000**		

Expansion-Based Allocations

Line	Company	City	County	Economic Development Region	IOU	Description	kW Request	kW Recommendation (3)	Base Employment	Job Creation Commitment	Project Capital Investment ($)		Contract Term (years)
5	ProAmpac Rochester LLC	Ogden	Monroe	Finger Lakes	RGE	Manufacturer of packaging products	86	40	62	15	$7,425,000	(1), (2)	7
	Finger Lakes Region Sub-totals:							**40**	**0**	**15**	**$7,425,000**		
6	Active Retirement Community, Inc.	South Setauket	Suffolk	Long Island	LIPA	Retirement & assisted-living community	450	150	350	41	$70,000,000	(1), (2)	7
7	Crown I Enterprises Inc.	Bay Shore	Suffolk	Long Island	LIPA	Food refrigeration & distribution	550	276	130	30	$4,500,000	(4)	7
	Long Island Region Sub-totals:							**426**	**25**	**71**	**$74,500,000**		
	Expansion-Based Totals							**466**	**25**	**86**	**$81,925,000**		
	Retention & Expansion-Based Totals							**1,196**	**569**	**86**	**$95,830,000**		

(1) These applicants are being recommended for both RNY retention and expansion-based allocations.
(2) The number of new jobs committed will be above a base employment level specified in the applicant's retention-based allocation recommendation.
(3) 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.
(4) This applicant was previously approved for RNY Power allocations. The base employment level refers to the applicant's current retained jobs, most of which are already associated with existing power allocations.

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

Exhibit "F"
July 27, 2020

Line	Company	City	County	Economic Development Region	IOU	Description	Reason
1	Jetro Cash and Carry Enterprises, LLC	College Point	Queens	New York City	CONED	Wholesale grocer & foodservice supplier	Applicant has been unresponsive to requests by staff for additional information, preventing a complete analysis of the application.

Economic Development Power Allocation Board **Exhibit "G"**
Statutory Criteria - RNY Power Program **July 27, 2020**

Line	Criteria Description
1	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;
2	The extent to which a Recharge New York power allocation will result in new capital investment in the state by the applicant;
3	The extent to which a Recharge New York power allocation is consistent with any regional economic development council strategies and priorities;
4	The type and cost of buildings, equipment and facilities to be constructed, enlarged or installed if the applicant were to receive an allocation;
5	The applicant's payroll, salaries, benefits and number of jobs at the facility for which a Recharge New York power allocation is requested;
6	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;
7	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;
8	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;
9	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;
10	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;
11	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
12	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. 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, 2020 to May 31, 2021. 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, 2020 through May 31, 2021 for the reasons discussed below.

BACKGROUND

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

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

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

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

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

At their March 26, 2019 meeting, the NYPA Trustees (1) approved an extension, from June 1, 2019 to May 31, 2020, of the Plan covering the use of net revenues produced by the sale of EP to provide electric bill discounts in the form of an IIAs to manufacturing companies located in New York State that are at risk of closure or relocation to another state; (2) authorized submission to EDPAB of a request to approve an extension, from June 1, 2019 to May 31, 2020, of the Plan; and (3) approved a one year extension, from June 1, 2019 to May 31, 2020, of the term of the IIA previously awarded to Pratt in the amount of up to $1 million in connection with its Staten Island operations, contingent upon EDPAB's extension of the Plan.

At its meeting on September 24, 2019, EDPAB approved an extension of the Plan to provide electric bill discounts in the form of an IIA to manufacturing companies located in New York State that are at identifiable risks of closure or relocation to another state from June 1, 2019 to May 31, 2020.

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 2020 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 $7 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 281 persons at its facility during the sixth annual term ending May 31, 2020.

DISCUSSION

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

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

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

Accordingly, staff recommends that EDPAB approve the extension of the Plan to May 31, 2021.

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, 2021 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.

Chairman Nicandri invited Mr. Keith Hayes, Senior Vice President of Clean Energy Solutions to present the Extension of the Economic Development Plan.

Mr. Hayes said staff is requesting that EDPAB recommend that the Authority's Trustees approve the extension of the Economic Development Plan from June 1st, 2020 through May 31st, 2021.

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

Upon motion made by Member Dennis Trainor and seconded by Member Andrew Silver, the Extension of the Economic Development Plan, as recommended by staff, was approved by the Board.

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

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, 2021, 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.

EXHIBIT A

Economic Development Law §§ 184 AND 185

§ 184. Criteria for eligibility for economic development power. Each application for an allocation of economic development power shall be evaluated under criteria adopted by the board. Such criteria shall address, but need not be limited to:

(a) the number of new jobs created as a result of an economic development power allocation;

(b) the applicant's long-term commitment to New York state, as evidenced by the applicant's current and/or planned capital investment in business facilities in New York state;

(c) the ratio of the number of jobs to be created to the amount of economic development power requested by the applicant;

(d) the types of jobs created, as measured by wage and benefit levels, security and stability of employment;

(e) the type and cost of buildings, equipment and facilities to be constructed, enlarged or installed;

(f) the extent to which economic development power will affect the overall productivity or competitiveness of the applicant's business and its existing employment within the state;

(g) the extent to which an allocation of economic development power may result in a competitive disadvantage for other businesses in the state;

(h) the general economic conditions and economic distress in the area in which the applicant's business facility would be located and the extent to which economic development power could contribute to the alleviation of such distress;

(i) the growth potential of the business facility and the contribution of economic strength to the area in which the business facility is or would be located;

(j) the extent of the applicant's willingness to make jobs available to persons defined as eligible for services under the federal job training partnership act of nineteen hundred eighty-two and the extent of the applicant's willingness to satisfy affirmative action goals;

(k) the extent to which an allocation of economic development power is consistent with state, regional and local economic development strategies and priorities and supported by local units of government in the area in which the business is located; and

(l) the impact of the allocation on the operation of any other facilities of the applicant, on other businesses within the state, and upon other electric ratepayers.

§ 185. Revitalization programs. In addition to the criteria described in section one hundred eighty-four of this article and such other criteria as the board may by rule or regulation define, an economic development power allocation may be made to a business in serious, long-term distress that is not primarily caused by normal, short-term changes in the business cycle, when the applicant demonstrates to the satisfaction of the board:

(a) that the applicant has formulated and will implement a comprehensive business revitalization plan which is described in its application, and which:

(1) contains a detailed strategy for actions to be taken by the applicant to continue as a successful business, including, but not limited to, productivity and efficiency improvements, changes in operations, financing or management, measures to enhance labor and management cooperation and to improve the skills and performance of the work force at all levels, capital investment in new equipment and plant modernization, development of new markets and products, and such other actions as will enable the business to stabilize and sustain its operations;

(2) has been endorsed by the board of directors; and

(3) establishes a verifiable schedule for completion of proposed actions;

(b) that an allocation of economic development power will significantly contribute to the revitalization plan;

(c) that the business is likely to close, partially close or relocate out of state resulting in the loss of substantial numbers of jobs;

(d) that the business is an important employer in the community and efforts to revitalize the business are in the long-term interests of both employees and the community;

(e) that a reasonable prospect exists that the proposed revitalization plan will enable the business to remain competitive and become profitable and preserve jobs for a substantial period of time;

(f) that the applicant demonstrates cooperation with the local electricity distributor and other available sources of assistance to reduce energy costs to the maximum extent practicable, through conservation and load management; and

(g) that the allocation will not unduly affect the cost of electric service to customers of the local electricity distributor.

Other Business

No other business to report.

5. <u>Next Meeting</u>

Chair Nicandri said that the next meeting of the Board would be held on Monday, September 21, 2020 via videoconference.

Closing

Upon motion made by Member Dennis Trainor and seconded by Member Andrew Silver, the meeting was adjourned at 10:09 a.m.